

## **IMPARTIAL ANALYSIS OF MEASURE H**

Ballot Measure H proposes the adoption of an ordinance that would replace the existing telephone and cable television utility user tax with an updated communications tax.

The utility user tax on telephone and cable television has been imposed on telephone and cable television customers in the City and collected on their telephone and cable television bills since 1985; currently, the tax rate is 6%. The revenues from this tax -- approximately \$1.2 million in 2006-2007 (5% of the general fund revenue) -- are used exclusively within the City for general governmental purposes. The existing tax ordinance was written in 1985. The ordinance is outdated due to significant advances in technology since that time, and the tax is not imposed on communication services and devices that have since come into existence.

The proposed ordinance would reduce the communications tax rate from 6% to 5 ½ %. It would also retain the existing exemption for seniors and the disabled. The proposed ordinance would update the existing ordinance to apply the telephone and cable television tax to all types of communication and video services, unless precluded by federal statute. Currently, a federal statute precludes local taxation of internet services and broadband services providing access to the internet. Further, the proposed ordinance would not apply to digital downloads such as music, games and ringtones.

The tax cannot be increased in the future without a vote of the people. The proposed ordinance has no effect on the existing utility user tax applied to electrical, gas and water services.

Recent federal court decisions in other states have cast doubt on whether the ordinance, as currently written, can be imposed on long distance, cellular and bundled telephone services. Several California cities with ordinances similar to Hermosa's are currently embroiled in litigation on this issue. Should California courts determine such ordinances inapplicable to those telephone services, the revenues collected from the current ordinance would be reduced substantially. Adoption of the proposed ordinance would protect the City from an adverse outcome in any such litigation.

A "yes" vote is in favor of adopting the updated communications tax ordinance summarized above. A "no" vote is against adopting the ordinance. A majority of "yes" votes is required for the ordinance to be enacted.

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