



FINANCE COMMITTEE AGENDA

Meeting of December 21, 2011 – 8:00 a.m. to 10:00 a.m.

A Committee of the Chico City Council:
Councilmembers Sorensen, Goloff and Chair Gruendl
Council Chamber Building, 421 Main Street, Conference Room No. 1

REGULAR AGENDA

- A. Consideration of update to the Telephone Users Tax - (*Report – Lori Barker, City Attorney*)**
- B. Finance Update – Budget Status**
- C. Reports and Communication** - The following report and communication items are provided for the Committee's information. No action can be taken on these items unless the Committee agrees to include them on a subsequent posted agenda.
- 1) Monthly report on Q&A from citizens regarding City finances
- D. Business from the Floor** - Members of the public may address the Committee at this time on any matter not already listed on the agenda, with comments being limited to three minutes. The Committee cannot take any action at this meeting on requests made under this section of the agenda.
- E. Adjournment and Next Meeting** - The meeting will adjourn no later than 10:00 a.m. The next regular Finance Committee meeting is scheduled for Tuesday, January 24, 2012 at 8:00 a.m. in Conference Rm. No. 1.

Distribution available in the office of the City Clerk

Prepared: 12/15/11

Posted: 12/15/11

Prior to: 5:00 pm

*Chico City Clerk's Office
411 Main Street, Chico, CA 95928
(530) 896-7250*



Please contact the City Clerk at 896-7250 should you require an agenda in an alternative format or if you need to request a disability-related modification or accommodation in order to participate in a meeting. This request should be received at least three working days prior to the meeting in order to accommodate your request.



Finance Committee Agenda Report

Meeting Date: December 21, 2011

TO: Finance Committee

FROM: Lori J. Barker, City Attorney

RE: Consideration of Update to Telephone Users' Tax

BACKGROUND:

The City's Utility Users' Tax (UUT) imposes a 5% tax rate on utilities including certain telephone services, electricity, gas, and water.

Consistent with many ordinances throughout the state, the City's telephone users tax includes a reference to the Federal Excise Tax (FET) on telephones under section 26 USC § 4251 and has historically been applied similarly to the FET which applies to three categories of calls: local calls, long distance calls billed based on the length of the call and the distance between the two telephones involved; and wide area telephone service (WATS).

In recent years there have been significant changes in both technology and billing practices which have rendered the language of those ordinances outdated. The use of wireless services and voice over internet protocol has become widespread, billing for local and long distance services is frequently bundled, and long distance calls are not always billed based on time and distance, even for land lines.

These changes led to a dispute between the communications companies and the IRS in how the FET should be applied and, in 2006, the IRS issued a notice that it intended to stop applying the FET to most phone services other than local calls. There is also pending litigation involving other cities that challenges the application of local UUT ordinances which reference the FET.

To protect against the risk of losing tax revenues in the face of these legal issues, many cities have submitted amendments to their telephone/telecommunications users taxes to their voters. These measures have the effect of modernizing an existing tax to ensure that all users of communication services are treated the same, regardless of the type of technology they are using or billing practices employed by their providers. They generally capture interstate and international calls, voice over internet protocol, text messaging and paging. A number of the measures have provided for a slight decrease in the tax rate, for example, from 5% to 4.5%. Nearly all of these measures have been approved by the voters.

The City currently receives about \$1.4 million in telephone UUT/year. The segment of services at greatest risk in these outdated ordinances is wireless service. It is estimated that about \$900,000 of the annual telephone UUT is from wireless telecommunications providers. If challenges to the application of ordinances containing references to the FET in other cities are successful and the City has not updated

RE: Consideration of Update to Telephone Users' Tax

Meeting Date: December 21, 2011

Page 2

its telephone UUT, collections under the City's tax will also be at risk and it would be expected that a majority of those revenues could be lost. This would represent a significant reduction in general fund revenue.

Any amendment to the UUT must be submitted to the voters for approval. Because the UUT is a general tax, it would need to be submitted to the voters at a general municipal election. The next such election is November 2012.

RECOMMENDATION

Based on the discussion above, it is my recommendation that the Finance Committee recommend to Council that it consider whether a measure to amend the City's telephone users tax to address changes in modern technology and billing practices should be submitted to the voters.

DISTRIBUTION:

City Clerk (8)

City Manager

Finance Director