



City of Carson Report to Mayor and City Council

September 7, 2010
New Business Consent

SUBJECT: CONSIDERATION OF A PROPOSED VOTER EDUCATION STRATEGY AND APPROPRIATION FOR AN IMPARTIAL EDUCATIONAL OUTREACH ON THE ONE-CENT SALES TAX BALLOT MEASURE

Submitted by William W. Wynder
City Attorney

Approved by Jerome G. Groomes
City Manager

I. SUMMARY

On August 3, 2010, the City Council adopted Resolution No. 10-086 approving submittal to Carson voters a proposed ordinance to establish a one-cent sales tax in the city of Carson on the November 2, 2010 special municipal election ballot (Exhibit No. 1). The purpose of this report is to provide the City Council with a proposed voter outreach program and to request for funds in support thereof.

II. RECOMMENDATION

TAKE the following actions:

1. AUTHORIZE staff to engage in a non-advocacy informational effort consistent with the requirements of State law, to educate the voters on the sales tax ballot measure.
2. AUTHORIZE staff to develop and execute various public information and community outreach tools, including the dissemination of mailers, public service announcements (PSA), use of the city's website, to provide voters with neutral, unbiased and relevant facts on the ballot measure.
3. APPROPRIATE \$20,710.00 from the unreserved, undesignated general fund balance to cover the costs of the educational program.

III. ALTERNATIVES

TAKE another action the City Council deems appropriate.

IV. BACKGROUND

At the City Council meeting held on August 3, 2010, the City Council approved putting a proposed one-cent additional sales tax measure on the November 2, 2010 special municipal election ballot. The resolution is a result of a finding of a fiscal emergency in the city of Carson, which has experienced and continues to face a dramatic and critical decline in revenues, and has reached a point where cutting expenses will not allow the city to ease the structural deficit without further cutting essential City services. The City projects a budget deficit in

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~~excess of \$9 million in each of the next five years.~~

If the sales tax ballot measure passes, it is anticipated that the City will receive approximately \$12 million to \$13 million a year in additional sales taxes revenue, based on the current level of sales tax generation.

Now that the City Council has placed the measure on the ballot, it must be especially carefully to ensure that it does not "advocate" a particular result in the special election to consider whether to pass the ballot measure. In one instance, the California Attorney General has opined that use of public funds is prohibited if the purpose of the expensiture is to influence the outcome of the election.

In addressing the extent of the city's informational outreach effort, it is the opinion of the Office of the City Attorney that:

1. The city *may* fund a non-advocacy effort to educate voters about the measure, but city employees *may not* coordinate this publicly-funded effort with a campaign to persuade voters to support enactment of the sales tax ballot measure.
2. It is lawful for the City to spend public funds on, and utilize City staff to provide unbiased, neutral information about ballot measures – whether state or local -- and the consequences of voting for or against such measures.
3. Coordinating this public education outreach with some independent campaign committee could be seen by a court as engaging in a partisan effort for which use of public funds or City staff is improper and would violate State law.
4. The City, through its general fund and its staff *may* disseminate neutral and impartial information to its residents explaining the sales tax ballot measure, which includes explaining to the voters what the fiscal or other consequences will be from voting in favor or against it.
5. The City, through its general fund and its staff, *may* utilize the services of a consultant to assist it with disseminating neutral and impartial information to voters or the general public about the ballot measure.
6. The City, through its general fund and its staff *may not* utilize the services of a consultant or spend City funds to assist a consultant to develop and implement a strategy for building a coalition in support of, or in opposition to, a ballot measure. For example, city administrators *may not* use city time or resources for meetings with potential campaign donors if the purpose and effect of such meetings are to encourage campaign contributions once the measure is placed on the ballot.
7. Specifically, the City (its officials and employees) *may*:
 - Authorize a public information campaign, provided the materials

~~produced are fair, balanced, and accurately reflect the consequences of the measure.~~

- The City Council *may* adopt a position on a ballot measure, i.e. vote at a City Council meeting to “support” or “oppose” a measure, but *may not* publicize such endorsement or opposition with City funds.
 - Aside from the general rule allowing the City Council, as a body, to adopt a position on a ballot measure, there is no rule prohibiting Councilmembers from expressing their personal opinions on the measure during a Council meeting (e.g. during Councilmember Comments). However, since regular City Council meetings are televised, neither Councilmembers who favor or oppose a ballot measure, or citizens who favor or oppose a ballot measure may utilize such meetings to advocate for or against a ballot measure. To do so risks violating the law by utilizing such meetings for improper ballot measure “advocacy commercials.”
 - Employees are allowed to make public appearances regarding a ballot measure during their work hours, if: (1) the appearance is authorized by his/her supervisor, (2) their comments are limited to communicating the City’s official position on the ballot measure (in the event the City Council votes to take an official position on a ballot measure) and/or (3) to provide “impartial” and “balanced” information regarding the measure.
 - Employees, while making public appearances while “on the clock” *shall not* advocate for or against the measure.
 - Employees are free to use personal time to participate in campaign activities, i.e. holidays, weekends, before/after work, but may never receive any “comp time” for such campaign activities (an employee who makes public statements while on personal time must state that (s)he is on personal time and is expressing a personal opinion).
 - Unlike City staff, elected officials have more flexibility and *may* advocate for or against a ballot measure, but may not use any city resources, e.g. stationery, postage, etc., to do so.
 - The City is authorized to expend public resources to poll residents to determine their opinions, priorities and willingness to fund particular public programs.
 - The City can research and hold hearings on a ballot measure, even after the matter is placed on the ballot.
8. The City (its officials and employees) *may not*:

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- Use or authorize the use of any public funds which “expressly advocates” the passage or defeat of a ballot measure, or any communication which, when taken as a whole, unambiguously urges the defeat/passage of a ballot measure.
 - Use City resources to “campaign” for or against any ballot measure activity, such as distributing ballot measure campaign literature through the City’s internal mail or e-mail system, make phone calls using city phones (whether or not before or after work), place campaign literature on employee bulletin boards, on the City’s web page or elsewhere on any City premises, place campaign bumper stickers on city vehicles, use city offices for campaign meetings, use city copy machines, telephones, fax machines, computers, etc. for campaign purposes, add a link to the City’s website to a campaign website, be involved in walking precincts, drafting campaign ads, or performing other campaign-related tasks during their work hours, or assign subordinates to the same.
 - Hold a campaign rally on city property, such as a park or community center, unless the facility is made available for any and all rallies.
 - Police officers who wear uniforms should not wear them to campaign functions as this could create the impression that they are on duty.
9. Consistent with statutory guidelines, the City’s education component will provide the basic information regarding the proposed one-cent sales tax ballot measure for the November 2, 2010 special municipal election. In addition, the public awareness campaign will involve a strategic approach and a set of suggested tasks designed to aid in that effort, including:
1. Dissemination of two separate mailings of a brochure to every household in the city containing an impartial explanation of the ballot measure, the basis for placing the ballot measure before the voters and the consequences of adoption or rejection of the ballot measure by the residents of Carson.
 2. Use of various community outreach vehicles including the city’s cable channel and website, the e-newsletter, the Carson Report, press releases and a dedicated e-mail address and telephone line to receive and provide neutral and objective responses to inquiries from citizens and others.
 3. Organizing and conducting of community meetings with various segments of the community (homewoenrs groups, churches, clubs and organizations and other affected entities) to provide a neutral and objective explanation of the ballot measure, including the basis for placing the measure on the ballot and the consequences of adoption or rejection of the ballot measure by the residents of Carson.

10. The estimated budget for the educational campaign is as follows:

Production and printing of two brochures (40,000 copies per brochure, tri-fold, full-color)	\$6,550.00
Mail preparation services for two brochures	\$1,560.00
Postage cost for two brochures (mailed to 26,500 addresses in Carson)	\$7,100.00
Production cost for a 30-second PSA	\$2,500.00
Educational campaign consulting fees	\$3,000.00
Total	\$20,710.00

V. FISCAL IMPACT

Funds for this project were not included in the adopted FY 2010/11 budget, therefore, should the educational component be approved, the budget will need to be increased by \$20,710.00

VI. EXHIBITS

1. Resolution No. 10-086-B approved by the City Council on August 3, 2010 City Council meeting, Item No. 19. (pgs 6-9).

Document3

Prepared by: Zarah Cruz, Public Information Manager

sf:Rev061902

Reviewed by:

City Clerk	City Treasurer
Administrative Services	Development Services
Economic Development Services	Public Services

Action taken by City Council

Date _____ Action _____

RESOLUTION NO. 10-086-B

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CARSON, CALIFORNIA, CALLING FOR AND GIVING NOTICE OF THE HOLDING OF A SPECIAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER, 2, 2010, FOR THE SUBMISSION TO THE QUALIFIED VOTERS OF THE CITY A PROPOSED ORDINANCE ESTABLISHING A ONE CENT SALES TAX IN THE CITY OF CARSON

WHEREAS, the city of Carson has experienced, and continues to face, a dramatic and critical decline in revenues and has reached a point where cutting expenses will not allow the city to ease the structural deficit without further cutting essential city services. The city projects a budget deficit in excess of \$9 million in each of the next five years; and

WHEREAS, in FY 2009/10 the city cut \$3.3 million from its proposed budget. This comes on top of millions in cuts over the previous three years. The city has eliminated full-time positions, reduced services in all departments, and been required to use emergency reserves; and

WHEREAS, in FY 2010/11, public safety staffing levels have been reduced and many other full-time positions have been frozen and remain vacant; the summer youth employment program and cultural, fine arts, and city-wide community events have been canceled; tree trimming has been suspended; and fees have been increased; and

WHEREAS, this unprecedented financial situation is due to several factors including: (1) the city's General Fund has seen total revenues decline 13.2% this past fiscal year. This is due to the state's borrowing of \$1.5 million in property tax revenues, which will continue annually for two more years; (2) a 30% reduction in sales tax revenues from two years ago, a result of the declining economy; (3) a 50% reduction in the city's gas franchise tax revenue this past fiscal year; (4) the city, like most other cities, has endured several years of damaging money grabs by the state of California, such as the \$10.1 million Redevelopment take which funds had been earmarked for Carson infrastructure projects and street paving; and (5) increasing general expenses to the city such as the rising costs of fuel, electricity and supplies. This has made it impossible for the city to balance its budget and still continue to provide critical services at an acceptable level; and

WHEREAS, if the city were to address this shortfall with cuts alone, it would have to further cut Sheriff's patrols, emergency response, youth programs, street and sidewalk repair, graffiti removal, animal control, senior services, and parks and recreation programs. These additional cuts are a last resort. In order to address a shortfall of this magnitude, the city would have to include further cuts to public safety and other critical city services; and

WHEREAS, because of the scale of the city's budget shortfall and the depth of the cuts that have already been made, only two realistic choices remain for dealing with this shortfall. The city of Carson must either generate additional revenue or begin making deeper cuts to essential city services; and

WHEREAS, because citizens repeatedly rank public safety and street maintenance as their top priorities, the city is proposing a solution that would help maintain these important services; and

WHEREAS, the city expects that the city's financial situation will begin to recover within the next five years due to the general expectation that the state of the economy will improve within that time; and

WHEREAS, the City Council desires to submit to the voters a proposal to enact a one cent transactions and use tax in the city of Carson, with the funds to be deposited in the city's General Fund and be used for general city purposes and services including but not limited to Sheriff's services and crime prevention, paramedic and 9-1-1 emergency response services, street repair and maintenance, maintenance of public landscapes and facilities, parks and recreation programs and services, and youth and senior services; and

WHEREAS, by taking this step, keeping the city safe, crime rates low, emergency response times low for all areas of the city, and keeping the city well maintained, we can protect property values and protect the progress the city has made and keep it moving in the right direction; and

WHEREAS, California Constitution Article XIII C, § 2, provides any general tax must be submitted to the electorate and approved by a majority vote; and

WHEREAS, on the basis of the foregoing, the City Council determines it is appropriate to place a measure before the voters on November 2, 2010, at a Special Municipal Election regarding adopting a city transactions and use tax.

~~NOW, THEREFORE, the CITY COUNCIL of the CITY OF CARSON, CALIFORNIA,~~
DOES HEREBY RESOLVE, DECLARE, DETERMINE, and ORDER AS FOLLOWS:

Section 1. Pursuant to the laws of the state of California relating to general law cities, there is called and ordered to be held in the city of Carson, California, on Tuesday, November 2, 2010, a Special Municipal Election for the purpose of submitting to the voters of the City, the measure specified in Sections 2 and 3, below. The collection of a one cent transactions and use tax as a general tax is hereby proposed pursuant to Article XIII C, § 2(b) of the California Constitution and Government Code §§ 53723 and 53724. Pursuant to Government Code § 53724(d) and Elections Code § 9222, it is the intent of the City Council that the measure be submitted to the voters of Carson at the aforementioned Special Municipal Election.

Section 2. There is no scheduled regular municipal election prior to November of 2010. Given the existence of a fiscal emergency, pursuant to Government Code § 53725(b), the City Council hereby orders that the following measure be submitted to the voters at a Special Municipal Election, rather than the next regular municipal election:

The Carson Vital City Services Emergency Protection Measure. To offset severe state budget cuts, maintain Sheriffs deputies, patrols; 9-1-1 emergency response; pothole/street repairs; gang prevention; youth recreation and after school programs; parks; natural disaster response; seniors' services including meals on wheels and other general fund services; shall the City of Carson sales tax be increased one cent, legally required to end after five years with annual audits, and state government cannot take these funds?	Y
	NO

Section 3. Upon approval of the voters of the city of Carson, the Carson Municipal Code shall be amended to add a new Chapter 12 to Article VI, establishing a one cent sales tax within the city of Carson. The complete text of the measure hereby ordered to be submitted to the voters is attached hereto 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. The City Council of the city of Carson further does resolve, declare, determine, and order as follows:

(a) That notice of time and place of holding said election is hereby given and the City Clerk is hereby authorized, instructed, and directed to give such further or additional notice of said election in the time, form and manner as required by California law.

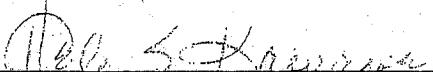
(b) That this resolution shall become effective immediately upon its passage and adoption, and the City Clerk is directed to send certified copies of this Resolution to the Los Angeles County Board of Supervisors, to the Los Angeles County Registrar-Recorder, and county of Los Angeles Election Department.

PASSED, APPROVED and ADOPTED on the 4th day of August, 2010



 Mayor Jim Dear

ATTESTED:



 City Clerk Helen S. Kawagoe, MMC

APPROVED AS TO FORM:

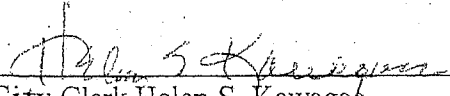


 City Attorney

STATE OF CALIFORNIA)
COUNTY OF LOS ANGELES) ss.
CITY OF CARSON)

I, Helen S. Kawagoe, City Clerk of the City of Carson, California, do hereby certify that the whole number of members of the City Council is five; that the foregoing resolution, being Resolution No. 10-086-B was duly and regularly adopted by said Council at a regular meeting duly and regularly held on the 4th day of August, 2010, and that the same was passed and adopted by the following vote:

AYES: COUNCIL MEMBERS: Mayor Dear, Santarina, Gipson, Davis-Holmes and Ruiz-Raber
NOES: COUNCIL MEMBERS: None
ABSTAIN: COUNCIL MEMBERS: None
ABSENT: COUNCIL MEMBERS: None



City Clerk Helen S. Kawagoe