

TO: Honorable Mayor and City Councilmembers

FROM: City Manager's Office

SUBJECT:

CONSIDER PLACEMENT OF A CITY OF WILLITS EMERGENCY FUNDING ORDINANCE FOR A THREE-QUARTERS CENT GENERAL TRANSACTIONS AND USE (SALES) TAX MEASURE ON THE NOVEMBER 3, 2020 MUNICIPAL ELECTION TO PREVENT THE ELIMINATION OF POLICE SERVICES; STREET AND SPORTS FIELD MAINTENANCE; CLOSING OF CITY FACILITIES; AND LOSS OF OTHER ESSENTIAL CITY SERVICES?"

SYNOPSIS

Staff recommends that the City Council adopt a resolution calling for an election introducing an Emergency Funding Ordinance for a 3/4 cent general transactions and use (sales) tax increase to the voters and introduce an ordinance adding Chapter 3.32, Title 3, Sections 3.32.010 through 3.32.150 to the Willits Municipal Code to be administered by the California Department of Tax and Fee Administration including provisions for citizens' oversight and accountability.

Whether or not all Council members support the tax, staff asks that you place this item on the ballot and introduce the ordinance to allow the voters to decide this important issue, in the spirit of taxpayers' right to decide. This is not just a decision whether or not to impose a tax. This is a decision on whether the people of Willits want to continue to have a police force, sports fields, parks, a community center and other essential services and whether they support local control of their planning and building department.

BACKGROUND

For the past few several years, City revenue has been decreasing and costs have been increasing. As a response, the City has cut staff costs and cut services. We raised revenue through cannabis taxes and we have used reserves to balance the budget. Last year, we used approximately \$300,000 of our General Fund reserves, froze positions and cut services. The year before that, we used about \$450,000 of our reserves. This year, with similar service cuts, we expect to use almost \$700,000 of our dwindling reserves. This will be the third consecutive year that the City has cut into reserves. This is not sustainable. Meanwhile, our revenue continues to decline. With the unexpected COVID-19 hit, our revenues will decrease another \$200,000 - \$300,000 at least in the coming year.

At the current rate, our remaining reserves will run out in about 2 years. We have no more to cut and still maintain even the most basic services and maintain our legal responsibilities such as accounting, paychecks, insurance, human resources – and police services.

If the people of Willits would like to remain an incorporated City with a police force and local control over our land use and planning and City employees, we must raise more revenue. Cannabis taxes help, but they are not closing the gap with our increased expenses that we cannot control – like increased unfunded mandates from the State, rapidly rising insurance costs and workers compensation costs.

Our police department operates on a shoestring, barely covering shifts and using substandard equipment. We have only three public works/parks employees for the entire City. We cut an accountant position, so our Human Resources position now covers a finance position along with her own duties. We cut our airport manager, so now our Deputy City Manager covers facility rentals maintenance, the airport, city clerk duties and Deputy City Manager duties. We can't pay enough to attract a full-time finance director, so we now have a part time contract Finance director, who handles three other cities, while staff has picked up more finance duties.

The only purely general fund departments are a part of public works, parks, police and Community Development. Community Development brings in more money than they spend. Therefore, cutting Community Development means losing revenue and further delaying projects the public wants. We also have grant projects already won, in which we committed to manage – with our Community Development staff. Public works? Losing our public works staff would save us very little, but then we would have to close our parks, our playing fields and our skate park – no more tree maintenance on Main Street – or anywhere. The fields would no longer be maintained. No grass would be cut in the parks. And we would save only about \$100,000 - \$150,000. We are putting in new trees on Main Street and in the parks. Who will take care of them?

We could cut police. But we already have a bare bones department that barely covers our shifts. Cutting \$500,000 out of the police department would mean losing half our officers. This would mean that only one shift could get covered. Willits would have no police 10 to 12 hours every day. This is dangerous for both our officers and for our City. The police department already lost all of their administrative staff during prior cuts - leaving police officers to perform administrative work on top of their public safety workload. Realistically, calls from the day shift would go to the night shift – and only the most serious would be handled by already overwhelmed officers. We would then stop responding to any but the most serious of calls – and we would only respond to them in the evening.

INCREASING REVENUE IS NOW AN EMERGENCY:

We Have Only Three Choices:

- 1) Introducing an emergency temporary adjustment to our sales tax, (seven and a half cents on a ten dollar item).

This brings us closer to what other cities in the region are receiving in sales tax percentages. This would allow us to maintain and even slightly enhance services and will allow us to keep our police force, maintain our parks and recruit quality staff who will be confident that the City will continue as it has for 133 years;

- 2) Balancing our budget by cutting half of our police department and eliminating all parks and fields maintenance, as well as the pool.

This is a paper solution – not a real solution. Police agencies cannot operate on only one shift. Those calls will not go away. They will be given to the night shift, which is already overburdened. Then we would stop answering calls, stop traffic stops, etc. Police officers will not stay in Willits under this scenario. They will leave to go to a different jurisdiction. Who would we recruit? Losing our parks and our pool and closing them would give our kids and our residents no way to play, recreate, or get together with friends and family. People who live outside the City limits will no longer have a reason to come to town – so they won't shop at our businesses. Furthermore, recruitment of a police chief - or a city manager – (which we are trying to do right now) will be impossible – as Willits will be seen as a declining or failing City. This is not a real solution. If this is chosen, we will certainly have to move to the third choice in a matter of months. This is not a real choice.

3) Prepare for dissolution as a City.

This is really the only realistic option if we do not pass a sales tax. Winding down a City takes time and we would need to start soon. We would need to pay our back bills and prepare to terminate all City employees – giving them some time to find other employment. We would still be liable for their unemployment (the City does not have unemployment insurance – we are self-insured), so we would need to set aside funds for both this and our outstanding pension liabilities. We would need to close our parks. We would need to move all of our planning and building to the County – this transfer would take time. The City would then only have sporadic coverage from the Sheriff's department as public safety. No local control of our planning. Our roads would cease to be maintained, except as the County saw fit to do so. There would be no more City Council, as there would not be a City to run.

Why Don't We Have Enough?

Some people may ask - "Where do all my taxes go!?" when they see potholes in the street and realize that City staff is dwindling. They see faded and chipped paint in City Hall, the broken ancient linoleum in our community center, weeds in our parks, and they find out that our police officers are some of the lowest paid in California, starting at just about \$22 an hour.

When we pay our Federal and State income taxes however, realize that cities do not receive a percentage of that money! Most people are surprised that our state and federal taxes are not shared with cities. Sometimes State or Federal money funds grants, but we have actually had to turn down grant money because we do not have matching funds typically required to take the grant. We do take advantage of grants when we can and we have won some wonderful grants that have paid for bridges and infrastructure work. Grants do not, however, pay for our day to day activities or overhead costs. They pay for "extras". We need "basics!"

We have special funds for our water and sewer departments that are paid for by water bills and sewer bills. We also have a small special road fund that only pays for things related to streets and sidewalk related activity. These are kept in special funds so they can be used just for water, sewer and road-related staff and facilities. They cannot be used for police or parks. They cannot be used for our insurance for City Hall or for our community center, or for our legal fees when people sue the City for ADA or other issues. If we do not have a City anymore, we can't use those City road funds and the County would take over.

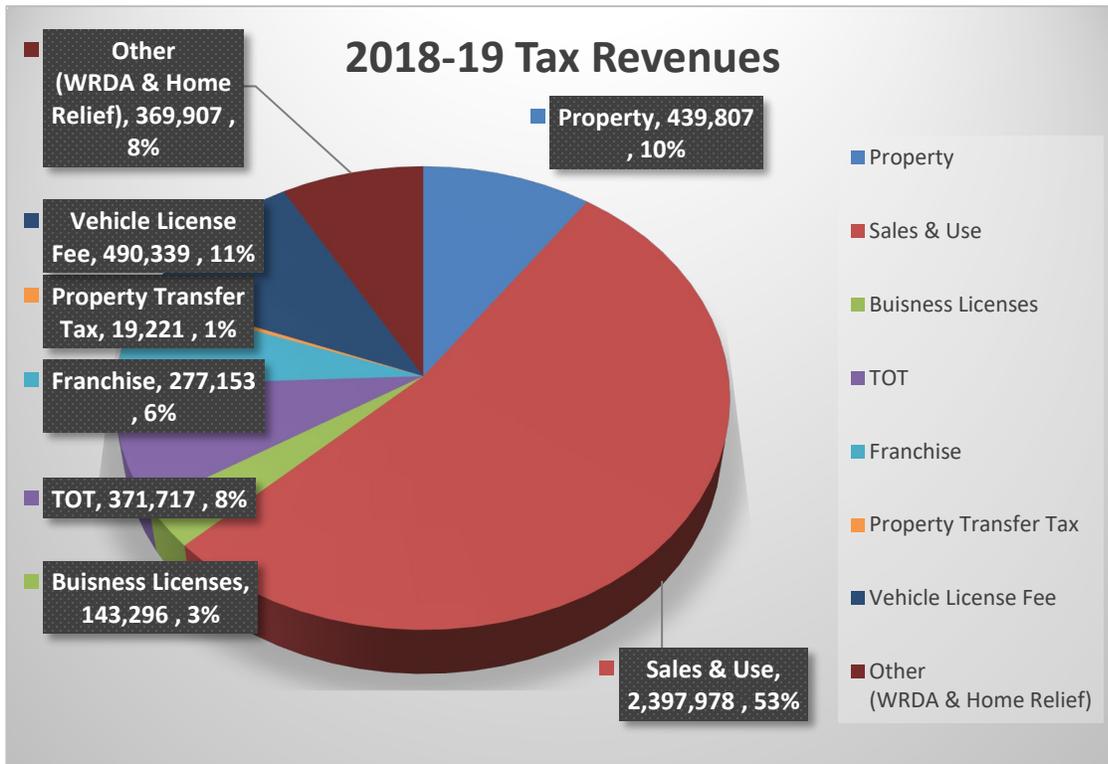
We periodically raise our water and sewer rates in order to keep up with increased costs for water and sewer services. **But we have never, raised taxes to pay for police or parks or our community center or other overhead expenses, while other Cities have.**

The "General Fund" pays for the city of Willits's day to day activities and overhead. It pays the salaries of police, planning, code enforcement, public works, human resources, parks and finance. It goes towards maintaining parks and maintaining our public buildings and roads. It pays for our computers, the copy machines, and our police cars. It pays our insurance bills and for our attorney and planning staff and our building official and code enforcement. It pays the utility bills and for the people pruning trees and cutting weeds and fixing fences.

Revenue – What Kind of Tax Money Does Willits Receive?

- Sales Tax – Currently only one cent of the current sales tax goes into your City’s general fund! This 1% along with the .5% tax that goes only to our roads makes up about 53% of the City’s total tax revenue. Sales tax is our most important source of revenue.
- Property Taxes – Willits receives only about 12% of the property taxes collected within Willits. The County and the School District receives most of your property taxes about 22% of Willits’s tax revenue comes from these property taxes. . These are not taxes we can raise because of Proposition 13.
- Franchise Fees – about 6% of Willits’s income come from what Comcast and PG&E pay to be here and use our sidewalks and cable, etc.
- Transient Occupancy Tax (Hotel Tax) 8%
- Business Licenses and Fees 3%
- Property Transfer 1%
- Misc. Revenue, (grants, etc.) – about 7%

Below is a table of 2018-2019 actual tax revenues for the City of Willits. We had forecast that 2019-2020 would bring us about a 1% increase in sales taxes. Instead, we are forecasting a 20% decrease in sales taxes, largely because of the COVID-19 crisis.



Sales and Use Tax is Willits's Main Source of Income

California, like the majority of states, utilizes a Sales and Use Tax (SUT). The sales tax, begun in 1933, is imposed on retailers selling tangible goods in California. The sales tax provides for many exemptions, including groceries, on rent, on services, or on prescription medications, so that the sales tax does not put a burden on necessities of life. Sales tax is paid by anyone spending money in Willits, not just Willits residents. Since our parks and streets and police are used by more than just Willits residents, it is only fair that other people pay their fair share of City services that they use.

Currently, Willits's sales tax is about the lowest of all the Cities in Mendocino and Lake Counties. We need to charge our fair share to keep our City services.

Our Sales Tax, our largest source of income, has decreased dramatically

Whether by the bypass, cannabis legalization or simply because people are increasingly shopping on-line, sales tax revenue in Willits declined by more than 8% from 2012 – 2019. While we expected 2020 to remain stable, instead, projections show an additional decrease due to COVID-19 shutdown to be a loss of approximately \$300,000 (20%). Last year, we reported that we would run out of funds in about three years, with COVID, that time period is now about 2 years – which is why this is now an emergency measure.

	YE 2012Q2	YE 2013Q2	YE 2014Q2	YE 2015Q2	YE 2016Q2	YE 2017Q2	YE 2018Q2	YE 2019Q2	From Low	From High				
									<table border="1"> <tr> <td>2012Q2 to 2019Q2 % Chg:</td> <td>-8.2%</td> </tr> <tr> <td>Yearly Average % Chg:</td> <td>-1.0%</td> </tr> </table>		2012Q2 to 2019Q2 % Chg:	-8.2%	Yearly Average % Chg:	-1.0%
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Total Receipts	\$1,561,510	\$1,605,607	\$1,651,799	\$1,538,791	\$1,624,475	\$1,579,412	\$1,462,851	\$1,521,058	58,207	-130,741				
Net Pools/Admin/Adj	\$140,033	\$175,811	\$188,163	\$87,737	\$137,884	\$222,717	\$136,347	\$216,707	128,969	-6,010				
Local Businesses	\$1,421,477	\$1,429,796	\$1,463,636	\$1,451,054	\$1,486,591	\$1,356,695	\$1,326,504	\$1,304,351	\$0	-\$182,240				
General Retail	\$234,037	\$238,833	\$238,141	\$244,744	\$266,782	\$288,585	\$255,759	\$247,454	\$13,417	-\$41,131				
Food Products	\$290,604	\$292,941	\$305,226	\$324,169	\$348,621	\$337,710	\$317,742	\$320,315	\$29,710	-\$28,306				
Transportation	\$636,262	\$614,450	\$609,094	\$556,190	\$516,190	\$449,242	\$464,429	\$462,590	\$13,348	-\$173,672				
Construction	\$137,980	\$144,595	\$145,561	\$181,217	\$162,187	\$126,908	\$114,425	\$119,275	\$4,849	-\$61,943				
Business To Business	\$119,474	\$135,375	\$161,117	\$140,451	\$186,353	\$145,751	\$167,099	\$147,034	\$27,560	-\$39,319				
Miscellaneous	\$3,119	\$3,602	\$4,497	\$4,282	\$6,458	\$8,500	\$7,050	\$7,684	\$4,565	-\$816				

Willits Receives only a small part of the Sales Tax generated in our City

The current sales tax rate in Willits is 8.35%. Of that 8.375%:

- Willits General Fund – 1%
- State – approximately 6%, of which almost 3% then goes to the County
- County Transportation - .25%
- Special Taxes** - 1.125%

***Breakdown of Special Taxes paid in Willits**

- Willits - .5% - restricted to street-related activities
- County .5% - Mental Health
- County .125% - Library

How Do We Compare to Other Cities in the Area?

The City of Willits has the lowest special tax rate in the region. There is a limit on the amount of tax that can be added to the base tax in California. The County of Mendocino currently takes .625 of a cent, on top of the almost 3% they get from the State. The County has recently said that they wish to raise the rate again to pay for County services – after they just granted big pay increases. But the City and the County can't BOTH have an increase – so this has become a race. The tax will be raised. But do you want those funds to go to the County or to fund your own City services like your parks and police? The City needs another .75 of special taxes to be able to continue to offer basic services.

Other Cities in Mendocino and Lake County charge more than Willits. This tax increase just puts us on a level playing field. This is what the cities in the region have as special taxes:

- City of Ukiah – 1%
- Fort Bragg – 1%
- Lakeport 1.5%
- Clearlake 1.5%
- Willits .5%

Costs have gone up.

Disaster insurance, particularly fire insurance, along with our liability insurance has been increasing at the rate of 20% to 40% every year for the last few years. Other unavoidable costs like workers compensation and pension costs continue to escalate. This year, we have acquired Main Street as our very own from Caltrans. While it was anticipated as a wonderful thing to have our own Main Street, maintaining it will cost us (for striping and repaving) is estimated to cost more than \$250,000 more every year.

Increase in Unavoidable Annual Expenditures in the past two years

	<u>2018-19</u>	<u>2019-20</u>	<u>2020-21</u>
• CalPERS UAAL Amortization employer contribution	\$700,032	\$813,476	\$884,874
• Insurance, incl. Workers Comp.	482,902	680,187	<u>780,973</u>
• Salaries	no increase – we reduced positions in 2019 and 2020		
• Health Benefits		+34,000	We have been informed of an 11% increase this year.

NEW Future Unavoidable Costs, yearly

- Main St. striping and maintenance costs \$130,000 yearly
- Main St. Set aside for repaving \$140,000 yearly

- Maintenance for new Trees from Urban Forest project (Main St. Trees)
(.5 position plus supplies and tools) \$70,000 yearly

Why Are We Here Now?

In the recession years of 2007-2009, most cities in California, including the cities of Ukiah, Fort Bragg, Lakeport, and others in the region, made cuts, but also instituted sales tax increases to cope with the recession and increase stability. The City of Willits, however, did not increase their sales tax, which is why Willits’s sales tax is among the lowest in the region.

To deal with the recession, the City chose only to cut staff and services. In addition to cutting staff, City stopped updating equipment, computer and financial systems and stopped giving competitive wages. The City has maintained a “lean and mean” structure and has relied on great staff to carry us through.

In recent years, however, we ran out of things to cut.

The City has tried to raise revenue in other ways. We have legalized cannabis and are receiving cannabis taxes. These taxes, however, are not enough to fill the gap. We have aggressively pursued grants, however grants are directed to projects rather than on fixed costs, so our grant funds do not pay for our insurance or our salaries for our police officers or for improving our financial software or for keeping our trees pruned and safe. Most of these grants require matching funds, and now we turn down funds because we have no matching funds and we have no staff to maintain any projects for which we receive funding. We are exploring ways to utilize conservation easements to contribute to our revenue and knew that this would take years to develop. Because of the COVID-19 crisis, however, this will not reach any fruition until we have an economic recovery, if we are able to utilize this resource at all.

In short, we have reached the point where we simply cannot cut more and still be a City. We cannot cut legally mandated costs like pension liability, workers compensation or insurance. Our police force, along with all of our employees, are the lowest paid in the region and we suffer from attrition, which costs us more because we keep having to recruit new staff. At this time, the entire City runs with only about 40 full-time employees, about 9 less than only 3 years ago.

The Fiscal Year (FY) 2019-20 budget included additional cost containment measures such as frozen positions, hiring restrictions, employees picking up greater shares of pension costs. We didn't purchase police cars that we needed, nor other important supplies. Even after these deep cuts, we still had to dip into our reserve. Next year, that gap is projected to be almost \$700,000 and costs continue to rise in areas that we cannot control, like fire insurance and unfunded pension liability costs.

A general tax measure requires approval of 50% of voters, plus one. The deadline to place a measure on the November 2020 ballot is August 7, 2020, and requires approval by two-thirds of the City Council (four affirmative votes out of five).

ANALYSIS

Pursuant to Revenue and Taxation Code Section 7251.1, the combined taxes in any county (above the statewide tax rate) cannot exceed 2%. A general purpose tax increase of three-quarters (0.75%) is recommended. This increase is projected to generate an estimated \$1 M in additional revenues per year, with actual revenues determined by economic conditions. Also pursuant to California Revenue and Taxation Code, food items (groceries), prescriptions, certain medical devices, and other "Necessities of Life" are exempt from sales tax.

Sales taxes are unique in that they do not fall solely on residents of Willits. Typically, only 50% or less of sales tax revenue comes from residents of the city which is taxed, with the majority coming from non-residents, tourists, and outside businesses, many who use Willits services and facilities, but pay no taxes.

The City has worked hard to decrease resident costs in other areas. This year, we are refinancing our wastewater bonds which will stabilize our costs and allow us to not raise rates this year. We also decided not to raise water rates. This savings strongly help offset the rise in sales tax for those who pay water and sewer bills.

In order to enact a local sales tax, the City Council must first approve an ordinance (Attachment 1) amending the Willits City Code to establish a three-quarter cent general transactions and use tax to be administered by the California Department of Tax and Fee Administration including provisions for citizens' oversight and accountability.

The next step is adoption of a resolution (Attachment 2) calling and giving notice of a consolidated general election to be held on November 3, 2020, and ordering submission of a measure at said election, to consider approval of the ordinance. The Council must approve the ordinance and resolution with a two-thirds vote, which requires four affirmative votes. Majority voter approval is required to approve the local sales tax (50% of voters, plus one).

The ballot language to be presented to the voters is as follows:

“City of Willits Emergency Funding Ordinance - Shall the City of Willits enact a ¾ cent sales tax, providing \$1,000,000 annually for 10 years, to prevent the elimination of police services; street and sports field maintenance; closing of city facilities; and loss of other essential city services?”

As with the existing tax, the new revenue would be collected by the California Department of Tax and Fee Administration (formerly part of the State Board of Equalization), however all revenue generated would be dedicated to Willits and could not be diverted to the state or other agencies. Because the measure is a proposed "general tax", the revenues would go into the City's general fund and could be used for any legal municipal purpose.

The ordinance provides that tax would go into effect on the first day of the first calendar quarter commencing more than 110 days after approval of the ordinance by the electorate. Staff anticipates an effective date of April 1, 2021, if voters approve the tax in November.

Citizen Oversight and Accountability. The ordinance contains the following provisions to provide oversight, transparency and accountability for the funds received from the sales tax:

- **Separate Fund.** All revenue generated by the tax will be accounted for in a separate subfund within the General Fund entitled with the name of the measure. Any and all expenditures will be tracked and accounted for by the City Financial Services Department in accordance with Generally Accepted Accounting Principles (GAAP) and presented annually in a report to the Citizens' Oversight Committee.
- **Citizens' Oversight Committee.** The City Council shall create a Citizens' Oversight Committee by April 30, 2021. Committee members shall include those with a range of expertise including accounting, finance and engineering. The Committee shall operate under the Brown Act and will be responsible for review and comment on the Finance Report and working with City staff to identify and apply "best practices" for tracking and reporting.

Impartial Analysis. Pursuant to Elections Code Section 9280, the proposed resolution directs the City Attorney to prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of the measure.

Ballot Arguments. Elections Code Section 9282 allows the legislative body, any member or members of the legislative body authorized by the body, any individual voter who is eligible to vote on the measure, bona fide association of citizens, or any combination of voters and associations, to submit an argument for or against a measure placed on the ballot by the legislative body. Arguments may not exceed 300 words in length, and must be submitted to the City Clerk by a deadline to be established by the Registrar of Voters. Staff is recommending and the draft resolution authorizes the Mayor to submit arguments in favor of the measure, on behalf of the City Council. Pursuant to Elections Code 9285 (a)(2) the author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument or may authorize in writing another person or persons to prepare, submit, or sign the rebuttal argument. A rebuttal argument shall not exceed 250 words.

FISCAL IMPACT

The City's Finance Director and sales tax consultant, estimates that a 3/4's transactions and use tax (aka sales tax) would generate approximately one million in annual revenue with actual revenues determined by economic conditions.

Adding this measure to the consolidated general election scheduled for November 3, 2020 is estimated to cost approximately \$6,000, with another approximately \$8,000 that the City should spend in outreach, mailing and information to the public regarding this measure. The City is aware that volunteers are prepared to assist in informing the electorate regarding this important ballot measure. If passed, preparatory costs and ongoing administration costs will be charged by the California Department of Tax and Fee Administration and will be paid from the revenues received.

RECOMMENDATION

Staff recommends that the City Council adopt a resolution calling for an election submitting a proposed temporary three-quarter cent general transactions and use (sales) tax increase to the voters and introduce an ordinance adding Chapter 3.32, Title 3, Sections 3.32.010 through 3.32.150 to the Willits Municipal to establish a three-quarters general transactions and use (sales) tax to be administered by the California Department of Tax and Fee Administration including provisions for citizens' oversight and accountability.

Attachments:

1. Ordinance
2. Resolution
3. Tax Measure and Argument in Favor
4. Impartial Analysis
5. Mayor's Letter and FAQs