

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

CORRECTED VERSION

Meeting Date: July 19, 2022

To: Honorable Mayor and City Councilmembers

From: Ana Kwong – Administrative Services Director

Subject: Adopt Resolution Authorizing the Submission to the Voters of a Ballot Measure Seeking Voter authorization to Amend Municipal Code Chapter 3.10 to Extend the Term of the City’s Existing Utility Users Tax without a Rate Increase by Removal of Sunset Date at the Regularly Scheduled November 8, 2022 Statewide General Election

Recommendation: City Council City Council adopt a resolution authorizing the submission to voters of a ballot measure seeking voter authorization to amend Municipal Code Chapter 3.10 to extend the term of the City’s existing Utility Users Tax (“UUT”) without a rate increase by removal of sunset date at the regularly scheduled November 8, 2022 statewide general election.

Funding: Currently Budgeted: X Yes _____ No _____ N/A
 Net General Fund Cost:
 If Cost to Other Fund(s),
 Fund:

Account Code/Costs authorized in City Approved Budget (if applicable) AK (verified by Administrative Services Department)

INTRODUCTION:

This item is to recommend that the City Council adopt a resolution authorizing the submission to voters of a ballot measure seeking voter authorization to amend Municipal Code Chapter 3.10 to extend the term of the City’s existing Utility Users Tax (“UUT”) without a rate increase by removal of sunset date at the regularly scheduled November 8, 2022 statewide general election.

BACKGROUND:

The UUT was approved by Sebastopol voters in 2008, and went into effect on April 1, 2009. Municipal Code Chapter 3.10 contains the City’s existing UUT tax of four percent (4.0%). The UUT is paid by recipients of telephone, electric and gas utility services, and is collected by the utilities as part of regular billing. The utilities then remit the tax revenue to the City.

Sebastopol voters have approved extension of the UUT in 2014 at the rate of three and three quarter percent (3.75%). Under current law, the UUT will be automatically expired on January 1, 2025 unless extended by the voters. The UUT currently raises approximately \$700,000 dollars annually for the City of Sebastopol’s General Fund, which is equivalent to roughly 6.5 percent (%) of the City’s General Fund Budget. The UUT tax revenue is used to support a wide range of City services including police and fire protection, 9-1-1 emergency services, park maintenance and repair, youth and senior recreation services, and other administrative services.

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL AUTHORIZING THE SUBMISSION TO VOTERS OF A BALLOT MEASURE SEEKING VOTER AUTHORIZATION TO AMEND MUNICIPAL CODE CHAPTER 3.10 TO EXTEND THE TERM OF THE CITY'S EXISTING UTILITY USERS TAX WITHOUT A RATE INCREASE BY REMOVAL OF SUNSET PROVISION AT THE REGULARLY SCHEDULED NOVEMBER 8, 2022 STATEWIDE GENERAL ELECTION

WHEREAS, the Government Code section 37100.5 and California Constitution, Article XI, Section 5, authorizes the City to levy a Utility Users Tax ("UUT"); and

WHEREAS, Chapter 3.10 of the Sebastopol Municipal Code establishes a UUT of three and three quarter percent (3.75%) within the City of Sebastopol; and

WHEREAS, the UUT is paid by recipients of telephone, electric and gas utility services, collected by the utilities as part of regular billing, and remitted to the City; and

WHEREAS, the UUT will be automatically expired on January 1, 2025; and

WHEREAS, the UUT raises approximately seven hundred dollars (\$700,000) annually, which is equivalent to roughly six and a half percent (6.5%) of the City's General Fund Budget; and

WHEREAS, revenue generated by the UUT is essential for funding many City services, including Police and Fire protection, park maintenance and repair, and other administrative services; and

WHEREAS, the City desires to maintain critical and essential services for the community; and

WHEREAS, the City Council has determined that the expiration of the UUT would result in the reduction of critical and essential services to its citizens; and

WHEREAS, the UUT was first approved by voters in 2008 and was extended by voters in 2014; and

WHEREAS, revenues generated by this voter-approved funding source are locally controlled and cannot be taken by the State; and

WHEREAS, the voters of the City of Sebastopol have the authority to extend the term of the UUT; and

WHEREAS, the City Council desires to give the voters of the City of Sebastopol the opportunity at the regularly scheduled November 8, 2022 election to decide whether or not to extend the term of the City's existing UUT without a rate increase and removing of sunset date.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Sebastopol that:

Section 1. The foregoing recitals are true and correct and hereby incorporated by reference.

Section 2. The City Council is authorized to present a proposition to the voters for their consideration pursuant to Government Code Section 36502 and Elections Code Section 9222.

Section 3. The City Council hereby calls an election at which it shall submit to the qualified voters of the City of Sebastopol a measure that, if approved, will extend the term of the UUT, without a rate increase, and removing the sunset date until voters otherwise decide. This measure shall be designated by letter by the Sonoma County Registrar of Voters. Pursuant to Election Code Section 10400 et seq., the election for this measure shall be consolidated with the established election to be conducted on November 8, 2022.

Section 4. The ballot language for the proposed measure shall be as follows:

Extension of Locally Controlled Funding Measure		
Without raising current tax rates, and to maintain City services including Police and Fire, 9-1-1 emergency services, park maintenance and repair, youth and senior recreation, and for unrestricted general revenue purposes, shall an ordinance be adopted to continue the existing Utility Users Tax at the current rate of 3.75%, by removing the sunset date until voters otherwise decide, providing approximately \$700,000 annually that cannot be taken by the State?"		YES
		NO

Section 5. The full text of the proposed measure to be submitted to the voters is attached as Exhibit A (the "Measure") hereto. If the majority of qualified voters voting on the Measure vote in favor therefore, or as otherwise required by the California Constitution, the Measure shall be deemed adopted and shall be in full force and effect ten (10) days after the date the vote is declared by the City Council of the City of Sebastopol.

Section 6. The City Clerk is hereby directed to cause notice of the measure to be published once in a newspaper of general publication in the City, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

Section 7. The City Council hereby requests that the Sonoma County Board of Supervisors consolidate the election called by this resolution with the statewide election to be conducted on November 8, 2022 and order the election to be conducted by the Registrar of Voters. The election shall be held in all respects as if there were only one election. The City of Sebastopol acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418. The City of Sebastopol recognizes that the County will incur additional costs because of this consolidation and agrees to reimburse the County for those costs. The City Manager is hereby authorized and directed to expend the necessary funds to pay for the City's cost of placing the measure on the election ballot.

Section 8. The City Clerk is authorized, instructed and directed to work with the Office of the Registrar of Voters as needed in order to properly and lawfully conduct the election and to provide all notices and information required by law. The ballots to be used in the election shall be in form and content as required by law. The Office of the Registrar of Voters is authorized to canvass the returns of the general municipal election. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections. The City Clerk is directed to file a certified copy of this resolution with the Board of Supervisors of Sonoma County and the Registrar of Voters of Sonoma County.

Section 9. The schedule and requirements for arguments and the City Attorney's impartial analysis is as follows:

- a. The last day for submission of primary arguments for or against the measure shall be by 5:00 p.m. on August 19, 2022.
- b. The last day for submission of rebuttal arguments for or against the measure shall be by 5:00 p.m. on August 19, 2022.
- c. Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons.

- d. Rebuttal arguments shall not exceed two hundred fifty (250) words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the primary arguments.
- e. Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and file the impartial analysis with the City Clerk by August 19, 2022.
- f. Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument, which it seeks to rebut.

Section 10. The jurisdictional boundaries of the City of Sebastopol have not changed since the last general municipal election.

Section 11. The approval of this resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"), based on the general rule set forth in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment. This resolution places a measure on the ballot that, if approved, extends the term of the UUT, without a rate increase, removal of sunset date until voters otherwise decide; thus, it can be said with certainty that there is no possibility that this Ordinance will have a significant effect on the environment.

IN COUNCIL DULY APPROVED AND ADOPTED this 19th day of July, 2022.

I, the undersigned, hereby certify that the foregoing Resolution was duly adopted by City of Sebastopol City Council following a roll call vote:

City of Sebastopol Council:

VOTE:

Ayes:

Noes:

Absent:

Abstain:

Approved: _____
Mayor Patrick Slayter

Attest: _____
Mary Gourley, MMC, Assistant City Manager / City Clerk

Approved as to Form: _____
Larry McLaughlin, City Attorney

EXHIBIT A TO RESOLUTION _____

TO BE INCLUDED IN THE VOTER PAMPHLET

1. The proposed Measure to Extend the Term of the City's Existing Utility Users Tax Without a Rate Increase and Removal of Sunset date shall be submitted to the voters on the ballot in the form of the following question:

<p>MEASURE _____: Extension of Locally Controlled Funding Measure</p>		
<p>Without raising current tax rates, and to maintain City services including Police and Fire, 9-1-1 emergency services, park maintenance and repair, youth and senior recreation, and for unrestricted general revenue purposes, shall an ordinance be adopted to continue the existing Utility Users Tax at the current rate of 3.75%, by removing the sunset date until voters otherwise decide, providing approximately \$700,000 annually that cannot be taken by the State?"</p>		<p align="center">YES</p>
		<p align="center">NO</p>

DISCUSSION:

The proposed resolution, if adopted by the City Council, will direct submission of a measure to the voters of the City of Sebastopol to decide whether or not to remove the sunset clause and extend the City's existing 3.75 percent (%) UUT until voters otherwise decide (the "Measure"). Codified as Chapter 3.10 of the Municipal Code, the UUT raises a significant amount of revenue for the City's General Fund, as described above. This revenue funds, among other things, Police and Fire protection, 9-1-1 emergency services, park maintenance and repair, youth and senior recreation services, other administrative services. Importantly, this locally generated revenue is also locally controlled, and cannot be taken by the State to balance the State budget. The City is a prudent manager of tax revenue, and strives to provide public services in the most fiscally responsible and efficient manner possible. Extension of the UUT is critical to ensure the City's continued financial health. If the Measure does not pass, the existing UUT will remain in effect until January 1, 2025. However, after that date, the UUT will expire, which would result in a significant decrease in General Fund revenue for the City. Ultimately, that loss of revenue would result in the reduction of critical services to Sebastopol citizens.

As set forth in the proposed resolution, the ballot language shall state: "Extension of Locally Controlled Funding Measure Without raising current tax rates, and to maintain City services including Police and Fire, 9-1-1 emergency services, park maintenance and repair, youth and senior recreation, and for unrestricted general revenue purposes, shall an ordinance be adopted to continue the existing Utility Users Tax at the current rate of 3.75%, by removing the sunset date until voters otherwise decide, providing approximately \$700,000 annually that cannot be taken by the State?"

The proposed resolution requests that the Sonoma County Registrar of Voters consolidate the Measure with the regularly scheduled statewide general election on November 8, 2022. The City will have to reimburse the Registrar of Voters for its costs in placing the Measure on the November 8, 2022 ballot. Those costs are estimated to be approximately fifteen thousand dollars (\$15,000). The proposed resolution instructs the City Clerk to take all action necessary and required by law to ensure the Measure appears on the November 8, 2022 ballot, and to coordinate with the County Registrar of Voters as appropriate. Additionally, the resolution instructs the City outside consultant (AvenuInsight) legal team to prepare an impartial analysis of the Measure.

CALIFORNIA ENVIRONMENTAL QUALITY ACT

The approval of this resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"), based on the general rule set forth in CEQA Guidelines Section 15061(b)(3) that CEQA applies only to projects which have the potential for causing a significant effect on the environment

PUBLIC COMMENT:

As of the writing of this staff report, the City has not received any public comment. However, staff anticipates receiving public comment from interested parties following the publication and distribution of this staff report. Such comments will be provided to the City Council as supplemental materials before or at the meeting. In addition, public comments may be offered during the public hearing.

PUBLIC NOTICE:

This item was noticed in accordance with the Ralph M. Brown Act and was available for public viewing and review at least 72 hours prior to schedule meeting date.

FISCAL IMPACT:

If the measure is approved by the voters, the extension of the UUT is estimated to generate approximately seven hundred thousand dollars (\$700,000) annually in revenue for the General Fund. Additionally, the City will be responsible for reimbursing the Sonoma County Registrar of Voters for the cost of placing this Measure on the November 8, 2022 Ballot. That cost is estimated to be approximately fifteen thousand dollars (\$15,000). Additionally, the City will be responsible for reimburse the cost of legal services to AvenuInsight for support of such measure. These costs have been budgeted in the FY22-23 adopted budget.

RECOMMENDATION:

Staff recommends recommend that the City Council adopt a resolution authorizing the submission to voters of a ballot measure seeking voter authorization to amend Municipal Code Chapter 3.10 to extend the term of the City’s existing Utility Users Tax (“UUT”) without a rate increase by removal of sunset date at the regularly scheduled November 8, 2022 statewide general election.

Attachment(s):
Resolution