MEASURE A CITIZENS’ OVERSIGHT COMMITTEE CHARTER

RECOMMENDATION

It is recommended that the City Council adopt by Resolution a Transaction and Use Tax (Measure A) Citizens’ Oversight Committee Charter in preparation should Measure A be passed.

SUMMARY

After hearing from many members of the community since Measure A was put on the ballot, individual Councilmembers expressed a desire to clarify its intent related to the Citizens’ Oversight Committee (Committee). In the event that the Measure should pass, the City Council has chosen to develop in greater detail the policies and duties that will govern the Committee through a Committee Charter (Exhibit 1 to the Resolution).

The intent of the Committee Charter is to demonstrate how the Committee will provide for accountability and transparency so that members of the public can see that the tax proceeds are being spent consistent with the goals of the tax measure. It will provide that extra “check and balance” that some community members have been asking about. The Transactions and Use Tax Ordinance outlines the purpose and core function of the Committee (Attachment A, Section 19). This cannot be changed without a vote of the people. However, the Ordinance does not provide details for how the Committee will carry out its purpose. The attached Committee Charter provides greater clarification into these details and is responsive to inquiries made by members of the community.

DISCUSSION

Background

On July 9, 2013 the City Council held a public hearing and voted unanimously to place on the November 5 ballot a ¾ cent sales tax increase. This action included the adoption of a Resolution calling for the election and an Ordinance establishing the ¾ cent sales tax and governing provisions contingent upon voter consideration.

The tax increase is a general tax which allows the City the flexibility to address bankruptcy issues, implement the Marshall Plan for public safety, restore overall solvency and prepare the City to address future unknown challenges that will inevitably come its way. With regard to the utilization of tax proceeds the companion advisory Measure B specifies that at least 65% of the funding be used for law enforcement and crime prevention as outlined in the Marshall Plan for public safety. If the voters approve both Measures A and B, the will of the people is clear and future Councils will be held accountable if they deviate from the advisory language. The Citizens’ Oversight Committee will aid in this accountability.
In addition, the proposed tax measure contains a number of provisions which are intended to foster accountability and transparency so that members of the public can see that the tax proceeds are being spent wisely and consistent with the goals of the tax measure and the Marshall Plan. One of these key provisions is the role and function of the Citizens’ Oversight Committee. As noted above, the Transactions and Use Tax Ordinance outlines the purpose of the Committee, but does not provide a great level of detail. In recent months since the authorization of Measure A, many members of the community have sought clarification on the role and function of the Committee. The attached Charter is responsive to these inquiries by clarifying the intent of the Council in regards to the Committee in the event that Measure A is passed.

Present Situation

The Transactions and Use Tax Ordinance outlines that the Council will appoint a seven-member Committee which shall meet at least annually to review the expenditure of revenues generated by the tax, make recommendations to the City Council regarding those expenditures and review the progress toward reaching the peak general fund revenues that would trigger the sunset of the tax. Through the attached Committee Charter, the City Council has provided additional information as to the selection and governance of the Committee as well as details of the process and mechanisms for carrying out its purpose.

It is worth noting that through this clarifying process your Council does not have the authority to change the original Ordinance. The elements established by ordinance can only be changed by a vote of the people. However, your Council does have the ability to provide clarification and additional detail in the form of policies and procedures that will implement the provisions of the Ordinance within the existing framework. The key points of clarification in the proposed Committee Charter are outlined in the sections below. The Committee Charter in its entirety is included as Exhibit 1 to the Resolution accompanying this staff report.

Duties of the Committee

In order to carry out its stated purpose, the Committee will perform an annual review of actual expenditures for Measure A proceeds. This review will come at the close of each fiscal year and be based on information contained in the Comprehensive Annual Financial Report as attested to by the City’s independent financial auditor. In addition, the City will propose a budget for the use of Measure A proceeds to the Committee. The Committee will then make recommendations to the City Council related to this budget in public session before the Council deliberates on the citywide budget through the annual budget adoption process. While the Ordinance requires that the Committee meet at least annually, the duties established by Charter necessitate at least two meetings each year in order to review financial information at the close of the fiscal year (each fall) and recommend a budget to the Council (each spring). Furthermore, the Charter outlines that Committee will produce an annual report for presentation in public session to the City Council, that Committee meeting minutes will be placed on City Council agendas and that the City will provide a Web site specific to the Committee to publish reports and minutes. The Committee will be asked to pay particular attention to the City’s progress in implementing the Marshall Plan on Crime. And finally, the Committee will have the responsibility to review and analyze information related to any decision to sunset or extend the sunset of the tax prior to Council authorization.
Committee Membership

The Committee Charter outlines that each member of the City Council, including the Mayor, will nominate one member to the Committee. These nominations will be approved by majority vote of the full Council. The Charter also provides guidelines for evaluating individuals for nomination as members of the Committee.

City Commitment to the Committee

The Committee Charter also includes provisions clarifying the commitment on the part of the City to support the effective oversight of the Committee. Not only is effective oversight required by law, but is essential to the City’s ability to accomplish the intent of the voters if Measures A and B are passed. The City commits to support the oversight process through cooperation with the Committee, by providing the Committee with access to information and by providing logistical support. The City expresses a commitment to open communication and teamwork with City staff. The City commits to providing all necessary data and information to the Committee in a timely and complete manner. The City will provide technical support and facilitate scheduling Committee reports on City Council agendas.

In conclusion, the proposed Committee Charter clarifies how the City Council intended to foster accountability and transparency through the functions of the Committee. The Charter provides important details that demonstrate how the Committee activities will provide a mechanism so that members of the public can see that the tax proceeds are being spent consistent with the goals of the tax measure. The proposed Charter validates that “checks and balances” will be in place. It also insures accountability that the will of the people will be carried out to add the necessary police staffing contingent upon the passage of Measure B. The approach taken in the Charter strikes a balance between providing the necessary measures of accountability and not tipping the scale towards creating a “restrictive tax” by policy making. The Charter also balances accountability and transparency with an effective path for staff to implement the mechanisms that will allow the Committee to carry out its purpose.

FINANCIAL SUMMARY

There is no direct financial impact related to this recommendation that would require Council appropriation. In the event that Measures A and B are adopted and it becomes necessary to form the Citizens’ Oversight Committee, there will be indirect costs associated with staff time spent in supporting the Committee. As currently outlined in the draft Charter, the time that will be necessary to support the Committee in carrying out their duties can be accomplished through existing staff resources.

Attachment A - Transactions and Use Tax Ordinance