

**City of Culver City, California
Agenda Item Report**

Meeting Date: 07/16/2012		Item Number: <u>A-2</u>	
CITY COUNCIL AGENDA ITEM: Adoption of Resolutions (1) (Unanimous Vote Requirement) Declaring a Fiscal Emergency Pursuant to Article XIII C of the Constitution of the State of California; (2) Calling and Giving Notice of the Holding of a Special Municipal Election to be Consolidated with the Statewide General Election to be Held on Tuesday, November 6, 2012 for the Purpose of Submitting to the Voters a Measure Relating to Implementing a Local Transactions and Use Tax (Sales Tax); (3) Requesting the Board of Supervisors of the County of Los Angeles Render Specified Services Related to the Conduct of said Election; (4) Authorizing the City Council and/or Certain Council Members to Submit Ballot Arguments and Rebuttals Regarding the Measure; (5) Potential Creation and Appointment of Members to an Ad-Hoc Subcommittee to Draft and/or Submit Such Ballot Argument(s) and Rebuttal(s); and (6) (Four-Fifths Vote Requirement) Approving a Related Budget Amendment.			
Contact Person/Dept.:		Phone Number:	
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Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Commission Action Required: Yes ☐ No ☐ Date: _____			
Public Notification: (E-Mail) Meetings and Agendas – City Council (07/12/12)			
Department Approval:		City Attorney Approval:	
Jeff Muir (07/11/12)		Carol Schwab (07/11/12)	
Martin Cole (07/11/12)			
Chief Financial Officer Approval:		City Manager Approval:	
Jeff Muir (07/11/12)		John Nachbar (07/11/12)	
<u>RECOMMENDATION:</u> Staff recommends the City Council: 1. (Unanimous Vote Required) Adopt a resolution declaring a fiscal emergency in accordance with Section XIII C of the Constitution of the State of California; and, 2. Adopt a Resolution calling and giving notice of the holding of a Special Municipal Election to be consolidated with the Statewide General Election to be held on Tuesday, November 6, 2012 for purposes of submitting to the voters a measure which would implement one of the following: a. A local transactions and use tax (sales tax) in the amount of one-half of one percent effective April 1, 2013; or, b. A local transactions and use tax (sales tax) in the amount of three-quarters of one percent effective April 1, 2013; or,			

City of Culver City, California
Agenda Item Report

- c. A local transactions and use tax (sales tax) in the amount of one-half of one percent effective April 1, 2013 with an automatic sunset in five years; or,
 - d. A local transactions and use tax (sales tax) in the amount of three-quarters of one percent effective April 1, 2013 with an automatic sunset in five years; or,
 - e. A local transactions and use tax (sales tax) in the amount of three-quarters of one percent effective April 1, 2013, with one-quarter percent of the tax sunsetting in five years; or,
 - f. Another option as determined by City Council pursuant to public testimony and discussion.
3. (Four-fifths Vote Required) Adopt a Resolution requesting the Board of Supervisors of the County of Los Angeles to render specified services to the City relating the conduct of a Special Municipal Election and approve the appropriation of necessary funds; and,
 4. Adopt a Resolution authorizing the City Council and/or certain Council Members to submit arguments and rebuttals regarding the ballot measure.

BACKGROUND:

Culver City, like most corporate entities both private and public, has been significantly impacted by the “Great Recession” that began in 2008.

As a result of the “Great Recession”, along with unprecedented actions by the State of California including the elimination of redevelopment, the City has experienced a significant permanent decrease in General Fund Revenues at a time when the City’s costs were increasing. This has resulted in an ongoing structural operating deficit of approximately \$7 to \$8 million in the General Fund, even after all the expenditure reductions outlined in the following paragraphs.

Since Fiscal Year 2008/2009, the City Council has taken a number of steps to reduce costs. Those steps include:

- Reaching new labor agreements with the City’s six employee bargaining units, resulting in savings in both the short and long term
- The new labor agreements included provisions that required employees to pay the full employee share of pension costs (8% of salary for non-safety employees and 9% of salary for safety employees)
- Medical insurance cost increases to the City were capped at 4%. Increased costs above this cap are borne by the employee

City of Culver City, California
Agenda Item Report

- Over three years, the number of staff positions in the City's general fund has been reduced by 78 (or approximately 17%)
- Reducing other general fund operating expenses by approximately \$1 million per year

At the beginning of Fiscal Year 2011/2012, through implementation of approximately \$6 - \$7 million in expenditure cuts, along with approximately \$3 million in savings from renegotiated labor agreements and weak improvement in the economy, while there was still work to be done, the City seemed to be able to "see the light at the end of the tunnel." Unfortunately, the State of California stepped in yet again to "redirect" traditional local funds to the State to assist the State in addressing its own significant budget shortfall.

On February 1, 2012, the State took the unprecedented step of eliminating redevelopment agencies throughout the State, including the Culver City Redevelopment Agency. The Culver City Redevelopment Agency had used its unique powers and local funding to eliminate blight, encourage economic growth, and fund low-and-moderate income housing. Through the Agency's efforts, Culver City saw a transformation into a "destination" for diners and shoppers alike.

Over the 30 year history of the Culver City Redevelopment Agency, the Agency had provided funding for positions and programs related to Redevelopment through a reimbursement to the City's general fund. By Fiscal Year 2011/2012, the amount of that reimbursement had reached \$7.5 million annually. Through the state's unprecedented action, the progress the City had made in cutting expenditures to balance the City's budget had been wiped out overnight. At this point, to balance the City's budget through cuts alone will have a significant impact on the level of service the City can provide. This, in turn, would have an impact on the quality of life of Culver City residents and business owners.

DISCUSSION

Prior to implementing such significant action, the City has taken steps to solicit the community's input and suggestions. First, the City commissioned a "Ballot Measure Feasibility Survey" to help the City understand the views of the Culver City Community on the services it wants to receive from its local government. The Survey also sought to gauge the support of the community for an increase in general fund revenues from the implementation of either a half-cent or three-quarter-cent local transactions and use tax (commonly known as the sales tax). Results of the Survey were presented to the public and the Council at the June 4, 2012 City Council meeting.

City of Culver City, California
Agenda Item Report

In addition to the Survey, the City Council directed that there would be five Community Dialogue meetings where the state of the City's finances would be presented and members of the public could share their thoughts and suggestions on this important topic directly with the City Council. Those five meetings were held on: June 18, June 23, June 25, July 9, and July 16.

For those members of the Community that were unable to attend the Community Dialogues in person, the City's website contained excerpts from the Community Dialogue of June 18 along with a copy of the presentation on the results of the Community Survey. Comments could be provided via USPS, e-mail, or phone call.

During the Community Dialogues, the City Council received additional suggestions from members of the public relating to the half-cent local sales tax concept. There were certain members of the public that said the City should consider a higher tax rate. There were other members of the public that said the City should include a sunset provision in the measure. Based on this input, staff has prepared a menu of options from which the City Council may choose to select for placement on the ballot. The City Council may also choose to make minor modifications to the selections provided by staff through a motion at the meeting. A major change to the options presented may require the item to return to the next Council meeting for final consideration.

Some of the options provided below include a sunset provision. A sunset provision would cause the tax to end or be reduced automatically, unless voters approve extending the tax at a subsequent election. While the ultimate policy decision rests with the City Council, staff offers the following reasoning why a sunset provision for a half-cent sales tax is not recommended by staff.

As discussed during multiple budget and other financial presentations over the last several years, basic financial principles provide that on-going resources must match on-going costs in the long-term. The five year financial forecast for the General Fund shows this is not the case for Culver City. This forecast includes modest growth assumptions in revenues. The result is still a deficit of \$7 to \$8 million per year, and this figure does not include our approximate \$2 to \$3 million annual shortfall in spending for infrastructure maintenance. Also, this forecast only includes very modest assumptions for public safety salary increases, which are completely out of the City's hands. It also includes no assumption for cost of living increases for CCEA or CCMG.

Culver City, like all levels of government agencies across the nation, was hit hard by the recession. The City's projected revenues are still millions below what they were in 2007. There is still tremendous uncertainty in the national and worldwide economy. This, coupled with the elimination of redevelopment, has changed the reality of our ability to afford our current service levels. The elimination of the Agency has also placed in serious jeopardy projects that would have benefited the City's tax base (Parcel B, Washington/National, etc.). It would take economic events

City of Culver City, California
Agenda Item Report

of unparalleled and unprecedented magnitude to result in the City's existing revenue base increasing to a degree that would eliminate the need for additional revenue and solve the deficit. It is extremely unlikely this will happen, and seems virtually impossible within the next five years.

A sunset provision for the entire tax would indicate a belief that our problem is temporary. Staff strongly thinks the fiscal issues we face are not temporary in nature, and that a permanent and on-going increase in our revenue base is required to fund existing staffing and stabilize service levels to the community.

If the half-cent sales tax expires in five years, staff feels with near certainty that the City will be right back in the position faced today. The polling results showed that the measure was strongly supported without a sunset provision. Given recent actions by the State, there is no guarantee that the Legislature might not take some action that would preclude us from extending the tax in the future.

In summary, staff recommends against the inclusion of a sunset provision in this measure for the first half cent. There is an on-going need for increased revenues at least equal to and exceeding the projected proceeds of this measure. If there is such radical growth in revenues in the future, the City Council has the ability by its own action to reduce or eliminate the tax, or look at reducing some other tax such as the gross receipts tax on businesses. If the City Council does determine to include a sunset provision, then staff would recommend a longer term, such as ten or fifteen years.

With the benefit of significant community input, the City Council is requested to consider various options and resolutions which, if adopted, would call a Special Municipal Election for November 6, 2012 for the purpose of having the voters consider implementation of a local sales tax.

To effectuate the election, the City Council is requested to:

1. Declare the existence of a fiscal emergency pursuant to Article XIII C of the California Constitution (a unanimous vote is required for the declaration of fiscal emergency); and,
2. (If the fiscal emergency is declared) Select the amount and duration of the local transactions and use tax (sales tax) from the options provided, or provide alternative direction. Call and give notice of the holding of the special election to be consolidated with the Statewide General Election to be held on November 6, 2012.
3. Request the County of Los Angeles provide the services for this election.
4. Authorize the City Council and/or certain Council Members to submit arguments regarding the ballot measure.

City of Culver City, California
Agenda Item Report

Declaring the Existence of a Fiscal Emergency

Section XIII C, Section 2(b) of the Constitution of the State of California states, in pertinent part:

“...No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, **except in cases of emergency declared by a unanimous vote of the governing body** (emphasis added).”

For several years, and most recently during the budget process and the five Community Dialogue meetings, staff has presented the City Council and community with information related to the City's structural deficit and the lack of funding for fundamental public safety and other municipal operations, significant deferred maintenance and other long-term liabilities. The severe economic downturn and the elimination of redevelopment resulting in a permanent loss of general fund revenue demonstrate that the City is in the midst of a fiscal emergency. Staff recommends the City Council unanimously adopt a resolution declaring the existence of a fiscal emergency to allow the voters to consider this item on November 6, 2012. Absent this declaration, the earliest this item could be considered by the voters would be April, 2014.

Calling of the Special Election

Should the City Council unanimously adopt the proposed resolution declaring the fiscal emergency, then staff recommends the City Council adopt one of the proposed resolutions, with the appropriate ordinance attached as an exhibit, calling and giving notice of the holding of a Special Municipal Election to be consolidated with the Statewide General Election on November 6, 2012.

Proposed resolutions and corresponding ordinances as exhibits have been provided to effectuate one of the following options:

Option 1 - A local transactions and use tax (sales tax) in the amount of one-half of one percent effective April 1, 2013.

Option 2 - A local transactions and use tax (sales tax) in the amount of three-quarters of one percent effective April 1, 2013.

Option 3 - A local transactions and use tax (sales tax) in the amount of one-half of one percent effective April 1, 2013 with an automatic sunset in five years.

City of Culver City, California
Agenda Item Report

Option 4 - A local transactions and use tax (sales tax) in the amount of three-quarters of one percent effective April 1, 2013 with an automatic sunset in five years.

Option 5 - A local transactions and use tax (sales tax) in the amount of three-quarters of one percent effective April 1, 2013, with an automatic reduction to one-half of one percent in five years.

While it is recommended City Council select one of the options above, after public testimony and discussion, the City Council may amend one of the options above through motion from the dais.

It should be noted, that if the public approves a sales tax increase, it would be approving an ordinance amending Chapter 3.08 of the Culver City Municipal Code, to reflect the increase. The proposed ordinance will be attached to the Resolution Calling the Special Election, as Exhibit A and will be included in the Voters Pamphlet.

Requesting the County to Conduct the Election

In accordance with Section 10002 of the Elections Code of the State of California, the governing body of any city or district may, by resolution, request the Board of Supervisors of the county to permit the County Elections Official to render specified services to the city or district relating to the conduct of an election. Because the County is already going to be conducting an election on November 6, 2012, staff recommends the proposed Special Municipal Election be consolidated with the Statewide General Election and recommends the City Council adopt the proposed resolution which requests the Board of Supervisors render specified services to the City relating to the conduct of said election.

Authorizing the City Council and/or Certain Council Members to Submit Arguments

The City Council, authorized members of the City Council, citizen associations and private citizens may submit arguments for or against the proposed Measure. Only one ballot argument for and one ballot argument against each measure and rebuttals to each may be printed in the sample ballot. The Elections Code gives preference to the arguments submitted by the City Council, as a body, or by Council Members authorized to submit arguments by the City Council.

Should the City Council decide to submit an argument as a body, it is automatically placed on the ballot. If the City Council decides to have some of its members submit an argument, those members need to be designated by the City Council in order for their argument(s) to receive priority.

The City Council should decide whether it will submit initial and rebuttal arguments for or against the measure as a body or designate individual Council Members to

City of Culver City, California
Agenda Item Report

submit those arguments. If individual members are to be designated, then the City Council should make those designations at this meeting. Please note, that if more than two City Council Members will be working together to write, or intend to give comments on the same argument, then, pursuant to the Brown Act, the discussions and comments among those members can only occur during a duly noticed public meeting of the City Council.

Based on the calendar in the Los Angeles County Measure Information Booklet for the November 6, 2012 election, primary arguments are due to the County no later than August 20, 2012 and shall not exceed 300 words in length. However, the Elections Code provides that primary arguments must be submitted no later than 14 days after the calling of the election. Therefore, such primary arguments must be submitted to the City Clerk's Office **no later than closed of business (5:30 PM) on July 30, 2012**. Should the City Council determine that it wishes to review and approve the primary argument, such review and approval should be completed no later than the Regular Meeting of the City Council on July 23, 2012 (or at a Special Meeting called in time to meet this statutory deadline).

Rebuttal arguments are due 10 days after the primary arguments are due and shall not exceed 250 words. The deadline for rebuttal arguments would be **no later than close of business (5:30 PM) on August 9, 2012**. Should a rebuttal argument be needed and deemed desired by the City Council, and the City Council should determine that it wishes to review and approve the rebuttal argument, then such review and approval should be completed no later than the regularly scheduled Special Meeting of the City Council to be held on August 6, 2012 (or at a Special Meeting called in time to meet this statutory deadline).

FISCAL ANALYSIS:

The estimated cost to consolidate the election with Los Angeles County is \$80,000. This was not included in the Fiscal Year 2012/2013 budget, and a budget amendment, requiring a four-fifths vote, is necessary in order to appropriate funds from reserves.

ATTACHMENTS:

1. Proposed Resolution Declaring a fiscal emergency pursuant to Section XIII C of the California Constitution.

2a. Proposed Resolution (Option 1) Calling and Giving Notice of the Holding of a Special Municipal Election to be Held on Tuesday, November 6, 2012; Submitting a Question Relating to the Implementation of a Local Transaction and Use Tax Ordinance (including Exhibit A thereto which is the proposed Ordinance).

City of Culver City, California
Agenda Item Report

2b.Proposed Resolution (Option 2) Calling and Giving Notice of the Holding of a Special Municipal Election to be Held on Tuesday, November 6, 2012; Submitting a Question Relating to the Implementation of a Local Transaction and Use Tax Ordinance (including Exhibit A thereto which is the proposed Ordinance).

2c.Proposed Resolution (Option 3) Calling and Giving Notice of the Holding of a Special Municipal Election to be Held on Tuesday, November 6, 2012; Submitting a Question Relating to the Implementation of a Local Transaction and Use Tax Ordinance (including Exhibit A thereto which is the proposed Ordinance).

2d.Proposed Resolution (Option 4) Calling and Giving Notice of the Holding of a Special Municipal Election to be Held on Tuesday, November 6, 2012; Submitting a Question Relating to the Implementation of a Local Transaction and Use Tax Ordinance (including Exhibit A thereto which is the proposed Ordinance).

2e.Proposed Resolution (Option 5) Calling and Giving Notice of the Holding of a Special Municipal Election to be Held on Tuesday, November 6, 2012; Submitting a Question Relating to the Implementation of a Local Transaction and Use Tax Ordinance (including Exhibit A thereto which is the proposed Ordinance).

3. Proposed Resolution Requesting the Board of Supervisors of the County of Los Angeles to Render Specified Services to the City of Culver City Relating to the Conduct of a Special Municipal Election to be consolidated with the Statewide General Election to be Held in the City on Tuesday, November 6, 2012

4. Proposed Resolution Authorizing the City Council and/or Certain Council Members to Submit Arguments Regarding the Implementation of a Local Transaction and Use Tax Measure on the Ballot for the November 6, 2012 Election.

MOTION:

That the City Council:

- 1) **(Unanimous Vote Required)** Adopt a resolution declaring a fiscal emergency pursuant to Section XIII C of the California Constitution; and,
- 2) Select an Option and Adopt a Resolution Calling and Giving Notice of the Holding of a Special Municipal Election to be Consolidated with the Statewide General Election to be held on Tuesday, November 6, 2012; Submitting a Question Relating to the Implementation of a Local Transaction and Use Tax (Sales Tax), with Exhibit A, a proposed ordinance; and,
- 3) Adopt a Resolution Requesting the Board of Supervisors of the County of Los Angeles to Render Specified Services to the City of Culver City Relating to the

City of Culver City, California
Agenda Item Report

Conduct of a Special Municipal Election to be Held in the City on Tuesday, November 6, 2012; and

- 4) **(Four-Fifths Vote Required)** Approve a Budget Amendment appropriating \$80,000 from the General Fund Reserve to cover costs to conduct the Election; and,
- 5) Approve a Resolution Authorizing the City Council and/or Certain Council Members to Submit Arguments Regarding the Implementation of a Local Transaction and Use Tax;

OR

- 6) (If the City Council determines to Designate Certain Members to submit such arguments) Designate the following Council Members to submit ballot arguments and rebuttals regarding the Implementation of a Local Transaction and Use Tax:

_____;
_____;

OR

- 7) Discuss the formation of an Ad Hoc Subcommittee and appoint members thereto for the drafting of the primary argument and rebuttal argument (if needed) and, if the subcommittee is created, require the subcommittee to complete its work in time to present the City Council with a draft primary argument on July 23, 2012 and any rebuttal argument no later than August 6, 2012.