City of LOMPOC

City Council Agenda Item

City Council Meeting Date: September 17, 2019

TO: Honorable Mayor and City Council Members

FROM: Jeff Malawy, City Attorney
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James Throop, City Manager
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SUBJECT: Consideration of Adoption of Election Resolutions to Place before City Voters, at a March 3, 2020 Election Consolidated with the Statewide Primary Election, a 1% General Sales Tax Ballot Measure; Declaration of Fiscal Emergency; Call of Election; Direction for Impartial Analysis and Ballot Arguments for Measure; Appropriation of Funds to Pay for the Election

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Recommendation:

Staff recommends the City Council adopt:

1) Resolution No. 6279(19), Declaring A Fiscal Emergency Pursuant To Article XIII C Section 2(B) Of The California Constitution (Attachment 1).
   This Resolution requires an unanimous vote of the City Council to pass (California Constitution[1] article XIIIC, Section 2) and is a condition precedent to all other actions on this item;

2) Resolution No. 6280(19) (Attachment 2), which:
   a. Orders the submission to the qualified electorate of the City of Lompoc a one cent per dollar (1.0%) sales tax for General Fund Purposes at a Special Municipal Election to be held on March 3, 2020,
   b. Calls the Special Municipal Election for March 3, 2020,
   c. Requests that the County of Santa Barbara consolidate the Special Municipal Election with the Statewide Primary Election to be held on Tuesday, March 3, 2020, and directs the County Elections Department To conduct the election on the City's behalf; and
   d. Authorizes City payment for such consolidated elections services.
   City Council to give direction on ballot label language not to exceed 75 words for this resolution.

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[1] Hereafter Cal. Const.

> ***This resolution requires four "yes" votes by the City Council to pass (Gov. Code § 53724(b));*

3) Resolution No. 6281(19), directing the City Attorney to draft the impartial analysis and setting ballot arguments (Attachment 3).
    *City Council to determine whether rebuttal arguments should be authorized or not.
    **City Council to determine whether to designate up-to two councilmember authors for ballot arguments, or not;

4) Resolution No. 6282(19) appropriating funds to pay for the Special Election; and

5) Finally, if the three election resolutions are adopted, then staff recommends the City Attorney read aloud the title of the Sales Tax Ordinance at the City Council meeting, and the City Council make a motion to waive further reading of the ordinance. The title is:

> An Ordinance of the City Council of the City of Lompoc, County of Santa Barbara, State of California, Adding Chapter 3.52 to the Lompoc Municipal Code Imposing a Temporary Transactions and Use Tax to be Administered by the California Department of Tax and Fee Administration, Subject to Approval of a Majority of the Electors Voting on the Tax Measure at the Special Municipal Election to be Held on Tuesday, March 3, 2020.

Background:

The City has prided itself on years of responsive police and fire services, diverse community service, parks and library programs, street maintenance, and responsible financial decision making. However, there have been ongoing state take-ways of local funds as well as extraordinary rising costs for providing quality levels of service, increased State mandates for pension liabilities, capital improvement costs and unfunded facility maintenance projects of City assets. With these changes in State and local law, the City's existing level of services are increasingly threatened and difficult to guarantee over the long-term.

The City Council continues to set high priorities on maintaining key City services, including public safety, infrastructure and streets, park and recreational programs, all while to trying to balance these fundamental services with the City's basic operating costs. General Fund money is being allocated to continue to maintain police and fire services, streets, parks, libraries, rapid 9-1-1 emergency response times, neighborhood police patrols, and other basic community needs and City general operations. But, rising costs and costly State mandates continue to encroach upon the ability to provide even existing levels of service.

In light of the City's financial needs, a 1% general sales tax is a viable source of revenue to ensure the City can continue delivering key community services at the levels our residents expect and deserve.

The ballot measure before the City Council (the "Measure") proposes a general-use, 1% sales tax, which would be in effect for a period of no more than fifteen (15) years. The Measure must be adopted by a majority of the voters of Lompoc to take effect.

The first available date for voter consideration of the Measure is the Statewide Primary Election of March 3, 2020, which is not a general municipal election date for the City. Multiple resolutions need to be adopted to place the proposed Measure before the voters on March 3, 2020, pursuant to the requirements of Proposition 218, the California Constitution and the Government Code[2].

The proposed Measure is a general tax (and not a special tax) because the revenue generated is deposited into the general fund and is available for any general governmental purpose that the City Council shall determine appropriate. Under Proposition 218, increases and/or extensions of a general tax must be approved by a majority of voters (Cal. Const. article 13C, § 2(b)).

Discussion:

1. FISCAL EMERGENCY DECLARATION (RESOLUTION NO. 6279(19), ATTACHMENT 1).

Pursuant to Proposition 218, usually an election to impose a general tax must be consolidated with the City's regularly scheduled general municipal election, meaning when Councilmembers are on the ballot (Cal. Const. Art. 13C, § 2(b)). The City's next regular municipal election is not until November 2020.

However, the State Constitution provides that "in cases of emergency declared by a unanimous vote of the governing body," a general tax measure may be placed on a special election ballot (Cal. Const. article 13C, § 2(b)). The next special election date is March 3, 2020. To place the Measure on the March 3, 2020, ballot, the City Council must unanimously adopt facts and findings in a resolution declaring the emergency. That is proposed in Resolution No. 6279(19) (Attachment 1).

Importantly, the fiscal emergency resolution is a condition precedent to all later City Council actions under this agenda item. If the fiscal emergency resolution does not pass unanimously, then no further action can be taken to place the Measure on the ballot.

Facts and findings that support the declaration of a fiscal emergency are found in the "Whereas" clauses of Resolution No. 6279(19) (Attachment 1).

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[2] Hereafter Gov't Code.

2.   RESOLUTION CALLING FOR ELECTION, PLACING MEASURE ON BALLOT AND AUTHORIZING COUNTY CONSOLIDATION AND ADMINISTRATION OF ELECTION WITH MARCH 3, 2020, STATEWIDE PRIMARY ELECTION (RESOLUTION NO. 6280(19), ATTACHMENT 2).

After unanimous City Council approval of the declaration of a fiscal emergency, the City Council may adopt the resolution calling for the special election and requesting consolidation with the County (see Attachment 2). This resolution calling for the election and placing the Measure on the ballot requires four "yes" votes of the City Council (Cal. Const. Art. 13C, § 2(b) and Gov't Code § 53724(b); Revenue and Tax Code §7285.9).

The resolution calling for the special election shall include the text of the proposed ordinance to be considered for adoption by the voters. Attached as Exhibit "A" to Resolution No. 6280(19) is the proposed ordinance related to the Lompoc Preservation of City Services Measure. This Measure is one-cent general fund sales tax revenue measure that would be allocated for City general fund expenditures, including but not limited to public safety services, City infrastructure needs, other quality of life programs, and basic operational costs and mandates imposed upon the City. It is estimated to generate approximately $4.8 million dollars annually for a 15 year period.

Resolution No. 6280(19) shall also include the actual ballot question language to be presented to voters with respect to the Measure. Staff has prepared three "options" for the City Council to choose from with respect to the Measure's potential ballot question. The Staff-recommended options are:

<u>**Option 1**</u>

Shall the measure, known as the **LOMPOC PRESERVATION OF CITY SERVICES MEASURE**, to maintain public services, including neighborhood police patrols, firefighter staffing, gang enforcement, crime and vandalism prevention, 9-1-1 response times, street improvements, library, parks, and recreational services, homelessness and at-risk youth programs, and required operational City costs, by establishing an additional maximum one cent per dollar (1%) sales tax, ending in 15 years, and estimated to generate $4,800,000 annually, be adopted?

<u>**Option 2**</u>

Shall the measure, known as the **LOMPOC PRESERVATION OF CITY SERVICES MEASURE,** be adopted to establish an additional maximum 1% sales tax for 15 years, generating about $4,800,000 annually, to maintain City services, including: neighborhood police patrols, firefighters, gang enforcement, vandalism prevention, 9-1-1 responsiveness, street improvements, library, park services, economic stimulus, homelessness, at-risk youth reduction, operational City costs; all requiring fiscal audits and oversight?

Option 3

To provide funding to maintain Lompoc services and facilitate neighborhood safety, including: violent crime prevention and youth crime prevention; anti-gang/anti-drug programs; adding police officers/neighborhood patrols; addressing homelessness issues; fixing potholes/maintaining City streets; library and park programs; and other general City services; shall the measure, **LOMPOC PRESERVATION OF CITY SERVICES MEASURE,** for an additional maximum 1% sales tax, ending in 15 years, providing approximately $4,800,000 annually, with fiscal audits and oversight, be adopted?

The City Council may choose one of these options, or use these options as a starting point to craft ballot question language of its own. But, in choosing ballot question language to insert into Resolution No. 6280(19) (Attachment 2), the City Council must be guided by the following rules:

1) 75 words maximum (Elections Code § 9051.)
   a. Option1 above has 72 words
   b. Option 2 above has 64 words
   c. Option 3 above has 72 words;

2) Must use phrase: "Shall the measure (stating the nature thereof) be adopted?" (Elections Code § 13119(a));

3) Must include estimate of annual revenues generated (Elections Code 13119(b));

4) Must state the rate—in this case, one-cent-per-dollar, or 1% (Elections Code § 13119(b));

5) Must state the duration of tax, or "sunset" date of tax—in this case, 15 years (Elections Code § 13119(b)); and

6) The ballot question "shall be a true and impartial synopsis of the purpose of the proposed measure, and shall be in language that is neither argumentative nor likely to create prejudice for or against the measure" (Elections Code § 13119(c)).

In addition to calling the election, setting the ballot label, and submitting the Measure to the City's electorate, Resolution No. 6280(19) (Attachment 2) also proposes to direct the Santa Barbara County Registrar of Voters to consolidate the Measure's presentation to voters with the March 3, 2020, Statewide Primary Election. The City Clerk's Office requires a budget appropriation of $25,000 in Account 110CCE-534150 – Clerk – Elections – County Contract. The March 3, 2020, Primary Election has been estimated to cost the City approximately $25,000.

Year	City's Election Costs	Ballots Cast	Registered Voters	Cost per Registered Voter
2006	$10,553.86	7,151	13,676	$0.77
2008	$19,091.69	11,821	15,310	$1.25
2010	$9,852.89	8,839	14,892	$0.66
2012	$17,174.06	10,632	14,933	$1.15
2014	$11,324.00	7,623	14,506	$0.78
2016	$19,097.16	12,541	17,131	$1.11
2018	$17,258.49	10,365	17,005	$1.01

Table 1 – Costs of Previous City Elections

In order to place a ballot measure on the March 2020 ballot at this time, the Santa Barbara County Elections Office requires the following deadlines to be met:

Date	Deadline
10/24/19	Clerk of the Board Agenda deadline (City's deadline to adopt resolution placing measure on the ballot)
11/5/19	Board of Supervisors meeting
11/10/19	Publication-Notice of Election/Submit Arguments
11/12/19-12/2/19	Period for Submitting Direct Arguments
11/22/19-12/2/19	10-day Public Exam Period
11/22/19-12/2/19	Period for Submitting Rebuttal Arguments
12/2/19	Deadline for Impartial Analysis
12/3/19-12/12/19	10-day Public Exam Period
12/6/19	Board of Supervisors Direct Auditor to Prepare Fiscal Impact Statement
12/12/19	Deadline for Fiscal Impact Statement
12/13/19-12/23/19	10-day Public Exam Period
12/23/19	Election Official's Deadline for Submission of Local Measure Info to Printer

Table 2 – Elections Office Deadlines

The new tax would not begin to be collected until 110 days, and beginning of next quarter, after the election, such that collection of the new tax would start approximately July 2020, with the first revenue reaching the City in October 2020.

2. **RESOLUTION CALLING FOR CITY ATTORNEY IMPARTIAL ANALYSIS AND SETTING BALLOT ARGUMENTS (RESOLUTION NO. 6281(19), ATTACHMENT 3). POTENTIAL AUTHORIZATION OF REBUTTAL ARGUMENTS ON BALLOT.**

Assuming the above actions are approved, the City Council must also adopt a resolution (i) directing the City Attorney to draft an impartial analysis of the Measure for the ballot,

and (ii) setting priorities for written arguments on the ballot Measure. This can be found in Resolution No. 6281(19) (Attachment 3).

Whenever a municipal ballot measure is authorized, State law provides the City Council shall direct the City Attorney to prepare an impartial analysis, and State law provides for the filing of written arguments for and against a measure. A resolution setting the City Attorney's impartial analysis and preparation of ballot arguments is also requested by the Santa Barbara County Elections Department as part of their direction with respect to administering the consolidated election. The City Council may also provide for rebuttal arguments to be filed with the elections official.

By adopting Resolution No. 6281(19) (Attachment 3) the City Council is directing the City Attorney to prepare an impartial analysis of the Measure. The impartial analysis shall be filed within 15 days of its adoption or by the date set by the City Clerk for the filing of primary arguments, whichever is later.

Resolution No. 6281(19) also authorizes Members of the City Council, collectively or individually, or any individual Lompoc voter or association of Lompoc citizens, to file written arguments in favor of, or against, the Measure, and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the Measure may be submitted to the City Clerk. The City Clerk shall follow Elections Code sections 9281 through 9287 in determining the printing of all arguments in favor and against.

With regard to ballot arguments, two points bear emphasis:

1) Rebuttal arguments are not legally required. If the City Council does *not* wish to authorize rebuttal arguments on the ballot, Sections 6 and 7 of Resolution No. 6281(19) may be deleted by majority vote of the City Council.

2) In terms of ballot arguments, the City Council has the option of (i) meeting in an agendized meeting to collectively craft a ballot argument, or (ii) designating not-more-than two City Council Members to craft the ballot argument, or (ii) not designating any Council Member to craft the ballot argument, thus leaving individual Council Members the option of submitting an argument. In the event of option (iii), the City Council should know that if the City Clerk receives multiple ballot arguments from multiple Council Members, then the City Clerk would first pick only those arguments that comport with the requirements of law, and then resort to using a random method (i.e., "drawing straws") to choose among the legally-compliant arguments. If no Council Member submits an argument, then the City Clerk will select legally-compliant arguments submitted by members of the public, in order of priority listed in Elections Code 9287.

Fiscal Impact:

A 1.0% general sales tax as proposed by the Measure is estimated to generate approximately $4.8 million per year for 15 years. As the economy in Lompoc expands, there is the opportunity for this tax revenue to grow with it.

The cost to place the ballot measure on the March 2020 primary election is estimated between $20,000 and $25,000. The funding for this ballot measure will need to be from the General Fund reserves. The reserves are estimated to have a balance of approximately $1.7 million at the end of FY 2019-20. Adoption of Resolution No. 6282(19) (Attachment 4) appropriates those funds for that use.

Conclusion:

Adoption of Resolution Nos. 6279(19), 6280(19), and 6281(19), will facilitate allowing voters to decide on the proposed sales tax, setting the measure for the March 3, 2020, ballot, ordering an impartial analysis by the City Attorney, and providing for the submittal of ballot arguments. In addition, adoption of Resolution No. 6282(19) will appropriate funds for payment of the election.

Notably, Resolution 6279(19) declaring fiscal emergency requires a unanimous vote of the City Council and is a condition precedent to all other actions on the Measure. Then, at least four yes votes are needed to place the ordinance on the ballot. The ordinance would not be adopted until after certified approval by a majority vote of the qualified electorate of the City.

Respectfully submitted,

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Jeff Malawy, City Attorney

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James Throop, City Manager

Attachments: 1) Resolution No. 6279(19)
                         2) Resolution No. 6280(19)
                         3) Resolution No. 6281(19)
                         4) Resolution No. 6282(19)