

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting Date: August 2, 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:

This item was presented to the City Council on July 19, 2022 for discussion and adoption of 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. Prior to the meeting and during the meeting, it was discovered that the revised UUT ordinance and some dates were inadvertently omitted from the resolution; therefore the item was presented to the City Council for full discussion. However, due to those missing component, the item was requested to be returned at the next City Council meeting of August 2, 2022 to be approved as consent item with correction of those components.

DISCUSSION:

As discussed on July 19, 2022, 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 set forth in this revised 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 revised 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.

GOALS:

Goal EV 7: Maintain a Stable and Self-Sustaining Fiscal Base in Order to Generate the Resources Necessary to Provide Desired City Services and Support New Growth that is Consistent with the City's Values and Goals.

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

RESOLUTION NO. _____

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEBASTOPOL ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A 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; REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF SONOMA TO CONSOLIDATE THE ELECTION REGARDING THE MEASURE WITH THE NOVEMBER 8, 2022 STATEWIDE GENERAL ELECTION AND TO PERMIT THE SONOMA COUNTY ELECTIONS DEPARTMENT TO CONDUCT SAID ELECTION; DIRECTING THE CITY CLERK TO TAKE ALL NECESSARY ACTIONS AND COORDINATE WITH THE COUNTY OF SONOMA TO ENSURE PLACEMENT OF THE MEASURE ON THE NOVEMBER 8, 2022 BALLOT; AUTHORIZING THE CITY CLERK TO REIMBURSE THE COUNTY OF SONOMA FOR THE COSTS TO CONDUCT THE ELECTION; AUTHORIZING THE MAYOR AND VICE MAYOR TO AUTHOR THE ARGUMENT IN FAVOR OF THE MEASURE AND ANY REBUTTAL ARGUMENT; AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, pursuant to Section 1.08.010 of the Sebastopol Municipal Code, the general municipal election for the City of Sebastopol shall be held on the same day as the Statewide general election; and

WHEREAS, the California Statewide General Election will be held on Tuesday, November 8, 2022; and

WHEREAS, pursuant to Section 9222 of the California Elections Code the City Council may submit to the voters, without a petition therefor, a proposition for the repeal, amendment, or enactment of any ordinance, to be voted upon at any succeeding regular or special city election, and

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 thousand 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, 9-1-1 emergency services, park maintenance and repair, youth and senior recreation services, 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 submit to the voters at the general municipal election scheduled for Tuesday, November 8, 2022 (the “Election”), a measure amending Municipal Code Chapter 3.10 to extend the term of the City’s existing Utility Users Tax without a rate increase by removal of the sunset provision; 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 by removing the sunset date; and

WHEREAS, the County of Sonoma will be conducting a statewide general election in Sebastopol on November 8, 2022; and

WHEREAS, it is in the best interest of the City of Sebastopol to consolidate the City election with the County election to be conducted on November 8, 2022; and

WHEREAS, pursuant to Elections Code Section 10002, the governing body of any city may by resolution request the Board of Supervisors of the county to permit the county elections official to render specified services to the city or district relating to the conduct of an election, subject to the city reimbursing the county in full for the services performed upon presentation of a bill to the city; and

WHEREAS, pursuant to Elections Code Section 10400, whenever two or more elections, including bond elections, of any legislative or congressional district, public district, city, county, or other political subdivision are called to be held on the same day, in the same territory, or in territory that is in part the same, they may be consolidated upon the order of the governing body or bodies or officer or officers calling the elections; and

WHEREAS, pursuant to Elections Code Section 10403, whenever an election called by a city for the submission of any question, proposition, or office to be filled is to be consolidated with a statewide election, and the question, proposition, or office to be filled is to appear upon the same ballot as that provided for that statewide election, the city shall, at least 88 days prior to the date of the election, file with the board of supervisors, and a copy with the elections official, a resolution of its governing board requesting the consolidation, and setting forth the exact form of any question, proposition, or office to be voted upon at the election, as it is to appear on the ballot. Upon such request, the Board of Supervisors may order the consolidation. The resolution requesting the consolidation shall be adopted and filed at the same time as the adoption of the ordinance, resolution, or order calling the election; and

WHEREAS, the City Council hereby requests the County Clerk of Sonoma County provide election services that are normally provided to the City of Sebastopol.

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

Section 1. Pursuant to Section 1.08.010 of the Sebastopol Municipal Code, the general municipal election for the City of Sebastopol shall be held on the same day as the Statewide general election.

Section 2. The City Council orders submitted to the voters the ordinance attached hereto as Exhibit “A” and incorporated herein by reference (the “Ordinance”) amending Municipal Code Chapter 3.10 to extend the term of the City’s existing Utility Users Tax without a rate increase by removal of the sunset provision.

Section 3. The City Council hereby finds and determines that the foregoing recitals are true and correct and are hereby incorporated by reference.

Section 4. The City Council is authorized to present a proposition to the voters for their consideration pursuant to Government Code Section 53724 and Elections Code Section 9222, the full text of which shall be printed and made available to voters pursuant to Section 9223 of the California Elections Code.

Section 5. The complete text of the Utility Users Tax Measure to be submitted to the voters for approval is attached to this Resolution as Exhibit "A," and the City Clerk shall maintain a copy of the measure and shall make the same available for public inspection upon request. The City Council hereby approves the ordinance attached to this Resolution as Exhibit “A,” the form thereof, and its submission to the voters of the City at the November 8, 2022 Election.

Section 6. 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, by removing the sunset date until voters otherwise decide. This measure shall be designated by letter by the Sonoma County Registrar of Voters. Pursuant to Elections 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 7. The ballot question for the proposed measure shall be as follows:

Extension of <u>Locally Controlled Funding Measure</u>	YES
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?	NO

Section 8. 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 9. 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. The City Clerk may request that the County of Sonoma Elections Department prepare and publish the required notice.

Section 10. Pursuant to Elections Code Sections 10400 and 10403, the City Council hereby requests an election be called and consolidated with any and all elections also called to be held on November 8, 2022 within the same territory. Further, pursuant to Elections Code Section 10002, the City Council hereby requests that the Board of Supervisors of the County of Sonoma consolidate the Election by this Resolution with the statewide election to be conducted November 8, 2022 and order the election to be conducted by the Registrar of Voters. The City authorizes the Sonoma County Elections Department to provide any and all services necessary for conducting the Election. The County of Sonoma and its staff are authorized and instructed to procure and furnish any and all official ballots, notices, printed matter and all supplies and equipment and other necessary items in order to properly and lawfully conduct the Election; the County of Sonoma is authorized to canvass the returns of the Election, which shall be held in all respects as if there were only one election, and only one form of ballot shall be used; and the City Council recognizes that additional cost will be incurred by the County of Sonoma by reason of the consolidation of the Election with the Statewide election and agrees to reimburse the County of Sonoma for any costs that are not reimbursed by the State, and the City Council hereby authorizes the City Clerk to expend the necessary funds to pay for the City's cost of placing the measure on the election ballot.

Section 11. The City Council of the City of Sebastopol acknowledges that the consolidated Election will be held and conducted in the manner prescribed in Elections Code section 10418.

Section 12. 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 13. In accordance with Elections Code Section 9282, the City Council authorizes the Mayor and Vice Mayor to prepare a written argument, not to exceed 300 words, in favor of the Utility User Tax Measure on behalf of the City Council. The remaining Council Members may review and sign onto the argument in advance of its publication, but may not circulate comments to other Council Members, as limited by the Brown Act.

If an argument is filed against the Utility Users Tax Measure, the Council authorizes the Mayor and Vice Mayor to prepare a written rebuttal, not to exceed 250 words, which also may be signed by members of the City Council.

Section 14. 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 26, 2022.
- c. Primary arguments shall not exceed three hundred (300) words and shall be signed by not more than five persons. (Elec. Code. §§ 9282 and 9283)
- 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. (Elec. Code. § 9285)
- 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 exceeding 500 words showing the effect of the measure on existing law and the operation of the measure. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the city. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point type, the following: "The above statement is an impartial analysis of Ordinance or Measure . If you desire a copy of the ordinance or measure, please call the election official's office at 707 823 1153 and a copy will be mailed at no cost to you." The City Attorney shall 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 15. The jurisdictional boundaries of the City of Sebastopol have not changed since the last general municipal election.

Section 16. 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, by removing the 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 2nd _____ day of August _____, 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

The ballot question for the proposed Measure shall be submitted to the voters on the ballot in the following form:

<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>		YES
		NO

The full text of the Ordinance to be submitted to the voters and printed in the Voter Information Guide is as follows:

Ordinance No. _____

Ordinance of the City of Sebastopol
 Amending Chapter 3.10 of the Sebastopol Municipal Code

The People of the City of Sebastopol ordain as follows:

Section 1. The Sebastopol Municipal Code is hereby amended to delete section 3.10.280 in its entirety, as shown below by ~~strike through type~~.

**Chapter 3.10
 UTILITY USERS TAX**

~~**3.10.280. Termination of utility users tax.**~~

~~A. The levy of taxes as provided in this chapter shall expire on January 1, 2025, unless reenacted by a separate ordinance of the City Council following a majority vote of the electorate.~~

~~B. The termination of the levy of taxes as provided herein shall not terminate the obligation to pay taxes levied on services used prior to such date. Taxes levied prior to such date shall remain a debt payable to the City. All provisions in this chapter, except those relating to the levy of taxes, shall continue in full force and effect after such date. (Ord. 1072 § 1, 2014)~~

Section 2. Severability. Should any provision of this Ordinance, or its application to any person or circumstance, be determined by a court of competent jurisdiction to be unlawful, unenforceable, or otherwise void, that determination shall have no effect on any other provision of this Ordinance or the application of this Ordinance to any other person or circumstance and, to that end, the provisions hereof are severable. It is hereby declared to be the intention of the electorate that they would have adopted this Ordinance had such unconstitutional, illegal, or invalid provision, sentence, clause section, or part thereof not been included herein.

Section 3. California Environmental Quality Act. This Ordinance is exempt from the California Environmental Quality Act, Public Resources Code section 21000 et seq., under, including without limitation, Public Resources Code section 21065, and CEQA Guidelines sections 15378(b)(4) and 15061(b)(3), as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

Section 4. Liberal Construction. This Ordinance shall be liberally construed to effectuate its purposes.

The full text of the proposed Ordinance shall be available for review at the Office of the City Clerk, 7120 Bodega Ave, Sebastopol, CA 95472.

The full text of the proposed Ordinance will also be available on the City of Sebastopol website.