



STUDY SESSION
CITY CHARTER &
COMMERCIAL REAL
PROPERTY TRANSFER TAX

SPECIAL CITY COUNCIL MEETING

Jovan D. Grogan, *City Manager*

Trisha Ortiz, *Interim City Attorney*

June 28, 2022



Objective

- ❖ Background
- ❖ Recap
 - ❖ Establishing a Charter City
 - ❖ Definition of “Commercial Property”
 - ❖ Potential Transfer Tax Rates
- ❖ Response to Council Questions from June 7
- ❖ Timeline
- ❖ Council Discussion and Action to Place Charter City on November 2022 Ballot



Background

➤ October 26, 2021

- Council directed staff to research and provide options for several potential measures on the November 2022 ballot

Including...

- *Establishment of a City Charter and a Commercial Property Transfer Tax as a combined measure*



Background – Fiscal Sustainability

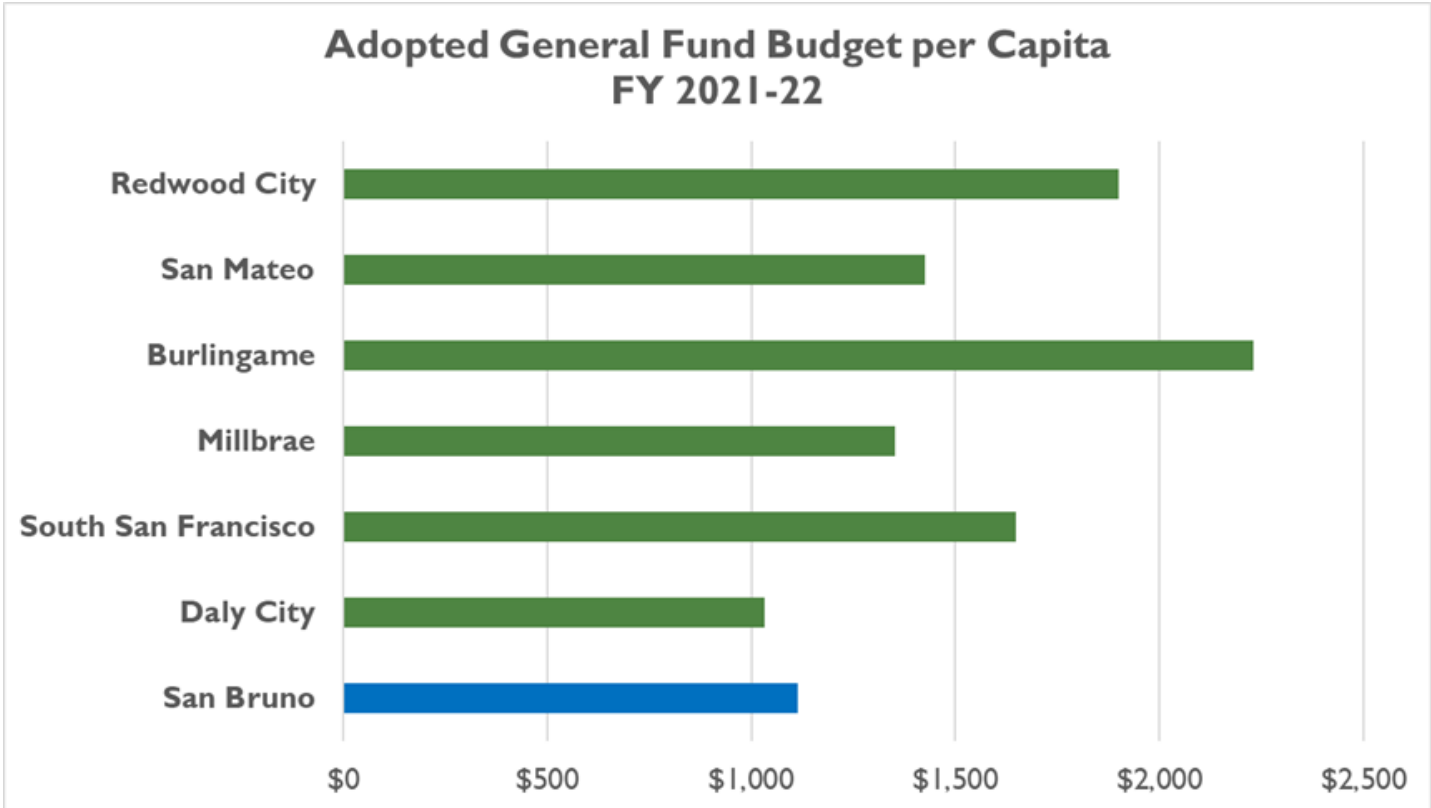
- ❖ 2019 - City launched a **Comprehensive Fiscal Sustainability Project**
 - ❖ Seeks to improve the City's fiscal condition so that there is sufficient annual and long-term funds to provide high quality City services as well as maintain and replace infrastructure.
 - ❖ Project remains active
 - ❖ City has already implemented numerous expenditure controls, revenue enhancements, and cost shifts from the General Fund to new or more stable funding sources.

- ❖ Despite the many successful efforts undertaken through of the Comprehensive Fiscal Sustainability Project, the remaining fiscal challenges that face the City of San Bruno are significant.
 - ❖ This is true with respect to
 - ❖ annual/on-going financial need for City programs and services...as well as
 - ❖ money needed to maintain and replace critical public infrastructure.



Background

- ❖ San Bruno has a revenue problem, not an expenditure problem.



Source: City Adopted Budgets, FY2021-22



Est. Cost of Infrastructure Needs

- ❖ City analyzed the cost of infrastructure needs over the next 20 years when it implemented Development Impact Fees in 2019

*San Bruno Development Impact Fee Nexus Study
Final Report 2/20/19*

Summary

Table 2 Revenue Projections and Need for Outside Funding

Item	Total Cost of Improvements	Amount Allocated to DIF Program by Buildout ¹		Additional Funding Need	
		Amount	Cost % of Total Allocation	Amount	Cost Allocation
Community Services	\$137,306,729	\$74,684,387	54.4%	\$62,622,342	45.6%
Public Safety	\$31,703,453	\$6,243,414	19.7%	\$25,460,039	80.3%
General Government	\$42,362,927	\$7,881,008	18.6%	\$34,481,919	81.4%
Utilities	\$55,000,476	\$19,168,982	34.9%	\$35,831,494	65.1%
Transportation	\$190,856,793	\$38,722,023	20.3%	\$152,134,770	79.7%
Total	\$457,230,379	\$146,699,814	32.1%	\$310,530,565	67.9%

Total Need:

\$457M

Est. Contribution from New Development:

\$147M

Remaining Need:

\$310M

[1] Represents cost of DIF related improvements allocated to new development. Actual DIF revenues will depend on the amount, type, and timing of development.

Sources: City of San Bruno, Economic & Planning Systems, Inc.; West Yost Associates, and TKJM.



Establishing a City Charter

- General law vs. charter cities: what are the differences?
 - Only charter cities can impose a real property transfer tax
 - Other differences
- City Council can draft charter
 - Requires two public hearings and vote of the people at statewide general election; majority vote required to adopt
 - On March 29, 2022, the City Council directed staff to develop “simple” charter with integrated commercial real property transfer tax



Establishing a City Charter

- Features of a commercial real property transfer tax
 - Paid only upon sale of property
 - Can be negotiated between buyer and seller
 - Key issues for discussion:
 - Definition of “commercial”
 - Residential property exclusions?
 - Exemption for transactions under a specific dollar amount?



Definition of “Commercial Property”

- Types of “Commercial Property”
 - Commercial Property (office building, hotel, retail structure, etc.)
 - Industrial Property (warehouses, manufacturing building, etc.)
 - Commercial Residential/Multifamily Housing Complex (rental)
 - Planned Unit Development by Residential Developers
 - Vacant Land

- Definition Used for Tax Simulation Analysis by Staff
 - Commercial Property (office building, hotel, retail structure, etc.)
 - Industrial Property (warehouses, manufacturing building, etc.)
 - Commercial Residential/Multifamily Housing of 5 units or greater
 - Planned Unit Development by Residential Developers
 - Vacant Land



Potential Transfer Tax Rates

- Property Transfer Tax Simulation Analysis conducted
 - Includes 21 Bay Area cities that have a transfer tax
 - Estimated revenue San Bruno would have received in each of the prior 5 years based on actual sale transactions in San Bruno
 - *Depending on the rate average annual tax revenue would have been \$61,000 to \$2.7 million over the last 5 years.*
 - Tax Rates in 21 Cities Surveyed
 - Various tax structures (simple % and tiered based on sales price)
 - Simple %: Ranged from .055% to 1.3%



Recommended Transfer Tax Rates

- Staff recommends a 1% tax rate
- Structure:
 - Residential: only applies to 5-plexes and above (meaning all single-family homes through 4-plex buildings are exempt)
 - Commercial and all other property types: All properties pay 1%
- Estimated Annual Revenue
 - \$1,000,000 *annually*
 - *Commercial Residential (5-plex+) = \$294,000 annually*
 - *Other Commercial Property Types = \$785,000 annually*



June 7 Council Direction / Questions

- ▲ On June 7, the City Council requested...
 - additional public engagement
 - more information about the powers of a charter city

Additional Public Engagement

1. Scheduled a new City Council Study Session (June 28)
2. Citywide information mailer.
3. Created a City webpage to convey information on the proposed City Charter and Transfer Tax that includes prior staff reports, presentations and the Zoom links for all upcoming meetings on the topics. The webpage can be found at www.sanbruno.ca.gov/CharterCity
4. Social media posts and a City Manager eNewsletter article



Further Limit Council Powers?

- ❖ Should the City Council want to further limit its powers as a charter city to only those powers that the City currently may exercise as a general law city (aside from the ability to implement a commercial property transfer tax), it can direct staff to amend the draft city charter to include a provision similar to the following...

“...this Charter shall restrict the City to exercising only those rights, powers and authority granted under the general laws of the State of California, with the exception of the power of a to impose a tax on the conveyance of real property as provided in Article III.”



Exercising Charter City Powers

- A charter city has the power to regulate all “municipal affairs.”

- Limits on a charter city’s powers are:
 - (i) the city’s charter
 - (ii) the California Constitution, and
 - (iii) the United States Constitution.



- Constitutional limits on cities revenue powers:
 - Proposition 13
 - Proposition 218
 - Proposition 26



What Is A Municipal Affair?

- Examples:
 - Public Contracts
 - Prevailing Wages
 - Bonds
 - Assessments



What Is Not A Municipal Affair?

- Examples:
 - Educational school systems
 - Traffic and vehicle regulations
 - Tort claims against a governmental entity
 - The Ralph M. Brown Act open meetings law
 - The Meyers-Milias-Brown Act regarding employee organization
 - The California Environmental Quality Act
 - The Public Records Act
 - Annexations
 - The exercise of the eminent domain power
 - Licensing of members of a trade or profession



Timeline

❖ Public Hearings & Study Session

- ❖ 1st Hearing - June 7
- ❖ Study Session – June 28 (*this evening*)
- ❖ 2nd Hearing Scheduled for July 12
- ❖ 30 days must elapse between the 2nd public hearing and the Council's decision

❖ City Council will need to schedule a special meeting on **August 3** for final authorization of ballot measures

- ❖ Deadline for submitting ballot measures for the November 8 election is August 12



Council Discussion

- ❖ Council Questions on Presentation
- ❖ Public Comment
- ❖ Council Discussion / Direction on Proposed Charter Measure to the San Bruno Voters at the November 2022 Election
 - ❖ Including an Integral Commercial Real Property Transfer Tax