



To: Governing Board, San Francisco Bay Restoration Authority
Fr: Kenneth Moy, Legal Counsel
Dt: November 21, 2014
Re: Decision to Use Flat Rate Parcel Tax as Funding Mechanism

Summary: The contents of this memorandum are culled from the minutes of the meetings of Governing Board of the San Francisco Bay Restoration Authority (Authority) from 2009 to 2011. During this period, the Governing Board gave early consideration to use of a benefit assessment or a property-based fee as a funding mechanism. However, by mid-2010, the Governing Board and staff had focused on a flat rate parcel tax as the subject for polling and testing. This memorandum only reviews the Authority's discussion/consideration of funding mechanisms up to mid-2011, when the Governing Board had apparently settled on a flat rate parcel tax as its preferred funding mechanism.

Discussion: In July 2009, Gerard van Steyn of SCI Consulting Group, presented an overview of the *San Francisco Bay Restoration Authority Funding Options Report 2009* (Report) (attached) prepared for Save The Bay. The Report identified special taxes, property-related fees and benefit assessments as the primary funding mechanisms available to the Authority. The Report recommended a special tax for the following reasons: (a) best suited for a nine county regional funding mechanism with flexibility to be used at a subregional level encompassing less than all nine counties, (b) minimal legal risks, (c) flexibility in funding formulas and (d) flexibility in use of funds. Finally, a special tax can fund operation and maintenance of eligible projects and the costs of operating the Authority.

The Report also described the advantages and disadvantages of the following funding mechanisms: (1) general obligation bonds, (2) sales taxes, (3) Mellos-Roos Community Facility Districts, (4) property-related fees and charges, (5) benefit assessment, (6) user fees and regulatory fees, (7) development impact fees, (8) gifts and grants from private organizations, (9) State bonds, (10) State revolving funds and (11) Federal bonds, funds and appropriations. The Report notes that general obligation bonds cannot fund operations of the Authority or operation or maintenance of any project. In general, the Report concluded that the Mellos-Roos, property-related fees, benefit assessments and user and regulatory fees and development impact fees all had significant legal risks. Development impact fees posed significant political hurdles. The Governing Board accepted the Report and directed staff to conduct a higher level survey and opinion research to determine public responses to a parcel tax as a funding mechanism.

In October 2009, Save The Bay (STB) presented to the Governing Board the findings of the public opinion polling/research survey conducted in Spring 2006 for STB to determine voters' opinions on wetland restoration. At the same time, the San Francisco Foundation awarded grant funds to SFEP on behalf of the Authority for public opinion polling. Funding was later supplemented by funding from the Hewlett Foundation. The Governing Board formed a committee to develop a work plan for the survey, including the funding mechanisms that would be the subject of the survey.

In January 2010, Joe Edmiston, Executive Director of the Santa Monica Mountains Conservancy and the Mountain Recreation and Conservation Authority, spoke about their programs and experience in raising local funds through a benefit assessment district. The Governing Board discussion centered

on recent legal challenges to benefit assessment districts that fund open space and conservation projects and the differences between the Authority and the groups represented by Edmiston.

In July 2010, the Governing Board approved selection of FM3 to conduct the Authority's public opinion polling. Members of the Governing Board provided input regarding the survey instrument. In October, Dave Metz of FM3 presented findings from the public opinion polling. The presentation included a review of the methodology, key findings, the mood of the electorate, perceptions of the San Francisco bay, support for a potential bay restoration finance measure, patterns of support for a potential parcel tax. The overall conclusion was that there was broad support for such a measure.

In January 2011, Mary Selkirk of the Center for Collaborative Policy facilitated a discussion of ballot measure concepts to be tested in the next phase of public opinion polling. Governing Board members and staff discussed various aspects of a parcel tax rate to be polled, such as adjustments for inflation, possible exemptions/discounts, geographic coverage, duration and application to residential/commercial parcels. They also discussed other matters to be polled including prioritization of projects and the level of specificity regarding projects, sea level rise and climate change. Finally, they discussed the structure of the survey such as sample size, geographical coverage of the poll, and use of focus groups. These discussion points were given to the firm selected to conduct the next phase of polling.

In May 2011, Ruth Bernstein of EMC Research, reported to the Governing Board on focus group findings. The presentation included the methodology used for conducting the focus groups, key findings, and potential vulnerabilities. Key findings include the perception that "The Bay" is the San Francisco Bay Area; voters value and feel responsible for the Bay; the reaction to the proposed parcel tax amount; reasons for voting for the measure; focusing on the benefits; and focusing on "the whole Bay." Potential vulnerabilities include tax fatigue and crowded ballot, and the perception that restoration is frivolous or unnecessary in the current economy.

In July 2011, Ruth Bernstein of EMC reported on the results of the telephone survey of bay area voters conducted July 6 to 14, 2011. She presented the Phase II survey methodology; the Phase I Survey and reviewed the Focus Group findings. She then presented the Phase II Survey results which indicated support below the two-thirds threshold and voter uncertainty regarding the regional economy. Tim Seufert of NBS reviewed for the Governing Board, election costs and tax collection fees. The total estimated cost to be on the ballot in all nine Bay Area counties in November 2012 is \$5.5 million. Seufert also reported on the schedule of fees for collecting the parcel tax. Schuchat presented a staff memo on the estimated annual revenues from a \$10 parcel tax from counties and from bayside cities. The annual net revenue would be approximate \$19 Million if the parcel tax was levied in all nine Bay Area counties, or \$10 Million if levied only in bayside cities.

The Governing Board deferred placing a revenue measure on the ballot from 2012 to 2014 based on polling results. The Authority focused all its efforts for a 2014 revenue measure on a flat rate parcel tax levied across all nine counties for a period of 10 years. Polling indicated public support for such a measure was strong enough to warrant placing it on the ballot in 2014 but the lack of funds for ballot access costs and for a private campaign ultimately mandated deferral to 2016.