



CITY COUNCIL WORK SESSION
Wednesday, February 10, 2021 at 6:30 p.m.
Meeting Held Virtually Via Zoom

(Information for the public on how to participate will be available at missionks.org/calendar prior to the meeting)

If you require any accommodations (i.e. qualified interpreter, large print, reader, hearing assistance) in order to attend this meeting, please notify the Administrative Office at 913-676-8350 no later than 24 hours prior to the beginning of the meeting.

AGENDA

1. Street Sales Tax Renewal and Street Program Funding - Laura Smith

City of Mission	Item Number:	1.
DISCUSSION ITEM SUMMARY	Date:	February 10, 2021
Administration	From:	Laura Smith

Discussion items allow the committee the opportunity to freely discuss the issue at hand.

RE: Discussion of Street Sales Tax Renewal

DETAILS: Over the course of the last several months, we have had several work sessions and presentations surrounding development and implementation of a new comprehensive street maintenance program. Our work session on February 10 will focus on a review of the dedicated street sales tax which will expire on March 31, 2022 and options and considerations for renewal.

The attached memo and supporting documents provide additional information in support of these decisions.

CFAA IMPACTS/CONSIDERATIONS: Maintaining an efficient street network in both residential and commercial areas of the community allow for residents and visitors to safely travel to and from home, work, school and shopping.

Related Statute/City Ordinance:	NA
Line Item Code/Description:	
Available Budget:	



MEMORANDUM

Date: February 5, 2021
 To: Mayor and City Council
 From: Laura Smith
 RE: Street Sales Tax Renewal

During our February 10 work session, we will continue our work on the comprehensive street maintenance program. Specifically, our focus for this work session will be developing action steps and a preferred timeline for renewal of the existing street sales tax. We will review and expand upon information previously introduced in the October 28, 2020 work session related to the following:

- Current Street Program Revenues
- Sales Tax Capacity
- Revenues Generated by Sales Tax
- Options for Renewal (mail ballot vs. regular election)
- Preferred Timing of Election

Current Street Program Revenues

There are three distinct revenue streams which currently fund street and other related transportation network improvements. The revenues are shown in the table below:

Funding Source	Source/Established By	2021 Revenues
Dedicated Property Tax	Council action during annual budget process	\$1,100,000
¼-cent Sales Tax	Voter Approval	\$ 600,000
Special Highway Funds	Pass through revenue from State (gas tax revenues)	\$ 250,000
	Total Funds Available:	\$1,950,000

Revenues are used for:

- Engineering, design, construction and construction inspection of transportation network projects (streets, sidewalks, curbs and gutters, etc.).

- Completing inventory and assessments of the network to assist in the development and evaluation of the comprehensive street maintenance program.
- Paying for materials and supplies, such as asphalt patch, used by Public Works staff for repairs and maintenance.

Although some of the revenues (property tax and Special Highway funds) could be used to pay for personnel costs, they have not historically been used for that purpose. Street program revenues fund both pay-as-you-go projects as well as street related debt service.

Property Tax The property tax portion of street program revenues is levied in the General Fund and transferred to the Capital Improvement Fund. Currently, the amount of property tax transferred is equivalent to 7 mills. The property tax transfer was initiated in 2015 when the Transportation Utility Fee (TUF) was suspended. At that time the TUF generated approximately \$750,000 annually, and the Council approved an equivalent level of mills to replace the TUF revenue. As the City’s assessed valuation has increased over the years, the amount of property tax revenue being transferred annually has also increased. A transfer in the amount of \$1.1 million is anticipated in the 2021 Budget. The Council, within the parameters of the current property tax lid requirements, may consider adjustments to this transfer to either increase or decrease the amount of property tax dedicated to the street program.

Sales Tax The sales tax revenue option was discussed in a series of public workshops and work sessions as the first comprehensive street maintenance program was being developed (2008-2010). At that time, there was an existing ¼-cent sales tax in place which had been levied for the purpose of covering debt service for bonds issued to expand the Powell Community Center. The sales tax was approaching expiration, and consensus was to seek renewal of the tax dedicated to street maintenance programs.

The ¼-cent sales tax was approved for ten years through a mail ballot election in December 2011. It became effective April 1, 2012 and expires March 31, 2022. A copy of Ordinance 1359, which certified the election results and confirms and details the allowed purpose and uses for the sales tax, is included in the packet. Voter participation (turnout) in the mail ballot election was 38.56% (2,205 votes), and the final election results are shown below:

YES	1,187	53.83%
NO	1,018	46.17%

As a point of reference, voter turnout and election results for three recent elections are included in the following table:

Jurisdiction	Election Type	Voter Turnout	Yes	No
SMSD Bond	Mail ballot (1/26/21)	27.56%	69.41%	30.54%
Roeland Park Special Sales Tax	General election (11/3/20)	N/A	59.85%	40.15%
Merriam Special Sales Tax	Mail ballot (1/28/20)	28.10%	79.63%	27.56%

Special Highway Motor vehicle fuel tax proceeds are collected under the authority of KSA 79-3401 et seq. Since 1949, Kansas law has required distribution of a portion of motor fuel taxes to a special fund to be used for maintenance of and improvements to county roads and city streets. Funds are remitted quarterly from the State to the City. Occasionally, when state budgets are under pressure, there are discussions of discontinuing this transfer to cities. In those instances, the City takes appropriate steps to advocate for continuation of this important street maintenance revenue stream.

Current Sales Tax Rates and Sales Tax Capacity

In accordance with KSA 12-187 et seq. and 12-189, cities are provided with the statutory authority to levy retailer’s sales taxes. A city’s sales tax capacity is capped at 3%, which includes up to 2% for “general” purposes and up to 1% for “special” purposes. Although the statutes are somewhat vague, an Attorney General’s opinion is included in the packet which proves helpful in interpreting state statute.

The City of Mission’s current sales tax rate is 9.6% and is allocated as follows:

State of Kansas	6.500%
Johnson County	1.475%
City of Mission	
General	1.000%
Streets	0.250%
Parks & Rec	<u>0.375%</u>
Total	9.600%

Currently, there are three special districts in Mission where an additional 1% sales tax is levied through a Community Improvement District or CID. Those include the Mission Crossing, Cornerstone Commons and Gateway projects, bringing the sales tax rate in these areas to 10.6%.

When considering sales tax as an option to generate revenue, especially for infrastructure improvements such as streets, cities often evaluate their retail sales tax “pull factor” to

determine what percentage of the sales tax is collected from non-residents. A pull factor greater than 1.0 indicates a city is pulling trade from beyond their borders. Since non-residents are benefitting from and impacting the quality of Mission’s streets, funding infrastructure maintenance with sales tax helps relieve Mission residents and businesses from paying 100% of the associated costs.

Based on the Kansas Department of Revenue 2020 Annual Report, Mission’s pull factor is 1.62. In order to determine the percentage of sales tax receipts generated by non-residents, the following formula applies: $((\text{Pull Factor}-1)/\text{Pull Factor})$. Approximately 38% of the Mission’s sales tax receipts are generated from non-Mission residents. Comparatively, Merriam has a pull factor of 78% (auto dealerships) and Roeland Park has a pull factor of 31%.

As a point of reference for our discussion, the total sales tax rates, city sales tax rates and the highest sales tax rates paid within each jurisdiction are detailed for several Johnson County cities in the table below:

City	Total Sales Tax Rate (%)	City Sales Tax Rate (%)	Highest Rate Paid in Jurisdiction (%)
Mission	9.6	1.625	10.6
Fairway	9.975	2.0	9.975
Shawnee	9.6	1.625	11.1
Merriam	9.475	1.5	9.475
Roeland Park	9.475	1.5	10.475
Olathe	9.475	1.5	11.475
Overland Park	9.1	1.5	11.1
Lenexa	9.35	1.375	10.350
Leawood	9.1	1.125	10.1
Prairie Village	8.975	1.0	9.975

Sales tax may be levied in increments of 0.05%, up to the maximums allowed under the state statutes. Based on Mission’s current sales tax rates, the total capacity available upon expiration of the current street sales tax is 0.625% or $\frac{5}{8}$ of 1%.

The sales tax could be renewed and specifically dedicated to streets, or it could be designated for general infrastructure use similar to the initiatives undertaken by Merriam and Roeland Park. We will discuss the potential challenges and opportunities of each during the work session. As a

point of reference for the conversation, various sales tax rates, and the amounts they would be expected to generate annually (2021 dollars) are provided below.

Sales Tax Rate	Estimated Annual Revenues
1/8-cent (0.125)	\$300,000
1/4-cent (0.25)	\$600,000
3/8-cent (0.375)	\$900,000
1/2-cent (0.5)	\$1,200,000
5/8-cent (0.625)	\$1,500,000

Options for Renewal

As we discussed during the October 28, 2020 work session, there are two options to place the sales tax question in front of Mission voters. It can either be accomplished through a mail ballot, or as a part of a regularly scheduled election. The process for certifying the question is the same for either type of ballot and includes:

- Adopting a resolution calling the election
- Publishing notice of the election
- Voter approval on election date
- Passing an ordinance levying the sales tax
- Sending proceedings to KDOR to begin levying the sales tax

Sales taxes may only be initiated at the beginning of a quarter, and notice must be provided to the Kansas Department of Revenue (KDOR) a full quarter in advance of when the city desires the sales tax to become effective. Sales taxes always expire at the end of a quarter. As an example, the current street sales tax will expire on March 31, 2022. If the City wishes to have no lapse in sales collection, notice of a new sales tax would have to be provided to KDOR by December 31, 2021.

Preferred Timing of Renewal

In conversations with the Johnson County Election Office, there are certain restrictions and timelines placed on timing for mail ballot elections.

To conduct a special mail ballot election, the Election Office is required to submit a Special Mail Ballot Plan to the Kansas Secretary of State Office for approval. In general, there is a 12-week timeframe to conduct the entire special election process, which is the total timeline from when the resolution or ordinance and ballot wording from the City will need to be submitted to the

Election Office to when the Final Canvass of the election results are completed and any recount deadlines are triggered. The Election Commissioner advises to plan on a 90-day block of time for any special mail ballot election to take place.

Separate mail ballot elections cannot take place at the same time that overlap jurisdictional boundaries. For example, Mission could not have conducted a separate mail ballot election at the same time as the most recent SMSD bond issue mail ballot election measure took place.

Separate mail ballot elections **can** occur at the same within the county that do not overlap a jurisdictional boundary. Meaning Mission can conduct a special mail ballot election at the same time as another city in Johnson County, or at the same time a school district (other than SMSD) is also holding a special mail ballot election. There are some minor cost savings realized to both jurisdictions when separate ballot measures are being conducted at the same time.

While not impossible, the Election Commissioner has indicated he would not want to be conducting multiple mail ballot elections in Johnson County that are not on the same election calendar time frame. So if Mission starts a special mail ballot election process, another city or taxing jurisdiction in the county could not then start a separate special mail ballot election only 30 to 45 days later. In essence, there are 90-day blocks of time for holding any special mail ballot election in Johnson County. The Election Office advised that staff with the City of Spring Hill had been inquiring about conducting a special mail ballot election in 2021. I will be discussing the details with Spring Hill's City Administrator in more detail on Monday, but my initial conversations with him suggest they are looking at the November 2021 General Election.

With the current election cycle set by the State of Kansas, Johnson County will be holding a general polls-election the 1st Tuesday of November of every year, and a primary polls-election, if needed, the 1st Tuesday of August every year. For 2021, the dates will be August 3rd and November 2nd. June 1st is the deadline for submitting any questions to be placed on the August 3rd primary election ballot. September 1st is the deadline for submitting a ballot question for the November 2nd election ballot.

The Election Commissioner is not aware of any set deadlines relating to a city holding a special mail ballot election either before or after the primary or general election cycle. So, holding a special mail ballot election could go into June or July of 2021, or into September or October of 2021. He would not agree to have the election date of a special mail ballot election overlap the start of early voting of either the primary or general election dates, which will be July 13th and October 12th this year (20-days prior to the election date). There have been several special mail ballot elections in Johnson County with the final election date falling in the month of September, between the August and November election cycles.

Based on the timing restrictions, we will need to weigh the policy pros-and-cons of holding and paying for a special mail ballot election close to either an August primary election date or a

November general election date in a given calendar year. We do have the choice of putting a ballot question on either the August or November election ballots in any given year, and this could be at no cost to the city. This is how Roeland Park handled their recent sales tax election.

If the primary or general election is to be a county-wide election, that is - if every registered voter has a county-wide ballot measure to vote on, then Johnson County pays for the costs of holding that election. If there is not a county-wide ballot measure for the August primary ballot, then the cost of holding that election will be allocated proportionally to the jurisdictions that have a primary race and/or ballot questions on the August ballot.

The August 2021 primary election may or may not be a full-county election, depending on how many filings are submitted for the Johnson County Community College Board of Trustees race and/or if the Kansas Legislature puts an item on the ballot, like a statewide constitutional ballot question. With four open JCCC Trustee seats, 13 candidates will need to file for the JCCC Trustee race by June 1st to trigger a county-wide primary run-off on the August 3rd ballot. If a primary is required for the Trustees, the primary will be a full-county election and there would be no charge to Mission for having a question on the August ballot. However, if there is not a primary for the JCCC Board, Mission will be billed for the direct expenses of their election – ballots, envelopes, polling place rental (if any), election workers, equipment delivery, etc. This will be the case for either a ballot question measure, and/or for any Mayoral/City Council Ward races that require a primary run-off election in August.

Generally, for a mail ballot election, cities are advised to plan on a cost of \$3-\$4 per registered voter. We are not billed per registered voter, but this will allow us to ballpark the upper limits of a mail ballot election. Mission currently has 7,059 “Active” registered voters. In a special mail-ballot election, ballots are mailed only to “Active” registered voters. Merriam was billed approximately \$15,800 for their recent mail ballot election.

A copy of the special City Newsletter that was mailed to all Mission residents in connection with the 2011 mail ballot election is included for your information and reference.

One of the primary issues for consideration will be identifying an election date that provides sufficient time for staff and the Council to develop informational materials to educate and inform voters. I’ll look forward to discussing these issues in detail during next Wednesday’s work session as we continue to advance the street program improvements for the benefit of our residents and businesses.

Kan. Atty. Gen. Op. No. 2008-25 (Kan.A.G.), 2008 WL 5208783

Office of the Attorney General

State of Kansas
Opinion No. 2008-25
December 10, 2008

Re: Cities and Municipalities—General Provisions—Countywide and City Retailers' Sales Taxes; Procedure for Implementation; Rate; Use of Revenues; General Purposes; Special Purposes

Synopsis: A city is required to specify the purposes for which the revenues from a retailers' sales tax will be used regardless whether it is levied for general purposes or special purposes. Whether a retailers' sales tax is levied for general purposes or special purposes is determined by the degree of specificity stated by the city as being the purposes for the levy. A retailers' sales tax that will potentially provide funding to address necessary work on all city roads, all city parks, and all of the community's cultural and recreational facilities, rather than specific roads, parks, and community cultural and recreational facilities, constitutes a sales tax levied for general purposes under [K.S.A. 2007 Supp. 12-189](#). Cited herein: [K.S.A. 2007 Supp. 12-187](#); [12-189](#); [K.S.A. 12-197](#); [12-187b \(Repealed\)](#); [12-188 \(Repealed\)](#); [12-189f \(Repealed\)](#); L. 2007, ch. 158; §§ 6, 7, 10; L. 2006; ch. 204, §§ 1, 2, 5; L. 2006, ch. 191, §§ 1, 2; L. 2001, ch. 67, § 1; L. 1982, ch. 64, § 1.

*1 Dorothea Riley
Bond Counsel
City of Lenexa
1010 Grand Boulevard, Suite 500
Kansas City, Missouri 64106-2220

Dear Ms. Riley:

As bond counsel for the City of Lenexa, you request our assistance in determining whether a proposition approved by the city's electors authorizes the levy of a retailers' sales tax for general purposes, thus allowing collection of the tax for more than 10 years. Clarification is required to determine the effect of amendments adopted by the Legislature during the 2006 and 2007 legislative sessions.

The procedure for levying a retailers' sales tax is set forth in [K.S.A. 12-187 et seq.](#) (the "Act"). Historically, the process was initiated by a city's governing body submitting to the electorate a proposition seeking approval of the retailers' sales tax levy.¹ The proposition included the rate and effective date of the sales tax² and "a statement generally describing [the] purpose or purposes" for which the revenue was to be used.³ The Act established four classifications of cities, with the rate at which a city could fix its retailers' sales tax dependent upon which of the four classifications the city fell.⁴ An additional sales tax levy was authorized in designated cities for the purpose of financing health care services,⁵ economic development or strategic planning initiatives, or public infrastructure projects.⁶ However, because the Act was nonuniform,⁷ a city was able to exercise its home rule authority, thereby establishing a retailers' sales tax at a rate above those authorized by the Legislature. The city was able to designate a "special project" towards which the revenues would be applied, with the tax terminating when the costs of the special project were paid,⁸ or could pledge all or a portion of the revenues towards "general purposes"⁹ designated by the city, ostensibly allowing the tax to continue until repealed by the city's governing body.¹⁰ Once a proposed sales tax was approved by a vote of the electorate,¹¹ neither the city's governing body nor the electorate had the authority to modify the purpose or purposes for which the retailers' sales tax was levied.¹²

*2 In order to bring uniformity to the Act and thereby preclude the exercise of home rule authority, the Legislature in 2006 and 2007 deleted the city classifications and tax rate differential provisions from [K.S.A. 12-187](#) and [12-189](#).¹³ The authority for additional levies for financing health care services, economic development or strategic planning initiatives, or public infrastructure projects was also deleted from the Act.¹⁴ The Legislature, instead, introduced the concept of levying a retailers' sales tax for "general purposes" or "special purposes." [K.S.A. 2007 Supp. 12-189](#) now states in part:

"The rate of any city retailers' sales tax shall be fixed in increments of .05% and in an amount not to exceed 2% for general purposes and not to exceed 1% for special purposes which shall be determined by the governing body of the city. *For any retailers' sales tax imposed by a city for special purposes, such city shall specify the purposes for which such tax is imposed.* All such special purpose retailers' sales taxes imposed by a city shall expire after 10 years from the date such tax is first collected."¹⁵

The Act does not define "general purposes" or "special purposes." Clarification is sought as [K.S.A. 2007 Supp. 12-187](#) requires that a city "proposing to levy *any* retailers' sales tax shall specify the purpose or purposes for which the revenue would be used" while [K.S.A. 2007 Supp. 12-189](#) requires that the purposes be specified "[f]or any retailers' sales tax imposed by a city for *special* purposes."

The rules of statutory construction are followed to determine the proper interpretation of the provisions.

"When courts are called upon to interpret statutes, the fundamental rule governing that interpretation is that the intent of the legislature governs if that intent can be ascertained. The legislature is presumed to have expressed its intent through the language of the statutory scheme it enacted. For this reason, when the language of a statute is plain and unambiguous, courts need not resort to statutory construction But where the face of the statute leaves its construction uncertain, the court may look to the historical background of the enactment, the circumstances attending its passage, the purpose to be accomplished, and the effect the statute may have under the various constructions suggested.

"As a general rule, courts should construe statutes to avoid unreasonable results and should presume that the legislature does not intend to enact useless or meaningless legislation. Courts ascertain the legislature's intent behind a particular statutory provision from a general consideration of the entire act. Effect must be given, if possible, to the entire act and every part thereof. To this end, it is the duty of the court, as far as practicable, to reconcile the different provisions so as to make them consistent, harmonious, and sensible.

*3

"Furthermore, when courts are called upon to review an amendment to a statute, they presume the legislature had and acted with full knowledge and information as to the subject matter of the statute, as to prior and existing law and legislation on the subject of the statute and as to the judicial decisions with respect to such prior and existing law and legislation. In the same vein, courts presume that when the legislature revises an existing law, it intended to change the law as it existed prior to the amendment."¹⁶

It is clear that the Legislature intends to allow a city to levy retailers' sales taxes for a total of not to exceed three percent. At the time that the Legislature adopted the amendments, it was aware that a city "proposing to levy *any* retailers' sales tax" was obligated to specify the purpose or purposes for which the revenue would be used and that such purposes could be either for a special project or for general purposes. The requirement in [K.S.A. 2007 Supp. 12-189](#) that a city specify the purpose or purposes for which a special purpose retailers' sales tax is being levied does not add a new requirement or restrict the existing authority of the city. Regardless whether the retailers' sales tax is levied for general purposes or special purposes, a city is required to specify the purposes for which the revenues will be used.

By authorizing a retailers' sales tax levy of not to exceed two percent for "general purposes" and not to exceed one percent for "special purposes," without providing any further guidance as to what may constitute such purposes, the Legislature is

continuing its longtime deference to the city to determine the purposes for the levy. The Legislature is presumed to ascribe the ordinary and common meaning to the words it uses.¹⁷ Therefore, in determining which purposes are general versus special, we look to the ordinary meaning of the terms. “General ... relates to the whole kind, class, or order [; p]ertaining to or designating the genus or class, as distinguished from that which characterizes the species or individual; universal, not particularized, as opposed to special,”¹⁸ while “special” is “[r]elating to or designating a species, kind, individual, thing, or sort; designed for a particular purpose; confined to a particular purpose, object, person, or class.”¹⁹ Whether a retailers' sales tax is levied for general purposes or special purposes is determined by the degree of specificity stated by the city as being the purposes for the levy.

On May 27, 2008, the electors of the City of Lenexa approved the following proposition:

“Shall a retailers' sales tax (also known as ‘Investing in Our Future’) in the amount of three-eighths of one percent (.375%) be levied in the City of Lenexa, Kansas (the ‘City’), for the purpose of:

*4 “(a) improving, rebuilding and maintaining roads, including but not limited to, sidewalks, storm water facilities and street lighting associated therewith;

“(b) development and maintenance of City parks;

“(c) design, construction and operation of cultural and recreational facilities and amenities for the community;

“(d) all things related and necessary to such projects, including but not limited to acquisition of land, construction of public buildings and facilities associated therewith and payment of the principal and interest on bonds or other obligations issued to finance such projects;

“*Provided* that such retailers' sales tax shall expire 20 years from the date of imposition, all pursuant to [K.S.A. 12-187 et seq.](#), as amended, and [K.S.A. 12-195.](#)”

Each one of the stated purposes is expansive in nature. The retailers' sales tax approved by the electors of the City of Lenexa will potentially provide funding to address necessary work on all city roads, all city parks, and all of the community's cultural and recreational facilities, rather than specific roads, parks, and community cultural and recreational facilities. The stated purposes constitute general purposes under [K.S.A. 2007 Supp. 12-189](#). The retailers' sales tax authorized by the electors of the City of Lenexa may, therefore, be levied for a period exceeding 10 years.

Sincerely,

Steve Six
Attorney General of Kansas
Richard D. Smith
Assistant Attorney General

Footnotes

1 [K.S.A. 12-187\(a\)](#).

2 [K.S.A. 12-187\(f\)](#).

3 [K.S.A. 12-187\(h\)](#).

4 [K.S.A. 12-188](#). See [K.S.A. 12-187\(a\)\(2\)](#); [12-187\(e\)](#); [12-189](#). The classifications of cities were A, B, C, and D, with the classification definitions set forth in [K.S.A. 12-188](#).

5 [K.S.A. 12-187\(a\)\(2\)](#).

6 [K.S.A. 12-187\(e\)](#).

7 *Home Builders Association of Greater Kansas City v. City of Overland Park*, 22 Kan.App.2d 649, 667-68 (1996).

- 8 K.S.A. 2007 Supp. 12-189. The provision has been in effect since 2001. *See* L. 2001, ch. 67, § 1.
9 *See* K.S.A. 12-197. The statute became effective on July 1, 1982. L. 1982, ch. 64, § 1.
10 *See* K.S.A. 2007 Supp. 12-187(e).
11 K.S.A. 12-187(a).
12 Attorney General Opinion No. 2007-04.
13 *See* L. 2006, ch. 204, § 5; L. 2007, ch. 158, §§ 6, 7. The definitions of the four city classifications set forth in K.S.A. 12-188 were repealed in L. 2006, ch. 204, § 5. K.S.A. 12-187 and K.S.A. 12-189, however, were amended by three unreconciled bills during the 2006 legislative session, resulting in dual versions of the statutes codified as K.S.A. 12-187 and K.S.A. 12-187b and K.S.A. 12-189 and K.S.A. 12-189f. The provisions of L. 2007, ch. 158, §§ 6 and 7 repealed the provisions that had been repealed in L. 2006, ch. 204, §§ 1 and 2, but which remained in effect due to the unreconciled provisions in L. 2006, ch. 191, §§ 1 and 2. K.S.A. 12-187b and K.S.A. 12-189f were repealed in L. 2007, ch. 158, § 10.
14 *See* L. 2006, ch. 204, §§ 1, 2; L. 2007, ch. 158, §§ 6, 7.
15 Emphasis added.
16 *In re Adoption of G.L.V.*, 190 P.3d 245, 252 (Kan., 2008) (internal citations and quotation marks omitted).
17 *State ex rel. Slusher v. City of Leavenworth*, 285 Kan. 438, 447 (2007).
18 Black's Law Dictionary 614 (5th ed. 1979).
19 Black's Law Dictionary 1253 (5th ed. 1979).

Kan. Atty. Gen. Op. No. 2008-25 (Kan.A.G.), 2008 WL 5208783

**EXCERPT OF MINUTES OF A MEETING
OF THE GOVERNING BODY OF
THE CITY OF MISSION, KANSAS
HELD ON DECEMBER 21, 2011**

The governing body met in regular session at 7:00 p.m. The Mayor presided and the following members of the governing body were present: Lawrence Andre, Connie Footlick, Suzie Gibbs, Debbie Kring, David Shepard, Will Vandenberg, John Weber.

The following members of the governing body were absent: Sue Grosdidier

* * * * *

(Other Proceedings)

Thereupon, an Ordinance was presented entitled:

**AN ORDINANCE OF THE CITY OF MISSION, KANSAS, AUTHORIZING THE
IMPOSITION OF A SPECIAL ONE-QUARTER PERCENT (0.25%) CITYWIDE
RETAILERS' SALES TAX TO FINANCE THE COSTS OF TRANSPORTATION
IMPROVEMENTS AND RELATED COSTS FOR A PERIOD OF TEN YEARS .**

Thereupon, Councilmember Andre moved that said Ordinance be passed. The motion was seconded by Councilmember Gibbs. Said Ordinance was duly read and considered, and upon being put, the motion for the passage of said Ordinance was carried by the vote of the governing body, the vote being as follows:

Aye: Andre, Footlick, Gibbs, Kring, Shepard, Vandenberg.

Nay: Weber.

Thereupon, the Mayor declared said Ordinance duly passed and the Ordinance was then duly numbered Ordinance No. 1359, was signed and approved by the Mayor and attested by the Clerk and was directed to be published one time in the official newspaper of the City. The City Clerk was further directed to forward a certified copy of the Ordinance to the State Director of Taxation.

* * * * *

(Other Proceedings)

CERTIFICATE

I hereby certify that the foregoing Excerpt of Minutes is a true and correct excerpt of the proceedings of the governing body of City of Mission, Kansas held on the date stated therein, and that the official minutes of such proceedings are on file in my office.

(SEAL)

City Clerk

(PUBLISHED IN *THE LEGAL RECORD* ON DECEMBER 27, 2011)

ORDINANCE NO. 1359

AN ORDINANCE OF THE CITY OF MISSION, KANSAS, AUTHORIZING THE IMPOSITION OF A SPECIAL ONE-QUARTER PERCENT (0.25%) CITYWIDE RETAILERS' SALES TAX TO FINANCE THE COSTS OF TRANSPORTATION IMPROVEMENTS AND RELATED COSTS FOR A PERIOD OF TEN YEARS.

WHEREAS, by Resolution No. 832 adopted by the Governing Body of City of Mission, Kansas (the "City") on August 17, 2011, the Governing Body authorized and provided for a special question election in the City for the purpose of submitting to the qualified electors of the City the proposition to impose a one-quarter percent (0.25%) citywide retailers' special purpose sales tax, the collection of which to commence on April 1, 2012 or as soon thereafter as permitted by law and shall terminate ten years after its commencement, the proceeds of which shall be used to finance the costs of transportation improvements, including the construction and reconstruction of streets, bridges, sidewalks, curbs, gutters, trails, transit facilities, bicycle lanes, street lighting, traffic signalization, signage and landscape along rights-of-way and related improvements (the "Sales Tax") pursuant to the authority of K.S.A. 12-187 *et seq.*, 87 (the "Sales Tax Act"); and

WHEREAS, a special question mail ballot election was held in the City on December 6, 2011, at which time there was submitted to the qualified electors of the City the aforementioned proposition, and a majority of the qualified electors of the City voting on this proposition voted in favor thereof; and

WHEREAS, pursuant to the Sales Tax Act and the results of the aforementioned special question election, the Governing Body deems it necessary and advisable to authorize the imposition of the Sales Tax.

NOW, THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF MISSION, KANSAS, AS FOLLOWS:

SECTION 1. The imposition of the Sales Tax is hereby authorized pursuant to the provisions of the Sales Tax Act.

SECTION 2. The City Clerk shall provide a certified copy of this Ordinance to the State Director of Taxation and request that the Sales Tax commence on April 1, 2012 and shall expire on March 30, 2022.

SECTION 3. This Ordinance shall take effect and be in full force from and after its passage by the governing body of the City, approval by the Mayor and publication in the official City newspaper.

PASSED by the governing body of the City on December 21, 2011 and **APPROVED AND SIGNED** by the Mayor.

Laura L. McConwell, Mayor

(SEAL)

ATTEST:

Martha Sumrall, City Clerk



CITY OF MISSION

SPECIAL Newsletter

VOLUME 7, ISSUE 7 WWW.MISSIONKS.ORG

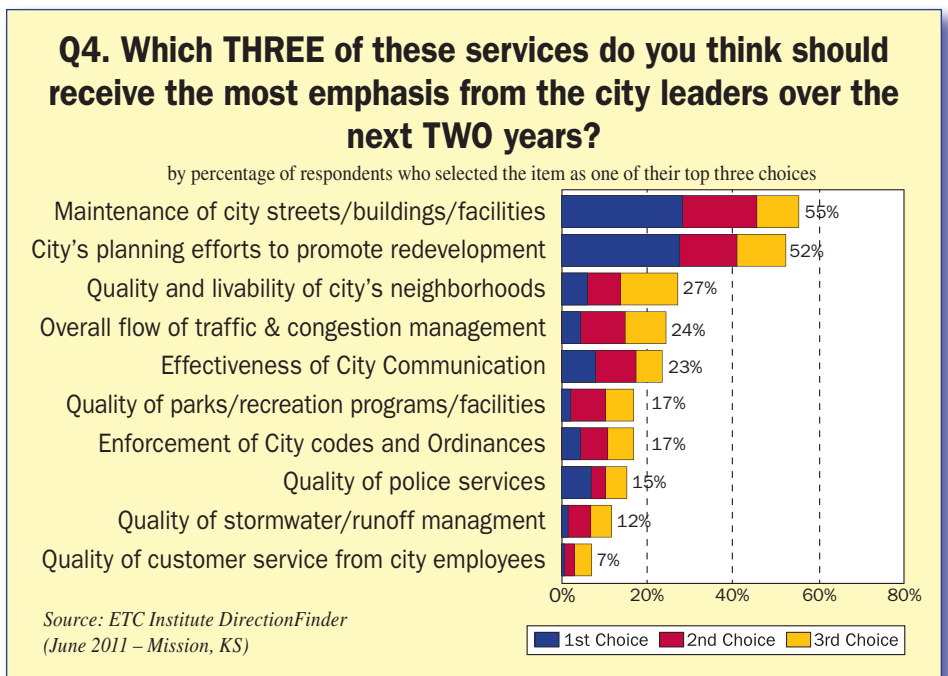
MISSION RESIDENTS TO CONSIDER 1/4 PERCENT SALES TAX FOR STREETS

Mission voters will soon have an opportunity to consider a 1/4 percent sales tax dedicated to the maintenance, repair and replacement of streets and transportation related improvements throughout the community. The City Council has authorized a mail ballot election which will occur from mid-November to December 6, 2011.

Information collected through a resident satisfaction survey in 2007, showed maintenance of our city streets, buildings and facilities ranked as the second highest priority for the residents of Mission. When the survey was updated in the summer of 2011, streets had moved into the number one position.

The City Council and staff have been working over the last several years, with significant public input, to implement a comprehensive Street Maintenance Program. The program aligns Mission with the best management practices for street maintenance and pavement preservation in Johnson County, including measuring the performance of the program on an annual basis.

The biggest challenge to improving service delivery is money. In the summer of 2010, the City Council sought citizen input on how to appropriately fund street and transportation needs. The goal was to identify \$1.5 million annually. The chart on page 2 illustrates public feedback on how to fund streets in Mission. The primary message from the public during these sessions was a desire to spread the cost of the program between property owners and



visitors to the community.

In August, in conjunction with approval of the annual budget, Resolution No. 832 was passed by Mission's elected officials authorizing a special question election for the imposition of a 1/4 percent citywide retailers' sales tax to finance the costs of transportation improvements and related costs. If approved by voters, these revenues would be combined with other existing resources to fully fund the Street Maintenance Program.



City of Mission: MAIL BALLOT ELECTION

Shall the following be adopted?

Shall the City of Mission, Kansas be authorized to impose a one-quarter percent (0.25%) citywide retailers' special purpose sales tax, the collection of which to commence on April 1, 2012 or as soon thereafter as permitted by law and shall terminate ten years after its commencement, the proceeds of which shall be used to finance the costs of transportation improvements, including the construction and reconstruction of streets, bridges, sidewalks, curbs, gutters, trails, transit facilities, bicycle lanes, street lighting, traffic signalization, signage and landscape along rights-of-way and related improvements (the "Project")?

How Do I Participate in Mission's Mail Ballot Election?

Mail ballot elections can only be conducted for "question-submitted" elections such as Mission's proposed ¼ percent sales tax for transportation. If you are currently a registered voter in Mission, you will automatically receive a mail ballot in mid-November. Each ballot mailed will include instructions on voting and completing the return envelope. No postage is necessary to return your ballot. When you receive your ballot in the mail, please take a few moments to read the specific instructions on how to return your ballot in the envelope provided to ensure your vote is counted. Please note that only the voter to whom the mail ballot was sent should sign the "Affidavit of Voter" on the return envelope.

All mail ballots must be returned to the Johnson County Election Office by 12:00 noon on Tuesday, December 6th. Be sure to mail your ballot early so it is received at the election office by the deadline. If you are not confident that your ballot will arrive in time by mail, you may deliver your ballot in person,

but these must also be delivered by 12:00 noon on December 6th. Any ballot received after the deadline will not be counted!

If you are not yet registered to vote in Mission, please contact the Johnson County Election Office for specific information. The last day to register for this election is Tuesday, November 15th and you will need to complete a Replacement Mail Ballot Form to receive your ballot. These are available at the election office or at www.jocoelection.org. For more information on how to complete your ballot, please contact the Johnson County Election Office at (913) 782-3441.

MISSION'S STREET MAINTENANCE PROGRAM AT WORK

Arterial and Collector (Commercial) Streets

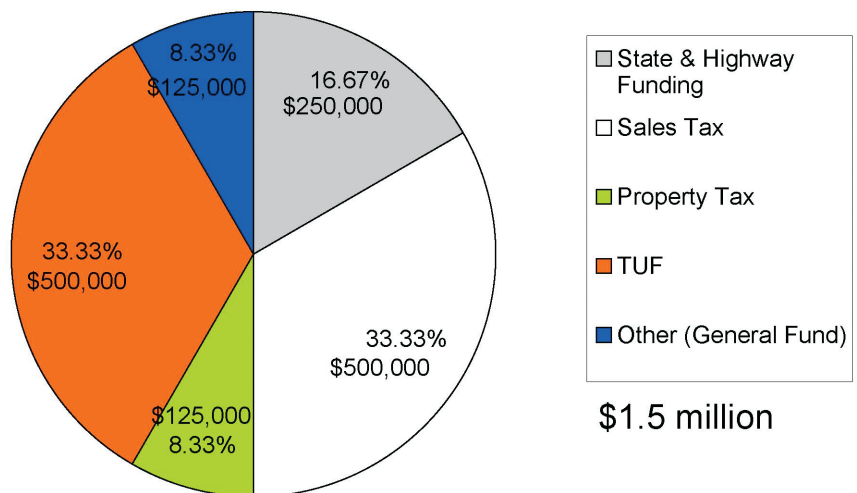
Most of Mission's commercial (higher traffic volume) streets were in a bad state of repair. In the last five years, approximately half of these streets have been rehabilitated. Nall Avenue was the most recent street project; completed four months ahead of schedule and \$1,000,000 under budget. The next two major streets scheduled for reconstruction are Martway and Johnson Drive.

Neighborhood Streets

Mission's new Street Maintenance Program is designed to protect neighborhood streets before they wear out. The City expects to touch every street in Mission every eight years. By sealing and overlaying streets each summer, we minimize the cost to the taxpayers and improve the quality of your neighborhood.



Transportation Funding Forums Normalized Average - All Groups



Links to more information

City of Mission Website:
www.missionks.org

Mission Street Maintenance Program:
www.missionks.org/streets

Johnson County Election Office:
www.jocoelection.org

Frequently Asked Questions - Sales Tax for Streets

Q: When would the sales tax become effective and how long would it last?

A: If approved by Mission voters, the sales tax would take effect on April 1, 2012 and would last for ten (10) years.

Q: How much does a ¼ percent sales tax generate in annual revenue?

A: The City anticipates the ¼ percent sales tax would generate \$500,000 annually.

Q: Will this be a new sales tax?

A: The ¼ percent sales tax approved by voters in 2002 for the Sylvester Powell, Jr. Community Center expired in September 2011. If approved by voters, the dedicated sales tax for streets would replace the previous sales tax and rates would remain consistent with what they have been since 2002.

Q: If the sales tax is approved how would Mission's sales tax rate compare to other cities?

A: The chart below illustrates sales tax rates and compares Mission's rate with the ¼ percent for streets.

Q: How can the funds be used?

A: In accordance with the ballot language (page 2), the sales tax funds can only be used for street and transportation related

improvements. This includes resurfacing projects, mill and overlay, intermediate maintenance, and curb and sidewalk repairs and replacement projects. Funds from the sales tax would allow for major repair and reconstruction projects, such as Johnson Drive and Martway to be completed in the next 2-3 years.

Q: How do I vote?

A: If you are currently registered to vote in Mission, you will automatically receive a mail ballot in mid-November. Each ballot will include instructions on voting and returning your ballot. When you receive your ballot in the mail, please take a few minutes to read the specific instructions on how to return your ballot in the envelope provided to ensure your vote is counted. All mail ballots must be returned to the Johnson County Election Office by 12:00 noon on Tuesday, December 6, 2011.

Q: What if I'm not registered to vote in the City of Mission?

A: The last day to register for this election is Tuesday, November 15th. Please contact the Johnson County Election Office (913) 782-3441 for specific information.



Morrison Ridge homeowners Mason and Deborah Rushing recently shared their thoughts on the City's infrastructure needs.

“The quick fix or just focusing on the ‘now’ is detrimental to the long term good of the whole community,” Deborah Rushing commented. Mason added, “I think most people agree we need to fix the streets and maintain them, but the trick is coming up with a funding solution that satisfies everyone.”

— Mason and Deborah Rushing

SALES TAX RATE COMPARISON

City	City Tax	County Tax	State Tax	Total Base Sales Tax	Highest Sales Tax Rate*
Prairie Village	1.0000%	1.2250%	6.3000%	8.5250%	9.5250%
Overland Park	1.1250%	1.2250%	6.3000%	8.6500%	9.6500%
Olathe	1.1250%	1.2250%	6.3000%	8.6500%	10.1500%
Merriam	1.2500%	1.2250%	6.3000%	8.7750%	8.7750%
Shawnee	1.2500%	1.2250%	6.3000%	8.7750%	8.7750%
Mission - with 1/4 percent for Streets	1.2500%	1.2250%	6.3000%	8.7750%	9.7750%
Kansas City, KS	1.6250%	1.0000%	6.3000%	8.9250%	10.0250%
Lenexa	1.5000%	1.2250%	6.3000%	9.0250%	9.9000%
Bonner Springs, KS	1.7500%	1.2250%	6.3000%	9.2750%	10.0500%

*This represents the highest sales tax rate someone would pay in each City. These rates reflect Community Investment Districts (CID) which are in place in specific areas or districts.

CITY OF MISSION KANSAS

6090 Woodson Road
Mission, KS 66202

PRSRT STD

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Shawnee Mission, KS



“The streets are the foundation of the City. If you don’t have a foundation of nice roads, what do you have? We have to get these streets done and keep Mission a beautiful city.”

— Sibyl Hayden, lived in Mission 56 years



“Every part of Mission’s infrastructure has a life cycle... Investments in maintenance and targeted improvements are the proper focus of city government and, to the extent that they are investments to preserve and extend the life cycle and minimize replacement costs, it should be a high priority focus.”

— Charlie Troppito, Mission resident since 1991



Watch for your **MAIL
BALLOT**

Registered voters will receive a mail ballot in mid-November. For more information on the election, please contact the City of Mission at (913) 676-8350.

Street Sales Tax Renewal Discussion Mission, Kansas

Laura Smith
City Administrator

February 10, 2021



February 10, 2021 – Work Session Agenda

- Review Current Street Program Revenues
- Sales Tax Capacity
- Revenues Generated by Sales Tax
- Options for Renewal
- Preferred Timing of Election
- Next Steps

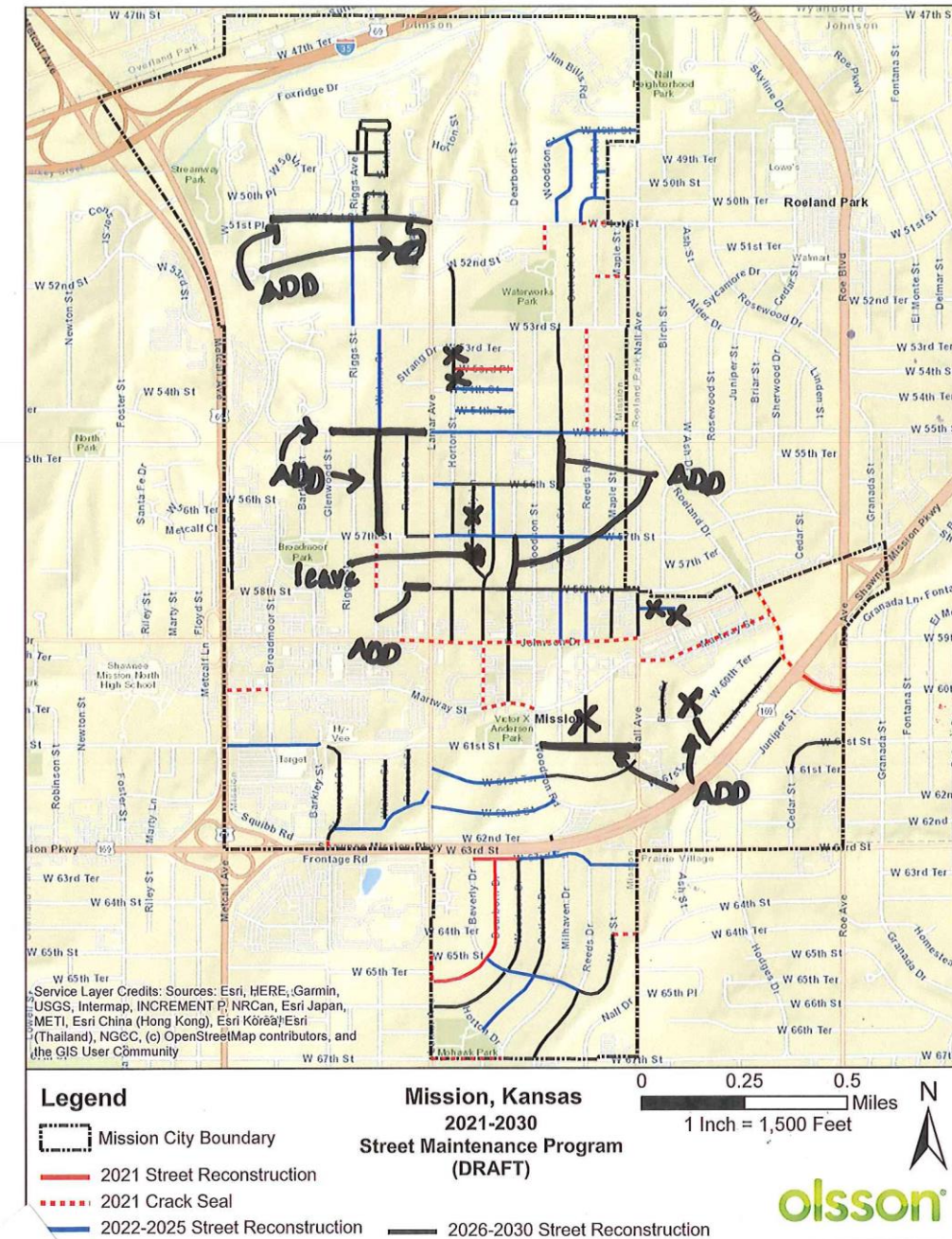
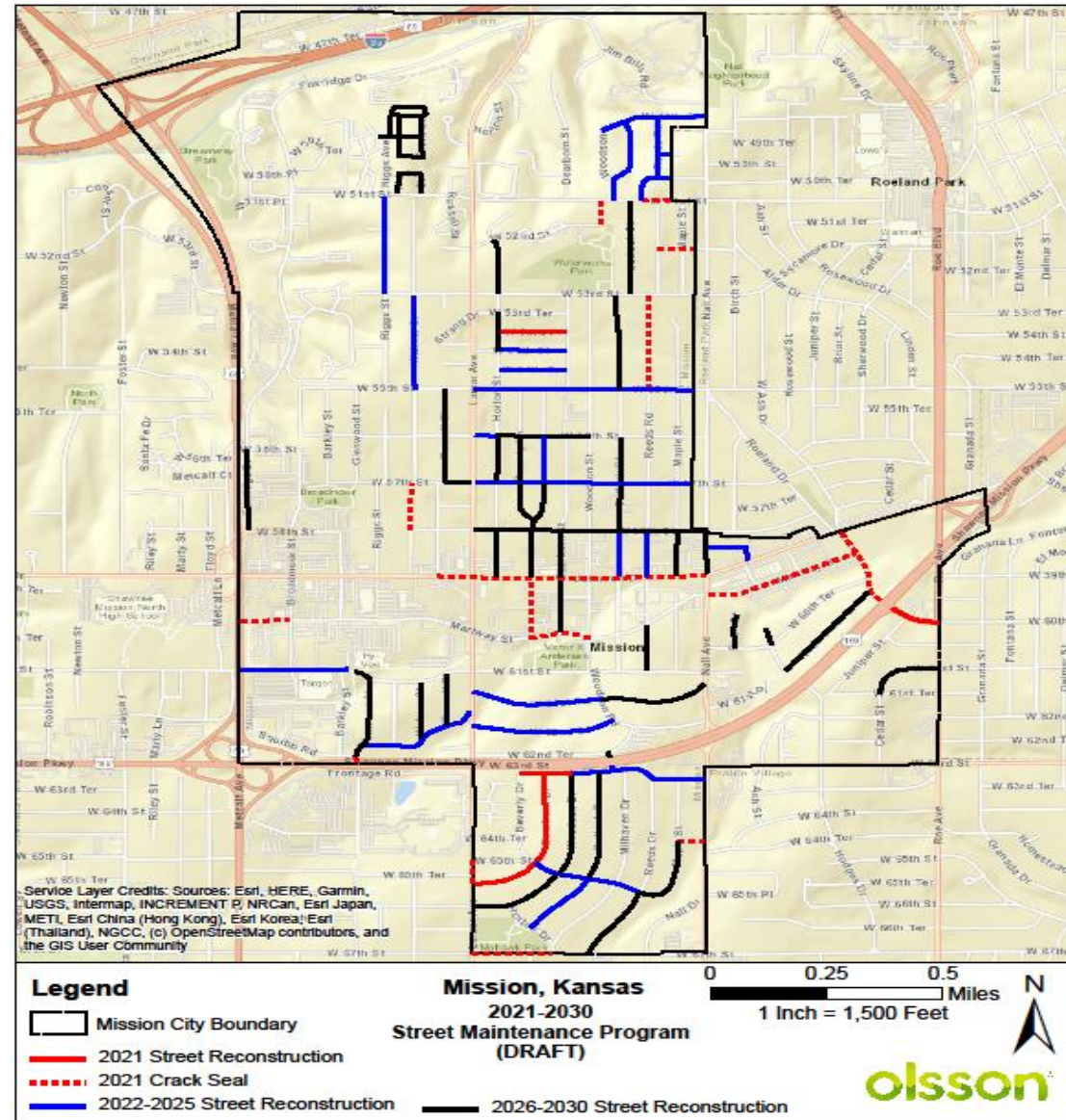


Potential 10-Year Scenarios

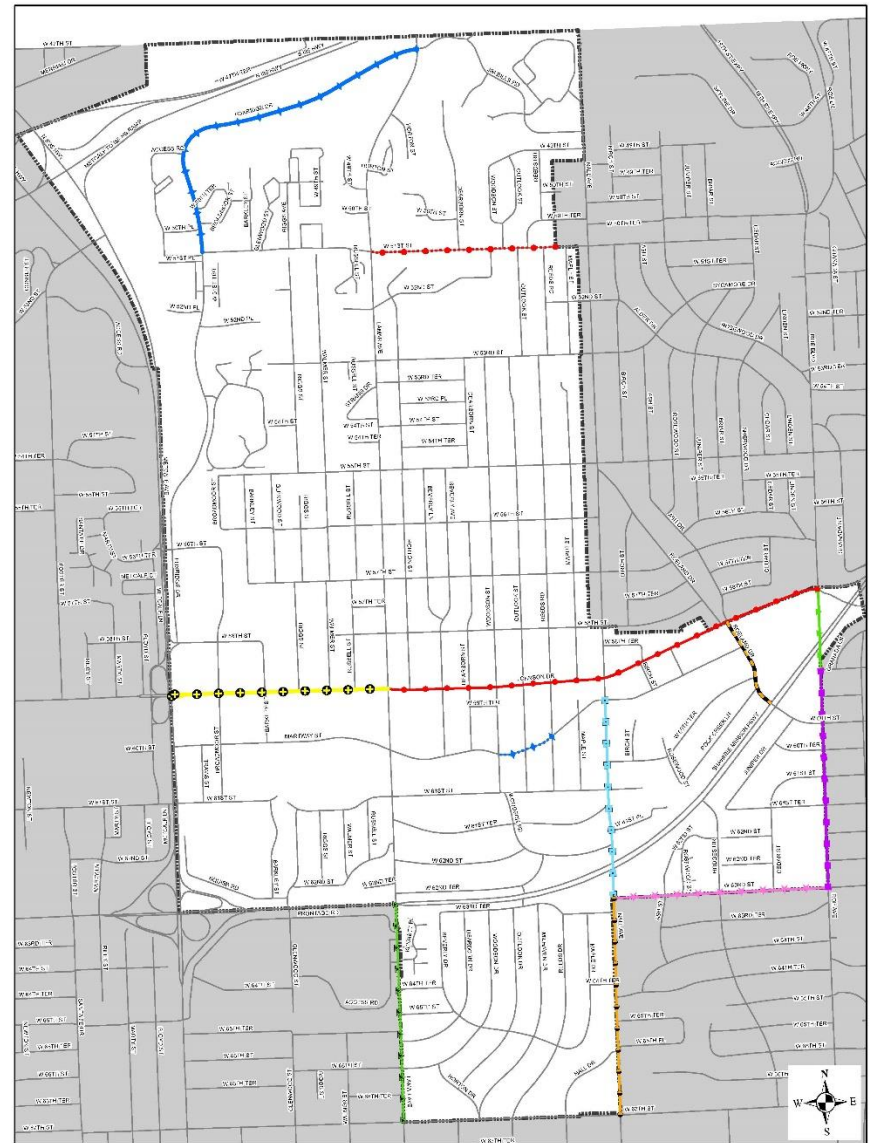
➤ \$2 Million Local Street Scenario

- Approximately $\frac{3}{4}$ of Mission streets have insufficient asphalt depth and require base repair (need to bring back up to baseline)
- Focuses on repair of local streets with low PCIs for first 10 years
- Less streets touched at first, but “fixes it right” so less costly maintenance over time
- Results in lower increase in overall network PCI over 10 years vs. “cost/benefit” approach, but begins to address backlog
- Potentially aligns with resident perceptions/expectations
- Arterials funded separately

Recommended 10 Year Residential Program



Recommended 10 Year CARS Program



Proposed CARS Program 2021 - 2030
Mission, Kansas

Legend

- Johnson Dr. - Lamar Ave. to Roe Ave. (2022)
- Foxridge Dr. Phase II - 51st St. to Lamar Ave. (2023)
- Roe Ave. - 59th St. to 63rd St. (Joint Project with Fairway) (2024)
- Roe Ave. - Johnson Dr. to 59th St. (2024)
- 63rd St. - Nail Ave. to Roe Ave. (Joint Project with Prairie Village) (2025)
- Nail Ave. - 63rd St. to 67th St. (Joint Project with Prairie Village) (2025)
- Nail Ave. - Martway St. to 63rd St. (2025)
- Johnson Dr. - Metcalf Ave. to Lamar Ave. (2026)
- Martway St. - Woodson St. to Reeds Rd. (2027)
- 51st St. - Lamar Ave. to E. City Limits (2028)
- Roeland Dr. - Shawnee Mission Pkwy. to Johnson Dr. (2029)
- Lamar Ave. - Shawnee Mission Pkwy. to 67th St. (Joint Project with Overland Park) (2030)



Current Street Program Revenues

- Current Revenues Available for Streets
 - 7 GF mills dedicated to streets \$1,100,000
 - ¼-cent sales tax dedicated to streets \$ 600,000
 - Special Highway Allocation (gas tax) \$ 250,000
- Total Available \$1,950,000

Revenues are used for:

- Engineering, design, construction and construction inspection of transportation network projects (streets, sidewalks, curbs and gutters, etc.).
- Completing inventory and assessments of the network to assist in the development and evaluation of the comprehensive street maintenance program.
- Paying for materials and supplies, such as asphalt patch, used by Public Works staff for repairs and maintenance.

Current Mission Sales Tax Rate – by Jurisdiction

Current Sales Tax rate in Mission (%)

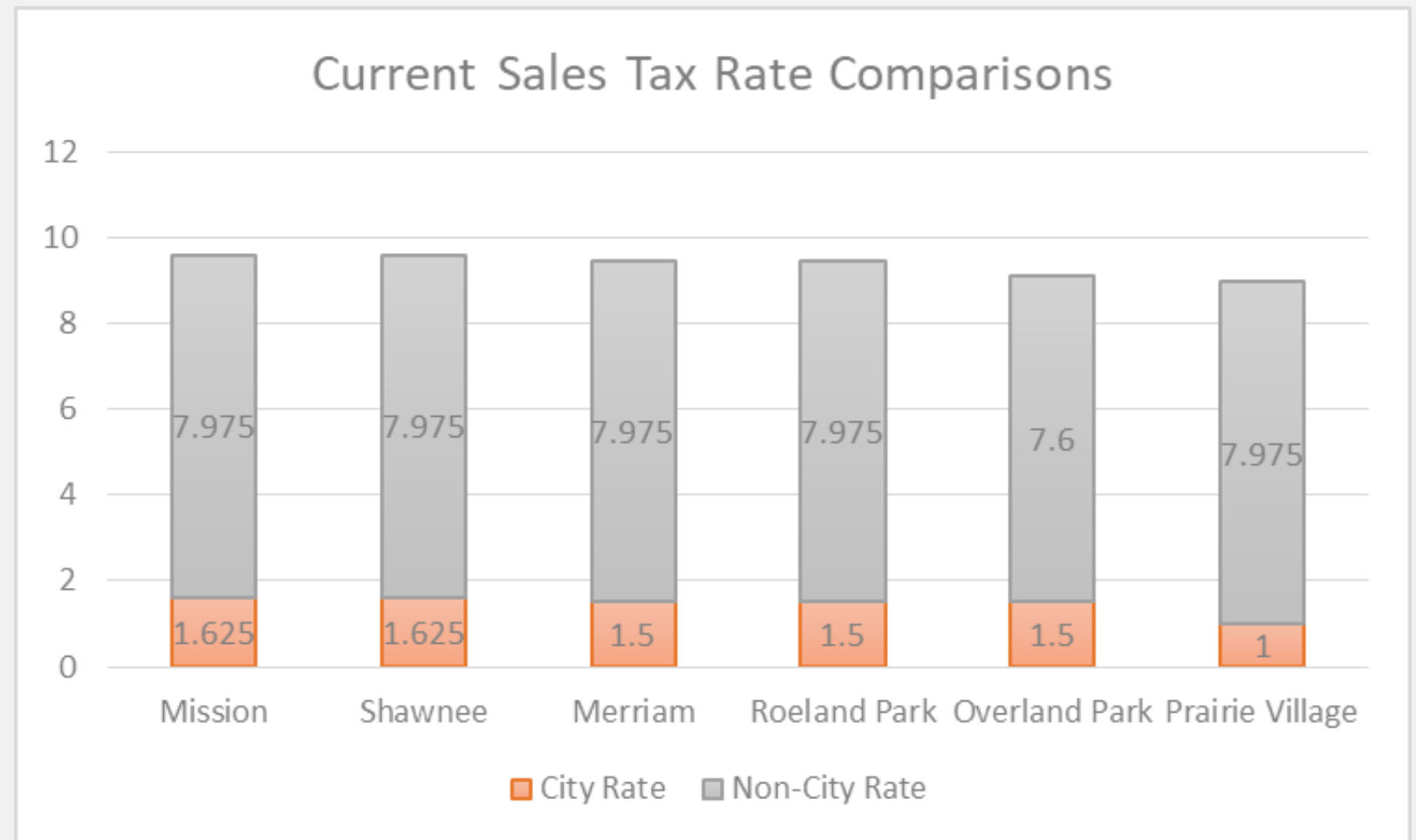
State of Kansas	6.5
Johnson County	1.475
City of Mission	
General	1.00
Streets (3/31/22)	0.25
Parks & Recreation (3/31/23)	<u>0.375</u>
Total	9.6%*

*In the Mission Crossing, Cornerstone Commons and Gateway Projects an additional 1% is levied through Community Improvement Districts (CIDs)

Sales Tax Comparisons

Sales Tax Comparisons – Neighboring Communities

Sales Tax Rates by City			
	Total	City	Non-City
Mission	9.6	1.625	7.975
Shawnee	9.6	1.625	7.975
Merriam	9.475	1.5	7.975
Roeland Park	9.475	1.5	7.975
Overland Park	9.1	1.5	7.6
Prairie Village	8.975	1	7.975



Sales Tax Capacity

Sales Tax Capacity

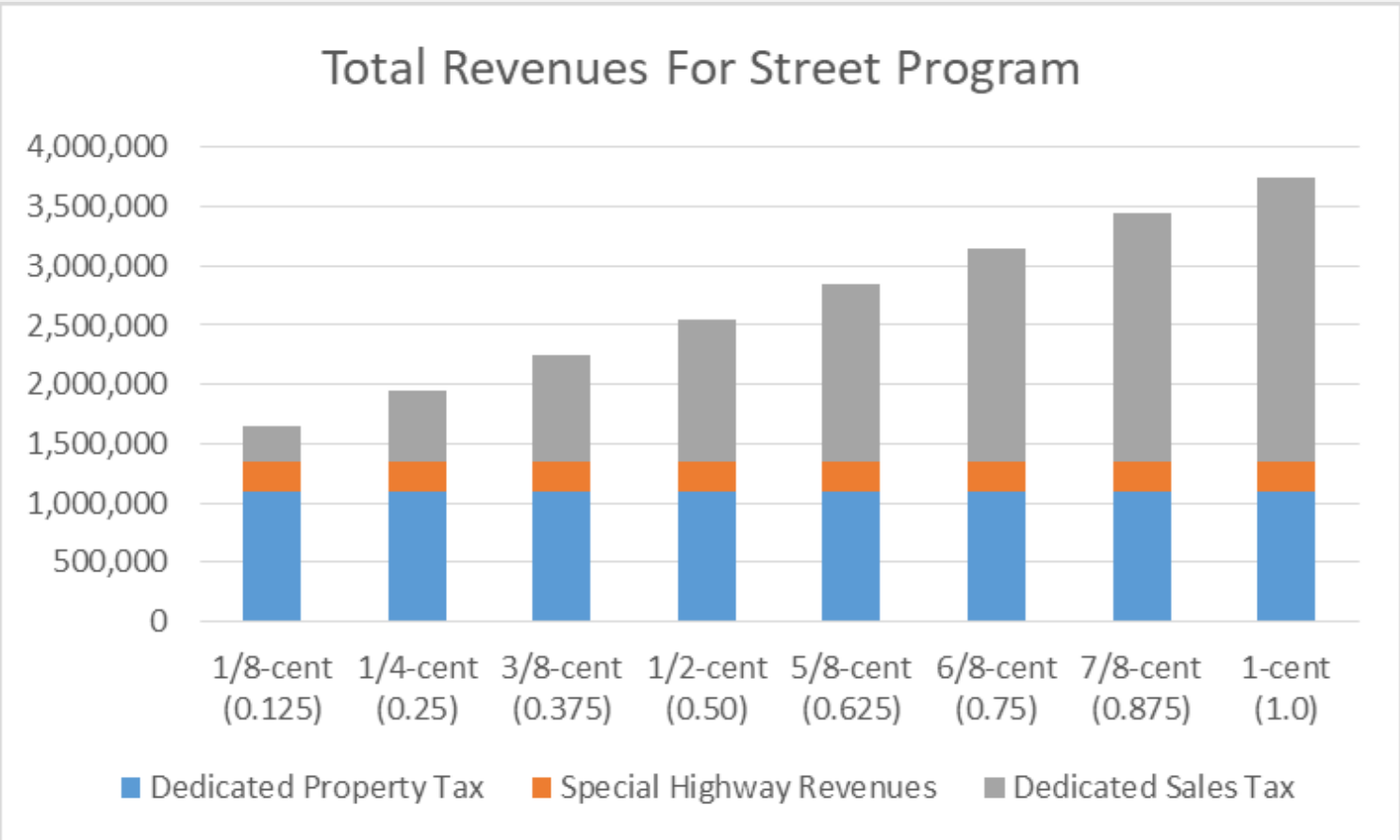
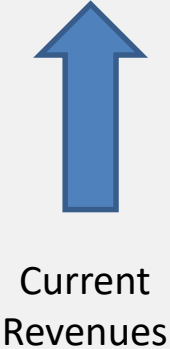
Statutory Capacity (3%) – KSA 12-187 *et seq.* and 12-189

- Up to 2% for “general purposes”
- Up to 1% for “special” purposes

Sales Taxes are paid by both Mission residents and those purchasing goods and services in our City. The current estimated “pull factor” or the amount of sales tax generated by non-residents is 38%.

Revenues Generated by Sales Tax

	1/8-cent (0.125)	1/4-cent (0.25)	3/8-cent (0.375)	1/2-cent (0.50)	5/8-cent (0.625)	6/8-cent (0.75)	7/8-cent (0.875)	1-cent (1.0)
Dedicated Property Tax	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000	\$ 1,100,000
Special Highway Revenues	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000	\$ 250,000
Dedicated Sales Tax	\$ 300,000	\$ 600,000	\$ 900,000	\$ 1,200,000	\$ 1,500,000	\$ 1,800,000	\$ 2,100,000	\$ 2,400,000
Total	\$ 1,650,000	\$ 1,950,000	\$ 2,250,000	\$ 2,550,000	\$ 2,850,000	\$ 3,150,000	\$ 3,450,000	\$ 3,750,000



Options for Renewal

Sales Tax Renewal Options

- Mail ballot
- Timed with other scheduled election

General steps to put a question on the ballot include

- Adopting a resolution calling the election
- Publishing notice of the election
- Voter approval on election date
- Passing an ordinance levying the sales tax
- Sending proceedings to KDOR to begin levying the sales tax (quarter before effective)



Last date to renew street sales tax to have no lapse in collection would be December 2021

Can increase or decrease current rate for either sales tax (remaining capacity is 3/8-cent)

Questions/Disscussion?

