

ORDINANCE NO. 3438

ORDINANCE OF THE CITY OF CHULA VISTA ADDING  
CHULA VISTA MUNICIPAL CODE CHAPTER 2.63 –  
“MEASURE A” CITIZENS’ OVERSIGHT COMMITTEE

WHEREAS, on June 5, 2018, the City of Chula Vista submitted to the voters a measure to approve an ordinance enacting a one-half cent general transactions and use tax, including provisions for citizens’ oversight, separate accounting, and independent audits (“Measure A”); and

WHEREAS, the voters approved the passage of Measure A, thereby adopting Ordinance No. 3415 (“Ordinance 3415”), enacting the general transactions and use tax and requiring the implementation of the oversight, accounting and audit provisions; and

WHEREAS, Ordinance 3415 specifically required the establishment of a Citizens’ Oversight Committee (“COC”), by ordinance, no later than 150 days following the date of the election at which Measure A is approved by the voters; and

WHEREAS, Ordinance 3415 provided that the COC would function to: (i) consider the annual Finance Department report on Measure A revenues and expenditures; (ii) review and report on compliance with the terms of Ordinance 3415 and the City Council Intended Public Safety Expenditure Plan; (iii) and review and report on each year’s spending plan for Measure A revenues; and

WHEREAS, Ordinance 3415 also set forth the following requirements for the COC members: (i) the members are to be appointed by the City Council in accordance with existing City policies and (ii) they shall conduct the meetings in accordance with the Ralph M. Brown Act; and

WHEREAS, Ordinance 3415 also set forth the following regarding the COC: (i) the COC may be disbanded following the implementation of “Phase I” Critical Needs, as reported in the Intended Public Safety Expenditure Plan and (ii) if the City Council elects to disband the COC, the City’s Growth Management Oversight Commission, or an alternative citizens’ group or committee designated by the City Council, shall be responsible for reporting to the City Council, in a manner determined by the City Council, regarding the collections and expenditure of Measure A Revenues and the resulting impacts on public safety; and

WHEREAS, in accordance with Measure A and Ordinance 3415 (codified as Chula Vista Municipal Code Chapter 3.34), City staff has prepared a draft ordinance to add Chapter 2.63 to the Chula Vista Municipal Code, establishing rules and procedures for the Citizens’ Oversight Committee.

NOW, THEREFORE, the City Council of the City of Chula Vista does ordain as follows:

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**Section I.** That Chapter 2.63 is hereby added to the Chula Vista Municipal Code, to read as follows:

Chapter 2.63  
“MEASURE A” CITIZENS’ OVERSIGHT COMMITTEE

Sections:

- 2.63.010 Creation.
- 2.63.020 Function.
- 2.63.030 Specific Duties.
- 2.63.040 Limits on Authority
- 2.63.050 Composition; Qualifications; Nomination.
- 2.63.060 City Council Appointment.
- 2.63.070 Terms; Vacancies.
- 2.63.080 Meeting Schedule.
- 2.63.090 Operating Rules and Procedures
- 2.63.100 Staff Support.
- 2.63.110 Dissolution date.

**2.63.010 Creation.**

There is hereby created the “Measure A Citizens’ Oversight Committee” (the “COC”). The COC is created for the purpose of providing citizens’ oversight in connection with expenditures of tax revenues generated by Measure A. Measure A is a one-half cent general transactions and use tax approved by the voters on June 5, 2018. Measure A is codified as CVMC Chapter 3.34. To the extent of any inconsistency between this ordinance and Measure A, the terms of Measure A shall govern.

**2.63.020 Function.**

The function of the COC is to review and report on City compliance with the provisions of Measure A, particularly with respect to the City’s accounting and expenditure of Measure A revenues.

**2.63.030 Specific Duties.**

The specific duties of the COC are as follows:

- A. Review and comment on each year’s: (1) “Finance Department Report” (as defined in CVMC Section 3.34.160.A); (2) “Measure A Spending Plan” (as defined in CVMC Section 3.34.160.B); and (3) Auditor Report (as described in CVMC Section 3.34.160.C).
- B. Make determinations as necessary and appropriate regarding City compliance with Measure A requirements.

C. Work with City staff to identify and apply “best practices” for tracking and reporting on Measure A revenues and expenditures relative to other Public Safety department revenues and expenditures.

D. Prepare an annual report regarding subsection A, B and C above, for presentation to the City Council at a public meeting.

**2.63.040 Limits on Authority.**

Per Charter Section 600, the COC shall have no authority to direct the conduct of any department. The COC is advisory in nature, and as such shall have no authority to approve, disapprove or prevent any City action.

**2.63.050 Composition; Qualifications; Nomination.**

A. Members. The COC shall be comprised of eleven (11) members, each with equal rights and standing to act and vote on COC matters.

B. Qualifications Applicable to All Members. Per Charter Section 602(d), all COC members must be “qualified electors” of the City. A “qualified elector” of the City is a City resident that is qualified and registered to vote as a City resident. COC members must be “qualified electors” at the time they apply and must maintain such status throughout their tenure.

C. Designated Members. Seven of the total eleven (11) COC members shall be nominated, apply and serve as “designated members.” “Designated members” shall be nominated, one each, by the following nominating authorities (each a “Nominating Authority, collectively the “Nominating Authorities”), subject to the additional membership qualifications, if any, specified for each:

- (1) Chula Vista Chamber of Commerce; nominee(s) must be a member of the Chamber;
- (2) Chula Vista Police Officers Association (POA); nominee(s) must be an active member of this association;
- (3) Chula Vista International Association of Fire Fighters (IAFF); nominee(s) must be an active member of this association;
- (4) Chula Vista Growth Management Oversight Commission; nominee(s) must be from this commission;
- (5) Association of Chula Vista Employee (ACE); nominee(s) must be an active member of this association.
- (6) Chula Vista Fire Chief
- (7) Chula Vista Police Chief

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Designated members shall be selected for nomination by the Nominating Authorities in accordance with policies and procedures that each Nominating Authority establishes for itself. Up to three nominees may be presented for City Council consideration in accordance with the appointment process set forth in Section 2.63.060.A, below. If any of the listed Nominating Authorities decline to exercise their nominating authority in a timely fashion, or if any ceases to function or exist, that party's nominating authority shall pass to a substantially similar organization selected by the City Council.

D. At-Large Members. Four of the total eleven (11) COC members shall apply and serve as representatives of the City "at-large." "At-large members" shall be comprised of one resident from each of the four City Council districts. Each must maintain his/her district residency throughout his/her tenure. At-large members shall apply to and be appointed by the City Council in accordance with the process set forth in Section 2.63.060.B, below. If re-districting occurs such that one or more at-large member no longer qualifies for his/her assigned district, he/she shall nonetheless be entitled to serve out the remainder of his/her term, with a qualified replacement to be appointed and seated for the succeeding term.

#### **2.63.060 City Council Appointment.**

A. Designated Members. Designated members shall be appointed by the City Council as follows: Nominating Authorities shall submit the names and contact information for their nominee(s) ("Designated Nominees") to the City Clerk on a form prescribed by the City Clerk. The City Clerk shall provide the Designated Nominees with instructions to complete and submit applications to the City Clerk within a specified time period. Completed applications timely received by the City Clerk shall be forwarded to the City Council. The City Council shall consider all applications received from the City Clerk and provide each nominated applicant an opportunity for an interview at a publicly noticed meeting. If a Nominating Authority presents the City Council with two or three nominees for consideration, and those nominees properly apply, the City Council shall make its appointment by choosing among the two or three nominees presented. If a Nominating Authority presents the City Council with only one nominee, the City Council may reject such nomination by majority vote and request an alternative submittal. Once rejected, a nominee may not be re-submitted for the term at issue, but may be submitted for consideration for future terms.

B. At-large Members. At-large members shall be appointed in accordance with the procedures set forth in CVMC Section 2.53.

C. Administration. The City Clerk shall administer the appointment process set forth above, including the development and publication of all necessary forms. The City Clerk shall have the authority to develop additional administrative policies and procedures to the extent necessary to implement the terms of this Chapter.

#### **2.63.070 Terms.**

A. In General. Initial terms of office shall be determined in accordance with City Charter Section 602(b). The initial COC members shall be appointed and convene in accordance with CVMC 3.34.160.D, in time to consider and provide input on the Intended Public Safety Expenditure Plan.

B. Special Rules for Designated Members. Special rules shall apply to COC members that are nominated and qualified through their membership on the board of their Nominating Authority. For such members (hereafter, “Board Qualified COC Members”), if the underlying term on the board for their Nominating Authority expires, they may, nonetheless, continue to serve on the COC until the end of their COC term, provided that they receive the approval of their Nominating Authority board to do so. Otherwise, Board Qualified COC Member terms shall be co-terminus with their terms on their underlying Nominating Authority boards. The Nominating Authority shall notify the City Clerk in writing prior to the end of the Board Qualified COC Member’s term if the Nominating Authority does not authorize their seated member to continue and desires to submit a new nominee or nominees for consideration.

**2.63.080 Meeting Frequency.**

In accordance with CVMC Section 2.25.200, the COC shall set the date, time and location of its regular meetings by written resolution and may change its regular meeting day, time or location by written resolution. The COC shall meet as often as necessary to accomplish the objectives of Chapter 3.34 and this Chapter. It is estimated that the COC will need to meet a minimum of four times per year to fulfill its assigned duties.

**2.63.090 Operating Rules and Procedures.**

Except as expressly provided herein, or as otherwise necessary to implement this Chapter or the requirements of Measure A, the rules governing City boards and commissions generally, as set forth in CVMC Chapter 2.25, shall govern the COC. The COC shall also operate in accordance with the Ralph M. Brown Act; this includes requirements that meetings be noticed in advance and be held in public. The COC may also adopt additional rules and procedures in the form of bylaws as provided in CVMC Section 2.25.170. Any such bylaws must be consistent with terms of this Chapter and all other applicable laws.

**2.63.100 Staff Support.**

The City Manager, and/or his/her designee(s), shall serve as the City staff liaison to the COC and shall provide it with administrative support, including designation of a COC staff secretary. The City Attorney, and/or his/her designee(s), shall provide the COC with legal counsel and support.

**2.63.110 Dissolution Date.**

The COC may be disbanded following the implementation of “Phase I” Critical Needs, as reported in the Intended Public Safety Expenditure Plan and (ii) if the City Council elects to disband the COC, the City’s Growth Management Oversight Commission, or an alternative citizens’ group or committee designated by the City Council, shall be responsible for reporting to the City Council, in a manner determined by the City Council, regarding the collections and expenditure of Measure A Revenues and the resulting impacts on public safety.

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## **Section II. Severability**

If any portion of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid, unenforceable or unconstitutional, by a court of competent jurisdiction, that portion shall be deemed severable, and such invalidity, unenforceability or unconstitutionality shall not affect the validity or enforceability of the remaining portions of the Ordinance, or its application to any other person or circumstance. The City Council of the City of Chula Vista hereby declares that it would have adopted each section, sentence, clause or phrase of this Ordinance, irrespective of the fact that any one or more other sections, sentences, clauses or phrases of the Ordinance be declared invalid, unenforceable or unconstitutional.

## **Section III. Construction**

The City Council of the City of Chula Vista intends this Ordinance to supplement, not to contradict, the City Charter, and applicable state and federal law. This Ordinance shall be construed in light of that intent.

## **Section IV. Effective Date**

This Ordinance shall take effect and be in force on the thirtieth day after its final passage.

## **Section V. Publication**

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published or posted according to law.


[SIGNATURES ON FOLLOWING PAGE]

Presented by

DocuSigned by:  
  
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Gary Halbert  
City Manager

Approved as to form by

DocuSigned by:  
  
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Glen R. Googins  
City Attorney

PASSED, APPROVED, and ADOPTED by the City Council of the City of Chula Vista, California, this 14th day of August 2018, by the following vote:

AYES: Councilmembers: Aguilar, Diaz, McCann, and Padilla

NAYS: Councilmembers: None

ABSENT: Councilmembers: Casillas Salas

DocuSigned by:  
  
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Mary Casillas Salas, Mayor

ATTEST:

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Kerry K. Bigelow, MMC, City Clerk

STATE OF CALIFORNIA     )  
COUNTY OF SAN DIEGO     )  
CITY OF CHULA VISTA     )

I, Kerry K. Bigelow, City Clerk of Chula Vista, California, do hereby certify that the foregoing Ordinance No. 3438 had its first reading at a regular meeting held on the 7th day of August 2018 and its second reading and adoption at a regular meeting of said City Council held on the 14th day of August 2018; and was duly published in summary form in accordance with the requirements of state law and the City Charter.

8/22/2018

Dated

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Kerry K. Bigelow, MMC, City Clerk