

July 27, 2018

Mayor Darcy Paul and City Council
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014-3202

Re: Cupertino Business Head Tax

Honorable Mayor Paul and City Council:

On behalf of The Silicon Valley Organization (The SVO), I am writing to voice our strong opposition to the newly proposed business tax, under consideration by the Cupertino City Council at your July 31st special meeting. By way of background, The SVO is the Silicon Valley's premier business advocacy organization representing 1,400+ companies that employ nearly 300,000 workers and we represent our membership as the region's largest Chamber of Commerce.

We have serious concerns and reservations about the City of Cupertino's lack of transparency and community engagement in the development of this new business tax. The city staff report notes that approximately 30 businesses were engaged over a time period of several weeks. In 2012, the United States Census Bureau estimated that there are 5,960 businesses in the City of Cupertino and it is likely that there are even more businesses today, due to sustained and strong economic growth over the past five years. Put into perspective, Cupertino city staff conducted outreach to less than 0.5% of all businesses that could be impacted by the proposed employee headcount/business tax. In addition, the city conducted two business forums where attendees expressed that the process was rushed without much time for meaningful engagement from stakeholders. Given that the City of Cupertino is seeking to multiply their business tax revenues by at least 10 times, it would behoove the City Council to consider a more deliberate community engagement process.

Furthermore, while it has been indicated that the increased business tax revenues will fund transportation improvement projects, there is no guarantee that the funds will be used for that purpose. The revenue measure resolution is drafted to direct tax monies into the city's general fund, which can be spent at the discretion of the current and future City Councils. Even if the Council adopts a resolution, it is not binding and future City Councils can change their spending priorities, at any time for any reason. Without a clear link as to how increased revenue will fund the stated transportation improvement projects, there is no relationship between the tax and its justification.

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The silicon valley organization

For an ideal community and stakeholder input process, we can look to the City of San Jose's Business Modernization Tax in 2016. City leaders engaged with the business community, and other key stakeholders, through at least a six month long process that resulted in a balanced approach to an increased business tax with a maximum cap. The negotiations yielded a fair tax structure that encourages economic growth, without punishing our local job creators.

For these reasons, we urge the Mayor and City Council to take a more deliberative process for community engagement and do not place the business headcount tax on the November 2018 ballot. By partnering with the business community, there are more options to deliver essential city services and critical transportation projects that Cupertino residents deserve.

Sincerely,



Matthew R. Mahood
President & CEO
The Silicon Valley Organization

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CC 07-31-2018 Item No. 5

7/27/18

**Mayor & Council Members
City of Cupertino
10300 Torre Avenue
Cupertino, CA 95014**

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cityclerk@cupertino.org; manager@cupertino.org

Dear Mayor & Council Members,

Reference: Proposed Business License Fee Measure

Subject: Objection & Comments

Business Employee Tax Increase

- 1) As property owners we are opposed to increases in the Business License Fees being proposed.
- 2) These taxes affect property owners not just the employers that rent the buildings. Businesses have total operating budgets that they cannot exceed so they will look for other ways to reduce cost to mitigate the business tax. They will review all cost areas including rent, and if they are able to negotiate lower rents, that directly decreases property values. When property values decrease or stall so will property tax revenue. So if you impose an employee head tax or other business tax you will lose a certain amount of tax revenue in another category.

See more detail in **Additional Information** below:

- 3) The City appears to want to increase business tax just because Mountain View and other cities are proposing to do so. You have offered no justifications for increasing the business tax other than other cities are proposing head taxes and increasing business taxes and are currently looking for projects that the new taxes can be applied to.
- 4) If businesses decide not to not to locate in Cupertino or to outsource work to other more friendly tax locations or support staff outside of the City the result will be lost revenue for local business, including restaurants, services, hotels and lost City tax revenues.
- 5) **Seattle proves business taxes do have consequences:**
 - a. Amazon halted construction of a 17 story downtown Seattle corporate headquarters complex and further threatened to sublease another building; Rainier Square, they had under lease in the same area rather than occupying it pending the council employment tax decision.
 - b. In May 2018 Seattle passed a \$275 employee head tax.

- c. In late May opposition business groups gathered enough signatures for a Citizens Initiative; for a November ballot measure, to overturn the Council decision.
- d. In June the City Council repealed the May tax measure.
- e. Following Seattle's actions surrounding cities and counties, Tacoma and Pierce County announced a **\$275 TAX CREDIT PER NEW EMPLOYEE INCENTIVE** to lure jobs from Seattle. Other Western metropolitan areas such as Phoenix began recruiting Seattle businesses citing lower taxes and cost of living.

See more detail in **Additional Information** below:

- 6) Times may be good now but you all know business is cyclical and when; not if, the downturn comes companies will definitely consider the taxation structure in making relocation and employment decisions. You and other cities are acting as if there is no limit to the amount that you can tax business and individuals, there is a limit!!!
- 7) We don't think sufficient business outreach has been done because of the time limit the City is under in trying to rush the tax through to beat a ballot deadline.

8) Previous Tax Burdens and Regulations.

Consider all of the taxes and additional regulations that government has placed on business and individuals in the recent years. This does not even consider the increase in building costs today, costs are now out of control!! Don't add more costs!!

- a. LEED requirements.
- b. Increased affordable housing fees.
- c. AB 32 requiring first 30% and now 50% renewal electrical sourcing by utilities thereby increasing electrical rates by double to triple the previous costs in just the last several years. Look at your own utility billing you can verify those increasing rates.
- d. Buyers of conventional autos pay a hidden tax in the form of EV credits the government forces manufacturers to buy for gasoline powered vehicles. In effect the less well off individuals are being forced to subsidize the more affluent driving \$70,000 Teslas. The less well off also subsidize home solar installations with tax credits for the affluent individuals that can afford solar.
- e. Californians pay the highest property tax, the highest income tax, the highest sales tax, the highest utility costs, the highest gasoline tax. It is time to start reducing not increasing costs and taxation.
- 9) You have offered no efforts to look at cost cutting in lieu of raising taxes.
 - a. In September 2017 you just passed a TIF fee and now you want \$10 million for traffic again. The TIF fees you passed were:

Transportation Impact Fee

- Single Family \$5,968/Unit
- Multi-Family \$3,700/Unit

Includes apartments, condos and townhomes

- Retail- \$9.60/sqft
- Office -\$16.81/sqft
- Hotel - \$3,272/room
- Other (per PM trip) \$6,025/trip

10) Obligation To Run Efficient City Operations

You have run away and non-sustainable municipal pension liabilities, where is the discussion and investigation into reducing the pension liability?? You should be doing a study session on reducing cost to generate the funds you are trying to raise through the business tax, not slapping the taxpayers with another tax which you justify with a poll of citizens that will never have to pay these taxes directly. You have an implied duty to reduce public costs not just increase them.

ADDITIONAL INFORMATION

A) Employee Tax History In Seattle

Seattle Councilmember Sally Bagshaw was most concerned about outreach. "My concern about a head tax is that we haven't brought in those 1,100 businesses that people dismiss and say 'they can pay for it,'" she said, advocating the council wait until Mayor-elect Jenny Durkan takes office to work on a proposal.

The employee tax is something of a zombie — it was adopted by council in the early 2000s, then killed in 2009 at the height of the recession. Since then, it has come up as a proposed new revenue source again and again, including as a way to make a transportation levy smaller and as a funding mechanism for the Office of Labor Standards. But it's never gained traction, thanks in part to intense lobbying against it from the Chamber of Commerce.

The city's largest employers, including Amazon and [Starbucks](#), and several [labor unions](#) released statements criticizing the city council's decision and its approach to addressing homelessness.^{[38][39]} Business groups who remained opposed to the head tax responded days later with the formation of a campaign to overturn the city council decision through a [citizens' initiative](#).^[40] The campaign, named "No Tax on Jobs", received \$325,000 in committed donations from local economic development groups and businesses, including Amazon, Starbucks, [Kroger](#), and [Vulcan, Inc.](#)^[41] The campaign was given until June 14 to collect 17,600 valid signatures to bring the initiative to the November 2018 ballot, and reportedly surpassed the threshold by June 11 using on-street petitioning by 2,000 volunteers.^{[42][43]}

On June 11, less than a month after the unanimous approval of the head tax, the city council announced plans for a special session to consider repealing the tax, to be held the following day. The seven councilmembers who are up for re-election in 2019, along with Mayor Durkan, voiced their support for the repeal in the wake of the initiative's signature-gathering campaign.^[44] The repeal was passed by a 7-2 vote of the city council

Aftermath

In response to Seattle's head tax, officials from Tacoma and Pierce County announced a \$275 tax credit per employee for new jobs to lure businesses. Other large metropolitan areas in the Western United States, such as Phoenix, began recruiting Seattle-area businesses for potential moves, citing lower taxes and cost of living.

B) Property Taxes

All Revenue From Property Taxes Is Allocated to Local Governments. Property tax revenue remains within the county in which it is collected and is used exclusively by local governments. State laws control the allocation of property tax revenue from the 1 percent rate to more than 4,000 local governments, with K-14 districts and counties receiving the largest amounts. The distribution of property tax revenue, however, varies significantly by locality.

The Property Tax Has a Significant Effect on the State Budget. Although the property tax is a local revenue source, it affects the state budget due to the state's education finance system—additional property tax revenue from the 1 percent rate for K-14 districts generally decreases the state's spending obligation for education. Over the years, the state has changed the laws regarding property tax allocation many times in order to reduce its costs for education programs or address other policy interests.

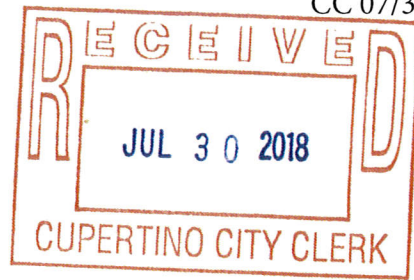
Thank you for your consideration,

Myron Crawford

Cc:

**Timm Borden
Director of Public Works
City of Cupertino
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Cupertino, CA 95014
Tel: 408-777-3200; Dir: 408-777-3382; Fax: 408-777-3333
Email: timmb@cupertino.org**

July 30, 2018



Dear Mayor Paul and Members of the City Council:

For more than 40 years, Apple has been proud to call Cupertino our home. We have always enjoyed a strong partnership with both the city and its residents. Working creatively, we have solved many issues and are proud to be in a city with great schools, wonderful services and a robust economy.

When deciding where to build our new headquarters, we had many options, but worked hard to secure enough land to build in Cupertino. On that project alone, we are glad to have invested more than \$70M on public benefits. And, as you know, Apple's investment in Cupertino goes far beyond that.

When we identified public safety risks on Bubb Road, we were happy to fund sidewalks and crosswalk improvements which help our employees as well as children and residents in the area. When we needed to do some emergency traffic signal overrides for Apple Park, we voluntarily paid for this throughout the city. It was just the right thing to do. When we heard from the community that they would really like an Apple store and visitor's center in Cupertino, we voluntarily built those and are proud that they bring people from all over the world to our city.

Traffic congestion is a significant and growing issue in our valley. As a company, we work hard to offer our employees a variety of alternate transportation options, and we're very proud that over 25% of our employees take advantage of these commute alternatives on a daily basis.

However, for Cupertino and Apple to thrive we need to partner on both long-term and short-term solutions that will move our residents and employees more efficiently and effectively. This means local solutions within our city, as well as partnering with VTA and other partners in the valley for regional solutions, especially along highway 85 and Stevens Creek Boulevard.

We look forward to bringing our transportation teams together in the next few weeks to begin that dialog and to work as partners to create new transportation solutions, making our community an even better place to live and work.

Very truly yours,

A handwritten signature in dark ink that reads 'Kristina Raspe / hr.'.

Kristina Raspe
Vice President
Apple Inc.

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