


Staff Report

City of Manhattan Beach

TO: Honorable Mayor Ward and Members of the City Council

THROUGH: Richard Thompson, Interim City Manager 

FROM: Bruce Moe, Finance Director 

DATE: August 3, 2010

SUBJECT: Consideration of Authorization for the Finance Subcommittee and Staff to Negotiate Terms and Conditions and Execute a Contract with DeWitt Petroleum Establishing a Sales Tax Sharing Agreement

RECOMMENDATION:

Staff recommends that the City Council authorize the Finance Subcommittee and staff to negotiate and execute the final terms and conditions of a sales tax sharing agreement with DeWitt Petroleum.

FISCAL IMPLICATION:

Preliminary estimates are that a sales tax sharing agreement with DeWitt Petroleum would generate approximately \$350,000 per year.

BACKGROUND:

The City's second largest General Fund revenue source is sales tax, which accounts for \$7.48 million in estimated revenue for FY 2010-2011. The vast majority of our sales tax is generated from retail sales that take place within the boundaries of Manhattan Beach. State law provides for the return of 1% of the value of the retail sale to the jurisdiction where the sale takes place (e.g., for every \$100 in retail sales in Manhattan Beach, we receive \$1). This law is generally referred to as the Bradley-Burns sales tax.

Recently, a representative of DeWitt Petroleum met with City staff to discuss the possibility of permanently locating a sales office in Manhattan Beach in exchange for receiving a rebate of a portion of the sales tax generated by their business (DeWitt has temporarily located their sales offices in Manhattan Beach while they search for a permanent location). DeWitt operates what is commonly referred to as a card lock fuel dispensing system for fleet users. Under these arrangements, fleet users negotiate pricing for fuel with the operator (DeWitt) in advance, and then are charged that pre-determined amount for the purchase of fuel which may occur at any number of locations and jurisdictions. State Board of Equalization rules state that the Bradley-Burns sales tax credit applies to the sales office (where the prices were negotiated), not the location in which the actual fuel is dispensed. Although they are considering other locations, they have expressed an interest in Manhattan Beach for that permanent location. However, the final location for their

operation depends upon what type of sales tax sharing arrangement can be negotiated with the jurisdiction.

The Finance Subcommittee reviewed this arrangement at their July 6, 2010 meeting, and is interested in pursuing an agreement. Since then, staff has negotiated some preliminary terms and conditions with DeWitt which will provide the basis for further contract negotiations if Council approves proceeding with the concept.

DISCUSSION:

Before temporarily locating in Manhattan Beach in April 2010, DeWitt Petroleum’s main sales office was located in South El Monte. While they did not have a sales tax arrangement with that city, as they look for a new headquarters, a sales tax sharing agreement is a key driver in their decision of where to locate. The most recent offer we have from DeWitt has a tiered split for share of the sales tax as follows:

Annual Taxable Sales			
<u>From</u>	<u>To</u>	<u>DeWitt Share</u>	<u>City Share</u>
\$ -	\$ 39,999,999	0%	100%
\$ 40,000,000	\$ 59,999,999	35%	65%
\$ 60,000,000	\$ 79,999,999	50%	50%
\$ 80,000,000+		65%	35%

The final split will be determined through the negotiations process. If we were to have an agreement under these terms we estimate net City revenues of approximately \$350,000 per year. Other terms to be negotiated include the length of the agreement (expected to be twenty years) with options to extend and appropriate termination clauses. The City Attorney has already been involved and will approve as-to-form the final agreement.

While entering into a sharing agreement will be beneficial, and will generate needed revenues, there is a potential issue with other sales tax generating entities in town which may seek similar agreements. However, staff believes that this arrangement is unique in that typically sales offices are transient in nature, but by sharing revenues we are able to lock in a long term commitment for DeWitt to locate in Manhattan Beach that will provide stability in this new revenue source. Additionally, this is distinctly different from other retailers in that the impacts on city services associated with the business (a sales office with 10-15 people) compared to the amount of revenue generated, are much less than we would experience from typical large volume retail sales tax generator that places demands for our services (Police, Community Development, etc.).

While final contract terms are yet to be negotiated, staff recommends that the City Council authorize the Finance Subcommittee and staff to negotiate and execute an agreement without further Council action. Staff will report back to the Council on the final outcome.