

TOWN OF YUCCA VALLEY
TOWN COUNCIL STAFF REPORT

To: Honorable Mayor & Town Council
From: Curtis Yakimow, Town Manager

Date: July 27, 2016
Meeting Date: August 2, 2016

Subject: Sewer Assessment Reduction Special Tax Measure

Recommendation

It is recommended that the Town Council consider the adoption of the following:

1. A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE TOWN OF YUCCA VALLEY A ½ CENT PER DOLLAR (0.5%) SPECIAL TRANSACTIONS AND USE TAX FOR SEWER PROJECT AND ASSESSMENT PURPOSES, TO BE CONSOLIDATED WITH THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, AS CALLED BY RESOLUTION NO. 16-15; REQUESTING THAT THE COUNTY OF SAN BERNARDINO CONSOLIDATE THE ELECTION WITH THE ESTABLISHED ELECTION DATE TO BE HELD ON NOVEMBER 8, 2016; AND DIRECTING THE COUNTY ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION ON THE TOWN'S BEHALF

Order of Procedure

Request Staff Report
Open Public Hearing
Request Public Comment
Close Public Hearing
Council Discussion/Questions of Staff
Motion/Second
Discussion on Motion
Call the Question

Discussion

At the Town Council meeting of June 2, 2015, the Town Council established a Revenue Ad Hoc Committee (Committee) to work with various citizen groups and stakeholders in assessing the appropriateness for voter consideration of a local sales tax revenue measure or measures. This action was in response to two sales tax initiatives that were introduced to the Community in 2015, but not circulated. The Council collectively determined that there was sufficient Community interest in meeting certain Town-wide needs through a revenue measure, and

therefore a wide-ranging review was in order. It was further discussed that the Committee should identify some guiding principles for any future revenue measure discussion.

Ad Hoc Committee Efforts

Over the course of the past year, the Committee met with staff, citizen groups, and the Hi-Desert Water District ad hoc committee a number of times to discuss the various potential policy issues associated with a measure, as well as to understand related technical aspects. Equally important to the Committee was the fall 2015 public outreach efforts and community input related to the Town's Strategic Plan update.

Guiding Principles

Further, the Committee developed a number of guiding principles for the Council's consideration relative to any potential revenue measure.

1. Town-wide Effort - Any potential revenue measure should be a Town-wide effort, with broad support from the entire community. While the measure can be sponsored by the Town for administrative reasons, the underlying support should be from as many Town-based stakeholder groups as possible.
2. Unified Support - For any measure to be successful, it will be necessary to have a unified voice throughout the Town to minimize fracturing of the voter base. If multiple Town-sponsored measures are introduced, a unifying message for all measures will be critical to the success of any measure.
3. Accountable to the Voter - Proposed measures should be developed in such a way as to ensure accountability to the voter and tax payer. This can be accomplished through limited duration of measures of 10 years or less; potential use of advisory measures, and through consideration of revenue measure oversight committees.
4. Respectful of the Voter - Any proposed measures should be respectful of the identified priorities and concerns of as many Town residents as possible. Potential tax payers should have primary input as to the intended uses of funds.
5. Respectful of Future Councils - Any proposed measure should not limit the ability of future Councils to meet the needs of Town residents in the future. Accordingly, measures should generally be limited in duration.

Community Input 2015

As part of the Committee's analysis, potential revenue measure concepts were included in the Council's strategic planning efforts in 2015. Various questions were discussed and tested in the outreach and social media sessions. Additionally, the Committee met with local citizen groups including the Citizen's for Lower Sewer Cost to review their concerns and proposed initiatives. Through this process, the Committee identified three primary community needs that were consistently highlighted by the various participants:

1. Increased Public Safety Efforts
2. Town Streets and Roads
3. Pending Wastewater (Sewer) Project Cost

Formal 2016 Community Survey

In accordance with the Council's guiding principles, the Town Council commissioned Godbe Research to conduct a survey to assess resident satisfaction and priorities for Town services. This survey was designed to capture a representative sample of the community and would supplement the input received during the Strategic Planning process conducted in fall 2015.

The survey was completed in the spring of 2016, and indicated the following:

- Constituents are satisfied with the job the Town is doing to provide services.
- After hearing details and a variety of informational statements about a measure to reduce the cost of funding the sewer system, 74% of likely November 2016 voters indicated support. The intensity of support increases with a decrease in the duration of the measure.

The complete Summary of Results is provided as an attachment to this report.

Development of Formal Alternatives

Based on the input and desires of the Community to address unmet Town needs including public safety, local streets and roads, and reducing the forthcoming sewer assessment, the Council provided formal direction to staff to develop the resolutions and ordinances necessary for a potential November 2016 ballot. Over the course of the past weeks, Town staff and legal counsel have developed the necessary resolutions and ordinances for consideration. The final placement of any Town ballot revenue measure must be approved with at least a 2/3 vote of the Council, and must be submitted to the County Registrar of Voters no later than August 12, 2016.

Sewer Implementation and Assessment Assistance Measure

The Town has heard a great deal from the community about the desire to reduce the cost of the sewer assessment for local residents and received valuable input from the community through the Town's Strategic Planning Outreach activities. For the past year, members of the Citizens for Lower Sewer Costs Committee, and other community members, have been working with the Town to identify and evaluate potential local revenue options to lower the cost of the sewer assessment for residents. The Citizens for Lower Sewer Costs Committee, along with other community members and Town staff, have concluded that the best option available to the Town to lower the cost of the sewer assessment is a one-half cent sales tax measure.

Attached for the Council's consideration is the resolution and proposed ordinance related to the Sewer Implementation and Assessment Assistance Measure. This measure is a special half-cent sales tax revenue measure that would be dedicated wholly toward the annual debt service

payment secured by the Hi-Desert Water District's Assessment District 2014-1. It is estimated to generate approximately \$1.5 million annually with a resulting decrease in individual assessment of up to 30%. Other benefits of the measure include:

- The proposed sewer measure will reduce the cost to taxpayers for funding the sewer system by up to 30 percent per year.
- The proposed sewer measure requires by law that all funds are spent locally in Yucca Valley to equitably reduce the costs of the sewer system for all residents, including the existing assessment in phases 2&3, and any subsequent assessments for phase 2&3.
- The proposed funds generated through the measure cannot be taken by Sacramento for other purposes.
- The proposed sewer measure is subject to review by an independent citizens' oversight committee, mandatory financial audits, and regular reports to the community to ensure the funds are spent as promised.

Term Discussion

During the drafting of the measure, Town staff, ad hoc committee members and the Citizen's Committee for Lower Sewer Costs had multiple conversations regarding the appropriate term of the measure, debating between a 10-year term and a 30-year term. While there is no doubt about the long-term nature of the assessment debt, after much thought and deliberation, the Town staff recommendation is for a 10-year measure based on the following:

1. The primary goal is to put the package that has the best chance of passage before the voters. Many voters are uncomfortable with a 30-year tax, but supportive of a shorter term tax that can be evaluated as needed.
2. According to the recently completed Town Needs Survey, the intensity of support for the 10-year sewer measure increases by 10 percentage points over the 30-year measure.
3. The 10-year timeframe is in accordance with the Town Council's adopted guiding principles focused on being respectful to both the community and to future councils by limiting long-term commitments.
4. The Town completes a financial forecast for a 5-year window, and can reasonably project beyond that for a limited duration. Permanently committing Town resources for beyond a 10-year period exposes the Town to considerable risk in being able to meet unknown needs.
5. Based on the Council's Guiding Principles, the Town Council believes that the community should be the driving force behind any such measure. If the measure is effective in lowering assessments, the community would have the opportunity to reauthorize the measure with a clear understanding as to its benefits. If it is not effective, the community would have an opportunity to modify or eliminate the measure as needed. Reauthorization of the tax would require a 2/3 vote of the

community at or prior to the expiration of the measure.

6. The reauthorization period in 8-10 years would align with the eventual annexation or formation of the remaining Phase 2 & 3 assessment. The community would have an opportunity to modify the measure as needed to ensure the overarching objectives of the measure are being fulfilled through changes to the measure prior to ballot placement.
7. A 30-year term would need to be reauthorized as well to accomplish the long-term funding assistance for all phases, as the full assessment for phases 2 & 3 are not yet in place. Establishing the reauthorization process earlier provides maximum flexibility for the community.

Impartial Analysis, Arguments For & Against, Rebuttals

Whenever a municipal ballot measure is authorized, State law provides that the Town Council may direct the Town Attorney to prepare an impartial analysis and provide for the filing of written arguments for and against a measure and for rebuttal arguments to be filed with the Town elections official.

By adopting the additional resolution, the Town Council is directing the Town Attorney to prepare an impartial analysis of the Measure. The impartial analysis shall be filed within fifteen (15) days of the adoption of this Resolution or by the date set by the Town Clerk for the filing of primary arguments, whichever is later.

The resolution also authorizes members of the Council, collectively or individually, or any individual Yucca Valley voter or association of Yucca Valley citizens, to file written arguments in favor or against the Transactions and Use Tax Measure, and to change the argument until and including the date fixed by the Town Clerk after which no arguments for or against the Measure may be submitted to the Town Clerk. The Town Clerk shall follow Elections Code sections 9281 through 9287 in determining the printing of all arguments in favor and against.

Next Steps

Should the Council adopt the resolutions placing the measure before the voters on the November 8, 2016 ballot, the Town Clerk will be responsible for submitting the essential documents to the county Registrar of Voters. Additionally, the following tasks will be completed between now and November:

- Measure Title and Summary provided by Town Attorney, with proper noticing.
- Town of Yucca Valley and Hi Desert Water District development and approval of a draft disbursement agreement outlining the receipt and disbursement procedures of potential measure funds.
- Ongoing communication, workshops and educational support for the community to provided necessary information and education regarding the measure.

Strategic Plan Consistency: The recommended action is consistent with the Town's Strategic Plan to *Move Forward as a Town*. Specifically, this action implements Objective #'s 6, 7 & 8:

"Provide the Community with clear options related to concerns raised throughout the Strategic Planning Outreach period".

Alternatives: Decline to move forward at this time.

Fiscal Impact: Based on prior Registrar of Voter costs, estimated consolidated election costs are \$20,000, and are accommodated by the FY 2016-18 adopted budget.

Attachments

EXHIBIT A
Citizens Committee Letter of Support
Yucca Valley Survey Summary of Results

RESOLUTION NO. 16-

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE TOWN OF YUCCA VALLEY A ½ CENT PER DOLLAR (0.5%) SPECIAL TRANSACTIONS AND USE TAX FOR SEWER PROJECT AND ASSESSMENT PURPOSES, TO BE CONSOLIDATED WITH THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, AS CALLED BY RESOLUTION NO. 16-15; REQUESTING THAT THE COUNTY OF SAN BERNARDINO CONSOLIDATE THE ELECTION WITH THE ESTABLISHED ELECTION DATE TO BE HELD ON NOVEMBER 8, 2016; AND DIRECTING THE COUNTY ELECTIONS DEPARTMENT TO CONDUCT THE ELECTION ON THE TOWN'S BEHALF

WHEREAS, According to various studies, the prolonged use of septic systems in Yucca Valley has resulted in the pollution of the local groundwater supply. Septic system discharge has been slowly degrading local water quality for decades. Nitrates and other contaminants from septic system discharge are currently reaching groundwater; and

WHEREAS, In an effort to address groundwater quality concerns, on March 10, 2016, the California Regional Water Quality Control Board (“CRWQCB”) amended Resolution No. R7-2011-004 with the adoption of a groundwater Basin Plan Amendment that prohibits septic tank discharges in Yucca Valley to protect groundwater quality as early as June 30, 2021 in Phase 1 and June 30, 2025 for Phases 2 & 3; and

WHEREAS, The Hi-Desert Water District (“HDWD”) is constructing a sewer collection system and wastewater reclamation facility (the “Sewer Project”) to assist property owners in complying with State’s mandate. The Sewer Project will include:

- Approximately 78 miles of sewer main;
- Three pump stations;
- A wastewater treatment and reclamation facility;
- Replacing existing roads with new roads due to construction of the Sewer Project.

WHEREAS, Goals of the Sewer Project include, without limitation:

- To collect and treat local wastewater;
- To keep septic discharge out of the local water supply;
- To protect local water quality for future generations; and
- To give residents access to reliable and affordable sewer service

WHEREAS, The Sewer Project’s completion would ensure compliance with State mandates, prevent local residents from being fined for continued septic discharge, and most importantly protect local groundwater; and

WHEREAS, The Sewer Project completion will enable restaurants, retail shops and other businesses to easily connect to sewer service, and will remove an infrastructure obstacle to new business development in the Town; and

WHEREAS, The Sewer Project is estimated to cost \$150 million and HDWD is financing the Sewer Project through a low-interest loan from the State Revolving Fund (the "Loan"). HDWD proposes to form two assessment districts and levy an assessment on all properties that will specially benefit from the Sewer Project. The proposed assessments include construction costs, interest on the Loan, and certain incidental and administrative expenses required in connection with the Loan. The proposed assessments allow property owners to finance the Sewer Project to ease the financial burden of complying with the CRWQCB's prohibition and to construct the Sewer Project to protect the local groundwater supply; and

WHEREAS, Three benefit areas (phases) were established based upon the proportionate special benefits that properties will receive from the sewer system as a whole. While properties in Phase 1 will connect to the Sewer Project and begin receiving service when the first phase of construction is complete, properties in Phases 2 and 3 will connect at a later time. These later connecting properties identified in Phases 2 and 3 will also receive special benefits from Phase 1 of the Sewer Project and will be paying for their share of the treatment facilities and sewer lines that they will use in the future. Because they are connecting at a later date, their first assessment for Phase 1 is smaller and a second assessment district will be proposed for these properties to secure funding to construct Phase 2 and 3 of the Sewer Project; and

WHEREAS, On May 13, 2015, property owners approved forming Assessment District 2014-1 by mail-in ballot to finance the cost to construct Phase 1 of the Sewer Project, with the need for a subsequent assessment district formation or annexation by vote at a later date to secure funding to fully construct Phases 2 and 3; and

WHEREAS, The Sewer Project assessments will be levied and be a lien on privately and publicly owned properties for 30 years. The assessments will vary by property classification, but in all cases will entail a significant financial contribution from the property owners of the Town of Yucca Valley, with some single family residents being required to pay approximately \$700.00 per year, with commercial properties and other high-flow properties subject to significantly higher costs; and

WHEREAS, Although the need for the Sewer Project is critical, some residents and property owners in the Town may suffer substantial financial hardship as a result of the Sewer Project assessments and connection costs described above; and

WHEREAS, The Town has heard a great deal from the community about the desire to reduce the cost of the sewer assessment for local residents and received valuable input from the community through the Town's Strategic Planning Outreach activities; and

WHEREAS, For the past year, members of the Citizens for Lower Sewer Costs

Committee, and other community members, have been working with the Town to identify and evaluate potential local revenue options to lower the cost of the sewer assessment for residents; and

WHEREAS, The Citizens for Lower Sewer Costs Committee, along with other community members and Town staff, have concluded that the best option available to the Town to lower the cost of the sewer assessment is a one-half cent sales tax measure; and

WHEREAS, The Citizens for Lower Sewer Costs Committee recommends the Town Council place a one-half cent sales tax measure to lower sewer assessment cost on the November 2016 ballot for voters' consideration; and

WHEREAS, To facilitate the Sewer Project and subsidize assessments associated with the Sewer Project, the Town Council of the Town of Yucca Valley desires to place a special purpose transactions and use (sales) tax ordinance, as authorized by Revenue and Taxation Code section 7285.91 and attached hereto as Exhibit A, as a measure before the voters at the November 8, 2016 election consolidated with the general municipal election of that date. This tax shall be a special tax, the revenues of which shall only be used to lower individual property assessments in all three phases of the Sewer Project; and

WHEREAS, The proposed sewer measure is a special purpose measure that requires by law that all measure funds are spent on reducing the costs of the sewer system for residents and funds from the measure cannot be redirected or taken for other uses by the Town Council; and

WHEREAS, The proposed sewer measure will reduce the cost to taxpayers for funding the sewer system by up to 30 percent per year; and

WHEREAS, The proposed sewer measure requires by law that all funds are spent locally in Yucca Valley to equitably reduce the costs of the sewer system for all residents; and

WHEREAS, The proposed sewer measure is subject to review by an independent citizens' oversight committee, mandatory financial audits, and regular reports to the community to ensure the funds are spent as promised; and

WHEREAS, The tax, if approved, would be imposed on the sale of tangible personal property and the storage, use, or other consumption of such property, at a rate of one-half cent per dollar (0.5%). The tax revenue would be collected by the State Board of Equalization and remitted to the Town for dedication towards the lowering of Sewer Project assessments; and

WHEREAS, The proposed measure is a special purpose Sewer Project measure that requires by law that all its proceeds be spent to lower Sewer Project assessment rates, either directly or through contribution towards direct Sewer Project costs, and cannot be redirected or taken by the Town Council for other uses. The proposed special tax would equitably subsidize Sewer Project assessments and costs in all phases of the Project in the existing

Assessment District 2014-1, inclusive of any annexations into Assessment District 2014-1 for the eventual completion of Phases 2 & 3. Should a new assessment district be established in lieu of annexation into the existing Assessment District 2014-1 for the primary purpose of the completion of Phases 2 & 3 of the Sewer Project, the proposed special tax would be applied equally toward the gross total assessment of all assessment districts, as if the assessment districts were one. As a special purpose tax, the proposed measure can only be approved if it receives at least a two-thirds vote at the general municipal election to be held on November 8, 2016; and

WHEREAS, If approved by the voters, such tax would be administered and distributed in accordance with a legal and binding agreement entered into between the Town of Yucca Valley and the HDWD, which would specify an expenditure method ensuring that special tax proceeds are utilized to lower assessments associated with the Sewer Project. It is contemplated that such agreement would lower citizen assessments by dedicating the special tax proceeds to the annual debt service on the Loan secured by Assessment District 2014-1, with an administrative cost not to exceed five (5) percent. Further such agreement would require the annual reporting and notification to affected property owners by the HDWD of the assessment reduction that is attributable to the proceeds of the special tax; and

WHEREAS, A general municipal election on Tuesday, November 8, 2016, has been called by Resolution No. 16-15, adopted on June 7, 2016; and

WHEREAS, On the basis of the foregoing, the Town Council held a noticed public hearing on August 2, 2016, and the Town Council hereby determines it is appropriate to place the special tax measure before the voters at the November 8, 2016, general municipal election.

NOW, THEREFORE, THE TOWN COUNCIL OF THE TOWN OF YUCCA VALLEY, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the Town Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election on November 8, 2016, the following question:

To reduce the cost to taxpayers for funding the sewer system up-to 30% per year; ensure a safe, clean, reliable water supply; and, improve water conservation; shall Yucca Valley enact a 0.5% sales tax, for 10 years, providing approximately \$1,500,000 annually, that cannot be taken by the State, with annual audits, citizens' oversight, and all funds required by law to be spent locally to equitably reduce the costs of the sewer system for all residents?	YES
	NO

SECTION 2. Upon approval of the voters of the Town of Yucca Valley, the Yucca Valley Municipal Code shall be amended to add a new Chapter 3.28 to Title 3, establishing a

one-half cent per dollar (0.5%) special transactions and use tax within the Town. The proposed complete text of the measure submitted to the voters is attached hereto as Exhibit "A". This question requires the approval of two-thirds of those casting votes. The Town Council hereby approves the ordinance, the form thereof attached hereto as Exhibit "A", and its submission to the voters of the Town.

SECTION 3. That in all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 4. That notice of the time and place of holding the election is hereby given, and the Town Clerk is authorized, instructed, and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 5. That pursuant to the requirements of Section 10403 of the California Elections Code, the Board of Supervisors of the County of San Bernardino is hereby requested to consent and agree to the consolidation of said election. The Town Council authorizes the Registrar of Voters to consolidate this election with the established election on November 8, 2016, for the ease and convenience of the registered voters and to take advantage of any cost savings possible by such consolidation. The County Election Department is authorized to canvass the returns of said election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used. The San Bernardino County Board of Supervisors is requested to issue instructions to the County Election Department to take any and all steps necessary for the holding of the consolidated election. The Town Clerk may request the assistance of the County Elections Department in regard to said election, as the Town Clerk deems necessary. The Town shall reimburse the County for services performed when the work is completed and upon presentation to the Town of a properly approved bill.

SECTION 6. That this Resolution shall become effective immediately upon its passage and adoption, and the Town Clerk is directed to send certified copies of this Resolution to the San Bernardino County Board of Supervisors, to the County Clerk-Recorder, and County of San Bernardino Election Department.

PASSED, APPROVED AND ADOPTED ON this 2nd day of August, 2016.

ROBERT LEONE, MAYOR

ATTEST:

TOWN CLERK