

CITY OF SANTA ROSA
CITY COUNCIL

TO: MAYOR AND CITY COUNCIL

SUBJECT: UTILITY USERS TAX MODERNIZATION BALLOT MEASURE

STAFF PRESENTER: CAROLINE L. FOWLER
CITY ATTORNEY

AGENDA ACTION: ORDERING SUBMISSION OF UTILITY USERS TAX BALLOT MEASURE, APPROVING BALLOT LANGUAGE, PERMITTING THE FILING OF REBUTTAL ARGUMENTS AND PROVIDING DIRECTION REGARDING BALLOT ARGUMENTS IN SUPPORT OF MEASURE

ISSUE(S)

Shall the City Council, by resolution, (1) order the submission of a ballot measure to the voters at the November 4, 2014, General Municipal Election to implement proposed amendments to modernize the Utility Users Tax ("UUT") Ordinance as directed by the City Council; (2) provide for the filing of rebuttal arguments on the measure; and (3) direct the City Attorney to prepare an impartial analysis of the measure?

Shall the City Council provide direction by motion to the City Attorney to prepare a ballot argument in support of the proposed ballot measure?

BACKGROUND

1. The City's Utility User's Tax consultant has recommended that the City's Utility User's ordinance (Chapter 3-32) be modernized to address recent legal issues and changes in technology to avoid loss of revenue. The Long Term Financial Policy Subcommittee recommended 2-1 to place a UUT modernization ordinance on the ballot in 2014. On March 11, 2014, the Council directed the City Attorney to prepare a ballot measure for modernization of the UUT for the November 2014 ballot.
2. The Council conducted a study session on May 20, 2014, at which Mr. Maynor, the City's consultant, provided additional information regarding the need to update the ordinance. At that time, the City Council also suggested that the current cap of \$1,000 per utility service be removed as part of the update.

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3. Economic Development has requested that as the Council continues to support its goal of **creating a strong and sustainable economic base**, that the council reconsider elimination of the Utilities User's maximum Tax Cap as it deserves further consideration on how it will impact Santa Rosa's market competitiveness. Business sectors with more reliance on energy like food production, advanced manufacturing/technology, and medical would experience an increase in their cost of doing business. The City of Santa Rosa and the County of Sonoma identify these clusters as important economic contributors to our regional economy.
4. The City currently collects approximately \$9.6 million dollars UUT (FY 2012/13) of which approximately \$1.5 million is related to intrastate and local telecom. Under proposed legislative and legal decisions, some or all of such telecom revenue is at risk. The current tax rate under the ordinance is 5% of the utility charges.
5. The proposed ordinance would lower the rate to 4.5% for all utilities and modernize the language as recommended by the consultant to address taxation of new technologies that are replacing standard telephone land lines. The proposed ordinance would also eliminate the existing cap of \$1,000 per utility per customer.
6. The Consultant also indicated that there is potential federal legislation pending which may limit the City's future ability to modernize the ordinance and that it was therefore important to address the issue at the earliest opportunity.
7. Attached hereto as Attachment A is a copy of the proposed revised ordinance which would be adopted upon approval of a majority vote of the qualified voters of Santa Rosa.
8. Elections Code Section 13247 requires that the ballot title and summary be limited to 75 words. A proposed ballot summary for the proposed measure is attached hereto as Attachment B.

ANALYSIS

1. Pursuant to the City Council's direction, the City Attorney has drafted, with the assistance of the Consultant, a proposed ballot measure and ballot summary as required for the ballot measure.
2. The City Council also has the discretion to change the wording of the proposed ballot measure or summary provided that such changes are in accordance with the applicable state law provisions of the Elections Code and Government Code.
3. The City Council may also consider whether it wishes to revise the proposed ordinance to retain the current cap of \$1,000, raise the current cap to some other amount, or eliminate the cap.

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- 4 A consideration in determining the manner in which the measure is presented to the voters is the limitation on the number of words that may be used in ballot summaries (75 words), ballot arguments (300 words) and the Impartial City Attorney Analyses (500 words).
- 5 Pursuant to Elections Code Section 9282, the City Council, or members of the City Council authorized by the Council, may elect to submit arguments in support of the ballot measure. Under Elections Code Section 9287, the City Council has preference and priority in submitting an argument on a ballot measure. If the Council does not elect to submit an argument, other interested individuals or groups may submit an argument for or against a measure, and the City Clerk will select one argument in favor and one against based on the requirements of Elections Code Section 9287.
- 6 The City Attorney requests direction by the Council as to whether it wishes to prepare ballot arguments in support of the measure. If so directed by the City Council, staff would prepare and bring back for the Council's approval the argument in support of the measure.

RECOMMENDATION

The City Attorney and the Finance Department recommend that the Council, by resolution, (1) order the submission of a ballot measure to the voters at the November 4, 2014, General Municipal Election to implement proposed amendments to modernize the Utility Users Tax ("UUT") Ordinance as directed by the City Council; (2) provide for the filing of rebuttal arguments on the measure; and (3) direct the City Attorney to prepare an impartial analysis of the measure.

The City Attorney further requests direction by the Council as to whether the City Attorney should prepare a ballot argument in support of the proposed ballot measure.

Author: Caroline L. Fowler, City Attorney

Attachments:

- Attachment 1 - Proposed Utility Users Tax Ordinance
- Attachment 2 - Proposed Ballot Summary