

**MEMORANDUM**  
**Office of the City Attorney**



**Date:** November 9, 2009  
**To:** Mayor Livengood and Members of the City Council  
**From:** Michael J. Ogaz, City Attorney *M.O.*  
**Copy:** Tom Williams, City Manager  
**Subject:** **Joint School District and City Parcel Tax**

At the request of the City Council, the Office of the City Attorney has researched the legality of a joint Milpitas Unified School District and City of Milpitas parcel tax. State law suggests that such a combined or joint tax could be placed on the ballot and put to a popular vote. However, any joint tax will have to comply with certain procedural and tax law limitations.

A "parcel tax" is the common term for what are sometimes referred to by finance specialists as "special taxes." Under the California Constitution, both cities and school districts are authorized to collect special taxes, so long as they are approved at an election by at least 2/3 of those people in the district or the city who vote on a proposed tax measure. Any proposed parcel tax must have a statement indicating the specific purposes of the tax and limitations insuring that all parcel tax proceeds are spent only on those limited purposes.

Although the state constitutional provisions regarding special taxes and the Government Code provisions that implement them do not specifically lay out the procedures for joint city-school district parcel taxes, it appears that one could be collected so long as they complied with the voter approval and other legal requirements applicable to all special taxes. To implement a joint parcel tax, then, both the City and the school district would at a minimum have to hold a noticed public hearing and propose the tax by ordinance or resolution. The proposition would then be submitted to the voters of the city and the school district.