



CITY COUNCIL AGENDA REPORT

MEETING DATE: July 15, 2008

ITEM NUMBER: **IX-3**

SUBJECT: Consideration of the Placement of Revenue Measures on the Ballot for the November General Elections

DATE: July 10, 2008

FROM: City Manager's Office and Finance Department

PRESENTATION BY: Allan L. Roeder, City Manager
Marc R. Puckett, Finance Director

FOR FURTHER INFORMATION CONTACT: Marc R. Puckett
(714) 754-5243

BACKGROUND:

At the July 8, 2008 regular City Council Study Session, a presentation was made regarding the possible placement of two revenue measures on the November General Elections ballot. The presentation was requested by Council member Linda Dixon at the June 17, 2008 regular City Council meeting when the 2008-09 municipal budget was adopted. A copy of the Study Session staff report is attached (Exhibit A).

Due to the extensive presentation and discussion at the City Council Study Session on the subject of tax schedules, relative demand for increased revenues & services as well as current economic conditions generally, this report will not focus on these subjects. All of the reports dealing with this topic have been made available to the City Council and members of the public and are currently available on the City's website and at City Hall. The Finance Director will be in attendance to address any questions regarding financial details requested by the City Council.

The focus of this report is specific to the possible placement of revenue measures on the November General Election ballot. The City Council has discussed two possible measures for consideration – the Transient Occupancy Tax (TOT) and the Business License Tax. Pursuant to State law, the City Council may act to place one or both of these measures before the electorate in accordance with the provisions of Proposition 218. Under California law, the act of increasing local taxes is restricted to the electorate. These measures may only be considered by the electorate in a Municipal General Election.

ANALYSIS:

Measures to be placed on the ballot must be enacted by resolution. The City Attorney has prepared the required resolutions which include (a) resolutions ordering the submission to the electorate of the specific revenue measures to be considered; (b) a resolution setting priorities for filing written arguments on the ballot measures and directing the City Attorney to prepare an impartial analysis and (c) a resolution providing for the filing of rebuttal arguments.

For each resolution proposing an increase in the existing tax structure, the City Council has two decisions to make before voting on whether or not acting to place the matter on the ballot. Those decisions are:

- What shall be the method of adjusting the specific revenue source?
- What is the intended use of the increased tax proceeds (Special tax versus General tax)?

The following discusses the options for adjusting the two revenue sources under consideration.

Transient Occupancy Tax (TOT)

The TOT represents a general tax imposed on hotel stays of 30 days or less as a percentage applied to the room rental. At present, the City's TOT rate is 6%. Accordingly, adjustments to the TOT are relatively easy to identify for ballot purposes. Should the City Council choose to increase the TOT, it should do so as a whole percentage point for ease of collection by hotel operators. As noted in Exhibit A, each percentage point increase is estimated to yield approximately \$1,000,000 in TOT revenue to the City.

Business License Tax

Unlike the TOT, the existing Business License Tax is a fixed dollar amount (as opposed to a percentage) based on annual Gross Receipts. It ranges from a low of \$25 to a high of \$200 with specific exceptions for certain types of businesses (Taxi, Tow Trucks, Swap Meets, and Exhibitions) that are assessed on the number of vehicles or vendors. Given the time constraints for preparing this report, staff is unable to provide a breakdown as to the numbers of Business Licenses presently issued in each tax bracket or an "average" cost.

Exhibit B depicts the various Business License tax structures currently in effect in the adjoining communities of Newport Beach, Irvine, Santa Ana, Huntington Beach, and Fountain Valley as well as the schedule for Costa Mesa. Where the TOT is similar in each City except for the percentage applied, Business License

taxes differ greatly from City to City. They range from the very simple (Costa Mesa, Irvine) to the very complex (Santa Ana) and include a wide range of variables (gross receipts, employees, vehicles, home based business, etc.) upon which the tax is calculated.

The tax schedules for adjoining communities have been included to demonstrate that if Costa Mesa's Business License Tax is to be increased; such an increase could take the form of a completely different tax structure or modifying/increasing the annual gross receipts tax range. Either approach includes a wide range of choices and variables too numerous to identify in this report. Likewise, explaining the proposed Business License tax schedule in ballot language is also challenging due to the variables involved.

Should the City Council desire to retain the existing Business License structure but increase the tax rates, staff would recommend doing so by a fixed dollar amount as opposed to a percentage. As an example, this might be expressed as "Increase by \$50 the Business License Tax for those businesses with Annual Gross Receipts of \$200,000 or more." If the City Council has an interest in pursuing a different tax rate structure altogether for the Business License Tax, staff would recommend the matter not go on the ballot at this time. Considerable additional staff work will be needed if wholesale changes to the Business License Tax structure are contemplated.

Special Tax versus General Tax

The City Council may also choose to designate the proceeds from any proposed tax increase as a Special Tax or General Tax. Basically, the distinctions are as follows:

- Special Tax – The proceeds from a Special Tax are designated by the City Council for a specific purpose or use. That use must be spelled out in the ballot language to clearly identify the intended use (e.g. hire more sworn police officers, construct a fire station, purchase land and develop parks) of the tax proceeds. A Special Tax requires 2/3rds voter approval for passage.
- General Tax – The proceeds from a General Tax may be designated by the City Council for any lawful expenditure of public funds. A General Tax requires a simple majority voter approval.

ALTERNATIVES CONSIDERED:

The above discusses the alternatives available in terms of seeking voter approval of an increase in either the TOT or the Business License Tax. Although not discussed in the preceding nor requested by City Council, it is only fair to point out that the existing TOT and Business License Tax could also be proposed to the electorate for a reduction in existing rates.

FISCAL REVIEW:

An increase in the Business License Tax or the Transient Occupancy Tax will generate new revenue to the City's General Fund. An estimate of the amount of revenue to be generated is indeterminate at this time since the amount of revenue generated is dependent upon Council's action at this meeting to place such a measure on the ballot.

Placement of a revenue measure on the ballot is estimated to cost up to \$15,298 for two revenue measures. A proposed budget adjustment has been attached for Council's consideration. Further, a copy of the City Manager's June 16, 2008 memorandum regarding potential appropriation reductions is also attached for Council's consideration. As the City Manager had indicated at that time, offsetting appropriation reductions should be considered in order to add funding to the adopted budget for the cost of the ballot measures.

LEGAL REVIEW:

The City Attorney has prepared the draft resolutions for your consideration. Specific ballot language needs to be included in any resolution. Because Council has not directed any specific ballot language as yet, this language will have to be finalized and included in the resolution at the City Council meeting. If any proposed tax increase is to be designated for a specific purpose(s), the special purpose(s) will have to be spelled out in detail in the ballot language and the proposed ordinance amendment.

CONCLUSION:

This matter has been brought forward by Council Member Dixon under the provisions of Proposition 218 which requires consideration of local revenues measures be considered only at a Municipal General Election. The City Council has been provided extensive analysis of the City's fiscal condition, most recently with the adoption of the FY 2008-09 Operating and Capital Improvement Budget on June 17, 2008.



ALLAN L. ROEDER
CITY MANAGER



CITY COUNCIL STUDY SESSION REPORT

MEETING DATE: JULY 8, 2008

ITEM NUMBER:

SUBJECT: CONSIDERATION OF BALLOT MEASURE TO INCREASE THE TRANSIENT OCCUPANCY TAX (VISITOR TAX) AND/OR THE BUSINESS LICENSE TAX

DATE: JUNE 19, 2008

FROM: FINANCE DEPARTMENT/ADMINISTRATION

PRESENTATION BY: MARC R. PUCKETT, DIRECTOR OF FINANCE

FOR FURTHER INFORMATION CONTACT: MARC R. PUCKETT (714)754-5243

RECOMMENDED ACTION:

Review and comment

BACKGROUND:

At the June 17, 2008, City Council meeting, Council member Dixon requested that staff prepare a report regarding a potential increase in the Transient Occupancy Tax (Visitor Tax) and/or the Business License Tax for consideration of placing either revenue measure on the November, 2008, General election ballot.

When these revenues sources were discussed with prior City Councils, there was an expressed interest in exploring a tiered structure in the Business License Tax similar to that used in surrounding communities and initiating conversations with the business community to receive their input on such a structure. General discussions around a possible increase in the Transient Occupancy Tax focused on raising the tax to at least the average for Orange County (10.5%) inclusive of the existing 2% Business Improvement Assessment which is collected and subvented back to the participating hotels.

The demand to consider new sources of revenue stems from the convergence of several issues. Most obvious of these issues is the impact of the recession on significant sources of revenue used to provide general city services. For example, approximately half of the City's General Fund revenues used to provide general city services are derived from sales tax. During the current fiscal year, sales tax revenues have declined by 3%. For the next fiscal year (2008-2009) sales tax revenues are projected to increase by only 0.22%.

Second, the cost of adding additional facilities to the City's budget without new or increased revenues results in fewer dollars to support existing operations. As an example, significant infrastructure expenditures have occurred in recent years which have added to the operating budget through the addition of annual operating expenditures and debt service payments. A few examples which have occurred over the last few years include expansion of the TeWinkle Athletic Complex, construction of the Volcom Skate park and support facilities (parking, restrooms), the purchase of property to expand Brentwood Park, expansion and renovation of the Police Facility, development of youth sports fields at Fairview Developmental Center and additional lighted fields at the Farm Site.

While all of these projects received substantial support both from the City Council and the community, each was wholly or primarily funded with General Fund revenues. In addition, each of these projects has added operating costs and/or debt service costs to the General Fund. These include increased water and power use, maintenance costs, additional personnel costs (typically part-time hours), cost of insurance coverage and related operational expenses.

Thirdly - in an effort to address important community needs as well as obligations incurred by State or Federal mandates - the City has also added/expanded programs and services. Additional sworn police personnel have been added to expand the Gang Detail and provide School Resource Officers on local campuses. Additional expenses are incurred in providing these personnel with the required training, equipment and support service. Additional expenses have been incurred in meeting City Council priorities for expanded street maintenance, code enforcement and mandated programs such as NPDES. Again, all of these preceding are very well regarded programs and services delivered with a high degree of efficiency. Yet all of these placed additional demands on the same General Fund revenues committed to supporting all other existing programs and services.

Fourthly, the cost of remaining competitive in the City's established labor market is growing faster than the City's existing General Fund Revenue base. Representing approximately 70% of General Fund expenditures, the cost of salaries & benefits continues to increase despite the City's long-held position of compensating at the mid-point of our labor market. While steps have been taken to limit long term financial obligations in this area (such as the recent employee-funded retirement enhancement for non-sworn personnel and adoption of a defined contribution retiree medical program), annual adjustments limit the ability of the City to meet other operational expenses. As depicted in the Study Session presentation to the City Council in January 2008, the revenue base for those cities that constitute our labor market is substantially greater than that of Costa Mesa. The City's ability to continue to remain competitive with communities having greater General Fund resources - even at the mid-point of the established labor market - places substantial additional pressure on all other General Fund obligations.

Finally, the demand for additional community facilities, increased levels of maintenance and support/replacement facilities continues to grow with no identified means of General Fund support. A cursory list of often mentioned improvements include a Main Central Library, additional landscape medians on arterial streets, expanded alley maintenance, construction of one new Fire Station and at least one replacement Fire Station, a major skateboard facility, additional youth sports facilities (whether constructed on NMUSD or elsewhere), additional parks for the City's Westside & Eastside and construction of additional bicycle trails. Grant funding will no doubt be available for some portion of many of these projects. But virtually all grants require some level of local match and several of these projects will not qualify for outside funding.

Community residents have come to expect a continuation of the high quality and level of city services. As noted above, over the years City Council has responded by adding staff, facilities, expanding maintenance efforts and the like in response to the community's service expectations. However the gap between the Community's expectations and fiscal reality has continued to widen over the past several years.

ANALYSIS:

Over the past ten years, there have been several communications to City Council periodically highlighting the need for new revenues if new programs and services are to be added. During this period - although new programs and services were added – no action was taken to increase existing tax rates or adopt new taxes (with the exception of the Sanitation Franchise fee) to offset the capital and operating costs of expanding services and programs.

Rather than recap each of those communications here, attached please find a memorandum from February, 2004, (Attachment 1) outlining potential new revenue sources. Attached to this memo is a memo from the City Manager regarding steps for placing a ballot measure before the voters from July, 2000. Also, provided below is a background summary of the Business License Tax and the Transient Occupancy Tax (Visitors Tax).

Any increase in the Business License Tax or Visitors Tax would require a vote of the people. Whether the ballot measure requires a simple majority (50% + 1 vote) or a super majority (two-thirds of those voting in the affirmative) depends upon the ballot language and whether the question is placed upon the ballot as a general tax increase or a special tax increase.

In making these decisions please consider the issues discussed in length in the City Manager's July 7, 2000, memo to Council preceding the placement of the Transient Occupancy Tax question on the November, 2000, ballot. On page two of the memo, the City Manager discusses the five decisions that Council must make and the four ways that the ballot measure may appear before the voters on the ballot. These same decisions apply to either the Business License Tax or the Visitor's Tax discussed herein which require voter approval prior to implementation. The attachments to the City Manager's memo from the City Attorney's Office and the Finance department further delineate matters that need to be considered with respect to placing a ballot measure before the voters. It is suggested that these requirements be reviewed in detail with respect to issues concerning placement of a ballot measure before the voters as a general tax increase or a specific tax increase.

The following is a recap of information previously submitted to prior City Councils on the subject of the Business License Tax and Transient Occupancy Tax. The revenue estimates have been updated based on current projections. However, staff would like to emphasize that commentary relative to the acceptance or rejection of adjustments to these revenues has not been updated to reflect current economic conditions. Given the time constraints between the June 17th regular City Council meeting and the July 8th Study Session, it was impractical to do any outreach of value to the business community on these items. Economic conditions have changed since the following was initially prepared.

Business License Tax:

Description: The Business License Tax is a general tax on businesses for the privilege of conducting business within the City. As a general tax, use of revenues derived from the issuance of business licenses is unrestricted.

Authority: The authority to levy this tax is granted pursuant to the Government Code, sections 37101, et seq.

Overview: The Business License Tax is a type of excise tax imposed on businesses for the privilege of conducting business within the City. The tax is most commonly based on gross receipts or levied at a flat rate, but is sometimes based on the quantity of goods produced, number of employees, number of vehicles, square footage of the businesses or some combination of factors. Rates are set at each City's discretion but may not be discriminatory or confiscatory. Cities may levy this tax for both regulatory and revenue-raising purposes. However, regulatory fees may only be levied to cover the costs of regulation.

Any increase in the Business License Tax will require voter approval.

Based upon the last available statewide survey, over 440 cities (93 percent of all cities) collect a business license tax as a general tax. Some of those that do not collect a business license tax collect a business license fee based on cost recovery for licensing and processing or for other regulatory services provided.

During the current fiscal year ending June 30, the Business License Tax revenue collections are projected to equal approximately \$900,000. The current fee schedule has remained unchanged for over twenty-three (23) years. The business license tax is not now a major revenue source for the City. However, for many cities, it is a major revenue source. A copy of the business license tax survey prepared and included in the Budget Study Session Workbook is attached (Attachment 3).

As noted in the survey, 27 out of 34 cities (80%) in Orange County levy a business license tax. Of those that levy a business license tax, 16 cities have variable rate structures and eleven cities collect more revenue than Costa Mesa. Further, 24 of the 27 cities that levy a business license tax impose a tax structure that is higher, and in most cases significantly higher, than Costa Mesa.

In order for Costa Mesa to generate a proportional increase in business license taxes, the City would need to move to a fee based on a fixed percentage of gross receipts, say for example, between .4% and .8%. A fee based on a fixed percentage of sales such as this would maintain uniformity and equity for all businesses, small and large alike. Pursuant to the Government Code, rates are set at each City's discretion but may not be discriminatory or confiscatory.

With a tiered fee structure, the tax would decrease as a percent of sales as sales grow which would effectively provide a "tax break" as sales increase on a proportional basis to gross sales.

Potential rate structures were discussed with the president of the Chamber of Commerce, Ed Fawcett in the past. At that time, Mr. Fawcett had expressed his understanding of the City's need to consider increases in the Business License Tax. As such, he previously had prepared and proposed a continuation of the existing tiered rate structure with upward adjustments made to each of the rates and the banding of each range. He had indicated at that time that he supported and would advocate for increases in the business license tax as outlined in his proposed fee schedule. Per estimates he made, he believed that the increases in the ranges as he proposed would result in an increase in business license tax revenue of approximately \$1 million. These estimates were based upon a review of the sales for the Top 20 business categories in the quarterly sales tax reports over the last four quarters. Gross receipts information for all businesses is not readily available in such a format that would easily allow staff to accurately estimate the revenue collections based upon Mr. Fawcett's proposed business license tax schedule. However, it should be noted that staff has reviewed his methodology and it appeared reasonable.

Transient Occupancy Tax (Visitor's Tax):

Description: The Transient Occupancy Tax is a general tax imposed on occupants for the privilege of occupying room(s) in a hotel, motel, or inn. The current TOT rate of 6% has remained unchanged for over 27 years. Use of the revenues are unrestricted. Costa Mesa also levies a 2% Business Improvement Assessment for tourism and business development purposes for the benefit of the Costa Mesa Convention and Visitors Bureau.

Authority: The authority to levy this tax is promulgated from the State Government Revenue and Taxation Code being sections 7280 and 7281.

Overview: Cities may impose the transient occupancy tax on persons staying 30 days or less in a room(s) in a hotel, motel, inn, tourist home, non-membership campground or other lodging facility. Cities may also levy a tax on the privilege of renting a mobile home located outside a mobile home park, unless such occupancy is for more than 30 days or unless the tenant is an employee of the owner.

According to a recent survey by the League of Cities, rates ranged from 4 to 16 percent. The average rate was 9.6% with 10% being most typical . Nearly two-thirds (65.7 percent) of cities reported using their revenue for general fund purposes.

Currently, more than 80 percent of cities collect a transient occupancy tax.

Although Costa Mesa has one of the higher concentrations of available hotel rooms in the county, the transient occupancy tax levied is the lowest in the County. A copy of the transient occupancy tax survey prepared and included in the Budget Study Session Workbook is attached (Attachment 4). During the current fiscal year, it is estimated that the City will collect \$6.0 million in transient occupancy taxes. This revenue estimate is only 0.68% higher than the actual revenue collections for fiscal year 2006-2007. Transient Occupancy Taxes have been impacted by the recession and are expected to remain relatively flat over the next fiscal year 2008-2009.

Based upon a revenue estimate of \$6 million, each 1% increase in the transient occupancy tax would generate approximately \$1,000,000. A 2% increase in the Transient Occupancy Tax would generate approximately \$2,000,000.

Benefits of considering an increase in the Transient Occupancy Tax include placement of a portion of the tax burden to provide city services on transient visitors to the community. Residents benefit from this spreading of the costs of services over a larger tax base including those visiting the community, therefore lowering the cost of services to residents.

FISCAL REVIEW:

There is no fiscal review required for this report at this time. However, the City Clerk has verified with the Registrar of Voters that the cost of placing additional measures on the November 2008 ballot to be \$7649 per measure.

CONCLUSION:

There are several options available for City Council to consider regarding the potential placement of a ballot measure on the November, 2008, General election ballot. Information has been provided regarding both a potential increase in the Transient Occupancy Tax (Visitor Tax) and the Business License Tax for Council's consideration.

During each Budget Study Session for the past several years, staff has noted that there is a finite limit to programs and services that can be offered within existing resources and recommended that no new programs or services be added without first identifying a new revenue source. Staff has noted that the guiding principles used to develop the operating and capital improvement budget were to maintain current programs and services at existing levels. This direction and philosophy is consistent with decreased budgetary flexibility with respect to how service delivery is funded.

In prior budget years, staff had also discussed with Council a proposed policy related to new or expanded programs and services that would prohibit the addition or expansion of new programs or services without first identifying a funding source. The budget conditions that predicated this discussion still exist. Without a new revenue source, staff will need to consider reprioritizing existing service delivery to address any budgetary shortfalls in the next budget cycle for fiscal year 2009-2010.

Further, it bears noting that should the City Council authorize placement of these measures on the November ballot and should the voters believe they are worthy of approval, the additional revenues will not support major additional capital projects. It would be a disservice to suggest to those supporting a Main Central library or advocates for city-wide undergrounding of utilities or construction of arterial block walls or major park acquisition and development to believe that those projects can come to fruition by way of these revenue increases. Barring something unforeseen at this time, such capital projects will only occur by way of a voter approved bond issue either locally or statewide. The General Fund simply cannot support programs & services and major capital projects. Increases in the TOT or Business License would be requested for the purpose of continuing to support existing operations.

It is requested that Council provide direction regarding the two revenues sources discussed herein and Council's support for placing a revenue measure on the November, 2008 general election ballot. Staff is available at your convenience to provide additional information if you have any questions.



Marc R. Puckett
Director of Finance

Attachment 1: Agenda Report – Feb. 2004 - Consideration of Potential New Revenue Sources

Attachment 2: Business License Fees

Attachment 3: Agenda Report – July 2000 – TOT regarding Ballot Measure

Attachment 4: Business License Survey

Attachment 5: Transient Occupancy Tax Survey



CITY COUNCIL AGENDA REPORT

MEETING DATE: February 17, 2004

ITEM NUMBER:

SUBJECT: CONSIDERATION OF POTENTIAL NEW REVENUE SOURCES

DATE: FEBRUARY 10, 2004

FROM: FINANCE DEPARTMENT/ADMINISTRATION

PRESENTATION BY: MARC R. PUCKETT, DIRECTOR OF FINANCE

FOR FURTHER INFORMATION CONTACT: MARC R. PUCKETT (714)754-5243

RECOMMENDED ACTION:

Provide direction to staff regarding potential new revenue sources.

BACKGROUND:

At the June 16, 2003, City Council meeting, Council directed staff to prepare a report regarding potential new revenue sources to be presented to Council at a study session. Specific, potential, new revenue sources mentioned at that time included the business license tax, transient occupancy tax and sanitation franchise fee.

Council members had also expressed interest in initiating conversations with the business community regarding consideration of a new business license tax structure and/or an increase in the existing business license tax structure. In addition, Council had expressed interest in moving forward with a ballot measure that would place an increase in the transient occupancy tax on the ballot.

Further, Council had requested that representatives of the Sanitary District Board, the Costa Mesa Convention and Visitors Bureau, and the Chamber of Commerce be invited to the Study Session to be available to respond to Council questions regarding the potential new revenue sources.

Staff presented the report at the December 5, 2003, study session. Included in the study session presentation were other potential new revenue sources for Council's consideration and review. These two additional potential new revenue sources were the FireMed subscription fee and the local sales tax provided for under SB 566.

ANALYSIS:

Each potential new revenue source is summarized herein. For each of the potential new revenue sources discussed herein, a description of the revenue source, taxing authority, overview of the fee, and estimated revenue collections are included.

Any increase in the business license tax, transient occupancy tax or the sales tax would require a vote of the people. Whether the ballot measure requires a simple majority (50% + 1 vote) or a super majority (two-thirds of those voting in the affirmative) depends upon the ballot language and whether the question is placed upon the ballot as a general tax increase or a special tax increase. In making these determinations, there are a number of decisions that Council must make to place the matter before the voters. These issues were discussed in length with Council and thoroughly detailed by the City Manager in his July 7, 2000, memo to Council preceding the placement of the Transient Occupancy Tax question on the November, 2000, ballot. A copy of the City Manager's memo is attached (Attachment 1) and referenced herein with respect to the requirements of placing a ballot measure before the voters.

On page two of the memo, the City Manager discusses the five decisions that Council must make and the four ways that the ballot measure may appear before the voters on the ballot. These same decisions apply to each of the potential new revenue sources discussed herein requiring voter approval prior to implementation. The attachments to the City Manager's memo from the City Attorney's Office and the Finance department further delineate matters that need to be considered with respect to placing a ballot measure before the voters. It is suggested that these requirements be reviewed in detail with respect to issues concerning placement of a ballot measure before the voters as a general tax increase or a specific tax increase.

According to the Deputy City Clerk, cost estimates for placing a "stand-alone" local ballot measure before the voters is approximately \$95,000 to \$100,000. Costs for placing a local ballot measure on a "consolidated" ballot are currently estimated at approximately \$25,000 to \$32,000.

Business License Tax:

Description: The Business License Tax is a general tax on businesses for the privilege of conducting business within the City. As a general tax, use of revenues derived from the issuance of business licenses is unrestricted.

Authority: The authority to levy this tax is granted pursuant to the Government Code, sections 37101, et seq.

Overview: The Business License Tax is a type of excise tax imposed on businesses for the privilege of conducting business within the City. The tax is most commonly based on gross receipts or levied at a flat rate, but is sometimes based on the quantity of goods produced, number of employees, number of vehicles, square footage of the businesses or some combination of factors. Rates are set at each City's discretion but may not be discriminatory or confiscatory.

Cities may levy this tax for both regulatory and revenue-raising purposes. However, regulatory fees may only be levied to cover the costs of regulation.

Any increase in the Business License Tax will require voter approval.

Based upon the last available survey approximately five years ago, over 440 cities (93 percent of all cities) collect a business license tax as a general tax. Some of those that do not collect a business license tax, collect a business license fee based on cost recovery for licensing and processing or for other services provided.

During the last fiscal year ended June 30, 2003, the Business License Tax revenue collections equaled approximately \$854,000. The current fee schedule has remained unchanged for over 18 years. The business license tax is not now a major revenue stream for the City. However, for many cities, it is a major revenue stream. A copy of the business license tax survey prepared and included in the Budget Study Session Workbook is attached (Attachment 2).

As noted in the survey, 27 out of 34 cities (80%) in Orange County levy a business license tax. Of those that levy a business license tax, 16 cities have variable rate structures and nine cities collect more revenue than Costa Mesa. Further, 24 of the 27 cities that levy a business license tax impose a tax structure that is higher, and in most cases significantly higher, than Costa Mesa.

If desirable, in order for Costa Mesa to generate a significant increase in business license taxes, the City would need to move to a fee based on a fixed percentage of gross receipts, say for example, between .4% and .8%. A fee based on a fixed percentage of sales such as this would maintain uniformity and equity for all businesses, small and large alike. Pursuant to the Government Code, rates are set at each City's discretion but may not be discriminatory or confiscatory.

With a tiered fee structure, businesses falling within the lower portion of the "range" would effectively pay more in tax on a proportional basis to gross sales than those businesses at the upper end of the range.

Potential rate structures were discussed with the president of the Chamber of Commerce, Ed Fawcett. Mr. Fawcett expressed his understanding of the City's need to consider new revenue sources in light of the economic climate, the condition of the cities budget and the state budget deficit condition. As such, he prepared and proposed a continuation of the tiered rate structure with upward adjustments made to each of the rates and the banding of each range. He has indicated that he supports and would advocate for increases in the business license tax as outlined in his proposed fee schedule. Per his estimates, he believes that the increases in the ranges as he has proposed (Attachment 3) will result in an increase in business license tax revenue of approximately \$1 million. These estimates were based upon a review of the sales for the Top 20 business categories in the quarterly sales tax reports over the last four quarters. Gross receipts information for all businesses is not readily available in such a format that would allow staff to accurately estimate the revenue collections based upon Mr. Fawcett's proposed business license tax schedule. However, it should be noted that staff did review his methodology and it does appear reasonable.

Transient Occupancy Tax:

Description: The Transient Occupancy Tax is a general tax imposed on occupants for the privilege of occupying room(s) in a hotel, motel, or inn. Use of the revenues are unrestricted. However, some cities budget a portion of the revenues for tourism and business development purposes. Costa Mesa levys a 2% Business Improvement Assessment for the benefit of the Costa Mesa Convention and Visitors Bureau to assist that organization in promoting tourism travel to the area. The current TOT rate of 6% has remained unchanged for over 22 years.

Authority: The authority to levy this tax is promulgated from the State Government Revenue and Taxation Code being sections 7280 and 7281.

Overview: Cities may impose the transient occupancy tax on persons staying 30 days or less in a room(s) in a hotel, motel, inn, tourist home, non-membership campground or other lodging facility. Cities may also levy a tax on the privilege of renting a mobile home located outside a mobile home park, unless such occupancy is for more than 30 days or unless the tenant is an employee of the owner.

According to a 1989 survey by the League of Cities, rates ranged from 4 to 12 percent. The average rate was 7.6% with 8% being most typical. Nearly two-thirds (65.7 percent) of cities reported using their revenue for general fund purposes.

Currently, more than 80 percent of cities collect a transient occupancy tax.

Although Costa Mesa has one of the higher concentrations of available hotel rooms in the county, the transient occupancy tax levied is the lowest in the County. A copy of the transient occupancy tax survey prepared and included in the Budget Study Session Workbook is attached (Attachment 4). During the current fiscal year, it is estimated that the City will collect \$3.8 million in transient occupancy taxes. This revenue estimate is \$800,000 less than the actual revenue collections for fiscal year 2000-2001. Transient Occupancy Taxes, while finally on the upswing again, have not returned to the level of revenue collections prior to the 9-11 event.

Based upon a revenue estimate of \$4 million, each 1% increase in the transient occupancy tax would generate approximately \$665,000. A 2% increase in the Transient Occupancy Tax would generate approximately \$1,330,000.

Benefits of considering an increase in the Transient Occupancy Tax include placement of a portion of the tax burden to provide city services on transient visitors to the community. Residents benefit from this spreading of the costs of services over a larger tax base including those visiting the community, therefore lowering the cost of services to residents.

Sanitation Franchise Fee:

Description: The Sanitation Franchise Fee is a fee that may be imposed upon exclusive or non-exclusive franchisees for the purposed of residential and commercial solid waste handling services within the City. Generally, a franchise fee is a fee paid to a municipality from a franchisee for "rental" or "toll" for the use of city streets and rights-of-way. Use of revenues generated from a Sanitation Franchise Fee are unrestricted and could be used for any purpose.

Authority: The authority to enter into such franchise agreements is found within the Public Resources Code sections 49520 through 49523. Further, adoption of a Sanitation Franchise Fee Ordinance would be necessary to set forth specific requirements for prospective franchisees.

Overview: Of the 34 cities in Orange County, 31 have Sanitation Franchise Fees. The most predominant form is a non-exclusive franchise agreement. Such franchise agreements allow the trash haulers to set their own rates without any controls by the City, thus preserving their free market system. Further, a non-exclusive franchise fee would provide for a means of monitoring the waste hauler rates to determine if in fact, waste hauler rates in Costa Mesa were indeed higher or lower than other communities with Sanitation Franchise Fees. A Sanitation Franchise Fee may be imposed upon residential, commercial and industrial waste haulers.

Based upon the attached survey (attachment 5), it is estimated that the Sanitation Franchise Fee may generate approximately \$1 million in new revenues to the City.

FireMed Subscription Fee:

Description: The Fire Medical Subscription Fee is a voluntary membership program that is intended to improve the quality of emergency medical services. An annual membership fee is charged on a per household basis that covers all the people who live at the residence.

Overview: Generally speaking, the FireMed voluntary subscription service would fund all of the paramedic positions in the City, life saving equipment and advanced medical emergency training. FireMed covers everyone in the household for paramedic and fire department emergency ambulance services while they are within the City's borders. Membership includes an umbrella coverage for visitors when they suffer an emergency medical incident at a FireMed household.

Typically, the subscription fee is billed with water services and paid monthly. However, the subscription service can be billed in any number of ways. If paid separately from the utility bill, the subscription fee has usually been billed annually.

Use of Funds – The funds received from the FireMed subscription fee have generally been restricted in use to be used solely for EMS-related expenses. This is critical in order to justify the program, and to increase membership (i.e., must continually let the members know how their contributions are improving the City's EMS system and "saving lives").

In other cities utilizing FireMed subscription programs, the quality of the service improved after implementation of the program. Key features of these subscription programs in other Orange County cities are noted below:

HUNTINGTON BEACH FIRE DEPARTMENT (HBFD) – FireMed Program

- **COST** – \$60.00/year per household, or \$30.00/year for qualified low-income households.
- **PEOPLE COVERED** – Everyone residing in the household, and any visitors.
- **SERVICES COVERED** – All fire department EMS responses (ALS and BLS) within the city borders, and all emergency ambulance transports to an appropriate hospital within or outside of the city.
- **PAYMENT** – \$5.00/month if placed on Municipal Services Bill. Otherwise, an annual charge will be billed via a separate invoice. Renewal statements are mailed 1 month prior to expiration date.
- **CURRENTLY ENROLLED** – 26,753 households (37%).
- **REVENUE EXAMPLE** – Last fiscal year: \$906,071
- **PAYS FOR** – 1 EMS Coordinator position, 32 Paramedic positions, 4 ambulances, 24 full-time EMT Ambulance Operators, EMS equipment and supplies, EMS training, CPR training for FireMed members.
- **MISCELLANEOUS:**
 - FireMed bills member's insurance company and accepts whatever his/her current insurance provider pays for the response and transport as payment in full, even if there is a deductible, co-pay, partial payment, or denial.

- FireMed members without health insurance to cover the response and transport will receive a discount of 20% of the total bill. Discounts for EMS responses and transports are *not* given to non-FireMed members.
- All members of a FireMed household receive free American Heart Association CPR training.
- The program was begun by the passage of a City Ordinance that authorized specific user fees for ALS, BLS, and voluntary FireMed membership services.

ANAHEIM FIRE DEPARTMENT – Paramedic Membership Program

- COST – \$36.00/year per household.
- PEOPLE COVERED – The member and “those residing with the member,” and visitors. Bedridden patients of a Senior Care Facility which maintains a business membership are covered, but not ambulatory patients.
- SERVICES COVERED – Excludes ambulance (Care Ambulance bills separately).
- PAYMENT – On utility bill, at \$3.00/month.
- CURRENTLY ENROLLED – 60%

FULLERTON FIRE DEPARTMENT – Paramedic Subscription Program

- COST – \$30.00/year per household.
- PEOPLE COVERED – Only permanent residents of a member’s household.
- SERVICES COVERED – Excludes ambulance services (billed separately by ambulance company).
- PAYMENT – Fee shows up on water bill in May and June. To enroll or renew, include fee with bill. If decide not to enroll or renew, deduct the fee from the bill and pay the difference.

NEWPORT BEACH FIRE DEPARTMENT – Fire Medics Program

- COST – \$48.00/year.

SANTA ANA FIRE DEPARTMENT

- COST – \$36.00/year.
- PEOPLE COVERED – Only permanent residents of a member’s household.

CITY OF ORANGE FIRE DEPARTMENT

- COST – \$36.00/year.
- PEOPLE COVERED – “Everyone at the address.”
- REVENUE EXAMPLE – Last fiscal year: \$517,146.79
- MISCELLANEOUS: Insurance is billed.

The FireMed Subscription Program has a myriad of benefits that warrant a more in depth discussion but it should suffice to say that it is believed to be a superior system from a service delivery and revenue generation standpoint.

As additional background information, attached (Attachment 6) are frequently asked questions (FAQs) related to the FireMed Paramedic Subscription Program posted on Huntington Beach’s website. Huntington Beach has been held out as a model FireMed program emulated by other Fire agencies.

Local Sales Tax:

Senate Bill 566 was passed on October 8, 2003 and authorized cities to seek voter approval to levy a transactions and use tax in multiples of 0.25%. There are two sections under the Senate bill authorizing cities to seek either a general purpose (simple majority to pass) tax increase or a special purpose (2/3 of those voting in the affirmative) tax increase at its discretion. This bill becomes effective on January 1, 2004.

Description: The sales tax is a tax imposed on the total retail price of any tangible personal property, unless specifically exempted.

Authority: The authority to levy a local sales tax is derived from SB 566 effective January 1, 2004 and the California constitution, Article XIII, subsection 29.

Overview: The sales tax is imposed on retailers for the privilege of selling tangible personal property. The use tax is imposed on the user of a product purchased out-of-state and delivered for use in California. Before 1955, cities and counties administered local sales tax ordinances. Those ordinances included varying tax rates and ordinances. In 1955, the legislature passed the Bradley-Burns Uniform Local Sales and Use Tax law. That law authorized the Board of Equalization to collect a 1 percent sales and use tax for all California cities and counties. By 1967, all cities and counties in California had contracted with the Board to collect sales and use taxes on their behalf. Consequently, for the first time, the local sales and use tax was the same for all cities and counties throughout California.

SB566 becomes effective January 1, 2004 and essentially makes it possible for cities to seek voter authorization to impose a local sales and use tax without first obtaining special legislation from the state.

The sales tax is the City's single largest source of revenue. It is estimated that the City will receive \$37.5 million in sales tax during fiscal year 2003-2004. Imposition of a local sales tax in an increment of .25% would generate \$9.375 million.

The key benefit of imposition of a local sales tax in Costa Mesa is the strength of the City's commercial and retail tax base. As a result of the sales tax benefits derived from the South Coast Plaza area and the Harbor Boulevard of cars, the majority of the City's sales tax revenues are derived from transient shoppers. Imposition of a local sales tax would shift a significant portion of the burden to fund local programs and services to the transient shoppers thereby reducing the tax burden on city residents.

Further, increasing the total sales tax rate from 7.75% to 8% would match the sales tax rate charged currently in Los Angeles County. An increase of .25% in the sales tax rate would amount to \$.0025 per dollar of taxable sales. On \$40,000 of taxable sales, an increase of .25% would amount to \$100 of additional sales tax.

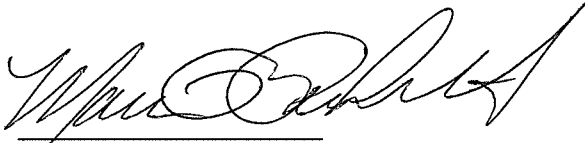
CONCLUSION:

There are several options available to the City to generate new revenues to meet the variety of community needs for which the revenues could be justifiably approved. The City is extremely accommodative to business. The business license tax and transient occupancy tax have remained unchanged for approximately twenty years. Further, 31 of 34 cities in Orange County currently assess a sanitation franchise fee.

During each Budget Study Session for the past three years, staff has noted that the guiding principles used to develop the operating and capital improvement budget were to maintain current programs and services at existing levels. This direction and philosophy is consistent with decreased budgetary flexibility with respect to how service delivery is funded. Staff has also discussed with Council a proposed policy related to new or expanded programs and services. Staff noted that there is a finite limit to programs and services that can be offered within existing resources and recommended that no new programs or services be added without first identifying a new revenue source.

The budget conditions that predicated this discussion still exist. Without the addition of a new revenue source, staff will need to consider reprioritizing existing service delivery to address any budgetary shortfalls.

It is recommended that Council provide direction regarding identification of potential new sources of revenue. Staff is available at your convenience to provide additional information if you have any questions.

A handwritten signature in black ink, appearing to read 'Marc R. Puckett', written over a horizontal line.

Marc R. Puckett
Director of Finance

Business License Fee

City of Costa Mesa - Current Fee Schedule

(3)
0
50
70
90
120
200
500
1000

Fee	Annual Gross Receipts	Cost vs. Gross Receipts
\$ 0.00	\$ 0.00 to \$ 1,000	
\$ 25.00	\$ 1,000.01 to \$ 25,000	2.5% - 0.1%
\$ 35.00	\$ 25,000.01 to \$ 40,000	0.14% - 0.0875%
\$ 45.00	\$ 40,000.01 to \$ 75,000	0.125% - 0.6%
\$ 60.00	\$ 75,000.01 to \$200,000	0.08% - 0.03%
\$100.00	\$200,000.01 to \$500,000	0.05% - 0.02%
\$200.00	over \$500,000 - 1M 1M - 2M	0.04% >

*Double
85%
+
100-200k
1.8 - 1.9M*

This results in approximately \$854,000 annually to the City.

Proposed Fee Schedule (A)

Fee	Annual Gross Receipts	Cost vs. Gross Receipts
\$ 0.00	\$ 0.00 to \$ 1,000	
\$ 50.00	\$ 1,000.01 to \$ 25,000	5.0% - 0.2%
\$ 100.00	\$ 25,000.01 to \$ 100,000	0.4% - 0.1%
\$ 200.00	\$ 100,000.01 to \$ 250,000	0.2% - 0.08%
\$ 275.00	\$ 250,000.01 to \$ 500,000	0.11% - 0.055%
\$ 350.00	\$ 500,000.01 to \$ 1 million	0.07% - 0.035%
\$ 500.00	\$ 1,000,000.01 to \$ 4 million	0.05% - 0.0125%
\$1,000.00	\$ 4,000,000.01 and up	0.025% >

Comparison of Schedules

Current Fee	Annual Gross Receipts	Proposed Fee
\$ 0.00	\$ 0.00 to \$ 1,000	\$ 0.00
\$ 25.00	\$ 1,000.01 to \$ 25,000	\$ 50.00
\$ 35.00	\$ 25,000.01 to \$ 40,000	\$ 100.00
\$ 45.00	\$ 40,000.01 to \$ 75,000	\$ 100.00
\$ 60.00	\$ 75,000.01 to \$200,000	\$ 100-\$200
\$100.00	\$200,000.01 to \$500,000	\$ 200-\$275
\$200.00	over \$500,000	\$ 350-\$1000

ATTACHMENT



CITY COUNCIL AGENDA REPORT

MEETING DATE: July 10, 2000

ITEM NUMBER:

SUBJECT: POTENTIAL INCREASE IN THE TRANSIENT OCCUPANCY TAX (T.O.T.) FOR PARK AND OPEN SPACE ACQUISITION AND DEVELOPMENT

DATE: JULY 7, 2000

FROM: CITY MANAGER'S DEPARTMENT

PRESENTATION BY: ALLAN L. ROEDER, CITY MANAGER

FOR FURTHER INFORMATION CONTACT: ALLAN L. ROEDER, CITY MANAGER (714) 754-5327

RECOMMENDED ACTION:

Review and comment.

BACKGROUND:

The City Council adopted Community Objective 01-C3 in January 2000. The Community Objective, requested by Council Member Joe Erickson, requests that the City Council consider placement of a measure on the June 2000 Primary Ballot to increase the Transient Occupancy Tax (TOT) by 2% to be dedicated to the acquisition and development of Park and Open Space. The Objective goes on to request that the matter be discussed with the Costa Mesa Tourism & Promotion Council as well as with the Newport Mesa Unified School District (NMUSD). The later direction related to consideration as to when the NMUSD would place its bond measure for school repairs before the voters. That measure was voted on in June 2000 and received the required two-thirds voter approval.

As of this date, the majority of the City Council Members have attended at least one meeting with the Costa Mesa Tourism & Promotion Council where the subject of the proposed increase was discussed. The Tourism Council, comprised of the seven largest hotels in Costa Mesa, has expressed concern with the concept of a 2% increase in the TOT on the basis that it may impact their ability to remain competitive in the marketplace. A 1% increase appears to be much more acceptable to the hotels although no official position has been taken on an increase in the TOT by either the Tourism Council or the other hotels/motels in the community.

ANALYSIS:

While there are several detailed steps required in placing this issue before the voters, there are five (5) decisions that require City Council consideration and action. Those topics are as follows:

- Does the City Council choose to obtain voter approval for a "General Tax" requiring a simple majority or a "Special Tax" which requires two thirds voter approval?
- If a Special Tax is requested, to what use should the funds be restricted?
- When should the issue be placed before the electorate?
- How should the election be funded?
- Does the City Council desire to submit a ballot argument in favor of the measure and who shall sign the argument?

Attachment A, prepared by the City Attorney's Office, responds to the relevant issues involved in the first decision. Basically, should the City Council choose to restrict the use of the proceeds from an increase in the TOT, a two thirds approval will be required from those voters casting ballots in the subject election. Should use of the proceeds be unspecified, a simple majority approval is required. In either event, a two thirds approval of the City Council is required to place the matter on the ballot.

There are at least four different ways in which the matter may appear on the ballot:

1. The City Council may simply request voter approval to increase the TOT by a specified percentage without designating the use of the proceeds from the tax increase.
2. The City Council may request approval of an increase in the TOT to a specified level with the proceeds to be designated for a limited use.
3. The City Council may request voter authorization to increase the TOT to a specified level. In so doing, the City Council would retain the authority to increase the TOT from its current level of 6% up to the specified level or any point in between.
4. The City Council may place a two-part measure on the ballot. The first part would request voter authorization to increase the TOT to a specified level. The second measure would request voter preference as to the use of the proceeds from the tax increase. Please refer to Attachment B as prepared by the Finance Director for further details on this option.

In terms of the second issue pertaining to a Special Tax, the request of Council Member Erickson is that the proceeds be limited to the acquisition and development of Park and Open Space. Clearly, the City Council retains the authority to specify

the use of the tax proceeds as it so chooses. Staff believes it is important to provide an operational definition for whatever request is placed before the voters so there is a clear understanding as to what the tax proceeds may and may not be used for should voter approval be obtained.

In terms of Council Member Erickson's request, staff would offer the following as a starting point for defining the use of the tax proceeds, if approved:

- A. Acquisition of real property for the exclusive purpose of providing park, open space and recreation facilities. This includes the purchase of property from private parties, surplus property declared by the Newport Mesa Unified School District, County of Orange, State of California, Federal Government or other public entities.
- B. Development of property under the ownership, leasehold or other control of the City of Costa Mesa for park and recreation purposes. This shall include any and all improvements as identified in Table 11 of the City's adopted Parks, Open Space and Recreational Facilities Master Plan (see Attachment C). Development related expenses eligible shall include real property appraisals, preparation of environmental documents, project design, construction and project management services.
- C. Development of open space shall include parkways and medians under the control of the City of Costa Mesa. Said improvements may include construction of curb, gutter and sidewalk, only where such improvements are needed to provide for additional landscaping.
- D. Proceeds from an increase in the TOT may not be used for park, open space or recreational facility maintenance, repair or operation. No proceeds from the TOT increase may be used for development, maintenance or operation of park, open space and recreational facilities exclusively for private use or to supplant landscape, open space or related requirements on a new development.

The next date available for this matter to be placed before the voters is the November General Election. While the City Council does not have the option to call for a Special Election on this matter pursuant to State law, the measure may be placed on any subsequent Statewide Primary, General or regularly scheduled local election. In order for the measure to be placed on the November General Election, the City Council simply needs to adopt a resolution calling for the placement of the matter on the ballot by August 11, 2000. In order for this matter to appear on the November ballot, City Council action would be required at either the July 17, 2000 or August 7, 2000 regular City Council meetings. Adoption of the resolution may be accomplished following a Public Hearing should the City Council so desire. Placement of the matter on the City Council Agenda as a Public Hearing would

require that this matter appear on your August 7, 2000 agenda to meet posting and noticing requirements.

The cost to place this matter on the November General election ballot is approximately \$5,000. This is simply the cost to place the matter on the ballot and does not include the cost of providing public information materials on the measure or related expenses. Attachment A addresses the limitations as to what the City may or may not expend public funds on in terms of providing informational material on the ballot measure.

Should the City Council direct that the matter be put before voters in the November Election, staff would recommend that the above expense be funded by way of an appropriation from the Net Revenue "Special Projects" allocation which is reserved for requested studies, projects and requests of the City Council.

The City Council does have the option to submit a ballot argument in favor of the proposed measure. The ballot argument must be submitted to the County Registrar of Voters within 10 days following action to place the measure on the ballot and no later than August 21, 2000. The argument may be signed by up to four individuals. Rebuttals to the ballot argument must be filed within 10 days following the submission of the argument in favor.

FISCAL REVIEW:

As noted previously, the City's existing TOT is 6%. At this rate, the TOT generates almost \$4 million dollars per year to the City of Costa Mesa. Each 1% TOT generates approximately \$650,000 per year. The requested increase of 2% would therefore be expected to generate revenue in excess of \$1 million per annum. As hotel room rates increase and/or as new hotel rooms are added, this amount will increase.

Attachment D depicts the current TOT percentages for all Orange County Cities in relationship to Costa Mesa's 6% levy. It is important to keep in mind that the City's 6% TOT does not include the 2% collected along with the TOT as a Business Improvement Assessment and subvented to the Tourism & Promotion Council which consists of the 7 major hotels in Costa Mesa. Therefore, the effective levy on customers at the 7 major hotels is 8% with 6% going to the City and 2% going to the Tourism Council. A 2% increase in the TOT as proposed in Community Objective 01-C3 would place Costa Mesa at a total levy of 10%.

LEGAL REVIEW:

Attachment A provides the legal review as it relates to the requirements for ballot measures. In the event the City Council desires that an actual ballot measure be drafted and adopted by resolution, the City Attorney and City Manager will see that such a measure is prepared along with the accompanying documents required.

CONCLUSION:

The TOT has not been increased in over 20 years and is well below the Orange County market and will remain below the County average even with the requested increase of 2%. While respectful of arguments from the hotel industry that an increase in the TOT will make Costa Mesa hotels "less competitive" in the Orange County marketplace, there simply is no factual evidence to support that contention. Indeed, the 7 major hotels in Costa Mesa have not substantiated any adverse impacts from the recently enacted 1% addition to the Business Improvement Assessment in January 2000. This is not to say that the TOT should be increased without respect to its economic impacts on the industry and tourism generally. However, staff simply has not been able to identify any factors that would suggest that an increase in the range suggested will adversely impact Costa Mesa hotel properties.

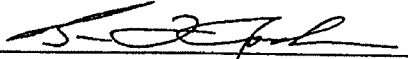
There are a number of very important community needs and interests to which this increase in revenue could be justifiably approved. Besides the suggested Acquisition and Development of Park, Open Space and Recreation Facilities, valid arguments can also be made for the increase to be allocated to Street Maintenance, Traffic Improvements, increased Public Safety, upgrading Public Infrastructure such as utility undergrounding, expansion of the Police Facility or construction of new/additional library facilities and even for local government operating needs. All are important to some degree to all members of the community. Staff believes there are some unique attributes that can be attributed to allocating the funds as requested in Community Objective O1-C3 that require notation:

- The opportunity to secure Open Space and Parkland is increasingly limited. As demand for real property continues to increase, the cost and opportunity to secure parcels of a size that can be of value to the community continues to shrink. As those opportunities do appear – be it through private sale or the disposition of public property – the City must have in place a financial means to take advantage of land availability. The City does not enjoy the ability to simply reduce the General Fund Budget, cut programs/services or borrow whenever such opportunities arise.
- With the exception of the recently enacted Proposition 12 – which the City will receive a one time \$1.2 million dollar allocation early next year – the opportunities for outside funding for the acquisition and development of Park, Open Space and Recreation facilities are limited. While a good deal of creative work has been done in the area of private and corporate sponsorship in this area, it is not nearly enough to support the level of demand in the community for these amenities. At the same time, there has been extremely limited resident support or interest in the establishment of assessment districts to fund these amenities, even though the practice is commonplace in many communities throughout California. Finally, voter support for local bond measures – which has historically funded much of the acquisition and development of

Public Open Space such as the 1974 Costa Mesa Park & Open Space Measure – has been virtually non-existent for many years. Given the collective implications of the preceding, it is clear that an additional revenue source must be developed if the City is to expand in this area to any significant degree in the near future.

- Acquisition and development of Public Open Space can clearly improve the overall appearance and add value to the community. The availability of Park and Recreational Facilities can be important factors not only for families but adults and senior community members as well. Development of Parkway and Median Landscape areas in commercial, industrial and residential areas adds to property values and is one of the more defining features of newer communities. Development of recreation facilities offers positive outlets for young members of the community, and hopefully a deterrent to entrance into the Juvenile Justice System, compounding cost for greater investment in Public Safety.

City staff is prepared to take the necessary steps to enable the City Council to place this matter before the voters for the November General Election or at any subsequent election date as deemed appropriate.



ALLAN L. ROEDER, CITY MANAGER

ALR/ch

ATTACHMENTS: A – Legal Review
B – TOT Ballot Measure
C – Community Center and Park Improvement Costs
D – Transient Occupancy Tax Survey

DISTRIBUTION: City Attorney
Deputy City Clerk
Administrative Services Director
Finance Director
Public Services Director

**CITY OF COSTA MESA
CITY ATTORNEY'S OFFICE
MEMORANDUM**

**CONFIDENTIAL / ATTORNEY-CLIENT PRIVELEGE
ATTORNEY WORK PRODUCT**

TO: Allan L. Roeder, City Manager
FROM: Marianne Reger, Deputy City Attorney
DATE: June 26, 2000
SUBJECT: TOT Ballot Measure

QUESTIONS PRESENTED

1. What is the legal process and/or what action must the City Council take to place a measure on the ballot for the November General Election?
2. If the proceeds from the increase in the Transient Occupancy Tax ("TOT") are specified for a specific use or for a few specific uses, would the increase be deemed a general or special tax?
3. What is the requirement for voter approval of general versus special taxes?
4. Does the law require voter approval of a specific tax increase, or may the voters approve an "adjustable" and/or maximum tax increase, leaving the actual tax increase/decrease to the discretion of the City Council?
5. What, if any, are the legal restrictions regarding expenditure of public funds for the ballot measure?

SHORT ANSWERS

1. The ordinance or resolution proposing the tax must be approved by a two-thirds vote of the City Council and must also meet specific statutory requirements discussed below. A public hearing is not required, although the Council may elect to hold a public hearing on the matter.
2. The answer is dependent on the wording of the measure. If strictly advisory, the measure would likely be deemed a general tax.
3. A general tax requires a majority vote of the electorate while a special tax requires a two-thirds vote of the electorate.

4. Both a general or special tax may state a range of rates or amounts. There are restrictions if the tax is based on a percentage calculation as discussed below.
5. The City is prohibited from using public funds to assist in the passage or defeat of a ballot measure, but may use public funds to educate and inform voters.

BACKGROUND FACTS

The City is considering placing two ballot measures on the ballot for the next November General Election. One ballot measure will be to increase the TOT. The information on the other ballot is varying. Marc Puckett has indicated in a separate memo that the second measure would be "advisory" and merely ask voters to express their preference as to how the new tax revenue would be spent. You have indicated in your memo that the second ballot measure would be specific in directing the spending of the tax increase to the development of parks, open space and landscaping. Depending on how the second ballot measure is worded, (i.e., advisory or specific uses), will have a direct impact on if the tax increase, if approved, will be labeled a general or special tax as well as the voter requirements, as will be discussed below.

ANALYSIS

1. What is the legal process and/or what action must the City Council take to place a measure on the ballot for the November General Election?

The process for placing either a general or special tax on the ballot is set forth in Gov't Code §53720 et seq and more particularly in Gov't Code §53724. This statute requires that:

1. Any general or special tax shall be proposed by an ordinance or resolution of the Council. The ordinance or resolution proposing the tax must include the type of tax, the rate of tax, the method for collection of the tax, the date upon which an election shall be held on the tax, and if a special tax is proposed, the purpose or service for which the special tax is sought.
2. The ordinance or resolution proposing the tax, whether general or special, must be approved by a two-thirds vote of the Council.
3. The election on the proposed tax must be consolidated with a statewide primary, general or regularly scheduled local election at which all electors of the city are entitled to vote.

Once the above special provisions regarding a new general or special tax are met, any other regular provisions for placing a measure on a ballot would apply. Please note that no public hearings are required for either a general or special tax. However, public hearings may be held and many cities are following the notice and hearing requirements for levying assessments.

In general, the last day to submit a ballot measure, summary and arguments to the Registrar of Voters for the November general election is August 11, 2000. Therefore, if the Council wishes to have a tax measure on the November ballot, they would need to vote on the ordinance or resolution no later than August 7, 2000. However, if the Council chose to hold a public hearing

on the matter, then the notice and posting requirements would need to be calculated into the time frame. If the measure is submitted by the August 11th deadline, the last day to submit rebuttal arguments is August 21, 2000 or if the measure is adopted before August 11th, the deadline for rebuttal arguments is 10 days after the direct arguments are submitted.

2 If the proceeds from the increase in the Transient Occupancy Tax ("TOT") are specified for a specific use or for a few specific uses, would the increase be deemed a general or special tax?

There answer to this question is dependent first, on how specific the wording would be stated in Measure A, and second on whether the specific uses stated are truly advisory or if in fact, would be binding on the City Council in expending the revenue derived from the increase.

Pursuant to Prop 218 amendments, the California Constitution Art. XIII C (a) and (d) were amended to redefine general and specific taxes. A "general tax" is now defined as "any tax imposed for general governmental purposes. A "special tax" is now defined as "any tax imposed for specific purposes, including a tax imposed for specific purposes, which is placed into a general fund." However, the designation of general versus special tax is still open to some debate as discussed herein below.

In a pre Prop 218 case Coleman v. County of Santa Clara, 64 Cal. App.4th 662 (1998), the court addressed a very similar question to that posed here. In the Santa Clara case, the county had two measures on the ballot. The first measure was an advisory measure that stated in part "This measure is not a tax. It is an advisory measure that states Santa Clara County voters' intent that any new sales tax funds be spent on [a list of] transportation improvements . . ." The second measure stated in part that "This measure authorizes the enactment of a ½ cent retail transaction and use (sales) tax for general county purposes." The court held that even though Measure A listed several projects for which the tax increase could be used, because Measure A did not require that the tax increase only be used for those listed projects, and the revenue from the tax went into the general fund making the funds available for general governmental purposes, the tax was a general tax.

In a more recent case, Rider v. County of San Diego, 1 Cal.4th 1, 2 Cal.Rptr.2d 490 (1992), the court held that despite the county agency's designation of the proposed tax increase as a "general tax" which was deposited in the agency's general fund, the tax was designated for "the purpose of financing the construction and operation of criminal detention and/or courthouse facilities . . ." and was therefore a special tax.

Since Prop 218 redefined the definition of a "special tax" the Measure A/Measure B strategy of combining a general tax with an advisory measure is not without risk of challenge. In fact, Howard Jarvis Taxpayers Assoc.'s ("HJTA") Annotated version of Prop 218's definition of Special tax, sent to the League of California Cities, December 6, 1996 states:

"(d) "Special tax" means any tax imposed for specific purposes including taxes imposed for specific purposes which are placed into a general fund.

[“Annotation: This reinforces language of Rider v. San Diego dealing with special taxes. The key is the purpose of the funding, not the name of the bank account. A number of analyses

of Proposition 218 prepared by local governments have stated that the revised transportation tax in Santa Clara County (proposing "dual" measures on the ballot) would be illegal under this definition.]"

Although one must consider the source of the annotation, it gives us a clear idea of how HJTA may view any "dual" ballot measure proposed by the City under Prop 218.

Therefore, the answer to this question is tied very closely to how the "advisory" ballot measure is worded. If the ballot measure specifies that any proceeds from the increased tax would be used only for a few specified projects, it would likely be deemed a special tax subject to the supermajority vote. However, if the measure is worded so that it is strictly advisory, (i.e., not binding on the City Council), even if it listed some areas for expenditures, such as development of parks, open space and landscaping, it would likely be deemed a general tax as the City Council would still have discretion to designate the final expenditures.

3. What is the requirement for voter approval for requirement for general versus special taxes?

Under Prop 218, the imposition, extension or increase of general taxes requires a majority vote of the electorate voting in an election on the tax. (See Cal. Const. art. XIII C, §2(b)). The imposition, extension or increase of a special tax requires a two thirds vote of the electorate voting in an election on the tax. (See Cal. Const. Art. XIII C, §2(d)).

4. Does the law require voter approval of a specific tax increase, or may the voters approve an "adjustable" and/or maximum tax increase, leaving the actual tax increase/decrease to the discretion of the City Council?

A proposed tax, either general or special, may state "a range of rates or amounts." If a range of rates is approved, the governing body may impose up to the maximum amount approved. See Gov't Code § 53739. A proposed tax, either general or special, may also provide for inflationary adjustments to the rate or amount, unless the tax is to be determined by using a percentage calculation. If a tax is to be determined on a percentage basis, inflationary adjustments cannot be used. Furthermore, the ordinance or resolution must clearly identify the formula for adjustments.

The HJTA annotation (referred to above) concurs that "the ballot language could incorporate future increases and if the ballot measure is approved, then the government would not have to go back to the voters for those increases. The City Council could initially levy a lower tax than the maximum approved by the voters and could then later raise the tax to the maximum tax as approved by the voters.

5. What, if any, are the legal restrictions regarding expenditure of public funds for the ballot measure?

The City is prohibited from using public funds to assist in the passage or defeat of a ballot measure. (See generally, Miller v. California Commission on the Status of Women, 198 Cal.Rptr. 877 (1984). Notwithstanding, the City may spend public monies to educate and inform voters about the consequences of a particular measure. Any information disseminated must be objective and impartial. It is very important that any information disseminated by the City not be construed as advocating voter approval or rejection. There is a fine line between

educating the public and advocating a position, it is recommended that this office review any information disseminated to the general public before distribution.

CONCLUSION

I hope that the information provided herein has addressed your questions. If I can be of any further assistance regarding these issues, please contact me at ext. 5289.

c: Jerry Scheer, City Attorney
Tom Wood, Asst. City Attorney



CITY OF COSTA MESA
DEPARTMENT OF FINANCE
INTEROFFICE MEMORANDUM

MARC R. PUCKETT
DIRECTOR OF FINANCE

TO: JERRY SCHEER, CITY ATTORNEY

FROM: MARC R. PUCKETT, DIRECTOR OF FINANCE

COPY TO: ALLAN L. ROEDER, CITY MANAGER (memo only)

DATE: MAY 1, 2000

SUBJECT: TOT BALLOT MEASURE

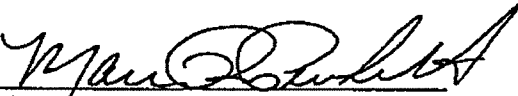
At the CSMFO annual conference, which I recently attended, there was much discussion about Proposition 62 and Proposition 218. In one of the breakout sessions conducted by representatives of Richards, Watson & Gershon some very useful handouts were distributed which we may find helpful as we consider our strategy towards developing a TOT ballot measure. A copy of these handouts are attached (attachment 1) for your information.

A substantial portion of the breakout session was spent discussing the "Measure A/ Measure B" strategy for placing a tax question on the ballot. This strategy involves putting an advisory measure on the ballot, which would ask voters to express their preference as to how the new tax revenue would be spent together with a ballot measure that would be a general tax increase. This strategy allows Cities to raise new tax revenue by simple majority and thus eliminates the supermajority requirements for a specific tax while still allowing residents to express a "preference" in terms of how the new revenue should be spent.

The case of *Coleman v. County of Santa Clara* was cited as the legal authority for this strategy. In this case, the 6th District Court of Appeal held that a sales tax imposed by Santa Clara's Measure B, was not a special tax subject to the 2/3 voter approval requirements of Proposition 13 and 62. The ballot also included a Measure A which asked voters if they preferred the proceeds of the tax be devoted to a specific list of local transportation projects. The Court stated a two-part test for the identification of special taxes. First, the law asks whether the entity which imposed the tax is a general-purpose entity or a special-purpose entity, which can impose only special taxes by its very nature. Second, if the tax is imposed by a multi-purpose or general-purpose entity, the law asks if the proceeds of the levy are legally obligated for a special purpose. The Court stated that the Measure A/Measure B strategy did not reflect such inseparability that, as a matter of law, the two measures must be considered as one. On the contrary, the Court ruled that the two measures were not legally connected. This court case is outlined in the attached handouts.

It is my belief that we should pursue this Measure A/ Measure B strategy for the TOT ballot measure to eliminate the supermajority requirement for a specific tax and most importantly, to maintain flexibility in terms of how the new revenue may be spent. While there are a number of Parks projects that have been discussed as uses for this new revenue, there may be other projects, from time to time, which are deemed a higher priority when the budget document is developed for the ensuing fiscal year. Maintaining maximum flexibility within our revenue stream is critical to our ability to address changing priorities as they occur. Regardless of the direction we ultimately decide to pursue, a TOT ballot measure should receive supermajority approval whether it is considered a specific or general tax increase.

As an aside, the representative from Richards, Watson & Gershon offered to provide "free" legal assistance to any City that was considering preparing a ballot measure of this type to ensure that the chances of any challenges from a group such as the Howard Jarvis Taxpayers Association were minimized. It sounded a little like a sales pitch but I thought it was worth mentioning. Let me know if you would like to discuss this matter further.


MARC R. PUCKETT
Director of Finance

Attachment

BUSINESS LICENSE SURVEY

APRIL 2007

City	Method of Charging Tax	Revenue FY 07-08	Minimum	Maximum	Comments
Aliso Viejo					Not required
Anaheim	G, F, O	\$5,706,500	\$60.00	No Max	\$.095 per \$1,000
Brea	G, F	987,500	\$30.00	\$500	\$.20 per \$1,000
Buena Park	G, F, O	750,000	\$37.50	No Max	\$.45 per \$1,000
Costa Mesa	G, F	855,000	\$0.00	\$200	
Cypress	G, F	920,000	\$40.00	No Max	\$.26 per \$1,000
Dana Point					Business Registration Program only - No fee.
Fountain Valley	G, F, O	475,000	\$50.00	No Max	\$25.00 Application fee
Fullerton	G, F, O	1,199,400	\$25.00	No Max	\$.10 per \$1,000
Garden Grove	G, F	2,140,000	\$42.50	\$2,550	\$25.00 Processing fee
Huntington Beach	F, O	1,900,000	\$100.00	No Max	\$4.00 per employee
Irvine	F	700,000	\$25.00	\$25	
La Habra	G, F	390,000	\$35.00	\$500	\$.25 per \$1,000
La Palma	G, F, O		\$35.00	No Max	\$.42 per \$1,000
Laguna Beach	G	720,000	\$60.00	\$1,650	
Laguna Hills					Not required
Laguna Niguel					Not required
Laguna Woods					Not required
Lake Forest					Not required
Los Alamitos	O	405,000	\$151.00	\$1,508	5% annual increase
Mission Viejo					Not required
Newport Beach	F	2,850,000	\$101.00	\$1,000	\$5/employee if business generates sales tax (\$500 maximum); \$10/employee if no sales tax is generated (\$1,000 maximum)
Orange	G, F	2,200,000	\$35.00	No Max	
Placentia	G	719,341 *	\$33.00	No Max	\$.55 per \$1,000
Rancho Santa Margarita					Not required
San Clemente	G	985,000	\$55.00	No Max	
San Juan Capistrano	F		\$22.00	No Max	\$5.00 per employee
Santa Ana	G, F	7,945,555	\$102.00	No Max	\$.66 per \$1,000
Seal Beach	G, F	590,000	\$153.00	\$153	Tied to CPI
Stanton	F		\$50.00	\$750	\$4.00 per employee
Tustin	G	260,000	\$25.00	\$100	
Villa Park	G, F	30,000	\$25.00	\$5,000	\$.20 per \$1,000
Westminster	G	1,050,000	\$50.00	\$50	
Yorba Linda	G	410,000	\$25.00	No Max	\$.30 per \$1,000

G = Gross Receipts

F = Flat Fee

O = Other Method

* FY 2007-08 figures not available.

CITY OF COSTA MESA, CALIFORNIA

TRANSIENT OCCUPANCY TAX (TOT) SURVEY

CITY	CURRENT RATE	COMMENTS
Anaheim	16.00%	
Buena Park	12.00%	
Laguna Beach	12.00%	2% goes to Business Improvement District
Santa Ana	11.00%	General tax passed November 2004
Aliso Viejo	10.00%	
Brea	10.00%	
Cypress	10.00%	
Dana Point	10.00%	
Fullerton	10.00%	
Garden Grove	10.00%	
Huntington Beach	10.00%	
Irvine	10.00%	Plus 2% that acts like BID
Laguna Hills	10.00%	
Laguna Woods	10.00%	adopted County rate when incorporated
Lake Forrest	10.00%	
Newport Beach	10.00%	1% TOT goes to visitor service fee
Orange	10.00%	
Placentia	10.00%	
San Clemente	10.00%	
San Juan Capistrano	10.00%	
Seal Beach	10.00%	
Yorba Linda	10.00%	
Fountain Valley	9.00%	
Laguna Niguel	8.00%	
Los Alamitos	8.00%	
Mission Viejo	8.00%	
Stanton	8.00%	reduced TOT based on La Habra decision
Westminster	8.00%	
Costa Mesa	6.00%	TOT plus 2% for Business Improvement Area (BIA)
Tustin	6.00%	
La Habra	none	
La Palma	none	

Updated May 2007

**2008/2009 BUSINESS LICENSE TAX FEE SCHEDULE
FOR COSTA MESA AND CONTIGUOUS CITIES**

City of Costa Mesa

<u>Annual Gross Receipts</u>	<u>Tax</u>
\$0.00 to 1,000.00	\$0.00
\$1,000.01 to \$25,000.00	\$25.00
\$25,000.01 to \$40,000.00	\$35.00
\$40,000.01 to \$75,000.00	\$45.00
\$75,000.01 to \$200,000.00	\$60.00
\$200,000.01 to \$500,000.00	\$100.00
Over \$500,000.00	\$200.00

Contractor License \$50.00

Show, Exhibition, Swap Meet : Gross Receipts, plus number of sellers x 5.00 equals \$ _____ tax due

Vehicle Wheel, Taxi, Tow Truck, Bus: number of vehicles X \$25.00 equals \$ _____ tax due

City of Irvine

\$50.00 annual fee

\$25.00 late fee

There are fees applied if a business applies for a license late after the business has opened up to \$300.00 if the business is over 3 years late.

City of Huntington Beach

The business license cost is based on a flat tax plus additional amounts if there are more than three employees, more than one business vehicle or coin operated machines. A typical business license starts at \$75.00 plus a non-refundable processing fee (application fees: \$20.00 or \$15.00 for a renewal). Additional fee amounts are as follows:

Additional employees:

4-9 \$4.00 each

10-52 \$3.00 each

>52 \$2.00 each

Additional vehicles:

Under 1 ton \$12.00 each

1-3 tons \$35.00 each

Over 3 tons \$46.00 each

Homes based businesses are required to pay a one-time fee of \$2.00 for a Home Occupation Permit, in addition to the business license fee.

The Flat Rate Category is based upon the following schedule:

Advertising Service (Bill Posting, Distributing Flyers/ Samples, Vehicle Loudspeakers)	\$188	Annually
Advertising Service (Vehicle loudspeakers for Self Advertising only)	\$ 66	Annually
Amusement Center (More Than 10 Days)	\$470	Monthly
(Plus \$45.00 quarterly for each ride or vending stand in excess of 10)		
Amusement Center (Less Than 10 Days).....	\$ 47	Per Ride
Bankruptcy, Close-Out, Fire or Wreck Sale		
1 st 30 Days are Fee-Exempt If Licensed For at Least 1 year)	\$376	Monthly
Boxing, Wrestling or Sports Exhibition	\$ 94	Daily
Carnival or Circus (More than 4000 Persons – 1st Day)	\$470	Daily
Carnival or Circus (More than 4000 Persons – Each Additional Day)	\$282	Daily
Carnival or Circus (Less than 4000 Persons – 1st Day).....	\$188	Daily
Carnival or Circus (Less than 4000 Persons – Each Additional Day)	\$ 94	Daily
Christmas Tree or Pumpkin Patch Lot.....	\$188	Monthly
Dance Hall (Public)	\$376	Annually
Dance Place (Public)	\$188	Annually
Dance Hall (Per Dance).....	\$ 47	Daily
Daycare or Nursery	\$ 66	Annually
Firework Stand.....	\$188	Per Stand
Gratuitous Licensee or Hobbyist	\$ 19	Annually
Independent Contractors (Building tradesman, Maintenance, Other than State Licensed Cont.,)	\$ 66	Annually
Itinerant Merchant.....	\$188	Quarterly
Pawnbroker	\$752	Annually

Residential Rentals, Mobile Homes, Rooming House - Number of Rental Units: (_____)

Basic Rate Fee = \$47 plus multiply # of units _____ X \$26.50 = \$ _____

Solicitor/Peddler Individual	\$188	Annually
State Licensed Contractors (Class A or B).....	\$226	Annually
State Licensed Contractors (Class C)	\$207	Annually
Theatrical Performance	\$ 94	Daily
Warehouse or Storage	\$188	Annually

The Variable Rate Category is based upon the following schedule:

Ambulances (3 or More Maximum of \$564.00)	(_____)	x \$188.00=	\$ _____
Billboard Sign faces (Less than 300 Square Feet).....	(_____)	x \$141.00=	\$ _____
Billboard Sign faces (More than 300 Square Feet)	(_____)	x \$188.00=	\$ _____
Buses, Limousines or Vehicles for Hire	(_____)	x \$135.00=	\$ _____
Catering Trucks, Produce or Fruit & Produce Trucks.....	(_____)	x \$188.00=	\$ _____
Delivery Vehicles (Fuel, Food, Goods, Laundry, Misc., Wares, Water)(_____)	(_____)	x \$ 94.00=	\$ _____
Ice Cream Trucks	(_____)	x \$188.00=	\$ _____
Junk Collection Vehicle	(_____)	x \$188.00=	\$ _____

Professional Office (Physicians, Surgeons, Dentists, Engineers, Attorneys, Architects, Accountants)

Basic Office Tax (Includes Sole Practitioner, 1 st Partner, or 1 st Professional Shareholder)	=	\$ _____	\$188.00 (a)
Additional Partners or Professional Shareholders (each)	(_____)	x \$ 188.00 =	\$ _____ (b)
Additional Professional Associates (each).....	(_____)	x \$ 94.00 =	\$ _____ (c)
Number of Additional Non-Professional Staff (each)	(_____)	x \$ 19.00 =	\$ _____ (d)
Total Tax Amount	Add lines (a) thru (d)		\$ _____

Shoeshine	(_____)	x \$ 28.00 =	\$ _____
Solicitor / Peddler (Principal Solicitor's / Peddler's License)	(Annual Fee) =	\$ 376.00 =	\$ _____
• Plus, Solicitor / Peddler (Per each person engaged in peddling)	(_____)	x \$ 66.00 =	\$ _____

City of Newport Beach

If the Business is located outside the City of Newport Beach: \$227.00
 If the Business is located at a residential location in Newport Beach: \$143.00
 If the Business is located at a commercial location in the City of Newport Beach the tax is calculated by using the following formula:

Multiply the number of W2 employees by \$15.00 if the business **does not** have a Sellers Permit or by \$8.00 if the business **does** have one and add to the base tax. (For in-city commercial locations only) \$151.00 + (\$15.00 or \$8.00 X ____ (number of W2 employees) = \$ _____ (Total Due)

City of Fountain Valley

Fee Schedule

The Company, Owner, or First Partner (Base Fee)	=	\$50.00
First 1-9 Employees #Employees ____ @ \$4.25ea	=	\$ ____
Next 10 - 40 Employees #Employees ____ @ \$3.00ea	=	\$ ____
More Than 1 Work Vehicle #Vehicles ____ @ \$22.50ea	=	\$ ____
Home Business Fee (if applicable)	=	\$30.00
Application Processing Fee	=	\$25.00

City of Santa Ana

The City of Santa Ana has “Gross Receipts”, “Flat Rate” and “Variable Flat Rate” categories of Business License Tax fees. The “Gross Receipts” Category of Business License Tax fees is based upon the following schedule:

Tax Rate Schedule

In- City Businesses = Basic Rate Fee of **\$113.00 ***, *plus* (See Schedules Below):
 Nonresident Businesses = Omit Basic Rate Fee (See Schedules Below):

SCHEDULE 1 Retail Sales, Services, Administrative Headquarters	SCHEDULE 2 Wholesale Sales, Manufacturing	* BASIC RATE FEE Proration Schedule
94¢ per \$1,000.00 - up to \$ 188,000.00	56¢ per \$1,000.00 - up to \$ 188,000.00	April thru March = \$113.00
56¢ per \$1,000.00 - up to \$ 940,000.00	47¢ per \$1,000.00 - up to \$ 564,000.00	July thru March = \$ 85.00
38¢ per \$1,000.00 - up to \$1,880,000.00	38¢ per \$1,000.00 - up to \$1,128,000.00	October thru March = \$ 57.00
28¢ per \$1,000.00 - over \$1,880,000.00	28¢ per \$1,000.00 - up to \$1,880,000.00	January thru March = \$ 28.00
	19¢ per \$1,000.00 - over \$1,880,000.00	

* In addition, a registration fee of \$28 is assessed and a deposit is required for the initial licensing period.

Taxi Cabs	()	x	\$ 41.00 =	\$ _____
Tow Trucks.....	()	x	\$ 94.00 =	\$ _____
Vending Machines (Requiring 10 Cents or More)	()	x	\$ 38.00 =	\$ _____
Vending Machines (Requiring 5 Cents or Less).....	()	x	\$ 19.00 =	\$ _____
• Plus, each additional machine (Per each machine add fee)	()	x	\$ 9.00 =	\$ _____

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CITY OF COSTA MESA, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF A CERTAIN MEASURE(S) RELATING TO AN INCREASE IN THE TRANSIENT OCCUPANCY TAX AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2008, AS CALLED BY RESOLUTION NO. _08-39

WHEREAS, a General Municipal Election on Tuesday, November 4, 2008 has been called by Resolution No. 08-39, adopted on June 3, 2008; and

WHEREAS, the City Council also desires to submit to the voters at the election a question relating to a proposed increase to the Transient Occupancy Tax which is charged to visitors staying in hotel and motel rooms for periods of less than thirty days; and

WHEREAS, California Government Code Sections 53723 and 53724 require that the City Council propose by ordinance or resolution any general [or special] tax to be increased or imposed and obtain voter approval as to such proposal prior to increase or imposition of such tax;

WHEREAS, California Constitution Article XIII C, Section 2 also requires that the imposition of any new or increased general [or special] tax be approved by the voters;

WHEREAS, California Government Code Section 53724(c) and California Constitution, Article XIII C § 2 (b) both require an election for new or increased local government taxes; furthermore, Section 53724 requires that such election is required to be consolidated with a statewide primary election, a statewide general election, or a regularly scheduled local election at which all of the electors of the local government or district are entitled to vote and Article XIII C § 2 (b) requires that such election be consolidated with regularly scheduled general elections for the members of the governing body proposing the tax; and

WHEREAS, the City Council is hereby calling a municipal election on the proposed tax increase, to be consolidated with the City's regularly scheduled local election for members of the City Council on November 4, 2008; and

WHEREAS, the City intends to increase the Transient Occupancy Tax set forth in the Costa Mesa Municipal Code in Title 16, Chapter IV from the current rate of six percent (6%), set out in CMMC section 16-68, to the rate of _____ percent (___%), in order to raise revenue for the general governmental purposes of the City [or for the specific purpose of _____]. [All of the proceeds from the tax shall be placed in the City's general fund and used for the usual current expenses of the City.] OR [All of the proceeds from the ___ % increase in the Transient Occupancy Tax shall be placed in a special fund and used for the specific purpose of _____.]

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election a Measure to increase the Transient Occupancy Tax set forth in Section 16-68 of the City's Municipal Code from six percent (6%) to _____ percent (___%). The method of collection of the proposed additional transient occupancy tax will remain as provided in Chapter IV of Title 16 of the Costa Mesa Municipal Code. The proposed ordinance amendment attached to this resolution, and incorporated herein by reference, shall be made available for public examination at all times by the City Clerk, in accordance with California Elections Code Sections 9223 and 9295.

SECTION 2. Pursuant to the requirements of the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Costa Mesa, California, on Tuesday, November 4, 2008, a General Municipal Election with respect to the following measure:

Shall the Costa Mesa Transient Occupancy Tax be increased from 6% to ___% [to fund general governmental services] or [with the increased tax collection to fund the special purpose of _____]	Y E S
	N O

SECTION 3. That the proposed measure submitted to the voters is as follows: (attached as Exhibit A.)

SECTION 4. 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 5. That notice of the time and place of holding the election is given and the City 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 6. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED and ADOPTED this 15th day of July, 2008

Eric R. Bever, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Folcik, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 15th day of July, 2008, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this ___ day of July, 2008.

JULIE FOLCIK, CITY CLERK

(SEAL)

ORDINANCE NO.

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CITY OF COSTA MESA, CALIFORNIA, AMENDING TITLE 16, CHAPTER IV, SECTION 16-68 OF THE COSTA MESA MUNICIPAL CODE RELATING THE CITY'S TRANSIENT OCCUPANCY TAX

WHEREAS, the City intends to increase the rate for the City's Transient Occupancy Tax from six percent (6%) to _____ percent (___%), in order to raise revenue for the general governmental purposes of the City [or for the specific purpose of _____]. [All of the proceeds from the tax shall be placed in the City's general fund and used for the usual current expenses of the City.] OR [All of the proceeds from the ___ % increase in the Transient Occupancy Tax shall be placed in a special fund and used for the specific purpose of _____.];

WHEREAS, the City Council finds that it has authority to enact validation procedures whereby the City's Transient Occupancy Tax shall be subject to the limitations in California Code of Civil Procedure Section 860, et seq.;

WHEREAS, the City Council finds that it is in the City's best interest to institute validation procedures for any challenges to the validity of the City's Transient Occupancy Tax amended by this ordinance, in order to limit the financial impact to the City and consequent reductions in services to its citizens that delays in such challenges would bring; and

WHEREAS, the City Council finds that the validation procedures hereby enacted will avoid a multiplicity of suits in any challenges to the validity of this ordinance amending the City's Transient Occupancy Tax.

~~NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DOES ORDAIN AS FOLLOWS:~~

SECTION 1. Section 16-68 of the Costa Mesa Municipal Code Section is hereby repealed and replaced in its entirety with the following:

Sec. 16-68. Tax imposed; nature; payment.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ___ (___) per cent of the rent charged by the operator. The tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the finance department may require that the tax shall be paid directly to the finance department.

Section 2. That the City Council, pursuant to its right and authority, ordered submitted to the voters at the General Municipal Election a Measure to increase the Transient Occupancy Tax set forth in Section 16-68 of the City's Municipal Code from six percent (6%) to _____ percent (___%). The method of collection of the proposed additional transient occupancy tax will remain as provided in Chapter IV of Title 16 of the Costa Mesa Municipal Code. This proposed ordinance amendment shall be made available for public examination at all times by the City Clerk, in accordance with California Elections Code Sections 9223 and 9295.

[If incremental increase in transient occupancy tax is to be used for specific purposes, that language should be included here.]

Section 3. Any legal action to challenge, test, or otherwise determine the validity of this ordinance, or any portion thereof or the tax imposed and amended by this ordinance must be brought within 60 days of the effective date of this ordinance, or any portion thereof, in accordance with the provisions of California Code of Civil Procedure Section 860 et seq., and Sections 860 and 863 in particular, or any successor provisions thereto.

Section 4. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 5. Severability. If any chapter, article, section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 6. This Ordinance shall take effect and be in full force immediately from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the

office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED, APPROVED AND ADOPTED BY THE COSTA MESA CITY COUNCIL ON JULY 15, 2008.

Eric R. Bever, Mayor

Attest:

Julie Folcik, City Clerk

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Julie Folcik, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 08-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2008, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2008, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2008.

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CITY OF COSTA MESA, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF A CERTAIN MEASURE RELATING TO AN INCREASE IN THE BUSINESS LICENSE TAX AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 4, 2008, AS CALLED BY RESOLUTION NO. _08-39

WHEREAS, a General Municipal Election on Tuesday, November 4, 2008 has been called by Resolution No. 08-39, adopted on June 3, 2008; and

WHEREAS, the City Council also desires to submit to the voters at the election a question relating to a proposed increase to the Business License Tax which is charged to businesses operating in the City; and

WHEREAS, California Government Code Sections 53723 and 53724 require that the City Council propose by ordinance or resolution any general [or special] tax to be increased or imposed and obtain voter approval as to such proposal prior to increase or imposition of such tax;

WHEREAS, California Constitution Article XIIC, Section 2 also requires that the imposition of any new or increased general [or special] tax be approved by the voters;

WHEREAS, California Government Code Section 53724(c) and California Constitution, Article XIII C § 2 (b) both require an election for new or increased local government taxes; furthermore, Section 53724 requires that such election is required to be consolidated with a statewide primary election, a statewide general election, or a regularly scheduled local election at which all of the electors of the local government or district are entitled to vote and Article XIIC § 2 (b) requires that such election be consolidated with regularly scheduled general elections for the members of the governing body proposing the tax; and

WHEREAS, the City Council is hereby calling a municipal election on the proposed tax increase, to be consolidated with the City's regularly scheduled local election for members of the City Council on November 4, 2008; and

WHEREAS, the City intends to increase the Business License Tax by changing the tax based upon annual gross receipts of business from the current schedule set out in CMMC section 9-25, to the following schedule:

<i>Gross Receipts</i>	<i>Business Tax</i>
Under \$1,000.00	None
\$1,000.01 to \$25,000.00	_____

\$25,000.01 to \$40,000.00	_____
\$40,000.01 to \$75,000.00	_____
\$75,000.01 to \$200,000.00	_____
\$200,000.01 to \$500,000.00	_____
Over \$500,000.01	_____

in order to raise revenue for the general governmental purposes of the City [or for the specific purpose of _____]. [All of the proceeds from the tax shall be placed in the City's general fund and used for the usual current expenses of the City.] OR [All of the proceeds derived only from the increase in the Business License Tax shall be placed in a special fund and used for the specific purpose of _____.]

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election a Measure to increase the Business License Tax set forth in Section 9-25 of the City's Municipal Code from the current schedule to the following schedule:

<i>Gross Receipts</i>	<i>Business Tax</i>
Under \$1,000.00	None
\$1,000.01 to \$25,000.00	_____
\$25,000.01 to \$40,000.00	_____
\$40,000.01 to \$75,000.00	_____
\$75,000.01 to \$200,000.00	_____
\$200,000.01 to \$500,000.00	_____
Over \$500,000.01	_____

The method of collection of the proposed additional business license tax will remain as provided in Chapter 1 of Title 9 of the Costa Mesa Municipal Code. The proposed ordinance amendment attached to this resolution, and incorporated herein by reference, shall be made available for public examination at all times by the City Clerk, in accordance with California Elections Code

Sections 9223 and 9295.

SECTION 2. Pursuant to the requirements of the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Costa Mesa, California, on Tuesday, November 4, 2008, a General Municipal Election with respect to the following measure:

Shall the Costa Mesa Business License Tax be increased [as described] [to fund general governmental services] or [with the increased tax collection to fund the special purpose of _____]	Y E S
	N O

SECTION 3. That the proposed measure submitted to the voters is as follows: (attached as Exhibit A.)

SECTION 4. 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 5. That notice of the time and place of holding the election is given and the City 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 6. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

PASSED, APPROVED and ADOPTED this 15th day of July, 2008

Eric R. Bever, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Folcik, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 15th day of July, 2008, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this ___ day of July, 2008.

JULIE FOLCIK, CITY CLERK

(SEAL)

ORDINANCE NO. 08-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA AMENDING TITLE 9 (LICENSES AND BUSINESS REGULATIONS) OF THE COSTA MESA MUNICIPAL CODE REGARDING AN INCREASE IN THE BUSINESS LICENSE TAX

WHEREAS, the City is authorized by state law to charge a business license tax to businesses doing business in the City, subject to certain exceptions;

WHEREAS, the Business License Tax schedule based on gross receipts contained in Section 9-25 of the Costa Mesa Municipal Code has not changed since 1985;

WHEREAS, an increase in the Business License Tax will increase revenues to help fund [general governmental purposes] or [the following special purposes:
_____]

WHEREAS, the City Council finds that it has authority to enact validation procedures whereby the City's Business License Tax ordinance shall be subject to the limitations in California Code of Civil Procedure Section 860, et seq.;

WHEREAS, the City Council finds that it is in the City's best interest to institute validation procedures for any challenges to the validity of the City's Business License Tax amended by this ordinance, in order to limit the financial impact to the City and consequent reductions in services to its citizens that delays in such challenges would bring; and

WHEREAS, the City Council finds that the validation procedures hereby enacted will avoid a multiplicity of suits in any challenges to the validity of this ordinance amending the City's Business License Tax.

THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA DOES HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 9-25, Chapter I, Title 9 of the Costa Mesa Municipal Code is hereby repealed.

Section 2. Section 9-25, Chapter 1, Title 9, of the Costa Mesa Municipal Code is hereby adopted as follows:

Every business not otherwise provided for in this article shall pay a business tax based upon the annual gross receipts of the business according to the following schedule:

<i>Gross Receipts</i>	<i>Business Tax</i>
Under \$1,000.00	None
\$1,000.01 to \$25,000.00	_____
\$25,000.01 to \$40,000.00	_____
\$40,000.01 to \$75,000.00	_____
\$75,000.01 to \$200,000.00	_____
\$200,000.01 to \$500,000.00	_____
Over \$500,000.01	_____

[If incremental increase in business license tax is to be used for specific purposes, that language should be included here.]

Section 3. Any legal action to challenge, test, or otherwise determine the validity of this ordinance, or any portion thereof or the tax imposed and amended by this ordinance must be brought within 60 days of the effective date of this ordinance, or any portion thereof, in accordance with the provisions of California Code of Civil Procedure Section 860 et seq., and Sections 860 and 863 in particular, or any successor provisions thereto.

Section 4. Inconsistencies. Any provision of the Costa Mesa Municipal Code or appendices thereto inconsistent with the provisions of this Ordinance, to the extent of such inconsistencies and no further, is hereby repealed or modified to that extent necessary to effect the provisions of this Ordinance.

Section 5. Severability. If any chapter, article, section, subsection, subdivision,

sentence, clause, phrase, or portion of this Ordinance, or the application thereof to any person, is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portion of this Ordinance or its application to other persons. The City Council hereby declares that it would have adopted this Ordinance and each chapter, article, section, subsection, subdivision, sentence, clause, phrase or portion thereof, irrespective of the fact that any one or more subsections, subdivisions, sentences, clauses, phrases, or portions of the application thereof to any person, be declared invalid or unconstitutional. No portion of this Ordinance shall supersede any local, State, or Federal law, regulation, or codes dealing with life safety factors.

Section 6. This Ordinance shall take effect and be in full force immediately from and after the passage thereof, and prior to the expiration of fifteen (15) days from its passage shall be published once in the DAILY PILOT, a newspaper of general circulation, printed and published in the City of Costa Mesa or, in the alternative, the City Clerk may cause to be published a summary of this Ordinance and a certified copy of the text of this Ordinance shall be posted in the office of the City Clerk five (5) days prior to the date of adoption of this Ordinance, and within fifteen (15) days after adoption, the City Clerk shall cause to be published the aforementioned summary and shall post in the office of the City Clerk a certified copy of this Ordinance together with the names and member of the City Council voting for and against the same.

PASSED AND ADOPTED this _____ day of _____, 2008.

Mayor of the City of Costa Mesa

ATTEST:

City Clerk of the City of Costa Mesa

APPROVED AS TO FORM:

City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE)ss
CITY OF COSTA MESA)

I, Julie Folcik, City Clerk and ex-officio clerk of the City Council of the City of Costa Mesa, hereby certify that the above and foregoing Ordinance No. 08-__ was introduced and considered section by section at a regular meeting of said City Council held on the ____ day of _____, 2008, and thereafter passed and adopted as a whole at a regular meeting of said City Council held on the ____ day of _____, 2008, by the following roll call vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the Seal of the City of Costa Mesa this ____ day of _____, 2008.

City Clerk and ex-officio Clerk of the
City Council of the City of Costa Mesa

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, SETTING PRIORITIES FOR FILING (A) WRITTEN ARGUMENT(S) REGARDING (A) CITY MEASURE(S) AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.

WHEREAS, a General Municipal Election is to be held in the City of Costa Mesa, California, on November 4, 2008, at which there will be submitted to the voters the following measure[s]:

[insert proposed measure[s]]

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. The City Council authorizes any and all members of the City Council to file (a) written argument(s) in Favor or Against the City Measure, as permitted by California Elections Code Section 9282.

Section 2. Arguments submitted in Favor or Against the City Measure shall be accompanied by the printed name(s) and signature(s) of the person(s) submitting it; or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers; or if submitted by any individual voter or any combination of voters who is/are eligible to vote on the Measure, the printed name and signature of each individual, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California.

Section 3. That per the Elections Code of the State of California, no argument shall exceed 300 words in length and shall not have more than five signatures. Arguments may be changed or withdrawn by their proponents until and including the date fixed by the City Clerk after which no arguments for or against the City Measure may be submitted to the City Clerk.

Section 4. That the City Council directs the City Clerk to transmit a copy of the Measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the Measure showing the effect of the Measure on the existing law and the operation of the Measure. The impartial analysis shall not exceed 500 words in length, and shall be filed by the date set by the City Clerk after which no arguments for or against the City Measure may be submitted to the City Clerk.

Section 5. That the City Clerk is directed to fix and determine a reasonable date prior to the election after which no arguments for or against the City Measure may be submitted for printing and distribution to the voters. If more than one argument for or against the City Measure is submitted to the City Clerk, the City Clerk shall select one of the arguments for

printing and distribution to the voters, according to the following preference and priority, in the order named: the City Council, or member or members of the City Council; a bona fide association of citizens; individual voters who are eligible to vote on the City Measure.

Section 6. That the City Clerk shall make the selected arguments for and against the City Measure available for public examination in accordance with the provisions of California Elections Code Section 9295. The City Clerk shall also transmit the selected arguments for or against and rebuttal arguments to the Elections Official for the County of Orange on the date required by that official, for inclusion in the official election pamphlet for the election on November 4, 2008. The following shall be printed on the front cover or on the heading of the first page of the pamphlet relating to the arguments: Arguments in support or opposition of the proposed laws are the opinions of the authors.”

Section 7. 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 8. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED and ADOPTED this 15th day of July, 2008

Eric R. Bever, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Folcik, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 15th day of July, 2008, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:

IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this ___ day of July, 2008.

JULIE FOLCIK, CITY CLERK

(SEAL)

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF THE CITY OF COSTA MESA, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS.

WHEREAS, the City Council of the City of Costa Mesa called a General Municipal Election to be held on November 4, 2008 for the purpose of submitting to the voters [a] ballot measure[s] relating to _____ as follows:

[insert text of proposed measure(s)]

WHEREAS, § 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for city measures submitted at municipal elections;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF COSTA MESA, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

Section 1. That pursuant to Section 9285 of the Elections Code of the State of California, when the City Clerk has selected the arguments for and against the Measure which shall 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, immediately upon receiving the arguments. The author or a majority of the authors of an argument may prepare and submit rebuttal arguments not exceeding 250 words or may authorize in writing any other person or persons to prepare, submit or sign the rebuttal argument. The rebuttal arguments shall be filed with the City Clerk, accompanied by the printed name(s) and signature(s) of the person(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers, not more than ten (10) days after the final date set for filing primary arguments for or against the Measure. 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 2. That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

Section 3. That the provisions of Section 1 shall apply on to the General Municipal Election to be held on November 4, 2008, and shall then be repealed.

Section 4. That the City Clerk shall make the rebuttal arguments available for public examination in accordance with the provisions of California Elections Code Section 9295. The City Clerk shall also transmit the rebuttal arguments for or against to the Elections Official for the County of Orange on the date required by that official, for inclusion in the official election

pamphlet for the election on November 4, 2008.

Section 5. 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 6. That the City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED and ADOPTED this 15th day of July, 2008

Eric R. Bever, Mayor

ATTEST:

APPROVED AS TO FORM:

Julie Folcik, City Clerk

Kimberly Hall Barlow, City Attorney

STATE OF CALIFORNIA)
COUNTY OF ORANGE) ss
CITY OF COSTA MESA)

I, JULIE FOLCIK, City Clerk of the City of Costa Mesa, DO HEREBY CERTIFY that the above and foregoing is the original of Resolution No. and was duly passed and adopted by the City Council of the City of Costa Mesa at a regular meeting held on the 15th day of July, 2008, by the following roll call vote, to wit:

AYES: COUNCIL MEMBERS:

NOES: COUNCIL MEMBERS:

ABSENT: COUNCIL MEMBERS:


IN WITNESS WHEREOF, I have hereby set my hand and affixed the seal of the City of Costa Mesa this ___ day of July, 2008.

JULIE FOLCIK, CITY CLERK

(SEAL)

**CITY OF COSTA MESA
CITY MANAGER'S OFFICE
INTEROFFICE MEMORANDUM**

TO: CITY COUNCIL

FROM: ALLAN L. ROEDER  CITY MANAGER

DATE: JUNE 16, 2008

RE: FISCAL YEAR 2008-2009 BUDGET ADOPTION; POTENTIAL APPROPRIATION REDUCTIONS TO FUND ALTERNATIVE REQUESTS

At the June 10, 2008 City Council Study Session on the FY 2008-09 City budget, staff provided a comprehensive review of the expenditure plan for the coming year. Members of the City Council as well as the public inquired about various proposed expenditures as well as items not contained in the preliminary budget. Following the Study Session, management of the Finance Department and I have attempted to pull together all of the requested information prior to consideration of final action on the budget. That information is detailed in the report from Budget & Research Officer Bobby Young dated June 13, 2008.

As stated in the City Manager's Budget Message, current economic conditions do not permit us to rely on unappropriated fund balance to add further items to the budget or to address future budget adjustments. Consequently, if items are to be added to the preliminary budget as submitted, a commensurate reduction must also occur to maintain a balanced spending plan. There are some exceptions to this such as Grant funded efforts, fee supported programs with 100% cost recovery and use of Special Funds. But for the most part, items added to the operating budget or unanticipated cost increases in budgeted expenditures will require further budget reductions.

To assist the City Council in its consideration of items to add to the Operating budget, I have prepared the following list of potential reductions to the preliminary budget. In identifying these potential reductions, the following criterion was utilized:

- Maintains existing legal, contractual and mandated commitments;
- Maintains existing levels of service to the public;
- Maintains public facilities in a safe & healthy condition; and
- Advances as many City Council priorities as possible with an emphasis on "one-time" expenditures as opposed to on-going operating costs

None of the items listed in the following are what I believe to be unnecessary, frivolous expenditures. Furthermore, I am not recommending these items for deletion from the proposed budget. The items were appropriately justified by Departmental budget requests and/or by members of the City Council or by the public. But in the context of what is "required" as opposed to what is "desired," I believe the following items could be deferred for future consideration without short-term adverse impacts. Ultimately, the budget is a statement of priorities by the City Council and should reflect your consensus judgment.

General Fund Operating/Capital Expenditures

- Sewer Video Camera (Maintenance Services) - \$14,311
Equipment can be rented on an "as-needed" basis.
- Public Notice Board (City Clerk) - \$5,000
Replaces existing Public Notice Board with a new unit at a more accessible location.
- Show Wagon (Recreation) - \$115,000
Used for Fish Fry, Concerts in the Park and other events; due for replacement but can last another year/restrict to use only in Costa Mesa.
- Corp Yard Back Gate Installation (Maintenance Services) - \$15,000
Proposed for security but can be deferred.
- City Entry Sign – Harbor Blvd. (CIP) - \$70,000
Replacement is part of Master Planned effort.
- Costa Mesa United Contribution - \$300,000
Last installment to complete City's financial commitment; no approved allocation plan at this time.
- Reduce stationary and office supplies to FY 07-08 levels proportion to each Department. Savings estimated at \$15,000 organization wide.
The intent is to require all Departments to make better use of technology and reduce photocopying and use of paper.
- Reduce Professional Development funding by 50% for City Council and Department/Division Managers. Savings estimated at \$25,000
Both symbolic as well as financial; not intended to be permanent

Total estimated savings - \$559,311

As noted in the Budget Message, the practice of strictly living within the adopted budget during tight economic times will need to continue until conditions improve. As such, additional focus and documentation will be provided for each and every item that comes before the City Council requiring a budget adjustment authorization during the coming year.

c: Department Directors
Division Managers