



Sultan City Council
319 Main Street
Sultan, WA 98294

Mayor Tolson and Council,

Thank you for the opportunity to comment on draft ordinance 907-06. I am writing to you today on the behalf of over 2400 REALTOR® members in Snohomish County, many of whom live, or represent property owners in Sultan. We have three major concerns about the proposed expansion of the Real Estate Excise Tax (REET) in Sultan.

Lack of accurate public notice

As you know transparency is essential to any legislative body. Part of that transparency involves accurately informing the public of the actions that any legislative body is considering. My first look at draft ordinance 907-06 came in the Sultan City Council meeting packet distributed for the January 27th meeting. That packet contained an “agenda item cover sheet” which contained a description of the ordinance along with a draft copy of the ordinance. I believe that this was the public’s first official notice of a possible expansion of REET. Unfortunately those 2 documents contradict one another. The cover sheet (attachment 1) describes ordinance 907-06 as “repealing one-half percent of sales and use tax and increasing the Real Estate Excise Tax by .25 percent.” This clearly contradicts the draft ordinance (att. 2) which states “increasing the additional Real Estate Excise Tax to one-half of one percent...” Clearly this is confusing at best. We see the results of that confusion in an article for the Monroe Monitor by James Good (att. 3) which states “The proposed ordinances include repealing one half percent of sales and

use tax and increasing the real estate excise tax *by one fourth percent.*” Finally the public notice posted on the City of Sultan website at 9:10 PM on Sunday, February 5th (att. 4) states: “Ordinance 907-06 which will repeal the additional sales and use tax imposed by Section 3.49.020B of the Sultan Municipal code and increase the real estate excise tax to one-half of one percent”. (All Emphasis added)

Obviously neither public notice is accurate. The first notice is obviously incorrect as this ordinance would increase the Real Estate Excise Tax by .5%. The second though less inaccurate is just as wrong. Clearly this ordinance does not increase the real estate excise tax to .5%- it increases it to 2.28%. Perhaps the author of this notice meant to say that this ordinance would increase the REET by .5%, which is accurate. Unfortunately there is an enormous difference between what was actually written, and the intent. We believe this may constitute a violation of the Open Meetings Act (RCW 42.30) which requires the city to accurately inform its citizens of actions under consideration. Because the public has not been accurately informed I would ask that at the very least you postpone a vote on this ordinance until such time as the public is accurately informed as to the true intent of this ordinance.

Shortsighted tax policy

Our most pressing concern about this ordinance is the apparent lack of study and long term thinking behind it. While the “Prothman Report” did look at how this change would have impacted the City of Sultan last year they overlooked several important pieces of information.

First, the calculations used in this report only looked at the impact this ordinance would have had in 2005. Beyond raising questions regarding the methodology of this report, it is even more troubling when you consider that 2005 was the best year in the history of Washington State and the City of Sultan for Real Estate Excise Tax collections. This report takes one look at a record year of REET and determines that this can again be duplicated estimating a profit for the City of Sultan of \$118,530.00. This number has

never once been duplicated, yet the Prothman Report makes no mention of this. In fact, if you plugged the formula used by the Prothman Report into the amount of REET and Sales Tax the city of Sultan has brought in since 1995, you would find that the city would have actually lost money 6 of those years (att. 5, 6). The problem with the Real Estate Excise Tax is that it fluctuates wildly from year to year while the Sales and Use tax remains fairly constant from year to year (att. 7, 8) this is why the sales tax is a much better funding mechanism for local governments. Any reputable study would have looked at the impact of this ordinance beyond one year. Because the year in question was such a remarkable year for the Real Estate Excise Tax, one that is unlikely to be duplicated in the near future, I would ask the council to look a little deeper at the implications that this Ordinance could have on the city.

It has been suggested by some that this may only be a temporary tax for the City of Sultan. The message that this could send to the residents of Sultan is troublesome. Essentially this Ordinance is a massive change in tax policy for just a couple of years until the City is once again financially stable. I believe that not only is this shortsighted, it is a dangerous precedent. What this ordinance will in fact do is encourage residents to not sell their houses over the next several years because the City is going to take twice as much of their equity as they normally would. That in turn will stall growth in Sultan, which will discourage retailers from moving into the City. Remember retailers count "rooftops" before they commit to move. Any policy that discourages people from moving to Sultan will in the end discourage the very thing you are trying to bring to the City- a retail tax base.

Legislative Intent

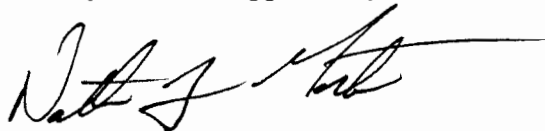
The RCW that Sultan is looking to take advantage of was originally passed to help Oregon border cities survive on something other than sales tax. In the 15-year history of this allowance only 2 jurisdictions have used this allowance. Both Asotin and Clarkston have used this ordinance to raise their local REET to .75% (for a total REET of 2.03%) this is still a full .25% below what this ordinance would do for Sultan. This ordinance

absolutely violates the legislative intent of the allowance. Sultan is not a border city, and would in fact be raising their REET higher than any border city currently has.

Should this ordinance pass it will give Sultan the distinction of being the city with the Highest Sellers Real Estate Excise Tax in Washington, which has the second highest Real Estate Excise Tax in the nation (Att 9). Only Friday Harbor, which has a buyers excise tax of 1% would have a higher overall REET than Sultan. I do not believe that this is the distinction that the City of Sultan wishes to have. Currently Sultan is one of the last bastions of affordable housing in Snohomish County. This ordinance would undo that in one fell swoop.

We ask the Council to carefully consider the widespread and long-term implications that this ordinance will have. Not only has there been a lack of accurate public notice regarding this proposal. It is based on an incomplete study that only examines the impact of this ordinance for 2005-and that one year happened to contain a record collection of Real Estate Excise Tax. We believe it violates the legislative intent of RCW 82.46.010 since Sultan is not a border city. Finally Sultan will be known as the city with the highest sellers REET in the state. This will certainly negatively affect all housing transactions in Sultan which will in turn further turn off retailers and keep Sultan from creating a stable sales tax base. We ask that you vote no on Ordinance 907-06.

Thank you for the opportunity to comment.

A handwritten signature in black ink, appearing to read "Nathan Gorton", with a long horizontal flourish extending to the right.

Nathan Gorton

Government Affairs Director

SULTAN CITY COUNCIL

AGENDA ITEM COVER SHEET

ITEM NO: Action A-7

DATE: January 25, 2005

SUBJECT: Set Public Hearing on proposed Ordinance Number 907-06 repealing one half percent of sales and use tax and increasing the Real Estate Excise tax by .25 percent.

CONTACT PERSON: City Attorney, Thom Graafstra and Rick Cisar, City Administrator

SUMMARY: Staff has prepared Ordinance 907-06 to implement the recommendations of the Prothman Organizational Assessment Report to provide for additional revenues to maintain our current levels of service. The Ordinance will exchange one half percent of our existing sales tax in exchange for collecting an additional .25 percent (increased to the full one-half of one percent) of the selling price of a home or property within the City. The estimated increase in revenues from this exchange is \$118,530.00. (Pages 24 and 25 of the Prothman Report)

If approved, implementation of the exchange can occur after required Notice to the Department of Revenue (75- days) and start of the next quarter which will be on July 1, 2006 (third quarter).

FISCAL IMPACT: Staff time in preparing and processing the Ordinance.

RECOMMENDED ACTION: Set requested Public Hearing on February 8, 2006 at 6:00 p.m. or as soon thereafter to consider the proposed Sales Tax –Real Estate Excise Tax (REET) Exchange.

COUNCIL ACTION:

DATE:

ORDINANCE NO. 907-06

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON REPEALING THE ADDITIONAL SALES AND USE TAX IMPOSED BY SECTION 3.48.020 B OF THE SULTAN MUNICIPAL CODE AND INCREASING THE ADDITIONAL REAL ESTATE EXCISE TAX TO ONE-HALF OF ONE PERCENT BY AMENDING SECTION 3.51.010 SULTAN MUNICIPAL CODE.

It is hereby ordained by the City Council of the City of Sultan, Washington as follows:

Section 1. Section 3.48.020 B Sultan Municipal Code is hereby repealed.

Section 2. Section 3.51.010 Sultan Municipal Code is hereby amended to read as follows:

3.51.010 Imposition of the real estate excise tax

In lieu of imposing the tax authorized by RCW 82.14.030 (2), there is imposed an additional tax of one-half of one percent of the selling price of each sale of real property within the corporate limits of this city.

Section 3. This ordinance shall be subject to a referendum procedure. Any referendum petition to repeal this ordinance or alter the rates of the tax authorized by this ordinance shall be filed with the City Clerk within seven days of passage of this ordinance. The City Clerk within ten days shall then confer with the petitioner concerning form and style of the petition, issue an identification number for the petition, and write a ballot title for the measure. The ballot title shall be posed as a question so that an affirmative answer to the question and an affirmative vote on the measure will result in the real estate excise tax rate increase and the sales and use tax rate decrease being imposed, and a negative answer to the question and a negative vote on the measure will result in the real estate excise tax rate increase and the sales and use tax decrease not being imposed. The petitioner shall be notified of the identification number and ballot title within this ten-day period.

After notification, the petitioner shall have thirty days in which to secure on petition forms the signatures of not less than fifteen percent of the registered voters of the city, and to file the signed petitions with the City Clerk. Each petition form shall contain the ballot title and the full text of the measure to be referred. The City Clerk shall verify the sufficiency of the signatures on the petitions. If sufficient valid signatures are properly submitted, the City Clerk shall submit the referendum measure to the city voters at a general or special election held on one of the dates provided in RCW 29.13.010 as determined by the City Council. This election shall not take place later than one hundred twenty days after the signed petition has been filed with the City Clerk.

Section 4. If any section of this ordinance, or if any subsection or part shall be declared unlawful, the balance of this ordinance and of each section shall remain in full force and effect.

Section 5. Unless suspended by the filing of a referendum petition, this ordinance and the increased tax imposed shall be effective on: _____, 2006. Notice of the effective date of this ordinance will be timely given to the Department of Revenue and the Snohomish County Treasurer.

PASSED by the City Council and APPROVED by the Mayor this ____ day of _____, 2006.

CITY OF SULTAN

By _____
BEN TOLSON, Mayor

ATTEST:

By _____
LAURA KOENIG, City Clerk

Approved as to form:

By _____
THOM H. GRAAESTRA, City Attorney