



Board of Supervisors Memorandum

April 17, 2018

Draft Sales Tax Implementation Plan Ordinance and Resolution Levying a Sales Tax

Background

At the Board's April 3, 2018 meeting the Board accepted the Sales Tax Advisory Committee's final report and recommendations, and directed staff to prepare a draft sales tax implementation plan ordinance, as well as a draft resolution levying a sales tax, for Board discussion on April 17, 2018. Attached are both documents. Both documents also include in the margins policy alternatives should the Board wish to discuss such. These policy alternatives are detailed in this memorandum.

The draft ordinance and resolution, if adopted by the Board as currently written, would achieve the following:

1. Sufficient funding to improve the condition of all unincorporated paved County-maintained roads (local, arterial and collector) within 10 years to at least a fair condition;
2. Significant funding to cities and towns for their road repair needs;
3. Assurances that the funding will be spent on road repair via two independent audits annually of sales tax revenue deposits to and expenses from the road repair fund, one by the Regional Transportation Authority and one by the Arizona Auditor General's Office, along with an automatic repeal clause if misspending occurs and is not cured;
4. Reduction of the County's primary property tax rate by 25-cents per \$100 of taxable value;
5. Over \$50 million in additional General Fund support for programs that increase the financial stability and health of low-income households to mitigate the impact of the sales tax on these households.

Below is a potential schedule for continued Board consideration of a County sales tax, should the Board chose to proceed:

April 17	Board discussion and direction on the draft ordinance, which includes the County's draft 10-year road repair plan and road list for unincorporated areas, and the resolution
May 1	Board action on the ordinance
May 15	Board action on the resolution
May 22	Tentative budget adoption

Resolution

A resolution is the form in which the Board takes a specific action. In this case, the action is levying a county general sales tax. The Board can make its action conditional. In this case, the Board is conditioning the action of levying the sales tax on the following conditions:

1. The sales tax is to be levied for a period of 10 years.
2. The sales tax revenue is deposited into a Road Repair Fund.
- 3.a. The sales tax revenue may only be used for road repair, as defined in detail in the Resolution.
- 3.b. The sales tax revenue is distributed to cities and towns, and unincorporated Pima County, based on the population of each in proportion to the County's total population, and per intergovernmental agreements.
- 3.c. The Regional Transportation Authority audits the Road Repair Fund annually, establishes performance standards and best practices for road repair, and annually reviews performance of County, cities and towns management of road repair programs and recommends alternative project management if necessary.
- 3.d. The County's financial statements with regard to the Road Repair Fund are audited annually by the Arizona Auditor General's Office.
- 3.e./f. If either of the two audits find that the County misspent the sales tax revenues, and the County does not correct that misspending, the levy is repealed.

Per ARS 42-6103, a unanimous vote of the Board of Supervisors is required to levy a County general sales tax.

Sales Tax Implementation Plan Ordinance

An ordinance is the form in which the Board adopts a rule or law or plan. In this case, the Board is adopting a plan for implementing the sales tax. The ordinance is not effective until the resolution levying the sales tax is adopted. The ordinance states that:

- Section 2. The sales tax revenue may only be used for road repair, and duplicates text from the Resolution defining authorized uses.
- Section 3. Provides more details regarding requirements for distribution to cities and towns, including requiring a 10 year road repair plan from each city and town prior to distributing the first year's share of sales tax revenue
- Section 4. References as an exhibit the County's detailed road repair plan for unincorporated Pima County that would fully fund the repair of all paved

County maintained roads in 10 years. It includes a list of each road segment by treatment type and the year in which the treatment is scheduled. It also details how the road segments were prioritized for repair. For roads rated poor or failing, failing roads are scheduled for treatment first. For roads rated very good to fair, very good roads are scheduled for treatment first to preserve that condition.

Section 5. Requires the Board to stop levying the road repair property tax.

Section 6./7. Requires the Board to mitigate the impact of the sales tax on low-income households by budgeting \$3 million in additional funding for low-income programming and services for the first year the sales tax is levied from the General Fund, with the intent to increase this by \$500,000 each subsequent year; and to create a commission that will recommend subsequent years funding to maintain or increase the availability of such services; and requires the Commission to develop a plan for approval by the Board for allocating the funding and for the Commission to review the effectiveness of such spending.

Policy Alternatives

A. Distribution of funding between cities, towns and unincorporated Pima County

In the past when the County was distributing property tax revenues to cities, towns and unincorporated areas in Pima County, I had recommended the distribution be based on the taxable value of property within each jurisdiction. This was the basis for distributing the 25 cent per \$100 of taxable value for the local road repair property tax. This would have also been the basis for allocating general obligation bond proceeds for road repair, if the 2015 bond proposition had succeeded, since general obligation bonds are repaid with property taxes. However, in the case of a sales tax, the revenue is generated by people participating in sales transactions, and therefore I feel it is more appropriate to base the distribution on the population as a percent of total County population. Table 1 shows the recommended distribution by population and Table 2 shows what the distribution would look like if it was based on taxable property value. The draft resolution bases the distribution on population, and the ordinance provides more details about how the population would be calculated.

Table 1
Estimated 10 Year Sales Tax Revenue Distribution by Population

Jurisdiction	July, 1 2016 Census Population	% Population	Estimated 10 Year Sales Tax Revenue Allocated to Road Repair Regionally	Estimated 10 Year Sales Tax Revenues Per Jurisdiction¹
Marana	43,474	4.28%	\$887,650,319	\$37,991,434
Oro Valley	43,781	4.31%	\$887,650,319	\$38,257,729
Sahuarita	28,794	2.83%	\$887,650,319	\$25,120,504
South Tucson	5,645	0.56%	\$887,650,319	\$4,970,842
Tucson	530,706	52.22%	\$887,650,319	\$463,530,997
Unincorporated Pima Co.	363,806	35.80%	\$887,650,319	\$317,778,814
Total	1,016,206	100.00%	\$887,650,319	\$887,650,319

Table 2
Alternative: Estimated 10 Year Sales Tax Revenue Distribution by Assessed Value

Jurisdiction	Taxable Net Assessed Valuation	% of Overall County Tax Base	Estimated 10 Year Sales Tax Revenue Allocated to Road Repair Regionally	Estimated 10 Year Sales Tax Revenues Per Jurisdiction¹
Marana	\$645,311,769	7.74%	\$887,650,319	\$68,732,728.40
Oro Valley	535,042,025	6.42%	\$887,650,319	\$56,987,800.24
Sahuarita	233,877,438	2.81%	\$887,650,319	\$24,910,493.19
South Tucson	22,169,911	0.27%	\$887,650,319	\$2,361,336.87
Tucson	3,414,161,333	40.97%	\$887,650,319	\$363,645,349.24
Unincorporated Pima Co.	3,483,330,430	41.80%	\$887,650,319	\$371,012,611.06
Overall Pima County	\$8,333,892,906	100.00%	\$887,650,319	\$887,650,319.00

Sources: Pima County Assessor 2018 Levy Limit Worksheet for Overall Pima County, South Tucson, and Tucson valuation. Pima County Clerk of the Board of Supervisors, 2018 Abstract of Pima County Clerk of the Board of Supervisors, 2018 Abstract of Values By Legislative Class of Property for Marana, Oro Valley, and Sahuarita valuation.

¹ To be reduced proportionally to fund financing costs that would be taken out of the sales tax revenue allocation for road repair prior to distributing the funds.

B. Role of the RTA

The role of the Regional Transportation Authority in administering a County sales tax for the repair of roads throughout the region, has been discussed several times by the Board. In fact, Supervisor Steve Christy requested an opinion from the County Attorney's Office with regard to what responsibilities the Board could legally delegate to the RTA. This legal opinion is dated December 11, 2017 and is attached to this memorandum as the Board voted to waive its attorney-client privilege. The section on the delegation of the road maintenance program begins on page 3 of the legal opinion. From just a legal perspective, the RTA could administer the entire program, with the exception of the following: Pima County and cities and towns must legally approve plans for which roads within their jurisdiction are to be repaired and when. This responsibility cannot legally be delegated. The County, for example, is responsible for County road maintenance and the Board is responsible for making decisions as to how to allocate limited resources and prioritize road maintenance projects. Keeping this responsibility provides the County with important limitations against liability claims against the County for road conditions. This still, legally, leaves a lot of options for the RTA in administering a road repair program funded by a County sales tax.

A list of possible RTA responsibilities is included in Table 3. Option A shows the broadest, legally allowable list of RTA responsibilities. This includes the RTA receiving the sales tax revenues from the County, the RTA preparing road repair plans for County, and city and town approval, the RTA acquiring right of way permits, the RTA contracting for the actual road repairs, and the RTA reporting on the program and auditing the program. The problem with this list is that it includes many activities that are just not practical for the RTA. Presently the RTA does not build roads, nor does it contract with construction companies to build roads. It is primarily the fiscal and reporting agent for road improvement projects. The RTA instead contracts with the County, cities and towns to provide funding for road projects that the County, cities and towns then procure and contract for. The RTA reports on the status of the projects and funds independent audits. If the County were to grant the RTA all of the listed responsibilities, it would result in a lot of duplication of efforts between the RTA, the County, and cities and towns. For example, in preparing recently for possible state legislation that would have allowed for voters to vote on an additional RTA half-cent sales tax for road repair, the RTA asked the County, cities and towns for their 10 year road repair plans, modeled on the County's draft 10 year road repair plan for unincorporated Pima County. The RTA did not try to develop these plans itself.

But for the sake of discussion, Table 3 is included below. Option D shows the RTA responsibilities included in the draft resolution, which states that the RTA would annually audit the County's road repair program, develop performance standards for road maintenance, annually review the performance of the county, cities and town's management of road repair programs and recommend alternative project management if necessary, and maintain a database of updated road conditions for the region. This would be the least costly to the RTA and the County would allocate funding to the RTA to carry out these tasks.

Table 3
Possible RTA Roles and Responsibilities

Possible RTA Responsibilities	Option A: The broadest, legally allowable roles for RTA	Option B: County & Municipalities Contract or Perform Road Repairs	Option C: County & Municipalities Develop Plans and Contract or Perform Road Repairs	Option D: County transfers funding to Municipalities; County & Municipalities Develop Plans, Contract or Perform Road Repairs and Report Progress
	RTA cost to administer = HIGH	RTA cost to administer = MEDIUM	RTA cost to administer = LOW	RTA cost to administer = LOWEST
1. Receive annual funding from Pima County equal to the amount of sales tax revenue collected, less necessary financing costs to address the County's expenditure limitation.	X	X	X	
2. Draft a detailed plan for repairing roads within unincorporated Pima County and the municipalities that identifies each road segment, the proposed treatment, and schedule for treatment, with input from County and municipalities.	X	X		
3. Obtain public input on the plan.	X	X		
4. Obtain approval from the governing bodies of the County and municipalities for the plan for the roads that they are responsible for maintaining (County and municipalities cannot legally delegate this decision)	X	X		
5. Coordinate roadway prioritization with the utilities.	X			
6. Obtain right of way permits from each jurisdiction.	X			
7. Procure, issue and fund contracts to perform the agreed upon road repairs.	X			
8. Notify residents in advance of their particular road repair project.	X			
9. Monitor the status of the contractors.	X			
10. Regularly report on the status of the projects and the overall program.	X	X	X	
11. Conduct or contract for regular, independent audits of the program.	X	X	X	X
12. Retain a portion of the funding for RTA administration, and report annually to the County on how they spend the administrative funds.	X	X	X	X
13. Maintain a database of updated road conditions across the region	X	X	X	X
14. Transfer funding to County and municipalities		X	X	
15. Comment on County and municipal road repair plans		X	X	X
16. Set performance standards/best practices for road repair to evaluate County and municipal road repair programs		X	X	X
17. Annually review performance of County, cities and towns management of road repair programs and recommend alternative project management if necessary		X	X	X

C. Property Tax Reduction

The draft ordinance and resolution allocate all the sales tax revenues to road repair. The ordinance calls for the elimination of the existing road repair property tax, decreasing the County’s primary property tax rate by 25 cents, but no additional property tax relief. The Sales Tax Advisory Committee recommended the elimination of this road repair property tax, but also recommended that the Board consider and further analyze allocating sales tax revenues to further decrease the primary property tax. This is not new. Yavapai County, years ago when their Board first began levying their sales tax, included in the resolution that the revenues would be allocated to transportation and property tax reduction. Table 6 shows one alternative that allocates all the sales tax revenue to road repair in Year 1, 2.5 percent of the sales tax revenue in to property tax reduction Year 2, and increases the allocation of sales tax revenue to property tax reduction by 2.5 percent a year thereafter. As you can see, the result is a cumulative reduction in the primary property tax rate by 15 percent by Year 10. The Board could consider other allocation alternatives, but if the intent is still to fix all of the unincorporated roads within 10 years and significantly fund the road repair programs of our cities and towns, then allocating additional sales tax revenues to property tax reduction beyond what is shown in Table 6 could compromise the ability to meet those funding needs.

Table 6
Alternative: Allocating Sales Tax Revenues to Property Tax Reduction

Year	Estimated Sales Tax Revenue Collections	% Sales Tax Revenue Allocated to Property Tax Reduction	Estimated Sales Tax Revenue Allocated to Property Tax Reduction	County Primary Property Tax Rate²	Cumulative Reduction²
1	\$67,736,457	0.0%	\$ -	4.2096	6%
2	\$78,543,338	2.5%	\$1,963,583	4.1582	7%
3	\$82,258,993	5.0%	\$4,112,950	4.1168	8%
4	\$85,054,410	7.5%	\$6,379,081	4.0705	9%
5	\$88,106,205	10.0%	\$ 8,810,621	4.0254	10%
6	\$91,189,922	12.5%	\$11,398,740	3.9788	11%
7	\$94,290,379	15.0%	\$14,143,557	3.9303	12%
8	\$97,307,671	17.5%	\$17,028,842	3.8808	13%
9	\$100,129,593	20.0%	\$20,025,919	3.8315	14%
10	\$103,033,351	22.5%	\$23,182,504	3.7832	15%

² Year 1 primary property tax rate and cumulative reduction assume the 25 cent road repair property tax is eliminated, reducing this Fiscal Year’s primary property tax rate from \$4.4596.

D. Funding for Programs and Services that Improve the Financial Stability and Health of Low-Income Households

The Sales Tax Advisory Committee spent considerable time discussing and taking public input on the fact that sales taxes disproportionately impact low-income households, and included as one of four recommendations, that the Board should take mitigation actions to lessen such an impact. While this is not a new issue, the Board has not considered it in detail yet and therefore the language included in the draft Sales Tax Implementation Plan Ordinance is certainly deserving of discussion and policy direction from the Board. The draft Ordinance calls for an initial investment of \$3 million from the General Fund for the first year the sales tax is levied. The draft ordinance also states that this funding should be spent on programs and services that improve the financial stability and health of low-income households, including but not limited to, employment and job training, financial counselling, food and housing assistance, preventive health services, and improving awareness of existing benefits and services via benefit eligibility screenings.

For each subsequent year, it is recommended that the Board maintain that new baseline investment and increase it by \$500,000, for a total investment of \$52,500,000 over the 10 years the sales tax is levied. However, the ordinance must state that the budgeted amounts for years beyond the initial year are subject to budgeting and appropriation laws, as the Board of Supervisors cannot limit its own future exercise of legislative discretion.

Table 5
Increased General Fund Support for Low-Income Programing and Services

Year	Base \$3 million increase then \$500k a year
1	\$3,000,000
2	\$3,500,000
3	\$4,000,000
4	\$4,500,000
5	\$5,000,000
6	\$5,500,000
7	\$6,000,000
8	\$6,500,000
9	\$7,000,000
10	\$7,500,000
Total	\$52,500,000

The Ordinance also creates a Commission on Economic Diversity and Prosperity. The Commission is tasked with developing a plan, for approval by the Board for allocating the

The Honorable Chair and Members, Pima County Board of Supervisors

Re: **Draft Sales Tax Implementation Plan Ordinance and Resolution Levying a Sales Tax**

April 17, 2018

Page 9

funding to eligible programs, working with the existing Outside Agency Committee, making recommendations annually to the Board for the funding amount to be budgeted for eligible programs and reviewing the effectiveness of the funding allocated based on metrics included in the Plan. I recommend the plan be developed in conjunction with the County's existing Ending Poverty Now initiatives, and in the format of the County's Economic Development Plan with action items.

Studies have shown that programs combining job training, financial counselling and enrolling eligible households in existing benefit programs, have been successful in increasing household incomes. Job training is clearly an area where the County is in the position to lead. While it would be up to the Commission, I recommend the focus of the job training funds be on: (1) the underemployed; (2) displaced employees; (3) career ladder for wage growth; and (4) vocational educational opportunities including construction, aerospace and automotive trades and medical fields. I wrote to the Board on April 5, 2018 about shifting away from leased properties to housing County operations units in owned facilities, and stated that I will propose in the near future consolidating several county leased facilities into a single service center. This could provide an ideal location for piloting the co-location of the services listed above.

Alternative policy options for the Board to discuss in this area could include funding the low-income mitigation from the sales tax instead of the General Fund (property taxes), different annual funding amounts, and different eligible programs.

Recommendation

I recommend the Board discuss at the April 17, 2018 meeting the attached draft Sales Tax Implementation Plan Ordinance, including the County's draft 10-year road repair plan for improving the condition of every paved County-maintained road to at least a fair condition, and draft Resolution Levying a County Sales Tax, and provide direction on policy alternatives and whether to proceed.

Sincerely,



C.H. Huckelberry
County Administrator

CHH/(April 12, 2018)

Attachments

c: Chair and Members, Pima County Sales Tax Advisory Committee