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CITY OF BELLEVUE, WASHINGTON

RESOLUTION NO. 7264

A RESOLUTION regarding the Initiative Measure No. 6 proposed by V.O.T.E. to repeal BCC 4.10.030.B, eliminating water service as a utility occupation activity subject to tax; directing the City Attorney to reject the proposed initiative and to notify the sponsor of the rejection.

WHEREAS, on September 29, 2005, the Bellevue City Clerk received a proposed Bellevue Citizens Initiative to eliminate City Tax from City drinking water from the V.O.T.E. (Victory Over Tax Excess) committee; and

WHEREAS, pursuant to BCC 1.12.060, the City Clerk is required to assign a number to the initiative petition and forthwith transmit one copy of the measure proposed, bearing that number, to the City Council, City Manager and City Attorney; and

WHEREAS, also pursuant to BCC 1.12.060, the City Attorney is required, within ten days of the receipt of the proposed initiative measure, to formulate an Initiative Statement in the form of a question containing the essential features of the measure, and to transmit that statement to the City Clerk, City Council, City Manager, and the individual or committee proposing such measure; and

WHEREAS, this matter was considered by the City Council at its meeting on October 3, 2005, and the Council, after considering the relevant facts and circumstances, and after considering the relevant law, has determined to reject the proposed initiative for the reasons hereinafter stated; now, therefore,

THE CITY COUNCIL OF THE CITY OF BELLEVUE, WASHINGTON, DOES RESOLVE AS FOLLOWS:

Section 1. The City Council hereby takes notice of the following facts and circumstances relevant to this matter:

- A. In December 1995, the City Council passed Ordinance 4841, which repealed BCC Chapter 4.10. and adopted a new Chapter 4.10, which included BCC Section 4.10.030, which imposed a 4.5% utility occupation tax on, among other activities, water distribution businesses.
- B. "Water Distribution Business" is defined by Ordinance No. 4841 and BCC 4.10.020.Q as "the business of operating a plat or system for the distribution of water for hire or sale."
- C. In December 2004, the City Council passed Ordinance 5578, which amended BCC Section 4.13.030, including increasing the utility occupation tax on water distribution businesses from 4.5% to 5%. Ordinance No. 5578 became effective on January 9, 2005.
- D. Under BCC 1.12 and state law, once an Initiative Statement is drafted by the City Attorney, the sponsor of an initiative would then have 90 days to obtain the

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signatures of registered voters of the City as provided in RCW 35.11.100 and submit those petitions to the City Clerk.

- E. Under BCC 1.12 and state law, the City Clerk would then have three days to determine the sufficiency of the petition; and within ten days after that determination, would be required to determine whether a sufficient number of registered voters had signed the petition to be considered by the City Council to either pass the proposed legislation or submit it to a vote of the people.

Section 2. The Council makes the following determinations:

- A. Nearly ten years passed between the Council adoption of Ordinance No. 4841 repealing the former Utility Occupation Tax Code, and adopting a new Chapter 4.10, imposing utility occupation taxes, including a 4.5% tax on water distribution businesses, and the submittal of the proposed initiative.
- B. More than nine months passed between the Council adoption of Ordinance No. 5578, raising the water distribution business utility occupation tax rate from 4.5% to 5%, and the submittal of the proposed initiative.
- C. The proposed initiative measure is not a proper subject for initiative because it seeks to repeal an ordinance passed by the City Council, rather than seeking to enact new legislation.
- D. The proposed initiative measure is not a proper subject for initiative because it was not filed within 30 days of the effective date of Ordinance No. 5578.
- E. The proposed initiative measure is not a proper subject for initiative because the increase of the utility occupation tax rate for water distribution businesses is an administrative act, not a legislative act.
- F. The proposed initiative measure is not a proper subject for initiative because BCC Section 1.12.040 and state law expressly exempt ordinances authorizing or repealing the levy of taxes from the power of initiative and referendum.
- G. Requiring the City Attorney to prepare an Initiative Statement under these circumstances would be a futile act, as the proposed initiative is insufficient under city code and state law.
- H. It would be inappropriate to submit petitions for this proposed initiative to citizens eligible to vote in the City of Bellevue under these circumstances as it could mislead and confuse citizens regarding the legality of this proposed initiative.
- I. It would be a waste of City resources to require the City Clerk to review and certify the signatures of any registered voters affixed to the petition for this proposed initiative under these circumstances.

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Section 3. Based on the record in this matter, on the facts and circumstances set forth in Section 1, and the determinations set forth in Section 2, the City Council hereby directs the City Attorney to reject the request for an initiative statement and to so notify "V.O.T.E.", the committee proposing the initiative.

Passed by the City Council this 3rd day of October, 2005,
and signed in authentication of its passage this 3rd day of October
_____, 2005.

(SEAL)

Connie B. Marshall
Connie B. Marshall, Mayor

Attest:

Myrna L. Basich
Myrna L. Basich, City Clerk