

STAFF REPORT

Date: 12/13/2023

To: Mayor and Council

From: Troy Smith, Town Manager

Subject: Ordinance No. 963 _ An Ordinance amending the Town Tax Code to repeal the sunset clause in Ordinance No. 888; providing for severability and making Ordinance 963 immediately effective.

SUMMARY and BACKGROUND INFORMATION:

Upon incorporation in December 1973 the Town of Payson adopted a Transaction Privilege Tax (TPT) rate of 1% of retail sales. Six and a half years later, in May 1980, the Town increased that tax rate to 2%. In September 2003, voters approved the sale of bonds to build fire station 13 that would be repaid by a 0.12% increase in the TPT. Later, on May 4, 2017, the Town increased the tax rate by an additional 0.88% via Ordinance 888, to a total TPT rate of 3%. The .88% increase was adopted with a sunset provision, ending this portion of the TPT in 2027. Subsequently, the 0.12% TPT increase sunset in 2019, reducing the Town's current overall tax rate to 2.88%.

In 2017, the Town Council contemplated a 1% TPT increase to repay a Public Safety Personnel Retirement System (PSPRS) unfunded liability, utilizing a 20-year repayment schedule; to repay a loan from the enterprise fund; to meet the Town's fund reserve and contingency fund policy; to provide additional revenue for facility maintenance; assist with funding general operations, marketing, and economic development; to fund equipment upgrades; and to fund special projects. The Council ultimately adopted an increase in the TPT rate of 0.88%, which was less than the recommended 1% increase. The Council also added a sunset provision to the Ordinance, ending the .88% increase in 10 years. Both of these decisions had broad implications. First, it meant that the PSPRS repayment plan and adopted repayment policy was not achievable, as there were insufficient funds to repay the debt. Second the advertised scope of work to be completed by the additional revenue would not be accomplished, as a result of the decrease in funding.

Due to limited resources over many years, the Town has not been able to fund needed community projects identified in the Town's Corporate Strategic Plan, the Capital Improvement Plan, the Drainage Master Plan, the Transportation Study, and the Pavement Management Report. Nor has the Town been able to keep up with needed maintenance or replacement costs associated with its facilities and infrastructure. In FY 2022-23, the Town's Total General Operating Revenues totaled \$28,776,111, while the operating expenses were \$28,021,004. That only leaves approximately \$750,000 a year for community and capital improvement projects that are expected to exceed \$400 Million over the next 10 years.

Governmental financial operations, including the financing of very large capital infrastructure projects, constructed on behalf of an entire community, are uniquely different from the private sector or personal financing. Most communities across the United States have long used debt financing, in the form of government issued bonds, to pay for these large expenditures. Said another way, annual municipal revenues, in most cities and towns, are insufficient to preserve existing infrastructure or build new infrastructure, when needed. While the Town of Payson has issued bonds in the past, it has primarily relied upon "pay-as-you-go" financing to fund public projects. This approach, has inhibited the delivery of a number of community priority projects reflected in the Town's Corporate Strategic Plan, Capital Improvement Plan, the Transportation Study, Pavement Management Report, Drainage Master Plan, etc. It has also contributed to the current poor condition of its existing facilities and infrastructure.

In 2023, the Town Council appointed a Capital Improvement Project Citizen Advisory Committee (CIPCAC) to gain knowledge and formally engage the community to assist the Council in determining what projects citizens want to complete, in what order, and evaluate designated funding strategies. The decision to create and appoint this citizen-based committee came following 3 years of focused strategic planning on the part of the Town Council. After months of public meetings and community input, CIPCAC made several recommendations to the Town Council, including removing the sunset provision within Ordinance 888, in order to maintain the Town's existing revenue sources. Additionally, CIPCAC recommended that the Council institute a 1% increase to the Town's Transaction Privilege Tax rate, to generate revenue sufficient to allow the Town to utilize excise tax backed bonds, to fund selected public improvements, as well as ongoing operation and maintenance costs for those improvements. In addition, the increase would help fund some deferred maintenance items for the existing public safety facilities. This type of debt financing would allow needed infrastructure to be delivered quickly and spread the cost of the infrastructure over the useful life of the asset. By issuing long-term debt for major public infrastructure projects that have a long service life, governments can increase equity between generations, with minimal impact to the annual operating budget. This means that the people most likely to use and benefit from the facility or infrastructure are also paying for their proportional share of the cost of the asset.

The Town's Capital Improvement Plan establishes present and future infrastructure and equipment needs over the next 10 years. It includes projects highlighted in the Corporate Strategic Plan as well as specific needs, by department. Examples include, the replacement of fleet vehicles, like police cars and fire trucks; turf and sports court within parks; street extensions, street reconstruction, and routine repairs and maintenance. Excluding Water Enterprise capital needs, the Town's anticipated capital needs over the next ten years are estimated at \$402,338,016. Detailed Capital Improvement Plan information can be found on the Town's website at: Multi-Year Plan | Town of Payson FY23-24 Budget Book (cleargov.com).

The projects recommended by the Capital Improvement Project Citizen Advisory Committee (CIPCAC), to be funded by an excise tax bond include:

•	Indoor Aquatic/Recreation Center	\$29 million
•	Public Safety Facilities Deferred Maintenance	\$3 million
•	Event Center – Site Improvement Plan	\$6 Million
•	Rumsey Park Drainage	\$2.3 Million
•	Rumsey Park Improvements	\$2.5 Million
•	American Gulch Improvements	\$9 Million

Upon receiving the CIPCAC recommendation, the Town Council added the following two projects:

• PATS Trail Improvements

\$0.5 Million

• Pavement Maintenance

\$2 Million

In an effort to enable the Council to consider issuing bonds for the stated capital improvements, the immediate adoption of Ordinance 963 is imperative to generate sufficient bond proceeds to fund its desired priorities. If the Council were to attempt to issue bonds in the marketplace with a portion of its existing revenue set to go away in 2027 (sunset), as a direct result of the language in Ordinance 888, investors would likely reduce the amount of available funding, or could require financing terms that would significantly increase the cost of financing for local tax payers, or may choose not to offer financing at all. Below is a summary of the reasons the immediate implementation of Ordinance 963 is warranted.

Why Immediate Implementation of the Ordinance is Warranted

Pursuant to A.R.S. § 19-142 a Town Council Ordinance or Resolution is subject to referendum, as described above, and is not operative until thirty days after its passage. The council has set its agenda to consider a 1% TPT tax rate increase at the February 6th Special Meeting, appropriate notices have been provided to the community, as required by A.R.S. § 9-499.15, which says a 60-day public notice/comment period is required for any change or new fee or tax. With respect to the passage of a new Transaction and Privilege Tax (TPT) rate, the Arizona Department of Revenue further requires an additional 60 days to implement a new tax rate. The effect of not implementing either of these ordinances immediately is that it would take at least 5 months to approve such an increase, before it could take effect. If you were to consider the Council's calendar, the next available meeting is not until January 10th, adding to and further delaying the implementation of any Council action(s).

Town Council is currently funding design and engineering services related to the construction of certain capital facilities projects, including projects related to public safety, parks and recreation, transportation, trails, and efficient governmental administration. These projects are necessary for the immediate preservation of the peace, health or safety of the Town. The Town will need to finance these projects with short-term or long-term obligations, which may include bonds, installment purchase contracts, lease-purchase contracts, or otherwise, and these obligations may be purchased by investors or financial institutions at market rates. These financial transactions are all subject to the current volatile financial markets and fluctuating interest rate terms. Any delay in the Town's ability to act could prevent the Town Council from obtaining favorable financing terms, on behalf of the community and the projects under consideration. Therefore, in order to put the Town in a position to obtain the best financing terms for the Town and its residents, it is warranted to include an emergency clause in Ordinance 963, which is the first step in preparing long term financing for the described projects and to be able to consider establishing a new TPT rate, on February 6, 2024.

Other factors for consideration:

- The sooner this decision is solidified the Town will be in a position to begin the solicitation of capital program management services & resources. If there is a waiting period, this action will have to be delayed until the end of such waiting period, before these sorts of financial commitments can be made. Because we are in the process of designing some of these projects now and other have not been able to begin design or planning, because of limited staffing, the resources are needed immediately to ensure the projects can be successfully designed and constructed in a timely manner and in compliance with the terms and covenants of future bonds.
- Prior Notice and Public Input The Council first began discussing these capital priority projects, funded by debt financing, about 3 years ago (January will be 3 years). Over this period of time there have been more than 20 or so opportunities for the public to hear Council discussion and/or participate in public meetings and discussions about this topic, between council strategic planning work sessions, budget work sessions, regular Council Meetings, and the CIPCAC public process the council created. Requiring a second public hearing to adopt the ordinance would seem to be irrelevant when looking at the history of public

involvement opportunities and make the possible costs associated with delay seem unreasonable.

- Public safety buildings the deferred maintenance conditions needing to be addressed within the public safety facilities are things that could make our buildings uninhabitable for operations. Meaning, the Town could be forced to move public safety operations out of an existing facility and find some other place for them to operate. As an example, many of the current AC units in place are several years beyond their usable life. If these units were to fail simultaneously, it would cause us to have to shut down the facility, at least during the summer months. These are the kind of issues that make the use of "immediate implementation" a very reasonable decision.
- Town Code Section 30.54 Effective Date of Ordinance this section addresses and allows for the immediate implementation of an Ordinance or Resolution, when these conditions have been met. The Code sections states in part,

"No ordinance or franchise shall become operative until 30 days after its passage by the Council and approval by the Mayor, except measures necessary for the immediate preservation of the peace, health or safety of the town, but such an emergency measure shall not become immediately operative unless it states in a separate section the reason why it is necessary that it should become immediately operative, and unless it is approved by the affirmative vote of three-fourths of all the members elected to the Council, taken by ayes and nays. A resolution becomes effective upon adoption unless otherwise provided for in the resolution".

The summation of these factors indicates that the immediate implementation of Ordinance 963, meets all of the requirements and is necessary for the preservation of the peace, health or safety of the Town of Payson.

FINANCIAL IMPACT & FUNDING SOURCE: Adoption of Ordinance 963 would retain the current TPT tax rate in perpetuity, by ending the sunset provision in Ordinance 888.

SUGGESTED MOTION: I move to approve Ordinance No.963 removing the sunset provision from Ordinance 888.