

**REPORT TO MAYOR AND COUNCIL****TO HONORABLE MAYOR AND COUNCIL:**

DATE: December 9, 2014

**SUBJECT: ADOPT RESOLUTION NO. 14-86 RESCINDING RESOLUTION NO. 11-8, AND ESTABLISHING THE COMPOSITION OF THE MEASURE Q OVERSIGHT COMMITTEE, SETTING TERMS OF OFFICE OF COMMITTEE MEMBERS AND DEFINING THE SCOPE OF THE COMMITTEE'S RESPONSIBILITIES**

**Report in Brief**

On November 4, 2014, the voters of Concord passed Measure Q, extending the City's existing half-cent use and transaction tax until March 31, 2025. The voter adopted Ordinance that continues the tax includes a requirement for an Oversight Committee, which is charged with reviewing the annual auditor's report and making recommendations to the City Council for use of the Measure Q tax revenue. The City currently has a Council appointed Measure Q Oversight Committee that was created by Resolution No. 11-8, after the original Measure Q was passed by Concord voters; however, the original Oversight Committee was anticipated to cease to exist in 2017. With the voter approved extension, staff is recommending that this Committee's membership terms be normalized to the City's usual practice and that the Committee be reduced from 7-members to 5-members. The Council is being asked to consider staff's recommendation and to adopt the attached resolution (Attachment 1).

**Background**

Measure Q is a voter approved half-cent use and transactions tax that provides revenue to the City of Concord that cannot be taken by the State of California. The measure was originally approved by the voters in November 2010. This original measure included a 5-year sunset. Revenue collection began on April 1, 2011 and was scheduled to expire on March 31, 2016. However, on November 4, 2014, the voters of Concord approved a 9-year extension to Measure Q (Ordinance No. 14-8), thereby continuing the collection of the tax by 9 years from the original sunset date of March 31, 2016. With the extension, Measure Q is now set to expire on March 30, 2025.

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In regard to the establishment of an Oversight Committee, Section 3.15.490 of the tax ordinance includes the following language:

Additionally, there shall be a committee consisting of no fewer than five members of the public to review and report on the receipt of revenue and expenditure of funds from the tax authorized by this Article. The committee members shall be either Concord residents or representatives of Concord businesses. Prior to the operative date, the City Council shall adopt a resolution establishing the composition of the committee, setting the terms of office of the committee members, and defining the scope of the committee's responsibilities, which at a minimum shall include reviewing the annual auditor's report and making recommendations to the City Council for use of the tax revenue. The committee's report and recommendations shall be completed by a date to allow for it to be considered as part of the annual budget process. The committee's report and recommendations shall be a matter of public record and shall be considered by the City Council at a public meeting.

**Discussion**

This report presents staff's proposal for the structure and organization of the Measure Q Oversight committee to be modified slightly to align more closely with the City's usual operating procedure for selecting Committee members and to decrease in size from a 7-member committee to a 5-member committee.

There are three main reasons for staff's recommendations: (1) to allow all interested parties a chance to serve on the Measure Q Committee now that the voters have extended its life; (2) to simplify the administration of the Measure Q Oversight Committee so that it more closely matches the terms and recruitment processes of our other Committees/Commissions; and (3) that we decrease the size of the Oversight Committee making it easier to manage.

Towards this end, staff recommends Council adopt Resolution No. 14-86 rescinding Resolution No. 11-8 that adopted the structure and organization of the Measure Q Oversight Committee when Measure Q was originally adopted in 2011. Staff is proposing a new structure of the Measure Q Oversight Committee, and Resolution No. 14-86 reflects the recommendations in this staff report.

Specific topics covered in this staff report include the following:

- Lifespan
- Scope of Responsibility
- Member Composition
- Organizational Structure & Applicability of Existing City Policies and Practices
- Meeting Schedule
- Staff Support
- Member Appointment and Selection Process

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**Committee Lifespan:** Staff proposes that the Measure Q Oversight Committee exist from March 2015 through June 2026. The Oversight Committee sunsets because the Measure Q tax sunsets. The timing of the Committee’s sunset is not contiguous with the collection of the Measure Q tax because of the City’s annual audit process. The final fiscal year in which the tax will be collected is FY 2024-25. However, the audit for FY 2024-25 won’t be available for review until January/February 2026 and the Oversight Committee will report the results of their review to Council prior to the adopted of the annual budget in June 2026. Consequently, the Oversight Committee must not sunset until it has completed review of this final audit that includes collection of Measure Q revenue and reported its results to Council.

**Scope of Responsibility:** Staff recommends that the Oversight Committee fulfil two areas of responsibility for each of the years that the Measure Q half-cent use and transactions tax is collected:

1. Review the City’s annual audit report which will include the Measure Q tax revenue and expenditures.
2. Provide recommendations to the City Council on the use of Measure Q revenue.

The Committee shall produce a report that records the results of its review of the City’s audit and its recommendations for expenditure of the revenue generated from the tax. The report shall be presented to the Council at a public meeting and shall be a public record.

**Committee Composition:** Staff recommends that the Committee consist of five members and that at least one member represent the business community and that at least three members be residents of the City of Concord. The fifth member could come from either category. With five members the Committee will provide strong oversight of the Measure Q revenues and expenditures without creating the challenges posed by larger committees.

**Committee Member Terms of Office:** Staff recommends that members hold staggered terms of four years, similar to the City’s other Committees. This will make the Committee easier to administer because it will fall into the City’s usual recruitment process.

To get the terms started in a staggered fashion the initial set of terms would consist of two, two-year terms and three, four-year terms. All subsequent terms would be for four years until the Committee disbands. The initial two year terms would be from March 2015 through a December 2016 expiration of term; the four year terms would also begin in March 2015 but expire in December of 2018. The initial two and four year terms would actually be slightly less than 24 and 48 months to allow for a new application cycle for Committee members, which will run from February 1-20, 2015 (as described later in this report). All subsequent terms consist of four year appointments, until the Committee sunsets in June 2026.

**Committee Organization and Use of Existing City Practices:** Staff is recommending that the Committee follow all relevant existing City practices in terms of organization and conduct. Specifically, that the Committee:

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- Elect a Chair and Vice Chair;
- Operate in accordance with the Ralph M. Brown Act;
- Operate in accordance with City of Concord Policy & Procedure 89, Council Appointments to Boards and Commissions, except where the Measure Q Oversight Committee Resolution specifically addresses a topic;
- Operate in accordance with City of Concord Administrative Directive No. 43, Ethics Training for Elected Officials; Appointees to Certain Boards, Commissions, and Committees; and Designated Employees;
- Comply with all State and local mandated conflict of interest/economic interest disclosure requirements; and
- Receive no compensation for service on the Committee.

**Committee Meeting Schedule:** The City's budgeting occurs in the spring of each year. Consequently, staff's recommended meeting schedule has the Committee active from February through June each year. No specific hearing dates and times have been established in this resolution in order to allow staff to work with the appointed Committee members to identify days/times that work well for the membership. Additionally, the actual meeting schedule will be dependent upon the budget preparation schedule, which changes slightly from year to year. Staff anticipates that the Committee will meet between three and six times during each budget cycle. All working meetings of the Committee will be public and published in accordance with the Brown Act.

The report prepared by the Committee documenting their findings and recommendations will be presented to the City Council at the Budget Workshop, usually in early May. The Workshop will be a public hearing.

**Staff Support:** Staff from the City Manager's Office and the Finance Department will have primary responsibility for supporting the Measure Q Committee. This item is not incorporated into the resolution but is provided in the staff report as information for the Council and public.

**Appointment & Selection of Committee Members:** Staff recommends that the Council use the two page application used for the 2011 Measure Q Committee selection process. (A draft version of the application is included as Attachment 2). Once all applications have been received, the Council's Mayor and Vice Mayor would evaluate the applications and make appointment recommendations to the full Council, following the process outlined in Policy and Procedure 89. The expected schedule for these actions is as follows:

Application Period: February 1, 2015, 8 a.m. through February 20, 2015, 5 p.m.

Mayor/Vice-Mayor Review: Week of February 23<sup>rd</sup>

Council Appointments: March 10<sup>th</sup> or March 23<sup>rd</sup>

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**Alternatives**

Council may vary from staff's recommendations. Council's only constraint is that their actions must not be in conflict with the Ordinance the voters adopted.

**Fiscal Impact**

Staff already supports the Measure Q Committee, modifying the Resolution under which the Measure Q Oversight Committee operates to reflect the recent voter adoption of the Measure Q extension will not have any fiscal impacts.

**Public Contact**

Staff has spoken with all members of the Measure Q Committee to explain the staff's recommendations and make them aware that this item was going before the Council on December 9, 2014. The item has also been posted in accordance with State law.

**Recommendation for Action**

Adopt Resolution No. 14- Rescinding Resolution No. 11-8 and establishing the composition of the Measure Q oversight Committee, setting terms of office of Committee members, and defining the Committee's responsibilities, and other related matters.

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**BEFORE THE CITY COUNCIL OF THE CITY OF CONCORD  
COUNTY OF CONTRA COSTA, STATE OF CALIFORNIA**

**A RESOLUTION RESCINDING RESOLUTION  
NO. 11-8 AND DEFINING THE COMPOSITION OF  
THE MEASURE Q OVERSIGHT COMMITTEE,  
TERMS OF OFFICE FOR COMMITTEE  
MEMBERS, THE SCOPE OF THE COMMITTEE’S  
RESPONSIBILITIES AND OTHER RELATED  
MATTERS**

**Resolution No. 14-86**

**WHEREAS**, on November 4, 2014, Concord voters passed Ordinance No. 14-8, also known as Measure Q, extending a half-cent use and transactions tax for nine years; and

**WHEREAS**, Concord merchants began collecting the tax on behalf of the City of Concord on April 1, 2011 and cease collecting the tax on March 31, 2025; and

**WHEREAS**, Section 3.15.490 states that, “there shall be a committee consisting of no fewer than five members of the public to review and report on the receipt of revenue and expenditure of funds from the tax authorized by this Article [Ordinance No 14-8];” and

**WHEREAS**, Section 3.15.490 further requires the Council to adopt a resolution establishing the composition of the committee, setting the terms of office of the committee members, and defining the scope of the committee’s responsibilities; and

**WHEREAS**, this resolution rescinds Resolution No. 11-8 establishing the composition of the Measure Q Oversight Committee from the original passage of Measure Q in 2011.

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF CONCORD DOES  
RESOLVE AS FOLLOWS:**

**Section 1.** The Measure Q Oversight Committee’s composition, terms of office, and scope of responsibilities shall be as described in Exhibit A to this resolution.

**Section 2.** This resolution shall become effective immediately upon its passage and adoption.

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**City of Concord**  
**Measure Q Oversight Committee**

1. **Purpose:** The purpose of the oversight committee is to review the City's annual audit in regards to the receipt and expenditure of the previous year's half-cent use and sales tax (Measure Q) revenue, to make recommendations for the expenditure of the projected future year's Measure Q revenue, and to communicate the Committee's findings and recommendations to the public and the Council.
2. **Committee Responsibilities:** The oversight committee has two responsibilities for each of the years that the Measure Q half-cent use and transactions tax is collected:
  - 2.1. Review the annual audit report of the Measure Q tax revenue and expenditures.
  - 2.2. Provide recommendations to the City Council on the use of the Measure Q revenue.

The Committee shall produce a report that records the results of its review of the City's audit and its recommendations for expenditure of the revenue generated from the tax. The report shall be presented to the Council at a public meeting and shall be a public record.

3. **Committee Lifespan:** The Measure Q Oversight Committee shall sunset (cease to exist) once it has reviewed and reported on all audit reports Measure Q revenue collection, which is anticipated to be completed by June 2026. No council action is required to terminate the Committee.
4. **Committee Composition:** The Committee shall consist of five members, at least one member must represent the business community, at least three members must be residents of the City of Concord. The fifth member may represent either category.

The following rules apply to all members:

- 4.1. All members shall be at least 18-years of age and reside within the State of California.
- 4.2. Committee members may not be current Concord employees, Concord City Council members, or any vendor, contractor, or consultant with active contracts or agreements with the City of Concord.

5. **Committee Member Terms of Office:** The Committee shall hold staggered terms of four years. The initial set of terms will consist of two, two-year terms and three, four-year terms. All subsequent terms will be for four years until the Committee disbands in June 2026.
6. **Committee Organization & Use of Existing City Practices:** The Committee shall follow all relevant existing City practices in terms of organization and conduct. Specifically:
  - 6.1. Elect the Chair and Vice Chair,
  - 6.2. Operate in accordance with the Ralph M. Brown Act,
  - 6.3. Operate in accordance with City of Concord Policy & Procedure 89, Council Appointments to Boards and Commissions, except where the Measure Q Oversight Committee Resolution specifically addresses a topic,
  - 6.4. Operate in accordance with City of Concord Administrative Directive No. 43, Ethics Training for Elected Officials; Appointees to Certain Boards, Commissions, and Committees; and Designated Employees,
  - 6.5. Comply with all State and local mandated conflict of interest/economic interest disclosure requirements;
  - 6.6. Receive no compensation for service on the Committee.
7. **Committee Meeting Schedule:** The City's budgeting occurs from February through June. Consequently, the Committee shall be active from February through June each year. The exact meeting schedule (days/times/locations) will be dependent upon the budget preparation schedule, which changes slightly from year to year.

The report prepared by the Committee documenting their findings and recommendations will be presented to the City Council at the Budget Workshop, usually in early May. The Workshop will be a public hearing.