



CITY OF MILPITAS AGENDA REPORT (AR)

Item Title:	Adopt a Resolution Establishing the Measure F Oversight Committee Subject to Voter Approval of Measure F
Category:	Leadership and Support Services
Meeting Date:	10/6/2020
Staff Contact:	Walter C. Rossmann, 408-586-3111
Recommendation:	Adopt a resolution establishing the Measure F Oversight Committee and approve the Measure F Oversight Committee structure and responsibilities, subject to voter approval of Measure F (1/4 cent sales tax) on November 3, 2020.

Background:

On March 12, 2020, in response to the growing Coronavirus threat and the State of California's declaration of a state of emergency, City Manager Steve McHarris declared a local emergency. On March 13, the President of the United States declared a National Emergency concerning the Novel Coronavirus Disease (COVID-19) Outbreak. On Monday, March 16, 2020, the County of Santa Clara, and six of the most populous counties in the region, announced a shelter-in-place (SIP) order in light of the increased number of cases of COVID-19 that have been confirmed in Santa Clara County.

In response to the economic impact related to the pandemic, on March 27, the President signed into law the Coronavirus Aid, Relief and Economic Security (CARES) ACT, providing \$2.2 trillion dollars of relief funds for businesses, government agencies, nonprofit organizations, and individual Americans. Additionally, the Federal Reserve implemented several monetary strategies to provide support for the flow of credit to American families and businesses.

On June 2, 2020, the City Council approved the FY 2020-21 Budget and Financial Plan solving a projected \$25 million shortfall over three fiscal years with ongoing expenditure reductions and the use of reserves. The FY 2020-21 Budget and Financial Plan assumed an economic recovery within 18 months based on data available at that time and the unprecedented federal fiscal and monetary economic stimuli injected into the economy.

Since the approval of the FY 2020-21 Budget and Financial Plan, the projected economic impact related to COVID-19 has worsened with an additional significant impact to the City's FY 2020-21 General Fund revenues. Therefore, on August 4, 2020, the City Council placed Measure F, a 1/4 cent sales tax measure, on the November 3, 2020 ballot for voter consideration in order to provide funding to maintain important City services with a sunset of the tax in eight years and requiring independent audits and a citizens' oversight committee.

On September 1, 2020, the City Council adopted a resolution directing the City Manager to implement the COVID-19 Fiscal Response Strategies and Guidelines which includes seeking Council approval of a citizens' oversight committee for Measure F in advance of the election. If Measure F is approved, establishing the structure and responsibilities of the oversight committee will help ensure that the City properly manages the funds.

Analysis:

In order to determine a possible structure and responsibilities for the Measure F Citizens' Oversight Committee, staff reviewed the structure of other City of Milpitas advisory commissions and reviewed the responsibilities of advisory bodies for general sales tax measures in California. The structure of oversight

committees varies among local agencies. Staff reviewed the oversight committees for general Sales Tax measures of the Cities of Larkspur, Lodi, Roseville, Santa Ana, Santa Barbara and Ventura and the Town of Los Gatos.

City of Milpitas Advisory Commissions Overview

The City of Milpitas currently has 12 advisory commissions advising the Council on specific issues such as the Arts Commission, the Public Safety and Emergency Preparedness Commission or the Youth Advisory Commission. On April 16, 2019, the City Council approved the Standardized City of Milpitas Commission By-Laws (Attachment 1). The by-laws determine the number of commissioners (seven plus two alternates) for each commission; provide that commissioners are appointed by the Mayor and approved by the City Council; set commissioners' term (maximum three terms of three years); and establish general requirements for advisory commissions such as the election of officers, structure and scheduling of meetings, and determination of a quorum.

Typically, commissioners are residents of the City and not necessarily citizens. Therefore, staff recommends the title for the tax measure oversight body to be "Measure F Oversight Committee" versus "Measure F Citizens' Oversight Committee." Although, City advisory bodies are referred to as commissions, to ensure consistency with Measure F, staff recommends the title of "Measure F Oversight Committee" versus "Measure F Oversight Commission."

In addition to the Standardized City of Milpitas Commission By-Laws, the City Council also adopted addenda to the by-laws specific to each commission which specifies the commission's advisory area, membership, and meeting frequency.

Measure F Oversight Committee Recommended Structure and Responsibilities

Consistent with the City Council approved Standardized City of Milpitas Commission By-Laws, staff recommends the formation of a seven-member advisory body with two alternate members appointed by the Mayor with appointments approved by the Council, up to a maximum of three three-year terms. The Finance Department would be responsible for staffing the Committee with oversight from the City Manager's Office. It is important to note that the Committee will only be established if the voters approve Measure F.

As outlined in the attached addendum to the standardized by-laws specific to the Measure F Oversight Committee, staff recommends that the Committee advise the Council on the following items:

- Annually, as part of the development of the budget, review the projected revenues and recommended expenditures for the funds generated by Measure F
- Annually, after the end of the Fiscal Year review status of programs and services, funded wholly or partially with proceeds from Measure F
- Receive annual presentations from the City's sales and use tax consultant and the City's independent financial auditor.

Of the cities surveyed, some oversight bodies were tasked with additional responsibilities. Two local agencies required that the respective committees prepare an independent report to the Council regarding the revenue and expenditure of funds and another committee appears to be tasked with making budget recommendations. Staff does not recommend requiring the Measure F Oversight Committee to prepare an independent report because this would be burdensome for a volunteer committee. Further, staff does not recommend for the Measure F Oversight Committee to make budget recommendations because per Municipal Code Section VI-1-2.05 titled "Preparation and Administration of the Budget," the City Manager shall prepare the budget annually and submit it to the City Council.

Further, as detailed in the addendum to the standardized by-laws specific to the Measure F Oversight Committee, staff recommends quarterly meetings and that members of the advisory commission should have the following areas of expertise and/or are advocates for:

- Business and/or residential community
- Municipal or governmental services operations
- Municipal finance, taxation, budgeting, and/or accounting

Next Steps

If the voters approve Measure F, the City Council is scheduled to certify the election results on December 15, 2020 with the tax scheduled to go into effect on April 1, 2021. After certification of the election results, the City will begin the process for seating the Committee to ensure that the Committee will be able to review the projected revenues and recommended expenditures for the funds generated by Measure F as part of the FY 2021-22 budget process.

Policy Alternatives:

Alternative 1: Approve a different structure for the Measure F Oversight Committee

Pros: None identified.

Cons: This would be contrary to previous Council direction.

Reason not recommended: The City Council adopted a standard structure for its 11 commissions on April 16, 2019.

Alternative 2: Approve a different set of responsibilities for the Measure F Oversight Committee

Pros: None identified.

Cons: Potentially adding other responsibilities may divert existing staff resources from other high priority projects.

Reason not recommended: The recommended responsibilities are consistent with the intent of Measure F and consistent with other jurisdictions based on staff research.

Fiscal Impact:

If the voters approve Measure F, based on the current FY 2020-21 Sales Tax revenue estimate, a 1/4 cent sales tax measure is expected to generate between \$6 to \$6.5 million in additional revenue per year, which would significantly reduce the projected structural General Fund deficit of \$9 million.

California Environmental Quality Act:

Not applicable.

Recommendation:

Adopt a resolution establishing the Measure F Oversight Committee and approve the Measure F Oversight Committee structure and responsibilities subject to voter approval of Measure F (1/4 cent sales tax) on November 3, 2020.

Attachments:

Resolution

Standardized City of Milpitas Commission By-Laws
By-Law Addendum Measure F Oversight Committee

RESOLUTION NO. _____

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MILPITAS ESTABLISHING
THE MEASURE F OVERSIGHT COMMITTEE SUBJECT TO VOTER APPROVAL OF
MEASURE F AND APPROVING THE STRUCTURE AND RESPONSIBILITIES OF THE
MEASURE F OVERSIGHT COMMITTEE**

WHEREAS, on March 13, 2020, the President of the United States declared a National Emergency concerning the Novel Coronavirus Disease (COVID-19) outbreak; and

WHEREAS, on Monday, March 16, 2020, the County of Santa Clara, and six of the most populous counties in the region, announced a shelter-in-place order in light of the increased number of cases of COVID-19 that have been confirmed in Santa Clara County; and

WHEREAS, the FY 2020-21 Budget and Financial Plan assumed an economic recovery within 18 months based on data available at that time and the unprecedented federal fiscal and monetary economic stimuli injected into the economy; and

WHEREAS, on June 2, 2020, the City Council approved the FY 2020-21 Budget and Financial Plan with the adoption of Resolution No. 8976, solving a projected \$25 million shortfall over three fiscal years with ongoing expenditure reductions and the use of reserves; and

WHEREAS, the General Fund pays for important City services, such as police response, fire and paramedic services, street operations and maintenance, library services, parks and recreation services and general municipal services to the public; and

WHEREAS, since the approval of the FY 2020-21 Budget and Financial Plan, the projected economic impact related to COVID-19 has worsened with local businesses still closed and hotel rooms remaining vacant; and

WHEREAS, this extended downturn has had an additional significant impact to the City's FY 2020-21 General Fund revenues, as estimated; and

WHEREAS, on August 4, 2020, the City Council placed Measure F, a $\frac{1}{4}$ cent Sales Tax Measure with a sunset of the tax in eight years, on the November 3, 2020 ballot for voter consideration in order to provide funding to maintain important City services, with a sunset of the tax in eight years requiring independent audits and a citizens' oversight committee; and

WHEREAS, on September 1, 2020 the City Council directed the City Manager to implement the COVID-19 Fiscal Response Strategies and Guidelines which includes seeking Council approval of the Measure F Oversight Committee in advance of the election for the Measure; and

WHEREAS, on April 16, 2019, the City Council approved the Standardized City of Milpitas Commission By-Laws, which guides the formation of advisory commissions.

NOW, THEREFORE, the City Council of the City of Milpitas hereby finds, determines, and resolves as follows:

1. The City Council has considered the full record before it, which may include but is not limited to such things as the staff report, testimony by staff and the public, and other

materials and evidence submitted or provided to it. Furthermore, the recitals set forth above are found to be true and correct and are incorporated herein by reference.

2. The Measure F Oversight Committee consistent with the Standardized City of Milpitas Commission By-Laws is hereby established subject to approval of Measure F by the voters of the City of Milpitas on November 3, 2020.
3. The Addendum to the Standardized City of Milpitas Commission By-Laws specific to Measure F Oversight Committee (Exhibit A) outlining the purpose and responsibilities of the Measure F Oversight Committee is approved subject to approval of Measure F by the voters of the City of Milpitas on November 3, 2020.
4. The approval of this resolution does not commit the City to any action that would have the potential for causing a significant effect on the environment as this resolution will implement financial reduction strategies with no clear commitment to any future project or elimination of any projects. As a result, there is no potential impact on the environment from this action per the California Environmental Quality Act (“CEQA”) Guidelines Section 15061(b)(3). Further, this action is also exempt under CEQA Guidelines Section 15378(b)(4) as other governmental fiscal activities which do not involve any commitment to any specific project which may result in a potentially significant physical impact on the environment.

PASSED AND ADOPTED this _____ day of _____ 2020, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

ATTEST:

APPROVED:

Mary Lavelle, City Clerk

Rich Tran, Mayor

APPROVED AS TO FORM:

Christopher J. Diaz, City Attorney

CITY OF MILPITAS

COMMISSION BY-LAWS

Section 1. Purpose

A Commission serves as an active advisory group to the City Council on a variety of topics as directed by the City Council. These Commission By-Laws are applicable to all Commissions except for the Planning Commission, which is governed by the Municipal Code, Chapter 500. In addition to these By-Laws, each Commission shall have an addendum that is specific to the Commission and includes information about the Commission scope, member eligibility, and meeting frequency.

Section 2. Membership

A Commission is composed of seven (7) members and two (2) alternates appointed by the Mayor and approved by the City Council. All members and alternates shall be Milpitas residents, 18 years or older, unless otherwise noted in the Commission Bylaws Addendum. The City Council may appoint a Council liaison to serve on the Commission in a non-voting capacity.

Section 3. Term of Office & Removal

The term of office is three years, or until the seat is filled, for every Commission and is tied to specific seats, not actual Commission members or alternates. A Commission member or alternate is appointed for the term of the seat, which can be less than three years, based on the time of appointment. A Commission member can re-apply at the end of each term and is eligible to re-apply for a total of three full terms on any one Commission. No member shall serve more than three (3) consecutive terms on one Commission but is eligible to apply for other Commissions.

Members and alternates are expected to attend all meetings. When any member or alternate has three or more absences in a 12-month period, the City Clerk's Office shall forward this information to the City Council for review and possible removal of the member or alternate from the Commission. Any member or alternate of the Commission may be removed from office at any time by a simple majority vote of the City Council at a regularly scheduled Council meeting, with or without cause.

Members and alternates may apply for reappointment by submitting a letter or e-mail of interest to the Mayor with a copy to the City Clerk prior to the expiration of his/her term of office. Any member or alternate of the Commission who wishes to resign MUST submit a letter of resignation or email to the Mayor with a copy to the City Clerk. Resignations will be confirmed by the City Council at a regularly scheduled Council meeting.

Section 4. Vacancies

Vacancies will be filled for the unexpired portion of the term by the Mayor with the approval of the City Council.

Section 5. Officers

A Chair and Vice Chair will be selected annually at the first meeting of the calendar year from the appointed members for a term of one year. The Chair will call for meetings and preside over all sessions. In the absence of the Chair and Vice Chair, the member with longest continuous service on the Commission will preside.

Section 6. Meetings

Commissions shall hold regular meetings at a predetermined day, week, time and location. All meetings shall be open to the public. Should a scheduled meeting occur on a holiday, said meeting will be deferred to the same day of the following week or to a date agreed upon by a majority of the Commission. Special meetings may be called by majority vote, the Chair, Staff Liaison, or the City Council. No meetings will be held in the month of July. Notice of any special meeting shall be given as required by law. Except as otherwise provided by these Bylaws, the Commission shall follow the latest edition of Robert's Rules of Order for the orderly conduct of meetings.

Section 7. Quorum

Any FOUR (4) members, including alternates, shall constitute a quorum for the transaction of business.

Section 8. Voting and Seating of Alternates

Voting authority is extended to the SEVEN (7) regular members. An alternate member shall vote only if seated in the absence of a regular member. In the event that a regular member is absent, alternate members shall be seated in order of their alternate position. If a member arrives after an alternate has been seated, the alternate shall remain as the voting member until the end of the meeting.

Section 9. Duties of Commission to be Advisory Only

It is intended that the Commission shall be an advisory body to the City Council.

Section 10. Subcommittees

Other committees within the Commission will be subcommittees of the Commission. The Commission may appoint such subcommittees, with at least one Commission member on the subcommittee, but not more than three members so as not to constitute a quorum.

Section 11. Assistance of Staff

The City Manager of the City of Milpitas shall provide the Commission with such information and staff assistance as the Commission may from time to time request subject to the limitations imposed by the City Council. The staff member designated by the City Manager shall attend meetings of the Commission, meetings of the Commission subcommittee as necessary, and submit such reports as said Commission may request and as deemed necessary or desirable, subject to limitations imposed by the City Council. The role of the Staff Liaison on a Commission is defined and should be referred to in the City of Milpitas Commissioner Handbook.

Section 12. Amendments

These Bylaws are subject to change through amendments approved by the City Council.

PASSED AND ADOPTED APRIL 16, 2019.

Addendums:

- 1) Arts Commission
- 2) Community Advisory Commission
- 3) Economic Development and Trade Commission
- 4) Energy and Environmental Sustainability Commission
- 5) Library and Education Advisory Commission
- 6) Parks, Recreation and Cultural Resources Commission
- 7) Public Safety and Emergency Preparedness Commission
- 8) Senior Advisory Commission
- 9) Science, Technology, and Innovation Commission
- 10) Veterans Commission
- 11) Youth Advisory Commission

**CITY OF MILPITAS
COMMISSION BYLAWS
Addendum: Measure F Oversight Committee**

The Measure F Oversight Committee was established by the Milpitas City Council on October 6, 2020 subject to voter approval on November 3, 2020 of Measure F, a ¼ cent Sales Tax Measure with a sunset of the tax in eight years.

Advisory Area

This Committee advises the Council by Committee motion regarding staff recommendations, a report furnished and approved by the Committee, and/or at a City Council meeting:

- Annually, as part of the development of the budget, review the projected revenues and recommended expenditures for the funds generated by Measure F
- Annually, after the end of the Fiscal Year review status of programs and services, funded wholly or partially with proceeds from Measure F
- Receive annual presentations from the City's sales and use tax consultant and the City's independent financial auditor.

Membership

While not required, it is preferred that Members of the Measure F Oversight Committee possess the following areas of expertise and/or are advocates for:

- Business and/or residential community
- Municipal or governmental services operations
- Municipal finance, taxation, budgeting, and/or accounting

Meetings

The Measure F Oversight Committee shall hold quarterly meetings the 3rd Wednesdays of March, June, September, and December at 7:00 PM at the Committee Conference Room in City Hall, or at another designated location.