

CITY OF SEBASTOPOL
CITY COUNCIL
AGENDA ITEM

Meeting Date: June 7, 2022
To: Honorable Mayor and City Councilmembers
From: Ana Kwong - Administrative Services Director
Subject: Review, Discussion and Consideration of a Ballot Measure
Recommendation: That the City Council Review, Discussion and Consideration of a Ballot Measure (Extension/Expansion of Utility User Tax (UUT)) for the November 8, 2022 Election
Funding: Currently Budgeted: X Yes _____ No _____ N/A
Net General Fund Cost: \$15,000 *

*Estimated cost of ballot measure support has been built into the FY22-23 proposed budget

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

INTRODUCTION:

This item is to request City Council review, discuss and consider a Ballot Measure (Extension/Expansion of current Utility User Tax (UUT) for placement on the November 8, 2022 ballot.

BACKGROUND:

Fiscal Sustainability is important to ensure providing quality services while maintaining finances at a credible and serviceable position with a long-term balance of resources and the cost of doing business. There are multiple ways of collecting revenues, however, two primary mechanisms for generating revenue: charging fees for service and taxes. The City of Sebastopol has a comprehensive fee schedule which is reviews annually. These fees for services, governed by various state laws, help defray some of the cost of services. Cities also can impose taxes; however, adoption of or changes to those taxes must be approved by the voters in accordance with Proposition 218. A simple majority is required for approval of a general tax, and a 2/3 supermajority approval is required for a special tax. These potential measures must coincide with an election with established dates.

DISCUSSION:

UUTs: A Vital Source of Municipal Revenues

A UUT can legally be imposed on the consumption of any utility service including, but not limited to, electricity, gas, water, sewer, communications and garbage services. Currently, nearly 163 cities and counties in California have UUTs. Typical UUT rates range from 1% to 11%. The most common rate is 5%, applied against a broad range of utilities and communication services.

Jurisdictions that have proposed UUT measures recently have enjoyed a positive reception at the ballot box, in part because voters feel that UUT is an equitable tax that is applied equally to all utility users, and in general voters are concerned about local control of local revenues in order to maintain and protect their quality of life and the associated services provided by local government.

Article XIII C of the California Constitution (Proposition 218) requires that any new or increased local general tax,

such as a UUT, must be approved by a majority vote of the electorate. (A two-thirds vote is required for the adoption of a special tax imposed for special purposes.)

(Source: Californiacityfinance.com analysis of League of California Cities Survey data).

How does Sebastopol compare to other Cities?

In Sonoma and Solano County there are currently six cities with UUTs, including Sebastopol. The rates for these UUTs range from as low as 2% (Fairfield) to as high as 7.5% (Vallejo).

(Source: Californiacityfinance.com analysis of League of California Cities Survey data).

The table below shows the current tax rates for the City of Sebastopol.

UTILITIES SUBJECT TO TAX	
<u>Telecommunications</u> (see ordinance definitions) Includes wired and wireless telecommunications; intrastate, interstate and international services; ancillary services; conferencing services; VoIP; text messaging; and private communication services	3.75%
Prepaid wireless (per Rev & Tax Code 42100 et seq.) effective 1/1/2016	3.5%
Video - including CATV, IP-TV, and similar offerings of video programming	3.75%
Electricity	3.75%
Gas	3.75%
Garbage	3.75%

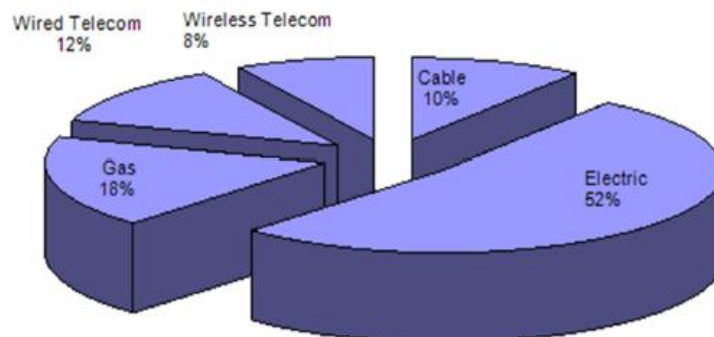
On November 4, 2014, the voters approved Ordinance #1072 adopting new definitions, adding telecommunications, video and garbage, and reducing the rate from 4% to 3.75% on all utilities.

(Source: www.uutinfo.org)

Utility Users Tax/Revenue Enhancement Options:

Utility User Tax (UUT) generates an average for the last 3 years \$687,000 in receipts. The UUT is charged to all users of electricity, gas, wired/wireless telecom, and cable. The current tax rate is 3.75% percent. These taxes are charged directly on the monthly billing, therefore receipts are not transferred or submitted via any separate tax return except from the utility providers.

Total UUT Revenue by Industry



The City of Sebastopol is requesting that the City Council propose increasing the City’s UUT by an additional .25% (percent) for a total tax imposed of 4.0% (percent) on the next feasible electoral ballot (November 8, 2022). This measure will provide locally-controlled funding to maintain Sebastopol’s essential City services.

Estimated UUT Revenue with the increase:

As noted above, the City's current UUT is 3.75%, that generates on average approximately \$687,000 in annual revenues.

- 1) If the 0.25% rate increase were to be applied against the range of identified utilities, it would generate approximately \$732,800 and additional revenue of \$45,800 annually
- 2) If the 1% rate increase were to be applied against the range of identified utilities, it would generate approximately \$870,200 and additional revenue of \$183,200 annually
- 3) Similarly, a rate of 5% would generate approximately \$916,000 and additional revenue of \$229,000
- 4) A rate of 5.25% would generate approximately \$961,800 annually and additional revenue of \$274,800 annually
- 5) A rate of 5.50% would generate approximately \$1,007,600 and additional revenue of \$320,600 annually
- 6) A rate of 5.75% would generate approximately \$1,053,400 and additional revenue of \$366,400 annually

If approved by the voters, the new UUT rate would become effective immediately and, pursuant to state law, the service providers would be required to begin collecting the tax within 60 days thereafter.

Ballot Measure Campaign and Ordinance Review:

If the City Council agrees to place the UUT measure on the ballot in November 2022 election, the City should consider retaining Avenu/MuniServices, a firm specializing in UUTs, to review the ordinance for Council consideration and advise on the wording of the ballot language. MuniServices was the firm retained originally for the passage of the current UUT. If the ballot measure is placed on the November ballot and approved by the voters, City staff will continue to participate in a comprehensive UUT compliance program, developed by MuniServices to assist with the initial implementation, administration and collection of the UUT.

POSSIBLE IMPLICATION OF NOT PASSING THE BALLOT MEASURE IN NOVEMBER 2022 ELECTION:

1. Fiscal impact of Pre-election cost
2. Costs to Sonoma County Election for Consolidation of Election for Ballot Measure Costs (Range for one ballot measures is \$15,000)
3. With the UUT measure expiring January 1, 2025, if the Ballot Measure for 2022 Election fails, City Council would be asked in future Council agenda item to provide direction for:
 - a. Placing a Ballot Measure before the voters in 2024 proposing the increase again to 4.0% and removal of sunset clause; or
 - b. Placing a Ballot Measure before the voters 2024 to extend the current rate @3.75% and removal of the sunset clause

CITY COUNCIL AND/OR GENERAL PLAN GOALS:

Goal 1 - Maintain the long term financial stability and sustainability of the City of Sebastopol and Operate City government in a fiscally responsible and responsive manner

1.1 Develop and Implement Sound Financial Management Policies and Procedures

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 comment portion of the agenda item.

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:

As mentioned, the proposed minimum increase of 0.25% would generate approximately additional \$45,800 annually to the City's general fund.

If the City Council agrees to place the UUT on the ballot, there may be pre-election costs that includes community outreach, legal services, consultant services and payment of the County election fee. The cost for such services and fees have been built into the proposed budget for FY22-23.

RECOMMENDATION:

Staff recommends that the City Council Review, Discuss and Consider a Ballot Measure (Extension/Expansion of Utility User Tax (UUT)) for the November 8, 2022 Election.

1. Extension of Current Utility User Tax (UUT) 3.75%; or
2. Extension of Current Utility Tax (UUT) 3.75% and removal of sunset clause; or
3. Expansion of Current Utility Tax (UUT) 4.0%; or
4. Expansion of Current Utility Tax (UUT) 4.0%; and removal of sunset clause;
5. Authorization to contract with Avenu/MuniServices, a firm specializing in UUTs, to review the ordinance for Council consideration and advise on the wording of the ballot language at the future City Council meeting
6. Authorization to budget for Ballot Measure in FY 22-23 Fiscal Year City Budget.

It is critical that the City Council discuss and provide direction to staff at this meeting as there are many required activities that will follow from this meeting as a prerequisite to getting this initiative on the ballot in November.

Measure Ballot Question:

Shall the City Council approve to bring before the voters of the City of Sebastopol ("City") a ballot measure to increase the Utility Users' Tax rate from 3.75% to 4.0% and remove the sunset date of the current tax ?

ATTACHMENT(S):

None