

**City of Carson City
Agenda Report**

Date Submitted: February 11, 2014

Agenda Date Requested: February 20, 2014
Time Requested: 2 hours (with prior item)

To: Mayor and Supervisors

From: City Manager

Subject Title: For Possible Action: To conduct a public hearing and take public comment regarding a proposed ordinance imposing a one-eighth of one percent (0.125%) sales tax for public infrastructure projects pursuant to NRS 377B, including but not limited to construction of an animal services facility, a multi-purposes athletic center, and street and pedestrian improvements in the downtown area and Carson Street and William Street/Highway 50 East commercial corridors, and/or other projects as directed by the Board of Supervisors. (Marena Works)

Summary: An ordinance must be adopted to implement a sales tax pursuant to NRS 377B to fund certain public infrastructure projects. The projects noted above are being considered for inclusion in the Plan of Expenditure, but the Board of Supervisors may consider additional projects to be included in the Plan or otherwise modify the projects within the draft Plan. The sales tax may only be used to fund projects that are included within the Plan of Expenditure.

Type of Action Requested:

☐ Resolution

☐ Formal Action/Motion

☐ Ordinance

☒ Other (No Action)

Does This Action Require A Business Impact Statement: () Yes (X) No

Recommended Board Action: (No action; public comment and discussion only.)

Explanation for Recommended Board Action: On August 15, 2013, the Board of Supervisors accepted the Downtown Carson City Revitalization Plan prepared by the 20/20 downtown group, and on September 19, 2013, the Board of Supervisors accepted the conceptual plans prepared by business and property owners for the North Carson Street corridor and the East William Street/Hwy 50 East corridor. On November 7, 2013, the Board of Supervisors accepted the South Carson Street conceptual plan.

On December 6, 2013, City staff brought forward a draft plan for the Board of Supervisors to consider to fund the above-noted street and pedestrian improvement projects as well as the proposed Multi-purpose Athletic Center (MAC) and Animal Services Facility, for which the Board has sought funding sources in the past, by implementing a one-eighth-percent sales tax. The Board took no formal action on the Plan but directed staff to conduct public meetings to obtain citizen comments and focus on getting the word out to the businesses that would be affected, and to bring back the matter for consideration at the February 20 Board meeting.

City staff held three workshops with public comments sessions, including two on January 21, 2014, and one on January 29. Staff published notices of the workshops in the Nevada Appeal and distributed the information through the Chamber of Commerce, and notices were posted on the main page of the City's website. Notices were also distributed to all the businesses located on Carson Street, William Street, Highway 50 East from the freeway to the Fairview Drive/College Parkway intersection, and Curry Street in the downtown area, a total of approximately 600 notices. The public were directed to a webpage (www.carson.org/carsonplan2014) that was set up to provide complete documents and maps related to the plans, as well as a comment and survey sheet. Approximately 33 people attended the first workshop, approximately 50 people attended the second, and approximately 114 people attended the third workshop, based on the number of people that signed in. Survey results and written comments are included as attachments to this item.

Should the Board of Supervisors adopt the Plan of Expenditure and implement the sales tax for these projects, staff would then work closely with the applicable stakeholders to develop detailed plans that can be implemented within budget constraints. Significant design work has already gone into the MAC and preliminary plans for the Animal Services Facility, but staff is waiting for a decision on funding to proceed with the detailed corridor design work. Only concepts and ideas have been discussed, to date. City staff would work closely with the property owners and businesses along the commercial corridors to develop final plans.

A one-eighth percent sales tax is available for the Board of Supervisors to implement without voter approval. To use the one-eighth-percent sales tax for the projects within the Plan of Expenditure the Board must adopt an ordinance to implement the tax. The ordinance adopting the sales tax must specify the date of imposition of the tax, the specific purpose of the tax, and that the tax will remain as necessary so as to not impair any outstanding bond payments or other obligation which is payable from the tax. The law requires that the governing body must develop a plan of expenditure and specify the projects within the plan that are proposed to be constructed or purchased or, in the case of flood control and landfills, operated and maintained, within the purposes as defined in NRS 377B.160(3).

The facilities are to be funded by the one-eighth-percent sales tax in accordance with NRS 377B, with the improvements to the street corridors falling under NRS 377B(3)(e) (as a street project described in NRS 373.028(2)). The Animal Services Facility is a "public safety facility" that prevents disease and protects the public as defined in NRS 377B(3)(f). The Multi-Purpose Athletic Center is a "recreational facility" as defined in NRS 377B (3) (f).

The projects can be financed with bonds and/or other obligations that are secured in whole or in part with a pledge of the sales tax revenues. In addition it is anticipated bonds would not be issued immediately upon implementation of the sales tax since initial construction would not begin for approximately one year after implementation. Funds for the first year of about \$1.0 million from the tax would be used for project planning and design costs. It is anticipated that two bond issues could be issued to support the projects. An initial bond of approximately \$12.0-\$15.0 million would be to support the first round of projects followed a few years later with a bond of approximately \$2.0-\$3.0 million or greater, depending on available bonding capacity, would support the next round of projects. Funding for the balance of the corridor program could

possibly be paid with revenues on a pay-as-you-go basis rather than through a bond, which could lead to overall cost savings.

Overall funding through the one-eighth percent sales tax would be approximately \$11 million for the corridors and downtown, approximately \$4 million for the Animal Services Facility, and approximately \$2.8 million for the Multi-Purpose Athletic Center. By timing expenses, utilizing bonds, and using additional available funds from grants, the overall total for the projects are estimated to cost approximately \$30 million or more. The projects will be designed to the available level of funding and will be designed to be added to in the future as funding through additional grants and sources become available. The majority of the anticipated Public Works portion of the funding is contained in current capital programs in Stormwater, Water, Sewer, and Streets Divisions for replacement and improvements.

The sales tax of one-eighth percent costs \$12.50 per \$10,000 in taxable sales purchases. It is estimated that about 40% of the overall tax is paid by nonresidents and 60% by city residents.

Applicable Statute, Code, Policy, Rule or Regulation: NRS 377B

Fiscal Impact: One-eighth of one percent sales tax on all taxable sales in Carson City.

Explanation of Impact: The proposed sales tax would be used only to fund the projects listed in the adopted Plan of Expenditure.

Funding Source: One-eighth of one percent sales tax on all taxable sales in Carson City.

Alternatives: N/A, public comment and discussion only.

Supporting Material:

1. Draft Ordinance

(Refer to the prior Agenda Report and supporting materials for the Public Hearing regarding the Plan of Expenditure for more information and background on the proposed ordinance.)

Prepared By: Lee Plemel, AICP, Community Development Director

Reviewed By: Marena Ruwks
(City Manager)

Date: 2/11/14

[Signature]
(District Attorney's Office)

Date: 2/11/14

[Signature]
(Finance Director)

Date: 2/11/14

Board Action Taken:

Motion: _____

1) _____

Aye/Nay

2) _____

(Vote Recorded By)

BILL NO. _____

ORDINANCE NO. 2014-__

AN ORDINANCE AMENDING TITLE 21-TAXATION OF THE CARSON CITY MUNICIPAL CODE BY ADDING A NEW CHAPTER 21.08-INFRASTRUCTURE SALES TAX FOR THE PURPOSE OF IMPOSING A SALES TAX IN CARSON CITY OF ONE-EIGHTH OF ONE-PERCENT ON RETAIL SALES; BY ADDING A NEW SECTION 21.08.010-DEFINITIONS; BY ADDING A NEW SECTION 21.08.020-IMPOSITION OF TAX, REFUNDS, EFFECTIVE DATE OF TAX, REPEAL OF TAX, IMPOSING A ONE-EIGHTH OF ONE PERCENT (0.125%) SALES TAX; BY ADDING A NEW SECTION 21.08.030-USE OF PROCEEDS OF TAX; BY ADDING A NEW SECTION 21.08.040-PAYMENT OF PROCEEDS OF TAX TO DEPARTMENT, CONTRACT WITH DEPARTMENT; BY ADDING A NEW SECTION 21.08.050-INCORPORATION OF PROVISIONS OF CHAPTER 374 OF NRS; BY ADDING A NEW SECTION 21.08.060-CREATION OF INFRASTRUCTURE FUND; BY ADDING A NEW SECTION 21.08.070-ISSUANCE OF BONDS, NOTES AND OTHER SECURITIES; BY ADDING A NEW SECTION 21.08.080-IMPAIRMENT OF OBLIGATIONS PROHIBITED; TO CREATE AN INFRASTRUCTURE FUND FOR THE ACCOUNTING OF THE TAX; TO PROVIDE FOR PAYMENT OF THE PROCEEDS OF THE TAX TO THE NEVADA DEPARTMENT OF TAXATION; TO AUTHORIZE A CONTRACT WITH THE NEVADA DEPARTMENT OF TAXATION RELATED TO THE ADMINISTRATION AND OPERATION OF THE TAX; TO INCORPORATE CERTAIN PROVISIONS OF CHAPTER 374 OF NRS; TO PROVIDE FOR THE ISSUANCE OF BONDS AND OTHER SECURITIES; AND OTHER MATTERS PROPERLY RELATED THERETO.

Fiscal Effect: Yes

THE BOARD OF SUPERVISORS OF CARSON CITY DO ORDAIN:

SECTION I:

That the index to Title 21-TAXATION of the Carson City Municipal Code is hereby amended as follows:

Chapters:

21.02	Open-Space Use Assessment
21.03	Relief Tax
21.04	Public Road Maintenance (Sales and Use) Tax
21.05	Public Road Repair and Restoration (Motor Vehicle Fuel Excise) Tax
21.06	V&T Railroad Sales Tax
21.07	Quality of Life (Sales and Use) Tax
<u>21.08</u>	<u>Infrastructure Sales Tax</u>

SECTION II:

That Title 21 of the Carson City Municipal Code is hereby amended by adding new Sections as follows:

Sections:

21.08.010 – Definitions.

21.08.020 – Imposition of Tax; refunds; effective date of Tax; repeal of Tax.

21.08.030 – Use of proceeds of Tax.

21.08.040 – Payment of proceeds of Tax to Department; contract with Department.

21.08.050 – Incorporation of provisions of Chapter 374 of NRS.

21.08.060 – Creation of Infrastructure Fund.

21.08.070 – Issuance of bonds, notes, and other securities.

21.08.080 – Impairment of obligations prohibited.

21.08.010 – Definitions.

As used in this chapter, unless the context otherwise requires:

"Board" means the Board of Supervisors of Carson City.

"Department" means the Nevada Department of Taxation.

"Plan" means the plan of expenditure originally adopted by the Board on February 20, 2014, pursuant to subsection (7) of NRS 377B.100, as may be amended in accordance with the law.

"Tax" means the tax imposed pursuant to this chapter.

21.08.020 – Imposition of Tax; refunds; effective date of Tax; repeal of Tax.

1. There is hereby imposed a Tax of one-eighth of one percent (0.125%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail, or stored, used or otherwise consumed in Carson City. This Tax is imposed pursuant to the authority granted by chapter 377B of NRS.
2. A purchaser is entitled to a refund, in accordance with the provisions of NRS 374.635 to 373.720, inclusive, of the amount of the Tax required to be paid that is attributable to the Tax imposed upon the sale of, and the storage, use, or other consumption in Carson City of, tangible personal property used for the performance of a written contract:
 - A. Entered into on or before the effective date of the Tax; or
 - B. For the construction of an improvement to real property for which a binding bid was submitted before the effective date of the Tax if the bid was afterward accepted,

if, under the terms of the contract or bid, the contract price or bid amount cannot be adjusted to reflect the imposition of the Tax.

3. The effective date of the Tax shall be the first day of the first month of the next calendar quarter that is at least one hundred twenty (120) days after the date on which a two-thirds (2/3) majority of the Board approves, on second reading, the ordinance imposing the Tax.
4. Subject to the provisions of Section 21.08.080 of this chapter, on or before the date on which a Plan expires, the Board shall determine whether a necessity exists for the continued imposition of the Tax. If the Board determines that such a necessity does not exist, the Board shall repeal the ordinance that enacted the Tax. If the Board determines that the Tax must be continued for a purpose set forth in NRS 377B.160, the Board shall adopt, in the manner prescribed in chapter 377B of NRS, a new Plan for the expenditure of the proceeds of the Tax for such a purpose.

21.08.030 – Use of proceeds of Tax.

The proceeds of the Tax must be expended for the purposes set forth in the Plan, which purposes include, without limitation, the payment of principal and interest on notes, bonds, or other securities issued to provide money for the cost of the projects, facilities and activities described in the Plan and otherwise permitted by subsections (a) through (f) of NRS 377B.160(3).

21.08.040 – Payment of proceeds of Tax to Department; contract with Department.

1. All fees, taxes, interest, and penalties imposed and all amounts of Tax required to be paid to Carson City pursuant to this chapter must be paid to the Department in the form of remittances payable to the Department.
2. Carson City shall permit the State of Nevada to transfer from the State Sales and Use Tax Account to the appropriate account in the State General Fund such percentage of all fees, taxes, interest, and penalties collected pursuant to this chapter during the preceding month as is described in NRS 377B.130(3)(a), as amended, as compensation to the State of Nevada for the cost of collecting the Tax.
3. Before the effective date of the Tax, Carson City shall contract with the Department for the performance of all of the functions incident to the administration or operation of the Tax. Any ordinance amending or repealing this chapter must include a provision in substance that Carson City shall amend its contract with the Department before the effective date of the amendatory taxing ordinance, unless the Board determines with the written concurrence of the Department that no such amendment of the contract is necessary or desirable.

21.08.050 – Incorporation of provisions of Chapter 374 of NRS.

The provisions of chapter 374 of NRS are hereby incorporated into this chapter insofar as applicable. All amendments to chapter 374 of NRS after the date of the enactment of the ordinance imposing the Tax, not inconsistent with chapter 377B of NRS, shall automatically become a part of the ordinance imposing the Tax and any ordinance amending it.

21.08.060 – Creation of Infrastructure Fund.

The Carson City Treasurer shall create a fund to be known as the “Infrastructure Fund” into which all the proceeds of the Tax received from the State Controller shall be deposited. The Infrastructure Fund must be accounted for as a separate fund and not as a part of any other fund of Carson City. The money for each project included in the Plan must be accounted for separately in the Infrastructure Fund.

21.08.070 – Issuance of bonds, notes, and other securities.

Money for the acquisition, development, construction, equipping, and improvement of the projects described in the Plan may be obtained as authorized by chapter 377B of NRS through the issuance of bonds, notes, and other securities as the Board may deem appropriate. The bonds, notes or other securities may be general or special obligations of Carson City. Such bonds, notes or other securities may be payable from the receipts of the Tax or the revenue generated by one or more of the projects described in the Plan or may be secured as to principal and interest by a pledge of and lien on the receipts of the Tax or the revenue generated by one or more of the projects described in the Plan. Any ordinance authorizing the issuance of such a bond, note, or other security must describe the purpose for which the bond, note or other security is issued.

21.08.080 – Impairment of obligations prohibited.

The Board shall not repeal or amend or otherwise directly or indirectly modify the ordinance imposing the Tax in such a manner as to impair any outstanding bonds or other obligations issued pursuant to this chapter, or other obligations incurred pursuant to this chapter, until all obligations for which revenue from an ordinance have been pledged or otherwise made payable from such revenue pursuant to this chapter have been discharged in full or provision for full payment and redemption has been made.

SECTION III:

If any clause, sentence, section, provision or part of Chapter 21.08 of the Carson City Municipal Code shall be adjudged to be unconstitutional or invalid for any reason by any court of competent jurisdiction, such judgment shall not invalidate, impair or affect the remainder of such chapter.

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SECTION IV:

That no other provisions of Title 21-Taxation of the Carson City Municipal Code or any other portion of the Carson City Municipal Code is affected by this ordinance.

PROPOSED on _____ (month) _____ (day), 2014.

PROPOSED by _____.

PASSED _____ (month) _____ (day), 2014.

VOTE:	AYES:	SUPERVISORS:	_____

	NAYS:	SUPERVISORS:	_____

	ABSENT:	SUPERVISORS:	_____

Robert Crowell, Mayor

ATTEST:

ALAN GLOVER
CLERK/TREASURER

This ordinance shall be in force and effect from and after the _____ day of the month of _____ of the year 2014.