City of Harrisonville est. 1836

AGENDA
CITY OF HARRISONVILLE
BOARD OF ALDERMEN
WORK SESSION
CITY HALL
JANUARY 4, 2016
6:00 PM

I. Call to Order & Pledge of Allegiance

II. Present

A. Attendees

III. Discussion Items

A. Vehicle Sales Tax Ballot Issue

Posted on City Hall Bulletin Board this 31st day of December 2015

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Kim Hubbard, City Clerk

The Board of Aldermen Work Session is open to the public but is not a meeting of the public.

Publish

City of Harrisonville est. 1836

STAFF REPORT

TO: **Board of Aldermen**

FROM: **Marcella McCoy, Supervisor**

DATE: **December 31, 2015**

SUBJECT: **Vehicle Sales Tax Ballot Issue**

Type of Item: *Presentation*

INTRODUCTION

The purpose of this memo is to outline the need for the City to place a question on the ballot prior to November 2016 in order to continue to receive vehicle sales tax on sales from out-of-state dealer and individual sales. It outlines some history, court case, legislative action, and options of time when to place on the ballot.

DISCUSSION

Many communities across the State are looking to place a question on the ballot to continue to receive the current level of revenue from vehicle sales taxes. In order for the City to continue to receive the current level of annual revenue averaging $109,000 from vehicle sales, we will need to place a question on the ballot asking the citizens. We are asking to keep what we currently receive that is used to help maintain our streets. This is not a new source of funds or a new tax. The estimated loss of revenue based on the 21% entire State average is about $23,000. Harrisonville's proximity to the Kansas State line puts us at greater risk to lose more. As years pass and costs increase, so would the loss of the revenue. Not to mention, that the local auto dealers may see a decline in sales as people choose to save the sales tax by purchasing from individuals or auto dealers outside the State. So the trickledown effect will continue to grow through the years. There is no way to know the entire economic impact.

There are three options to take this to the voters in 2016; April 5, 2016, August 2, 2016, and November 8, 2016. With this a major election year, both State and Federal, recommendation is to put this on the April 5, 2016 ballot. Certification has be approved by the Board and submitted to the County Clerk no later than January 26, 2016. Another reason to place this on the April 5th ballot is to reduce election costs. The City has municipal election in April and will have that expense. By adding a question to the ballot in April, the costs are all absorbed at once. If the Board were to choose to put the question on the August or November 2016 ballot, the City will have additional election costs that it would not otherwise.

One of the things that everyone sees and talks about frequently is the conditions of our roadways. Roadways are one of the hardest things to maintain at a level that most have come to expect. We like to drive and ride on roads that are smooth. We like to have roads clean and safe during snow and icy events. Road conditions help to provide quality of life in our communities. Funding to maintain good road conditions is a topic that is being discussed in many circles across the State of Missouri. I believe we have all heard about the reductions that the Missouri Department of Transportation has taken and some of the services that have been reduced because of the reductions.

Harrisonville along with many other communities across that State is looking at the same type of reduction in funding. In the Street Decision, January 2012, the Supreme Court ruled that only cities with a use tax could collect local sales tax on vehicle type purchases from out of state (as well as person-to-person sales). The State Legislative response to the Supreme Court was passage of SB 182 that re-imposed the local sales tax in the form of an administrative fee and the need to receive voter approval by November 2016 to continue to receive the administrative fee.

Article IV of the Missouri Constitution section 30b outlines the source and application of sales tax imposed on sale of motor vehicles and how the revenue is to be used. It basically states that the sales tax revenue is to be used for the maintenance and improvements to the roadways. The January 2012 Supreme Court ruling removes a portion of this revenue in that it no longer allows us to collect the sales tax for a vehicle, trailer, etc. that is purchased out of state or from an individual.

As you may know, when a vehicle, boat, trailer, etc. is purchased, sales tax is assessed during the title and license plate transaction through the Missouri Department of Revenue. The City receives this revenue monthly to help provide for street maintenance and improvements. Until November 2016, the City will receive the sales tax/administrative fee on all motor vehicle sales whether in state, out-of-state or from individual sales that currently averages $109,000 a year.

The City currently has five full time staff members paid from the street division. Streets are maintained at an expected level to benefit our citizens. Keeping in mind that the vehicle sales tax is just a small portion of the street maintenance budget, any reduction in the sources to fund the street maintenance could result in reduction of services and create areas that are not as safe to travel because of reduced maintenance.

Over the past five years, the annual average of expense including capital purchases is about $854,000. The projected loss of about $23,000 or more a year doesn't seem like much compared to the total cost of operating the street division. But as years pass and costs increase, so would the loss of the revenue. Not to mention, that the local auto dealers may see a decline in sales as people choose to save the sales tax by purchasing from individuals or auto dealers outside the State. So the trickledown effect will continue to grow through the years. There is no way to know the entire economic impact.

Missouri State Statute 32.087.1 section 5 basically states the City must place on the ballot the following question before November 2016 to continue to receive motor vehicle sales tax from out-of-state and individuals. The following is extracted from the Statute that states ballot question with the "City of Harrisonville" inserted:

> “(2) Notwithstanding any other provision of law to the contrary, local taxing jurisdictions, except those in which voters have previously approved a local use tax under section 144.757 <http://www.moga.mo.gov/mostatutes/stathtml/14400007571.html>, shall have placed on the ballot on or after the general election in November 2014, but no later than the general election in November 2016, whether to repeal application of the local sales tax to the titling of motor vehicles, trailers, boats, and outboard motors that are subject to state sales tax under section 144.020 <http://www.moga.mo.gov/mostatutes/stathtml/14400000201.html> and purchased from a source other than a licensed Missouri dealer. The ballot question presented to the local voters shall contain substantially the following language:

“Shall the City of Harrisonville discontinue applying and collecting the local sales tax on the titling of motor vehicles, trailers, boats, and outboard motors that were purchased from a source other than a licensed Missouri dealer?

Approval of this measure will result in a reduction of local revenue to provide for vital services for City of Harrisonville and it will place Missouri dealers of motor vehicles, outboard motors, boats, and trailers at a competitive disadvantage to non-Missouri dealers of motor vehicles, outboard motors, boats, and trailers.

[ ] YES [ ] NO

If you are in favor of the question, place an "X" in the box opposite "YES".

If you are opposed to the question, place an "X" in the box opposite "NO".”

Additionally, the Statute goes on to state the loss of revenue with receipt of the majority of votes in favor of the proposal, or if Harrisonville fails to place the ballot question before the voters as follows:

> “(3) If the ballot question set forth in subdivision (2) of this subsection receives a majority of the votes cast in favor of the proposal, or if the local taxing jurisdiction fails to place the ballot question before the voters on or before the general election in November 2016, the local taxing jurisdiction shall cease applying the local sales tax to the titling of motor vehicles, trailers, boats, and outboard motors that were purchased from a source other than a licensed Missouri dealer.”

Currently, the law does not allow a means to bring this issue back to the voters after November 2016. The Missouri Municipal League is working to support a legislative measure in 2016 to allow the tax issue to be brought back to the voters after 2016.

A key point in the law is "local taxing jurisdictions, except those in which voters have **previously approved a local use tax** under section 144.757 <http://www.moga.mo.gov/mostatutes/stathtml/14400007571.html>". Cass County along with several cities in the County have approved the use tax. So, the County will not lose any of the motor vehicle revenue currently received. I have spoken with Pleasant Hill, Raymore, Belton and Drexel, each of these entities are looking at the same ballot issue. It has been a topic of discussion among members of the Government Finance Officers Association, City Clerks and Finance Officers Association and City Managers Association.

A recent article in the Missouri Municipal Review magazine published by the Missouri Municipal League states:

> **OUT-OF-STATE VEHICLE SALES TAX** … Municipalities have until November of 2016 to receive voter approval to continue to impose the local sales tax on vehicles purchased by their residents from out-of-state vendors. So far only five municipalities: Eminence, Hannibal, Liberal, Trenton and West Plains, have done so. In addition Dallas, Grundy, Howell, Polk, Reynolds, Shannon and Texas Counties and the Tri-county Ambulance District (Clinton, Platte and Buchanan counties) have received voter approval. Political subdivisions that had a use tax in place prior to July 6, 2013, need not get voter approval to continue to collect the revenue stream. All other cities must seek voter approval for the sales tax on out-of-state vehicle sales (not a use tax.)

As stated earlier, there are three options to take this to the voters in 2016; April 5, 2016, August 2, 2016, and November 8, 2016. With this a major election year, both State and Federal, recommendation is to put this on the April 5, 2016 ballot. Certification has be approved by the Board and submitted to the County Clerk no later than January 26, 2016. Another reason to place this on the April 5th ballot is to reduce election costs. The City has municipal election in April and will have that expense. By adding a question to the ballot in April, the costs are all absorbed at once. If the Board were to choose to put the question on the August or November 2016 ballot, the City will have additional election costs that it would not otherwise.

ACTION REQUIRED/RECOMMENDATION

Staff requests/recommends Board direction to bring the ordinance authorizing the question to place on the April 5, 2016 ballot. Ordinance will be presented at the January 18th Board of Alderman meeting requesting the Board waive the rules and consider on first reading to allow for certification on January 26, 2016 as required for the April election.

A. Action Item (ID # 2086)

Vehicle Sales Tax Ballot Issue

Attachments:

Vehicle Sales Tax Election (PDF)

ADMINISTRATIVE FEE ON VEHICLES SALES

Marcella McCoy

Finance Director

OUTLINE

- Sales Tax
- Street Decision
- Legislative Fix
- Resources

Sales Tax

- The state's sales tax is imposed on the purchase price of tangible personal property or taxable service sold at retail.
- Tax Rate Determined by location of seller.
- 4.225% (state) plus local options.

Street decision – January 31, 2012

Background

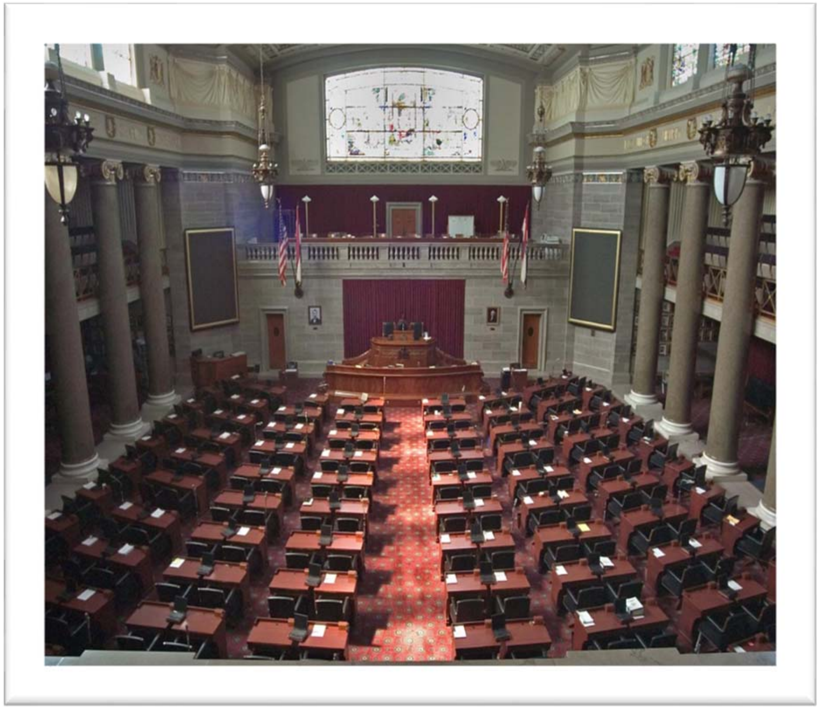
- State and local sales tax applied to all vehicle purchases including person to person and out of state.
- Tax based on sales tax in jurisdiction of purchaser.

Impact of decision

- Only cities with use tax could collect on out-of-state and person to person vehicle sales.
- DOR estimated local revenue loss at $20.5 million across the state.

Street Decision – "Legislative Fix"

- SB 182 (2013) – Re-imposed the local sales taxes on the out-of-state sales and person-to-person sales of motor vehicles.
- Requires voter approval by November 2016 to continue local sales tax on out-of-state sales of motor vehicles.



Administrative fee – passed April 2015

Counties

- Dallas
- Grundy
- Howell
- Polk
- Reynolds
- Shannon
- Texas

Muni's & others

- Eminence
- Hannibal
- Liberal
- Trenton
- Tri-County Ambulance District

LEGISLATIVE FIX – AFFECT ON NEW USE TAX

- Language in 32.087 RSMo "except those in which voters have previously approved a local use tax" calls into question the ability of a new use tax to capture the administrative fee on vehicle sales.
- Safe answer – cities that did not have a use tax prior to the enactment of the legislation (August 28, 2013) need to pass the admin fee to avoid revenue loss.
- MML has prepared model ordinance for the "continence of the administrative fee on vehicle sales"

Next Steps

- Pass Ordinance Calling for Admin Fee to be on the ballot.
- League has a model ordinance:

Shall the City of Harrisonville discontinue applying and collecting the local sales tax on the titling of motor vehicles, trailers, boats, and outboard motors"

NEXT STEPS

- SOS Election Calendar - http://s1.sos.mo.gov/elections/calendar/2016cal
  - April 5, 2016 Election – (St. Louis County Effort)
    - Final Certification – Jan 26,2016
  - August 2, 2016
    - Final Certification – May 24, 2016
  - November 8, 2016
    - Final Certification – August 30, 2016
- Following Voter Approval Send Ordinance and Certified Election Results to DOR

CAMPAIGN SUGGESTIONS

- Emphasis this is not a new tax.
- Closes court created loophole.
- Levels the playing field for local auto dealers vs. out-of-state.
- Be prepared to illustrate what the loss in revenue to the city will result in:
  - Reduced Street Expenditures for maintenance and improvements, Etc.
- Campaign team – Auto Dealers, Chamber, etc.

2016 LEGISLATIVE EFFORTS

- 2016 LEGISLATION -
  - Extend the deadline.
  - Rep. Swan (Cape Girardeau) – Combine Admin fee and use tax in one ballot.

Resources

- Sample ordinances – Missouri Municipal League
- DOR website:
- http://www.dor.mo.gov/publicreports/#pubtax

Contacts:

- DOR – Local Sale/Use
  - localgov@dor.mo.gov
  - 573-522-1160
- MML
  - Stuart Haynes
  - shaynes@mocities.com
  - 573-635-9134