




## City of Sierra Madre Agenda Report

*John Capoccia, Mayor*  
*Gene Goss, Mayor Pro Tem*  
*Rachelle Arizmendi, Council Member*  
*Denise Delmar, Council Member*  
*John Harabedian, Council Member*

*Nancy Shollenberger, City Clerk*  
*Richard Mays, City Treasurer*

TO: Mayor Capoccia and Members of the City Council

FROM: Elaine I. Aguilar, City Manager   
Teresa Highsmith, City Attorney

DATE: January 12, 2016

SUBJECT: **Stop the Utility Users Tax Initiative – Sufficiency of Petitions**

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### **SUMMARY**

A "Notice of Intent to Circulate Petition" was received in October 2015 to repeal the City's Utility Users Tax (UUT). According to the Los Angeles County Registrar Recorder and the City Clerk, an adequate number of valid signatures were obtained to qualify the initiative petition. The City Council has a number of alternatives which are explained in this staff report. Staff is seeking City Council direction.

### **ANALYSIS**

On October 5, 2015, Mr. Earl Richey and Mr. David McMonigle (Proponents) filed a "Notice of Intent to Circulate Petition" for the purpose of repealing the City of Sierra Madre's Utility User's Tax. In accordance with Election Code (EC) Section 9203, the City Attorney prepared a Ballot Title and Summary. On November 16, 2015, the Proponents filed proof of publication of a "Notice to Circulate Petition" with the City. The Proponents had 180 days from receipt of the Ballot Title and Summary to circulate the petition and obtain the requisite amount of signatures.

Pursuant to Article XXIII C, Section 3, of the California Constitution, reducing or repeal of any local tax, assessment, fee or charge is subject to the initiative process. Pursuant to Article II, Section 8, of the California Constitution, the required number of signatures is based upon 5% of voters casting ballots at the last gubernatorial election. The canvass of ballots cast for the November 4, 2014 Gubernatorial Election in the City of Sierra Madre was 3,824. Therefore, a total of 191 valid signatures are required to qualify the initiative petition.

On December 21, 2015, the Proponents filed their "Notice of Submission of Signatures." That same day, the City Clerk forwarded the petitions to the Los Angeles County Registrar-recorder for signature verification.

Pursuant to EC Section 9114, the City Clerk/Registrar-Recorder has 30 days, Saturday, Sundays, and holidays excepted, in which to verify signatures on the initiative petition. The signatures on said petition are to be verified and/or rejected as to whether or not the signers are registered voters within city limits based on Affidavits of Registration on file in with the LA County Registrar-Recorder. On December 29, 2015, the LA County Registrar-Recorder/City Clerk advised that sufficient signatures were submitted to qualify the initiative petition.

Pursuant to EC Section 9214, upon certification of sufficiency of signatures, the City Council must either:

- Option 1: Adopt the ordinance, without alteration, at the regular meeting at which the certification of the petition is presented, or within 10 days after it is presented.
- Option 2: Pursuant to EC Section 9212, order a report analyzing the impact of the ordinance on municipal operations. Staff must present the report no later than 30 days after it is ordered by the City Council. When the report is presented to the City Council, the City Council shall either adopt the ordinance within 10 days or order an election.
- Option 3a: Pursuant to EC Section 1405(b), submit the ordinance, without alteration, to the voters at the General Municipal Election to be held April 10, 2018, and direct the City Clerk to cause publication of the entire text of the proposed ordinance in the sample ballot.
- Option 3b: Should the Council decide to forgo the ordering of a report analyzing the impact of the ordinance on municipal operations (Pursuant to Elections Code 9212), the Council may schedule a special Council meeting, prior to January 15<sup>th</sup>, to adopt the necessary resolutions to place the matter on the April 12, 2016 ballot, and direct the City Clerk to cause publication of the entire text of the proposed ordinance in the sample ballot. The City Clerk would need to establish deadlines for preparation of ballot arguments and rebuttal arguments.

Option 3 is presented with two alternatives due to the timing of placing items on the April 12, 2016 municipal ballot and because the Proponents did not request a special election. Pursuant to the Elections Code, the last day to call for an election for a ballot measure is January 15, 2016. (A copy of the Elections Calendar is attached.) If the Council requests the report pursuant to Elections Code 9212, staff must present the report no later than 30 days after it is ordered by the City Council. Thirty days from January 12<sup>th</sup> is February 11, 2016. This essentially means the report would return to the February 9<sup>th</sup> Council meeting, which is past the January 15<sup>th</sup> deadline to place measures on the April 12, 2016 ballot.

The adopted budget for Fiscal Year 2015-16 includes \$2 million in UUT revenues, which is approximately 22% of overall General Fund revenues. The Council has spent much time evaluating the impact on city services of the reduction in the current UUT to 6%. The financial impacts of a reduction to 0%, or the loss of an additional \$2 million in General Fund revenue would have an even more significant impact on services in the community. To accurately estimate the impact of the loss of an additional \$2 million in General Fund revenue, it is recommended that the City Council select Option 2 above and direct staff to prepare the report analyzing the impact of the ordinance on municipal operations, and present the report at the February 9, 2016 meeting.

### **FINANCIAL REVIEW**

Approximately \$500 is owed to the Los Angeles County Registrar-Recorder for services rendered to verify signatures on the initiative petition. Sufficient funds were budgeted for election-related expenses in the adopted Fiscal Year 2015-16 Budget.

The Fiscal Year 2015-16 includes \$2 million in UUT revenues, which is approximately 22% of overall General Fund revenues. A UUT rate of 0% would mean the loss of \$2 million in General Funds.

### **PUBLIC NOTICE PROCESS**

This item has been noticed through the regular agenda notification process. Copies of this report are available at the City Hall public counter, on the City's website, and at the Sierra Madre Public Library.

### **STAFF RECOMMENDATION**

It is recommended that the City Council receive, file and accept the Certificate of Sufficiency of Initiative Petition from the City Clerk, and provide staff with direction.

Attachment 1: Notice of Intent to Circulate Petition & Initiative Ordinance

Attachment 2: Ballot Title and Summary Prepared by the City Attorney

Attachment 3: Certificate of Sufficiency of Initiative Petition from the City Clerk and Letter of Findings from the LA Registrar-Recorder

Attachment 4: Election Calendar

ATTACHMENT 1



# City of Sierra Madre



*Received Oct 5, 2015  
Nancy Sue Shollenberger  
City Clerk*

October 5, 2015

To: Elaine Aguilar, City Manager ✓  
Teresa Highsmith, City Attorney

From: Nancy Sue Shollenberger, City Clerk

Re.: Notice of Intent to Circulate Petition

Today at 3:45 p.m. I met Earl Richey in my office and he presented the following:

- Notice of Intent to Circulate Petition
- Acknowledgement of Circulators
- Proposed Language and Content for the Initiative

Mr. Richey is requesting a "Title and Summary" from the City Attorney.

Please let me know when this is available so I can forward it to Mr. Earl Richey and Mr. David McMonigle.

Thank you.

232 W. Sierra Madre Blvd., Sierra Madre, CA 91024  
Telephone (626) 355-7135 Fax (626) 355-2251

# ATTACHMENT 1

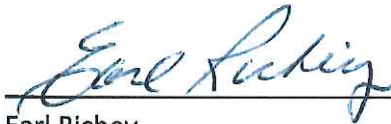
Received Oct 5, 2015  
Nancy Sue Shollenberger  
City Clerk

## ACKNOWLEDGEMENT OF CIRCULATORS

We, Earl Richey and David McMonigle, acknowledge that it is a misdemeanor under state law to knowingly or willfully allow the signatures on an initiative petition to be used for any purpose other than qualification of the proposed measure for the ballot.

We certify that we will not knowingly or willfully allow the signatures for this initiative to be used for any purpose other than qualification of the measure for the ballot.

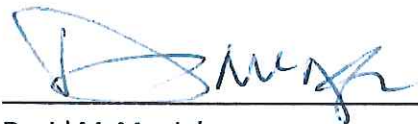
Date submitted: 10-05-2015 at Sierra Madre, California



Earl Richey  
134 Esperanza Avenue  
Sierra Madre, CA 91024

10-05-2015

Date



David McMonigle  
233 Ramona Avenue  
Sierra Madre, CA 91024

10-05-15

Date

Received Oct 5, 2015  
Nancy Sue Shollenberger  
City Clerk

[Clerk's Stamp]

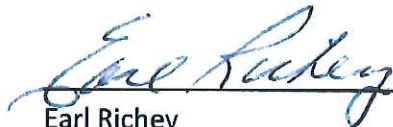
## NOTICE OF INTENT TO CIRCULATE PETITION

### To the Clerk of the City of Sierra Madre:

Notice is hereby given by the persons whose names appear hereon of their intention to circulate the attached petition within the City of Sierra Madre for the purpose of repealing existing ordinances permitting the taxation of utilities.

Pursuant to applicable provisions of law, we respectfully request that you immediately deliver this notice to the City Attorney and that he prepare a Title and Summary within the time prescribed by law and return it to us. All communications and correspondence may be directed to us in care of Earl Richey at his address below.

Date submitted: 10-05-2015 at Sierra Madre, California



Earl Richey

134 Esperanza Avenue  
Sierra Madre, CA 91024

10-05-2015

Date



David McMonigle

233 Ramona Avenue  
Sierra Madre, CA 91024

10-05-15

Date

# ATTACHMENT 1

Received Oct. 5, 2015  
Honey Sue Shollenberger  
City Clerk

## PROPOSED LANGUAGE AND CONTENT FOR THE INITIATIVE

The City Attorney for the City of Sierra Madre has prepared the following circulating title and summary of the chief purpose and points of the proposed measure:

[Title and Summary]

### Stop the Utility Users' Tax ("UUT")

**THE PEOPLE OF THE CITY OF Sierra Madre DO ORDAIN AS FOLLOWS:**

#### **Section 1. Findings and Declarations**

**WHEREAS**, the people of the City of Sierra Madre find and declare that federal, state and local taxation has reached confiscatory levels; that unrestrained spending and regulation at all levels of government, are excessive, improvident, contrary to our rights as a free people and are thereby destructive of Life, Liberty and the pursuit of Happiness; and

**WHEREAS**, it is the intent and purpose of this initiative that the current City of Sierra Madre utility taxes be repealed.

#### **Section 2. Name of Measure and Effective Date**

This measure shall be known as the Stop the Utility Users' Tax and shall become effective as provided by law.

#### **Section 3. Repeal of Utility Tax**

The existing Utility Users Tax as set forth in Chapter 3.36 of the Sierra Madre Municipal Code is repealed in its entirety.

#### **Section 4. Severability**

The provisions of this initiative are severable. If any provision of this measure or application thereof is held invalid, that invalidity shall not affect other provisions or applications if they can be given effect without the invalid provision or application.

# ATTACHMENT 2

## STOP THE UTILITY USERS TAX

The current rate for utility users tax is 8%, which will step down to 6% on July 1, 2016. If approved by a majority of Sierra Madre voters, this initiative would repeal all current City utility users taxes, including those imposed on charges for telephone, electricity, gas, water and video services.

The City's existing utility users taxes fund general City services, including police, paramedics, parks, libraries, streets, and other public services and facilities. If voters approve the initiative, the City must either reduce funding for these programs and services or find some other funding source for them, if possible.



## Attachment # 3



# City of Sierra Madre



## Certificate of Sufficiency of Initiative Petition


I, Nancy Sue Shollenberger, City Clerk of the City of Sierra Madre, County of Los Angeles, State of California, do hereby certify that pursuant to the provisions of Section #9114 of the California Election Code, I forwarded the Petition signatures to the Los Angeles County Registrar Recorder/County Clerk and they examined the aforementioned petition, and from the records of registration, ascertained that the petition has been signed by the requisite number of voters.

Article II, Section 8 of the California Constitution establishes the signature requirement for statewide initiatives at "five percent...of the votes for all candidates for Governor at the last gubernatorial election". According to the Los Angeles County Registrar-Recorder/County Clerk's Office, there were 8,059 registered voters in Sierra Madre gubernatorial election, of which 3,824 voted. Therefore, 191 valid signatures are required for the initiative petition to be deemed sufficient.

I FURTHER CERTIFY that on December 21, 2015, the proponents filed this initiative petition; and, based on the Los Angeles County Registrar-Recorder/County Clerk's voters' Signature Verification Certificate, I have determined the following facts regarding this initiative petition:

Number of signatures filed by proponent raw count:	384
Number of signatures verified:	264
Number of signatures found sufficient	191
Number of signatures found not sufficient	73
Not sufficient because of duplicate:	0

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the official seal of the City of Sierra Madre this 7<sup>th</sup> day of January, 2016.

  
Nancy Sue Shollenberger, City Clerk

232 W. Sierra Madre Blvd., Sierra Madre, CA 91024  
Telephone (626) 355-7135 Fax (626) 355-2251

# ATTACHMENT 3



Los Angeles County Registrar-Recorder/County Clerk

Dean C. Logan  
Registrar-Recorder/County Clerk

December 29, 2015

Ms. Nancy Sue Shollenberger, City Clerk  
City of Sierra Madre  
232 W. Sierra Madre Blvd  
Sierra Madre, CA 91024

Dear Ms. Shollenberger:

We have completed the signature verification submitted on December 21, 2015 for Stop The Utility Users Tax.

The results of the signature verification are as follows:

Number of signatures filed	384
Number of signatures verified	264
Number of signatures found sufficient	191
Number of signatures found not sufficient	73
Not sufficient because duplicate	0

Please call Tiffany Olsen, Head, Data Entry and Signature Verification at (562) 462-2376 if you have any questions regarding the signature verification of this petition.

Sincerely,

  
DEAN C. LOGAN  
Registrar-Recorder/County Clerk

## Attachment # 4

**City Elections**  
**General Municipal Election**  
**April 12, 2016**

*Laws in effect in 2016 (Calendar laws updated 10/2015)*

Date(s)	E minus	to E minus	Action
October 23	-172		Suggested Last Day to File Petitions Regarding Measure
November 23	-141		Suggested Last Day for Council to Adopt Resolutions
November 24	-140		Suggested Last Day to Post Notice of Deadline for Filing Arguments and Impartial Analyses
November 24			Election Official to Publish Notice of Election – Measure(s) Only, No Candidates
14 days after date Council puts measure(s) on the ballot			Last Day to File Arguments & Impartial Analyses / Must Be 14 days after Council calls Election
December 7 to December 21	-127	-113	Election Official to Publish Notice of Election - Candidates
December 14	-120		Last Day to Adopt Regulations for Candidates Statements
10 days after Arguments are due			Last Day to File Rebuttal Arguments / 10 Days after Arguments
December 21 to January 15	-113	-88	Filing Period for Nomination Papers and Candidate's Statements
or January 18		-85	(if city is closed on Friday)
or January 19		-84	(if observing Monday holiday)
January 15	-88		Last Day to Call Election For Ballot Measures
January 15 or January 18	-88	-85	Last Day to File Nomination Papers (Friday, unless closed, then Monday)
or January 19		-84	(if observing Monday holiday)
January 20	-83		Last Day to File Nomination Papers – Extended Filing Period if incumbent fails to file
January 20	-83		Last Day to Withdraw Measure(s) from Ballot
January 21	-82		Secretary of State to Determine Order of Names on Ballot
January 28	-75		Time to Cancel Election – Insufficient Candidates
February 1			Last Day to File Campaign Expenditure Statements - Semi-Annual Statement
February 1	-71		Suggested Last Day to Submit Precinct Consolidations to County
February 11	-61		Suggested Last Day to Designate Polling Places
February 11	-61		Suggested Last Day To Request Postage Check from Finance Department for Mailing of Sample Ballot Pamphlets
February 12 to February 26	-60	-46	Time to Transmit Ballot to Military and Overseas Voters
February 15 to March 29	-57	-14	Filing Period for Write-in Candidate
March 3	-40		Last Day to File Campaign Expenditure Statements - 1st Pre-election Statement
March 3 to March 14	-40	-29	Suggested Time to Alert Your Local Post Office of Upcoming Mailings
March 14	-29		Last Day to Designate Polling Places & Appoint Precinct Board Members
March 14	-29		First Day for Mailing Permanent Vote by Mail Voter Ballots
March 14 to April 5	-29	-7	Voters May Request Vote by Mail Ballots with Regular Applications
March 22	-21		Last Day to Mail Sample Ballots and Polling Place Notices
March 28	-15		Suggested Day to Post Notice – Pre-Election Vote by Mail Canvass
March 28	-15		Last Day to Register to Vote
March 29	-14		Last Day to File for Write-in Candidate
March 29	-14		Last Day to Prepare List of Precincts with Multilingual Precinct Board Members
March 29	-14		First Day to Process Returned/Voted Vote by Mail Voter Ballots
March 31	-12		Last Day to File Campaign Expenditure Statements - 2nd Pre-election Statement
April 2	-10		Publish Notice of Central Counting Place
April 5	-7		Last Day for Election Official to Publish Notice of Nominees
April 5	-7		Last Day to Publish Notice of Polling Places
April 5	-7		Last Day to Post Notice of Polling Places & Precinct Board Members
April 6 to April 12	-6	0	Emergency/Late Vote by Mail Voting Period
April 8	-4		Suggested Last Day to Post Notice of Manual Tally
April 11	-1		Last Day for Council to Adopt Procedures to Resolve Tie Vote
April 11	-1		Suggested Day to Post Notice – Post-Election Vote by Mail Canvass
<b>April 12</b>	<b>0</b>		<b>ELECTION DAY</b>
April 12	0		Election Official to Canvass Vote by Mail Voter Ballots
April 15	3		Last Day to Receive Vote by Mail Voter Ballots If Postmarked on Election Day
April 20	8		Last Day to Receive Signed "Unsigned Ballot Statements" for unsigned Vote by Mail Voter Ballots
No Later Than May 6	24		Election Official to Canvass the Returns
Within 5 days of completing the semi-official canvass above			Election Official to Hand Tally the Undervotes of a Write-in Candidate if requested by a write-in candidate
No Later Than May 6	24		Election Official to Conduct the Manual Tally
April 18 to May 6			Reorganize Council and Choose Mayor Pro Tem (and Mayor if applicable)
			(At same meeting as Declaration of Results and Installation)
No Later Than May 10	28		Last Day to Post Notice of Precinct Board Members
(30 days after Assuming Office)			Last Day to File Statement of Economic Interests
August 1			Last Day to File Campaign Expenditure Statements - Semi-Annual Statement
April 1, 2017			Last Day to Submit Report on Measures to Secretary of State

(R10/22/2015)