



# CITY COUNCIL AGENDA STATEMENT



January 14, 2020

File ID: 20-0009

## **TITLE**

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CHULA VISTA APPROVING THE AMENDED MEASURE A PUBLIC SAFETY EXPENDITURE PLAN TO ADD THREE PEACE OFFICERS, ONE POLICE AGENT, AND FOR THE NEIGHBORHOOD PROTECTION UNIT, ONE PARALEGAL AND ONE CITY ATTORNEY INVESTIGATOR; AND AMENDING THE FISCAL YEAR 2020 EXPENDITURE BUDGET FOR THE MEASURE A SALES TAX FUND TO FUND SUCH POSITIONS OUT OF MEASURE A - POLICE DEPARTMENT AVAILABLE FUND BALANCE (4/5 VOTE REQUIRED)

## **RECOMMENDED ACTION**

Council adopt the resolution.

## **SUMMARY**

On February 13, 2018, the City Council accepted the recommendations of the Public Safety Advisory Committee to adopt the Intended Public Safety Expenditure Plan (PSEP). The PSEP presented the intended expenditures of approximately \$18M per year if a half-cent general sales tax measure passed. The intended plan was a guide on how the funds could be allocated based on the critical needs identified by the Police and Fire Departments. The plan also assumed that both the Police Department and Fire Department would each be allocated, through the budget process, approximately \$9M annually from the sales tax, with the goal of addressing public safety understaffing and improving response times.

On June 5, 2018, the People of the City of Chula Vista approved Measure A authorizing a one-half cent sales tax on retail sales within the City. The collection of the sales tax began on October 1, 2018.

On December 18, 2018, the City Council approved resolutions amending the Measure A Public Safety Expenditure Plan; and amending the Fiscal Year 2019 Operating Budget; adding authorized staffing of various City departments; and approving a side letter between the City of Chula Vista and International Association of Fire Fighters, Local 2180 (IAFF).

On June 4, 2019, the City Council adopted the Fiscal Year 2020 Proposed Budget that established the Measure A appropriations and adding authorized staffing of various City departments.

On June 18, 2019, the City Council approved a resolution amending the Measure A PSEP; updating Measure A sales tax revenue assumptions; staffing changes for both the Police and Fire departments, and updated expenditures.

On July 11, 2019, the Measure A COC voted to support amendments to the Public Safety Expenditure Plan to add two Digital Forensics Technician II positions to meet the Police Department's need to collect, handle, process, and analyze digital evidence for police investigations and for criminal prosecutions.

On December 3, 2019, the City Council approved resolutions amending the Measure A Public Safety Expenditure Plan; and amending the Fiscal Year 2020 Operating Budget; and adding authorized staffing to the Police and Fire Departments.

On December 12, 2019, the Measure A COC voted to support amendments to the Public Safety Expenditure Plan to add one Police Agent and three Peace Officer positions to meet the Police Department's need to combat illegal cannabis operations. Additionally, the City Attorney's Office proposed amendments to the Public Safety Expenditure Plan to add one Paralegal and one Investigator for the Neighborhood Protection Unit.

This item presents the proposed amendments to the Measure A Expenditure Plan and FY 19/20 Measure A budget to implement these staffing additions. Funding would be allocated out of existing Measure A Police Department available fund balance.

## **ENVIRONMENTAL REVIEW**

The Director of Development Services has reviewed the proposed activity for compliance with the California Environmental Quality Act (CEQA) and has determined that the activity is not a "Project" as defined under Section 15378 of the State CEQA Guidelines because it will not result in a physical change in the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the activity is not subject to CEQA. Thus, no environmental review is required.

## **BOARD/COMMISSION/COMMITTEE RECOMMENDATION**

At the December 12, 2019, Measure A Citizen's Oversight Committee (COC) meeting, the Police Department and City Attorney presented on the proposed plan included staffing changes for both the Police and City Attorney Departments, along with updated expenditures. The COC voted to support the Police Department's proposed amendments to the PSEP. The COC voted 4-2 in favor of Measure A funding the Paralegal and City Attorney Investigator, as requested; however a minimum of (6) affirmative votes are needed for official COC action.

## **DISCUSSION**

### **POLICE DEPARTMENT**

With the successful passage of the Measure A Sales Tax, staff is moving forward with implementation of the Public Safety Expenditure Plan (PSEP). At this time, the Police Department is requesting to approve minor modifications to the PSEP.

Recognizing that the demands of our community and the needs of the organization continue to evolve, the Police Department is proposing to hire additional positions relating to cannabis business regulation and licensing.

On November 6, 2018, the voters of the City of Chula Vista enacted Measure Q, opening a pathway to licensed and regulated cannabis businesses within the city. Since then, the Police Department has noted a spike in the presence of illegal cannabis operations across the city. Each illegal cannabis operation has resulted in a variety of crime and safety concerns for the surrounding community, significant public concerns relating to the health and safety of the operations, and an increase in the number of community complaints relating to the illegal operations.

In preparation for the crime and safety impacts that would likely parallel a newly-regulated cannabis market, the Police Department previously recommended the addition of both sworn and civilian positions to focus on the regulation and licensing of legal cannabis businesses, and to focus on the enforcement of state and local laws prohibiting illegal cannabis operations.

During CY 2018, staff hosted a variety of public forums and presentations related to potential cannabis regulations. Staff had projected that the costs associated with the licensing and regulation of legal establishments would be borne primarily by regulatory fees and taxes related to cannabis businesses. But a funding source was not identified for the costs related to the prohibition of illegal cannabis operations and was intended to be considered as a part of future general fund budget allocations.

Since the passage of Measure Q, the process of evaluating and licensing legal operators has begun but is still several months from completion. In the meantime, illegal cannabis operators have already had a significant impact on community safety and increased demand for police investigations. Illegal and unpermitted marijuana dispensaries pose a significant health and safety hazard to the public. In addition to traffic congestion and crime and disorder problems, unpermitted dispensaries usually have significant building and code violations which could be deadly in the event of a fire or other emergency that may require a quick evacuation. Illegal businesses often include barricaded exit points and magnetic locking systems that do not unlock in the event of a fire or power outage, potentially trapping persons within. The operators are frequently known to sell products that mimic candies and other youth-oriented treats, and preventing access to youth has been a priority for the Police Department. In addition, the department has discovered the presence of firearms is a frequent occurrence at illegal dispensaries. Simply put, illegal cannabis operations tend to be high-cash, fast moving businesses replete with crime, weapons, and a lot to lose.

Since 2014, police investigations have been conducted on dozens of illegal cannabis dispensaries, resulting in the closure of 39 illegal operators. As of the date of this report, there are at least 15 known illegal dispensaries operating within the city. The investigation of each illegal dispensary requires in excess of 120 hours of staff time, at a cost of more than \$20,000 each. With the support of Measure A, the City Attorney has hired a city prosecutor to assist in the enforcement effort. But, although revenue from legal cannabis has yet to be collected, additional investigative resources are necessary to combat illegal operations.

To address the growing impact of illegal and unregulated cannabis sales, staff recommends the addition of positions previously connected to crime related to illegal cannabis operations. These include:

- 4.00 sworn positions, to include 1 investigator primarily focused on illegal and non-regulated operations, 2 homeless outreach officers primarily focused on outreach combating drug impacts

within the homeless population, and 1 School Resource Officer primarily focused on scholastic campaigns and youth anti-drug education efforts.

The chart below outlines the Police Department's proposed changes (highlighted in yellow) to the PSEP.

**Proposed Police Department Public Safety Expenditure Plan**

Position	FY19	FY20	FY21	FY22	FY23	Total
POLICE SERGEANT		3.0	2.0	1.0		6.0
POLICE AGENT	1.0	2.0	3.0	2.0		8.0
PEACE OFFICER	4.0	6.0	5.0	5.0	1.0	21.0
SWORN FTE TOTAL	5.0	11.0	10.0	8.0	1.0	35.0
CIVILIAN BACKGROUND INVESTIGATOR	1.0					1.0
COMMUNITY SERVICE OFFICER		2.0				2.0
DIGITAL FORENSICS TECHNICIAN II		2.0				2.0
COMMUNICATIONS CENTER MANAGER		1.0				1.0
POLICE DISPATCHER	2.0	5.0				7.0
SR. POLICE TECHNOLOGY SPECIALIST	1.0					1.0
CIVILIAN FTE TOTAL	4.0	10.0	0.0	0.0	0.0	14.0
<b>POLICE DEPARTMENT TOTAL</b>	<b>9.0</b>	<b>21.0</b>	<b>10.0</b>	<b>8.0</b>	<b>1.0</b>	<b>49.0</b>

It is important to note that the licensing and backgrounding process of the legal cannabis industry will be an ongoing operation utilizing police staff resources. Owners, operators, and employees of cannabis establishments will constantly change necessitating new background investigations on new owners and employees. In addition, the department will have to review security plans and conduct inspections on a regular, reoccurring basis.

The Police Department recognizes that current community demands, safety strategies, and staffing needs will likely change in the future. The Police Department also recognizes that revenues and expenses used to calculate current allocation plans may change in the future. PSEP recommendations for future years will continue to be reevaluated, balanced against changes in revenue or expenditure projections, and considered along with changing public safety trends and community needs. As a result, this Public Safety Expenditure Plan is intended to be a "living document". Future recommendations may change.

## CITY ATTORNEY'S OFFICE

### **Role and function of the City Prosecutor and the Neighborhood Protection Unit**

NPU is to work closely with the Police Department and Code Enforcement to address neighborhood crime and disorder not otherwise being addressed by the District Attorney's Office or civil code enforcement efforts. The City Prosecutor's authority extends to all violations of the Municipal Code, as well as a small number of state code offenses. Prosecuting authority is limited to misdemeanors, as felony prosecution is within the exclusive jurisdiction of the District Attorney.

The Police Department will investigate crimes, and then may submit the case to the City Prosecutor to be reviewed for potential criminal charges, or other potential resolution. When cases are submitted for evaluation, the City Prosecutor must review all available evidence, direct further investigation as needed, and apply current law to the facts, using their professional judgment, to determine if charges can be proven beyond a reasonable doubt.

The City Prosecutor is responsible for all stages of the criminal case including: preliminary case evaluations, supplemental investigation, as necessary, filing charges, arraignment, filing and responding to pre-trial motions, attending pre-trial hearings, settlement negotiations, trials, post-adjudication hearings, probation hearings, and any appeals. The City Prosecutor is also responsible for the set-up and administration of diversion and restorative justice programs and asset forfeiture.

### **NPU Staffing Needs**

Criminal cases are labor intensive and move at a very fast pace since criminal defendants have a statutory right to be brought to trial within 45 (calendar) days of arraignment (30 days if they are in custody). In order to properly manage such cases, it is standard practice for a prosecuting agency (whether a City Prosecutor or District Attorney) to have support staff, including paralegals and investigators. This support staff is vital to run an effective prosecution unit. Tasks such as case intake, data entry, mailings, correspondence, and other administrative jobs can be, and typically are, handled by support staff. This allows the prosecuting attorney to handle more complex matters and to manage a larger caseload.

An adept and well-qualified paralegal is necessary to meet the expectations of today's modern prosecutorial requirements. The Paralegal's responsibilities will include:

- Prepare and draft legal memos and pleadings, perform legal research
- Obtain, review and process body worn camera, social media, and other technology
- Handle tasks such as case intake, data entry, mailings, correspondence, and other administrative tasks
- During a trial, the Paralegal will make sure that cases are appropriately managed and progressing
- Administer the Asset Forfeiture Program
- Assist with set-up and administration of diversion programs

An investigator plays a critical role in preparing a case for trial and performs functions that the attorney cannot. The City Attorney Investigator would be responsible for:

- Obtaining dockets/court records
- Gathering documentary evidence like taking photos, obtaining certified records, DMV records, and criminal history
- Locating and serving civilian witnesses with subpoenas
- Posting and serving cease and desist notices
- Investigating businesses with the Secretary of State, Bureau of Cannabis Control & other state agencies

The Paralegal and Investigator positions have been created and approved by the City Council during the budget process. The proposed action would fund the Paralegal and Investigator positions using Measure A funding starting this fiscal year. Measure A already funds the Prosecutor position for the NPU.

### **NPU Advancement of Police Department, Community and Measure A Objectives**

It is clear that the issue of public safety and reduction of crime is a top priority for the citizens of Chula Vista, as well as the various departments that serve the City. The main goal of Measure A is to fund efforts that will improve public safety and provide better service to the community. The Neighborhood Protection Unit is an integral part of this goal.

The City Prosecutor is directly addressing public safety issues facing the City and acts as an extension of the Police Department. The Prosecutor supports an outlined goal for the Police Department to “Improve investigative capacity and follow up in all major investigative units to maximize successful case resolution and provide better customer service to victims” [*Public Safety Expenditure Plan, 2/13/2018*].

Currently there are many areas where there is preliminary police involvement but there is no prosecutorial follow-up or definitive case resolution. Such matters include; health and safety issues related to Code Enforcement, municipal code traffic enforcement, as well as other quality of life issues. The City Prosecutor will directly provide this follow-up to ensure more positive case resolution and provide better service to victims and the community. For example, if the new “boots on the ground” that have been added to the police force are out in the community taking enforcement action and writing citations, but the citations are never addressed by the court, or no one is held accountable for their actions, then essentially this is not an effective use of the officers’ time, energy, and resources.

Officers currently face a “lack of proactive time to address community problems other than priority calls” [*Public Safety Staffing Strategies Report, 12/9/2017*]. The Neighborhood Protection Unit can provide this attention to community problems, allowing officers to focus on priority calls. There is currently a range of crimes that often fall through the cracks in court and are not properly addressed. Offenders are not held accountable, they suffer no consequences, and the message that is sent is that the law can be violated with no or little repercussions. The Neighborhood Protection Unit’s goal is to address these crimes and issues that are not getting the attention they need and deserve. The Prosecutor is essential to give these enforcement activities the potential for a deterrent effect and meaningful, positive impact on the community.

The City Prosecutor is uniquely positioned to respond dynamically to the needs of the community. They can respond to issues as they arise, determining what would be the best practice or approach to take when addressing the various crimes or issues that the City may be facing at any given time. This flexibility gives a great benefit to the City and the community because the Prosecutor is responding directly to the community’s needs.

The first priority that has been identified for the NPU is the need to address the illegal cannabis businesses that have flooded the City. The immediate prosecution of these cases aligns directly with the Police Department’s goal of addressing the growing impact of illegal and unregulated cannabis sales. But, the Prosecutor needs support staff in order to be able handle a multi-case workload, and prosecute higher-level owners and operators of the illegal businesses. This is a critical time to focus and enhance City enforcement efforts as the City prepares to license legal cannabis business operations. Illegal operations pose a significant public health and safety concerns, and if left unchecked will reduce city revenue from licensed businesses.

Various efforts throughout the years have been taken to add criminal prosecution capacity to the City, but there has been no continuity because there was no continuity in funding. Measure A provides the continuous funding essential to ensure the success and development of the Neighborhood Protection Unit. The Unit is focused solely on the needs of the community. The Unit has already reached a critical stage where capacity is essentially exhausted. The Unit cannot develop and move forward, either in a faster pace/volume for the cannabis cases already being addressed, or to even consider expanding into new areas of concern because there are insufficient resources at this time.

In order to provide solid follow-through on criminal investigations, and to maximize successful case resolution, the City Prosecutor, requires the minimal amount of additional support and resources requested.

### **MEASURE A POSITION ADJUSTMENTS**

The following table represents the proposed position count amendments for Fiscal Year 2020 related to the proposed actions. The Measure A Fund will see a net increase of 4.00 FTEs for the Police Department and a net increase of 2.00 FTEs for the City Attorney's Office. These positions will be funded using Measure A Police Department available fund balance.

Department	Fund	Position Title	FTE
Police Department	Measure A	Police Agent	1
		Peace Officer	3
Department	Fund	Position Title	FTE
Neighborhood Protection Unit	Measure A	Paralegal	1
		City Attorney Investigator	1
Total Police Department and City Attorney's Office Net Position Increase			6

### **DECISION-MAKER CONFLICT**

Staff has reviewed the decision contemplated by this action and has determined that it is not site-specific and consequently, the real property holdings of the City Council members do not create a disqualifying real property-related financial conflict of interest under the Political Reform Act (Cal. Gov't Code § 87100, et seq.).

Staff is not independently aware, and has not been informed by any City Council member, of any other fact that may constitute a basis for a decision- maker conflict of interest in this matter.

### CURRENT-YEAR FISCAL IMPACT

Adding one (1) Police Agent and three (3) Peace Officers to the Police Department section of the Measure A fund and amend the fiscal year 2019-2020 expenditure budget in the Measure A fund as indicated in the table below.

Cost Description	FY20
3 PEACE OFFICERS	\$302,740
1 POLICE AGENT	\$103,243
SWORN NON-PERSONNEL COSTS	\$36,919
<b>TOTAL FISCAL IMPACT</b>	<b>\$442,902</b>

Adding one (1) Paralegal and one (1) City Attorney Investigator and amending the expenditure budget in fiscal year 2019-2020 as indicated in the table below. The two additional positions are expected to be hired by March 2020. Unprogrammed Measure A Police share of revenues exist to fund these personnel costs for the remainder of FY 19-20.

Cost Description	FY20
1 PARALEGAL	\$119,326
1 CITY ATTORNEY INVESTIGATOR	\$129,574
<b>TOTAL FISCAL IMPACT</b>	<b>\$248,900</b>

At the end of fiscal year 2019, the Measure A allocation for the Police Department had available fund balance of approximately \$6.3 million.

### ONGOING FISCAL IMPACT

The PSEP anticipates that the one-half cent sales tax increase would generate between \$19.0 million in Fiscal Year 2020 and \$21.0 million in Fiscal Year 2030. As part of the City's annual budget process, annual allocations to the Measure A Sales Tax Fund would be brought forward for City Council consideration and action. In accordance with the Ordinance, for each subsequent year after Fiscal Year 2020, prior to City Council consideration of the City's annual budget, staff will prepare and present to the Citizens' Oversight Committee for its review a spending plan for Measure A revenues. The positions outlined in this report will be included in the Fiscal Year 2021 budget in Measure A - Police Department.

### ATTACHMENTS

None.

*Staff Contact: Roxana Kennedy, Chief of Police  
Glen Googins, City Attorney*