



AGENDA REPORT

Economic Development

DATE:	March 1, 2022
TO:	Mayor Butt and Members of the City Council
FROM:	Shasa Curl, Interim City Manager Lina Velasco, Director of Community Development Samantha Carr, Environmental Manager
Subject:	Calling a Special Election and Placing a Special Tax on Vacant Properties on the June 7, 2022 Ballot
FINANCIAL IMPACT:	There is a cost of under \$100,000 to place this Measure on the June 7, 2022 ballot. If it passes successfully, it can generate an estimated \$1.5 million in the first year in new revenue to the City. Funds provided by the tax may be used to recover the costs associated with preparation of the ordinance and related documents required to obtain voter approval. Revenues from the tax are anticipated to drop over time as vacant lots are developed, and vacant properties are put in-use. The consultants estimate a potential 10 percent drop in the second fiscal year. And another 10 percent drop in the proceeding three (3) years combined. Forecasting beyond five (5) years, revenues may stabilize but a downward trend of between 1-3 percent per year may be expected.
PREVIOUS COUNCIL ACTION:	November 16, 2021, June 22, 2021, and February 22, 2022
STATEMENT OF THE ISSUE:	City staff is seeking council approval to call a special election to be consolidated with the June 7, 2022 statewide primary election and submit a ballot measure to the voters in the City of Richmond to adopt an ordinance authorizing a Special Parcel Tax on Vacant Properties. The ballot measure must be approved by a two-thirds majority vote of the qualified electors casting votes.

<p>RECOMMENDED ACTION:</p>	<p>The ACTION is to adjourn the meeting to March 8, 2022, to permit ordinance revisions to be presented to the City Council.</p> <p>ADOPT a resolution calling a special election to be consolidated with the next statewide primary election to be held June 7, 2022, and submitting to the voters a measure to establish a Special Parcel Tax on Vacant Properties at rates between \$3,000 and \$8,000 tiered by parcel size, annually per vacant undeveloped parcel; between \$3,000 and \$8,000 tiered by parcel size, annually per vacant blighted developed parcel; \$3,000 annually per vacant blighted residential unit for condominiums, duplexes, or townhouse units under separate ownership; and \$3,000 annually per blighted parcel with ground floor commercial activity allowed but vacant, raising about \$1,500,000 annually to fund blight and dumping elimination, code compliance, and specified programs. - City Manager's Office, Economic Development (Shasa Curl/Lina Velasco, 510-620-6512).</p>
-----------------------------------	---

DISCUSSION:

Background

The City of Richmond ("City") is considering placing a potential Vacant Property Tax ("VPT") measure before Richmond voters in order to address blight and code compliance, encourage the development of unused and vacant properties, and generate revenue. Accordingly, the City engaged SCI Consulting Group ("SCI") to assist with "Phase I" feasibility analysis and recommendations, and "Phase II" implementation planning, stakeholder engagement, opinion survey, and potential tax ordinance development, and "Phase III" election services.

Vacant Property Tax ("VPT")

A VPT is a tax placed upon unused and under-utilized properties. The tax is collected annually on property tax bills based upon the City-determined vacancy status of the property. The general annual collection process involves:

- Identifying potentially taxable parcels,
- Communicating with the owners of those parcels, and
- Providing specific opportunities for these owners to petition the vacancy determination and/or apply for an exemption.

Currently, VPTs are not common but have recently been successfully implemented in Vancouver, British Columbia and Oakland, California. A growing number of California cities are considering VPT measures.

During the Phase II scope of work, SCI, the City Manager's Office, and Community Development hosted three community workshops and mailed approximately 7,000

surveys to registered voters to receive input and facilitate the development of a community and stakeholder informed ballot measure. The survey findings were presented to the City Council on February 22, 2022. The survey findings support the fact that blight, illegal dumping, code compliance, and the impact of vacant properties are highly prioritized by the community, and that projects and services to address these issues are currently desired by the community. The survey responses suggest there is support for the proposed VPT.

A VPT is considered a parcel tax. Therefore, a VPT enacted as either a special tax or a general fund tax requires 66.7 percent voter support. The total voter support for the special tax based on the survey results exceeds the 66.7 percent threshold, with 70.15 percent in favor of a Vacant Property Tax on vacant parcels used less than 30 days per year.

Proposed Special Parcel Tax on Vacant Properties

Below is a summary of the various components of the proposed VPT as specified in Attachment 3:

1. Categories of Parcels Subject to VPT

The following use categories of parcels are proposed to be subject to the VPT:

- Vacant parcels (undeveloped, raw ground)
- Not-in-use developed parcels:
 - Single-family detached homes and multi-family
 - Nonresidential parcels (commercial, industrial)
- Not-in-use condominium, duplex, and townhome units
- Not-in-use ground floor commercial spaces

The proposed tax ordinance establishes expanded definitions for the use and vacancy status of each parcel of real property in the City. Developed blighted properties not in compliance with the Richmond Municipal Code will be subject to the tax.

2. Determination of Vacancy Method

The proposed ordinance defines a developed property as vacant and subject to the tax if it is “in use less than thirty (30) days during a calendar year”. For reference, the City of Oakland’s VPT defines a developed property as vacant and subject to the tax if it is “in use less than fifty (50) days during a calendar year”. Broader definitions of vacancy, which result in more parcels subject to the tax, will generate more revenue but may sacrifice political and community acceptance.

3. In-Use Determinations

Improved and unimproved parcels are considered in-use only if the activity occurring on the parcel is legal as the City’s Zoning Ordinance defines those terms. The application of the City’s Zoning Ordinance as a standard is intended to avoid subjective

determinations about what activities should and should not be taxed. The proposed ordinance includes an expanded definition of “in-use” to capture the City’s Zoning Ordinance, to include the following:

- A. Physical occupancy of a residential parcel, or condominium unit by a lawful inhabitant.
- B. Carrying on of any institutional, commercial, industrial, or agricultural activity, as those terms are defined by the Zoning and Subdivision Code, and including any religious or community gatherings, on or in a nonresidential parcel, undeveloped parcel, or ground floor commercial space, except that:
 - 1. Any nonresidential parcel, undeveloped parcel, or ground floor commercial space used for warehousing, storage, or distribution activities, as those terms are used in RMC section 15.04.204. will not be considered in use unless at least thirty (30) percent of the parcel or unit's floorspace available for warehousing, storage, or distribution is occupied;
 - 2. Ground floor commercial space will not be considered in use unless either leased out to a bona fide tenant intending to use the space for a legal activity, or actually occupied, by an owner or some other party, for some substantially similar purpose.
- C. Maintenance of an undeveloped parcel that is contiguous to an occupied residential parcel owned by the same owner.

Further Explanation: Maintained, undeveloped parcels contiguous to an owner-occupied residential parcel being used by owner (e.g., side yard parcels) are common within the City.

- D. Ingress and egress upon a paved surface of persons or vehicles across substantially all of the parcel.

Further Explanation: As confirmed by public comment, in some parts of the City, several neighbors share a driveway that provides access to all of the neighbors' parcels. The driveway itself often is a separate parcel, with its own APN, and is owned by one of the neighbors who grants an easement to the other neighbors.

- E. Other functions or operations as the City Manager may deem appropriate.

Further Explanation: The proposed ordinance includes a petition process to allow property owners to contest the determination of vacancy.

4. Timing

The proposed ordinance applies the VPT retroactively so that the calendar year in which a parcel is determined to be subject to tax precedes the imposition of the tax on the secured property tax bill. For example, if the parcel is determined in 2023 to be subject to the VPT, the property would see the tax on the fiscal year 2024-2025 secured

property tax bill. A retroactive tax is necessary to facilitate the administrative work of identifying vacant properties due to the work of identifying those parcels requiring a data-driven review of indicators that are reflected in property and other records which only become available following the calendar year. Notably, a retroactive tax will also facilitate the administrative work of processing property owner exemption applications while enhancing the usefulness of those exemptions.

In addition, if placed on the June 2022 ballot, implementation of the VPT would not start until Fiscal Year 2024-2025 allowing time for both property owners to act and the City to complete necessary actions for implementation.

5. Identification of Potentially Taxable Parcels

As part of the implementation of the VPT, the City or possibly a consultant would perform parcel analysis to identify the subset of parcels likely subject to the tax. This analysis may include vacancy indicators such as parcel use data from the County Assessor's Office (e.g., vacant), inconsistent property and mailing addresses, City permit records, City code enforcement records, and low or no utility use. Therefore, there may be data-related limitations on the identification process when defining the type of parcel uses to be taxed and the definition of vacancy.

6. Recommended Exemptions

The proposed ordinance includes the following exemptions below. The proposed ordinance provides clearly defined exemptions and criteria in order to avoid the need for subjective determinations about what qualifies for an exemption from the tax:

- Very low-income owners (In 2021, this figure is 1 person \$35,962; 3 persons \$46,237)
- Low-income local senior owners (In 2021, this figure is 1 person \$76,750; 3 persons \$98,650)
- Active development or active construction
 - Owners who have submitted substantially complete and actively pursued application for development project
 - Owners with active entitlement approvals
 - Active construction
 - Owners who have submitted a substantially complete application and actively pursued Building Permit Application
- Owners for whom paying the tax would constitute a financial hardship
- Owners who are unable to develop their parcel due to a demonstrable hardship that is not financial
- Exceptional physical circumstances
 - Not able to be developed due to physical circumstances such as geologic or soil conditions.

Approval of exemptions are dependent on the property's compliance with the Richmond Municipal Code. Therefore, the proposed ordinance stipulates that properties considered blighted or a nuisance do not qualify for exemption from the tax.

7. Development Assistance Program

The community expressed a desire for the City to provide assistance for the development of vacant parcels. The proposed ordinance includes an development assistance program for qualified properties, from which funds may be disbursed for City building permit, City impact fees and an expedited permitting process based on funding available generated from VPT funding. The proposed ordinance allows for the potential to give priority to non-profit organizations.

8. Tax Relief or Mitigation

If a non-profit purchases the property and has submitted a substantially complete planning application that is being actively pursued, the Vacant Property Taxes imposed by the City from the past three (3) years will be reimbursed.

9. Tiered Tax Rates by Parcel Size

The proposed ordinance includes tax rates tiered by parcel size and use categories in order to balance optimal revenue generation with political viability and fairness, as shown in Table A. The proposed tiered tax rate by parcel type and size is \$3,000 - \$8,000, with the annual CPI tied to index, not to exceed 3 percent.

TABLE A: Proposed Tiered Tax Rate by Parcel Size

Vacant Property Type	Annual Maximum Tax Rate		
	Less than 5,000 sq.ft.	5,000 sq.ft – 1 acre	Larger than 1 acre
Undeveloped vacant lot	\$3,000 per parcel	\$5,000 per parcel	\$8,000 per parcel
Residential / commercial / industrial	\$3,000 per parcel	\$5,000 per parcel	\$8,000 per parcel
Condominium & ground floor commercial	\$3,000 per parcel	\$3,000 per parcel	N/a

As shown below in Table B, the City has approximately a total of 32,891 legally defined parcels. Of those parcels, approximately 954 are vacant “undeveloped, raw ground” parcels as determined by the County Assessor’s office. Note that only a portion of these vacant parcels would be subject to the VPT because many are contiguous to a residential parcel of the same owner and are being used as a driveway or side yard or subject to another exemption. For revenue modelling purposes, SCI adjusted the number of taxable vacant lots from 954 down to a range of 192 – 283, based upon a cursory review of the data and their experience with implementing Oakland’s VPT.

TABLE B: Citywide Property Statistics – All Parcels

Parcel Type	Number of Parcels	% of Total
Residential	28,618	87
Non-residential	2,609	8

"Vacant" - as defined by County Assessor	954	3
Government-owned	710	2
Total Number of Parcels in Richmond	32,891	100

Undeveloped vacant lots are distributed by parcel size throughout the City in the percentages shown below in Table C:

TABLE C: Percentage of Lots by Parcel Size

Parcel Size	Percentage
Smaller than 5,000 sq.ft.	47
5,000 sq.ft. – 1 acre	36
Larger than 1 acre	17

A range of revenue projections are shown below, applying the proposed tax rates of \$3,000 - \$8,000, tiered by acreage and use category, and modeled by the estimated number and acreage of parcels taxed. Potential first-year revenue generation ranges from \$3,000 to \$8,000 per year per parcel and the corresponding total revenue estimates, ranging from \$1,189,000 to \$1,745,000. The estimate is based on current City property statistics including the share of undeveloped parcels distributed within the acreage-tiered tax rates, expected vacancy rates for undeveloped and improved parcels, and expected approved property owner exemption applications, developed from SCI's experience administering the City of Oakland's VPT.

TABLE D: Potential First-Year Revenue Scenarios

Vacant Parcel Uses Subject to VPT	Approximate Number of Units	Low End	Middle	High End
Vacant Parcels (undeveloped, raw ground)	192 - 283	\$879,000	\$1,084,000	\$1,290,000
Single Family / Multi-family - Not in use	55 - 80	\$249,000	\$307,000	\$366,000
Condos - Not in use	20 - 30	\$61,000	\$75,000	\$89,000
Non-Residential - Not in use	TBD	TBD	TBD	TBD
Residential Ground Floor Retail -- Not in use	TBD	TBD	TBD	TBD
Estimated Revenue Generated		\$1,189,000	\$ 1,466,000	\$ 1,745,000

10. Inclusion of Sunset

The proposed ordinance does not include a sunset.

11. Special Tax

A VPT is considered a parcel tax and therefore a VPT enacted as either a special tax or a general fund tax requires 66.7 percent voter support. However, the specific purposes to be funded by the special tax, must be identified in the balloting material provided to voters at the time of the special tax election.

The proposed ordinance imposes the VPT as a special tax. The imposition of the VPT as a special tax includes natural enhancement to the VPT's messaging by emphasizing the nexus between the funding purposes of the tax and the underlying issues surrounding vacant properties such as blight, illegal dumping, and code compliance, etc. A VPT enacted as a special tax creates a stronger link between the VPT's purpose of encouraging the optimal use and development of vacant properties, and the societal effects of vacant properties within the community, while providing the resources to better address the challenges associated with blight and illegal dumping.

12. June 2022 Ballot

The potential Richmond VPT ballot measure is proposed as part of a special election to be consolidated with June 7, 2022 statewide primary election.

13. Ballot Question

City Staff, in coordination with SCI has prepared the proposed ordinance to submit to the voters at the June 7, 2022 statewide primary election for approval. This resolution and the attached ordinance submits the following measure to the voters:

"Shall the Measure, to fund resources to address blight and illegal dumping, code enforcement services, and discourage vacant properties, by enacting a Vacant Property Tax on undeveloped parcels and blighted developed parcels used less than 30 days per year, at annual rates between \$3,000 and \$8,000 per parcel; raising about \$1,500,000 annually; with exemptions contingent upon code compliance for very low income, low-income local seniors and hardship, be adopted?"

NEXT STEPS

If City Council adopts the Resolution calling a special election and submitting to the Voters a Measure to Adopt a Special Parcel Tax on Vacant Properties, the City Clerk will be directed to cause the proposed measure to be printed and to mail a copy of the measure to all registered voters in the City of Richmond. Funds would also need to be appropriated into the FY2021-2022 budget to cover the additional expenditure for consolidation with the statewide primary election.

ATTACHMENTS:

Attachment 1 – Resolution Calling a Special Election and Submitting to the Voters a Measure to Adopt a Special Parcel Tax on Vacant Properties

Attachment 2 – Notice of Election and Measure to be Voted on