

Agenda Memorandum

To: Honorable Mayor and City Council Members
Prepared By: Patrick Kelly, Assistant City Manager
From: Bryan Cobb, City Manager
Date: July 17, 2023
Subject: **Ordinance No. 1734**, Renewal of City's Economic Development Ad Valorem Exemption Program

Procedure: Call Up Item
Presiding Officer Asks Attorney to Read Ordinance by Title Only
City Manager Background
Public Hearing
Council Motion & Discussion
Council Action

Introduction: This is a request for City Council to approve a public referendum of the City's electorate for the purposes of renewing the City's Economic Development Ad Valorem Tax Exemption program for an additional ten (10) years.

Discussion: At its May 16, 2022 meeting, City Council adopted Ordinance No. 1722 approving a public referendum of the City's electorate to be held on November 8, 2022 for the purpose of renewing the City's Economic Development Ad Valorem Tax Exemption program. A copy of the May 16, 2022 agenda memorandum, supporting documentation, and Ordinance No. 1722 is provided in Attachment 1.

On August 12, 2022, the City Clerk submitted the referendum ballot language in English and Spanish to the Supervisor of Elections Office. On October 17, 2022, City Staff notified the Supervisor of Elections Office that the City's ballot language had not been printed on the November 8, 2022, sample ballots that were distributed to registered City voters. At its October 17, 2022, meeting, the Supervisor of Elections appeared before the City Council to explain that the City's ballot language was submitted within the prescribed deadline, but was not included in the November 8, 2022, election ballot. To correct this error, the Supervisor offered the City Council an alternative mail-in ballot referendum to held on January 31, 2023, February 21, 2023, or March 7, 2023. Following discussion, the City Council's consensus was to schedule the mail-in ballot referendum for February 21, 2023, with a ballot drop-off intake station located at City Hall from February 13, 2023, through February 17, 2023. The Supervisor stated that his office would cover the costs associated with the mail-in ballot referendum.

Ordinance No. 1722 scheduled the referendum to be held on November 8, 2022. Therefore, at its October 17, 2022 meeting, the City Attorney advised that City Council to adopt a new ordinance scheduling the all mail in ballot referendum for February 21, 2023. At the December

5, 2022 meeting, City staff presented Ordinance No. 1728 which repealed Ordinance No. 1722 and scheduled a mail-in ballot referendum for February 21, 2023. A copy of Ordinance No. 1728 is provided in Attachment 2. During the public hearing for Ordinance No. 1728, Mr. Phil Kaprow, Legal Counsel for the Seminole County Supervisor of Elections, informed the Council that Section 101.6102(4), Florida Statutes prohibits anyone other than the jurisdiction calling for the all mail in ballot election from bearing the cost of the all mail in ballot election. The Assistant City Attorney concurred with this opinion, and noted that there was no alternative to demand the Supervisor of Elections pay for the all mail in ballot election. A copy of Section 101.6102(4), Florida Statutes is provided in Attachment 3.

Mr. Kaprow provided the Council with three (3) options for holding a future referendum election.

1. The City could proceed with the mail ballot election, and bear all appropriate costs.
2. The City could hold the referendum during the next municipal election.
3. The City could wait until the next general election to hold the referendum.

Given this information, Staff recommended the City Council deny Ordinance No. 1728, with the caveat that the City monitor the November 2023 municipal election, and if the election is held, present a new Ordinance calling for the Economic Development Ad Valorem Exemption referendum.

At the April 24, 2023 City Council Work Session, staff presented an update on the formulation of the Fiscal Year 2023-2024 Budget, including future capital needs of the City. During that discussion, the Council directed the City Manager to prepare an estimated cost to construct a new Police Station and called for a referendum election in November, 2023. Therefore, staff recommends adoption of Ordinance No. 1734 placing renewal of City's Economic Development Ad Valorem Exemption Program on the ballot for an election held November 7, 2023.

The ballot question shall be worded as follows:

PROPOSED ECONOMIC DEVELOPMENT AD VALOREM PROPERTY TAX EXEMPTION
AUTHORIZATION FOR CONSTITUTIONALLY ALLOWED PURPOSES

Shall the City Council of the City of Oviedo be authorized to grant, pursuant to Section 3 of Article VII of the State Constitution, property tax exemptions to new businesses and expansions of existing businesses that are expected to create new fulltime jobs in the City?

_____ YES For authority to grant exemptions.

_____ NO Against authority to grant exemptions.

The City of Oviedo's Economic Development Ad Valorem Tax Exemption program was approved by referendum on November 6, 2012. The program is authorized under Article VII, Section 3 of the State of Florida Constitution and Section 196.1995 Florida Statutes. A copy of Section 196.1995, Florida Statutes is provided in Attachment 4. Pursuant to Section 196.1995, Florida Statutes, the authority to provide exemptions expires ten (10) years after the successful referendum, and the authority to renew the exemption may be granted for a subsequent ten (10) year period provided the renewal is approved by referendum. At its March 21, 2022 Meeting, City Council directed Staff to proceed with the process of renewing the Economic Development Ad Valorem Tax Exemption program.

The City's Economic Development Ad Valorem Tax Exemption program is a local option tax incentive for a Qualified Business, which may be granted or refused at the sole and absolute discretion of City Council. The potential exemptions may be applied to the value of new construction, equipment or improvements. The City may only exempt City ad-valorem taxes and may not exempt County taxes, school district assessments or other special district assessments, (MSBU/MSTU), or the City of Oviedo's Streetlight Assessment. A copy of the City's Economic Development Ad Valorem Tax Exemption program is provided in Attachment 5.

Budget Impact: At its April 3, 2023 the City Council directed staff to hold the election at three (3) precinct locations with one (1) day of early voting. The potential budget impact is estimated to be \$28,352.

Strategic Impact: Reauthorizing the Economic Development Ad Valorem Tax Exemption is consistent with the goal and objectives of the Economic Vitality and Development Strategic Focus Area.

Recommendation: It is recommended that City Council read Ordinance No. 1734 by title only, conduct a public hearing, and adopt Ordinance No. 1734.

Attachment(s):

1. May 16, 2022 Agenda Memorandum, Supporting Documents, and Ordinance No. 1722
2. December 5, 2022 Agenda Memorandum, Supporting Documents, and Ordinance No. 1728
3. Ch 101.6102 Florida Statutes - Mail ballot elections; limitations.
4. Ch 196.1995 Florida Statutes – Economic Development Ad Valorem Exemption.
5. Chapter 2, Article 3, Code of Ordinances