



Agenda Report

20-299

Agenda Date: 4/7/2020

REPORT TO COUNCIL

SUBJECT

Action on Grant from the County of Santa Clara's Healthy Cities Program - Tobacco - Free Communities Fund, and Related Budget Amendment [Council Pillar: Enhance Community Engagement and Transparency]

BACKGROUND

On February 5, 2019, Council adopted a Smoking and Tobacco Regulations Ordinance that expanded smoking restrictions in many public areas and multi-unit residences. These regulations aim to protect Santa Clara residents, employees and visitors from the harmful effects of secondhand smoke. The City received \$30,751 from the County of Santa Clara (County) to support its adoption and implementation of smoking regulations related to multi-unit residences. The grant was spent on mailers that were sent to almost 34,000 landlords, property managers, and multi-unit residents/tenants to notify them about the new smoking ordinance, 1,600 aluminum signs and window decals, and staffing resources.

On September 13, 2019, the Santa Clara County Department of Public Health, Office of Education, and First 5 Santa Clara County held an inaugural Reverse the Vaping Epidemic - 2019 Summit to inform policy makers and other key stakeholders about the dangers of vaping. The Summit coincided with the cities of San Francisco, Livermore and Richmond's recent bans on electronic cigarette (e-cigarette) sales, Governor Newsom's executive order on September 16, 2019 to address the youth vaping epidemic, and recent headlines about the growing outbreak of lung diseases related to vaping that has claimed at least 19 lives and affected over 1,000+ people in the country. These recent reports are not shocking considering there are no manufacturing standards for e-cigarettes. Appealing designs, along with the availability of flavors, have contributed to e-cigarettes becoming the most commonly used tobacco product in recent years. The Centers for Disease Control and Prevention (CDC) has recommended that people consider refraining from using e-cigarettes or vaping products particularly those containing THC while there are ongoing investigations about what is causing the lung injuries associated with e-cigarette use.

As of 2017, researchers had identified more than 15,500 unique e-cigarette flavors available online. Some of these flavors create an inflammatory response and others exhibit a monoamine oxidase inhibitor effect or are cytotoxic to lung cells. In separate studies, the Santa Clara County's Public Health Department found that almost one in three students in Santa Clara County have tried vaping before while Stanford Medicine reported that one in five high schoolers use e-cigarettes. The widespread use of e-cigarettes by youth has significant long-term public health consequences. Most e-cigarettes contain nicotine, which is highly addictive, can harm adolescent brain development, and can interfere with memory and attention processing. E-cigarettes can also contain other harmful

substances. Contrary to the misconception that e-cigarettes are a healthy substitute to tobacco consumption, the CDC warns that young people who vape may be more likely to start smoking traditional cigarettes.

On November 20, 2019, the County of Santa Clara released additional grant opportunities to support cities' efforts to adopt and implement new tobacco control policies and programs. The City applied for a grant in the amount of \$48,944 to conduct community outreach and to pursue regulations that would reduce youth access and exposure to tobacco products.

DISCUSSION

Tobacco control policies, like the Smoking Ordinance the City passed in 2019, have proven to be effective in preventing and reducing tobacco use. Despite recent interest at the federal government to regulate flavored tobacco, County public health staff and other public health advocates are encouraging local municipalities to pursue regulations at the local level. The County's Healthy Cities Program is focused on promoting tobacco-free communities.

Currently, the City has adopted six out of 12 recommended tobacco prevention strategies in the Healthy Cities Program (Attachment 1). Although the City prohibits smoking in many outdoor areas, it currently does not require a local tobacco retailer permit or prohibit the sale of flavored tobacco products or e-cigarettes.

Local jurisdictions that have established a tobacco retailer program include County of Santa Clara, City of Palo Alto, Town of Los Gatos and City of Cupertino. The City of Palo Alto and Town of Los Gatos have outsourced the management and enforcement of their tobacco retailer permit program to the County. The County will manage and enforce other jurisdiction's tobacco retailer permit programs if 1) the provisions of the jurisdiction's tobacco retailer permit ordinance are identical to the County program and 2) allow the County to collect the revenue from the tobacco retailer permits to offset the cost of management and enforcement.

If the City were to pursue a tobacco ordinance in keeping with the County's existing program, key items of note include the following:

Tobacco Retailer License Program - In order to monitor and enforce the sale of tobacco, a licensing program for retailers is necessary. The program would include:

- Retailers would be required to obtain and annually renew a tobacco retailer permit. The fee for the permit is expected to be \$425 per year.
- New tobacco retailers would be prohibited from locating within 1,000 feet of a school and within 500 feet of another tobacco retailer (existing retailers in these locations may continue to sell tobacco products assuming they are operating lawfully, renew their TRP on time, and do not transfer ownership).
- The sale of tobacco products in pharmacies would be prohibited.

Ban on E-Cigarette Sales

- The sale of e-cigarette products, including vaping products would be banned.

Ban on Flavored Tobacco Sales

- The sale of flavored tobacco products, including menthol cigarettes would be prohibited.

Community Outreach

The City's grant application included a community outreach prior to bringing an ordinance forward for Council consideration. Similar to the City's recent smoking ordinance efforts, outreach to the community and retailers would include:

Open City Hall - Launch an on-line survey to gauge the community's perspective on establishing a tobacco retailer program and ban flavored tobacco products and e-cigarette sales.

Community Meetings- Host 2-3 community meetings.

Business Outreach- Conduct targeted outreach to the City's existing tobacco retailers.

Outreach on the survey and meeting dates will be coordinated with the County of Santa Clara Department of Public Health, Breathe California of the Bay Area, Silicon Valley Central Chamber of Commerce and distributed via the City's social media channels, the City Manager's Blog, and on Nextdoor to neighborhood groups.

County Grant

As mentioned in the BACKGROUND section, the City applied for a grant in the amount of \$48,944 to reduce youth access and exposure to tobacco products. The County acknowledged that the City was awarded the grant (Attachment 2) to cover the anticipated implementation costs; however, the City and County have not finalized the required grant agreement as of the writing of this report. The recommended action requests authorization for the City Manager to negotiate and execute a grant agreement with the County and accept the anticipated grant amount in the amount of \$48,944 and appropriate the entire requested grant amount of \$48,944.

COORDINATION

This report has been coordinated with the City Attorney's Office and Finance Department.

ENVIRONMENTAL REVIEW

The action being considered does not constitute a "project" within the meaning of the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines section 15378(b)(5) in that it is a governmental organizational or administrative activity that will not result in direct or indirect changes in the environment.

FISCAL IMPACT

On February 14, 2020, the City was notified by the Santa Clara County Public Health Department that Santa Clara was selected to receive funding to support our efforts to reduce youth access and exposure to tobacco products. The County and City will begin negotiations on the scope of work activities and budget in March 2020. The City anticipates receiving the full requested amount of \$48,944, which can only be used for staffing costs and efforts related to implementing the proposed changes per the grant guidelines. The anticipated costs of operating expenses associated with implementing the proposed changes is \$2,520 while staffing costs are estimated at \$46,424. Acceptance of the anticipated grant of \$48,944 and approval of its appropriation to the Other City Departments Operating Grant Trust Fund will help cover operating expenses for implementing the proposed changes with no fiscal impact to the City. There are no matching fund requirements. This grant operates on a reimbursement basis and it is anticipated that expenses will not be incurred until FY 2020/21, which is reflected in the below budget amendment table.

**FY 2020/21
Budget Amendment**

	2020/21 Current	Increase/ (Decrease)	2020/21 Revised
<u>Other City Departments Operating Grant Trust Fund</u>			
<u>Revenues</u>			
Grant Funding	\$0	\$48,944	\$48,944
<u>Expenditures</u>			
Healthy Cities Program - Tobacco Free Communities	\$0	\$48,944	\$48,944

PUBLIC CONTACT

Public contact was made by posting the Council agenda on the City's official-notice bulletin board outside City Hall Council Chambers. A complete agenda packet is available on the City's website and in the City Clerk's Office at least 72 hours prior to a Regular Meeting and 24 hours prior to a Special Meeting. A hard copy of any agenda report may be requested by contacting the City Clerk's Office at (408) 615-2220, email clerk@santaclaraca.gov <<mailto:clerk@santaclaraca.gov>> .

ALTERNATIVES

1. Authorize the City Manager to negotiate and execute a grant agreement with the Santa Clara County Public Health Department to reduce youth access and exposure to tobacco products;
2. Do not authorize the City Manager to negotiate and execute a grant agreement with the Santa Clara County Public Health Department to reduce youth access and exposure to tobacco products;
3. Approve the appropriation of the anticipated grant amount of \$48,944 to the City Manager's Office to help cover operating expenses for implementing the proposed revised ordinance;
4. Do not approve the appropriation of the anticipated grant amount of \$48,944 to the City Manager's Office to help cover operating expenses for implementing the proposed revised ordinance; or
5. Any other Council direction.

RECOMMENDATION

Alternatives 1 and 3:

1. Authorize the City Manager to negotiate and execute a grant agreement with the Santa Clara County Public Health Department to reduce youth access and exposure to tobacco products; and
3. Approve the FY 2020/21 budget amendment in the Other City Departments Operating Grant Trust Fund to recognize grant revenue in the amount of \$48,944 and establish funding for the Healthy Cities Program - Tobacco Free Communities in the City Manager's Office to help cover operating expenses for implementing the proposed revised ordinance.

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Approved by: Deanna J. Santana, City Manager

ATTACHMENTS

1. Healthy Cities Program, 2019 Dashboard
2. Healthy Cities Award Letter - Santa Clara