



City Council Agenda Item

City Council Meeting Date: May 3, 2022

TO: Honorable Mayor and Members of the City Council

FROM: Jeff Malawy, City Attorney
jmalawy@awattorneys.com

SUBJECT: Discussion and Direction Regarding Possible Changes to the City's Transient Occupancy Tax

Recommendation:

Staff recommends the City Council:

- 1) Consider and provide direction to staff regarding a potential ballot measure to increase the City's Transient Occupancy Tax (TOT), decide on a percentage tax amount to propose in the ballot measure, and decide whether the funds raised should be restricted for a particular purpose;
- 2) Consider and provide direction on whether to include in the ballot measure a provision allowing hoteliers to retain a percentage of their TOT collections to compensate the hotelier for the cost associated with processing and collecting the TOT;
- 3) Select an election date, and direct staff to prepare the tax measure and necessary resolutions for the City Council to consider at a future meeting to place the measure on the ballot; or
- 4) Provide alternative direction.

Background:

At the July 6, 2021, City Council meeting, the City Council requested a future agenda item to review and discuss potential changes to the City's Transient Occupancy Tax (TOT), including specifically a 1% increase in TOT, which would be restricted for public safety uses only, while allowing hoteliers a discount to cover their costs of collecting the TOT for the City.

Discussion:

TOT (also known as a Bed Tax) is charged as a percentage of a room rate to persons who occupy a hotel, motel, inn or other form of transient lodgings for 30 days or less. The tax is collected by the lodging operator and is remitted to the city by the lodging operator. It is a revenue that has been used to fund city services throughout California.

Other communities in the region have established tax rates ranging from 10% to a high of 13.5% (San Luis Obispo County). Lompoc, currently collects 10% for TOT and 3% for the Tourism Improvement District (TBID), for a total of 13%. San Luis Obispo County has also imposed a Tourism Marketing District (TMD) to help promote tourism within the County. The graph below shows a comparison of local tax rates from other local communities:

| City | TOT | TMD | TBID | Total |
|-----------------|------------|-----------|-----------|--------------|
| Santa Maria | 10% | 0% | 0% | 10.0% |
| * Santa Barbara | 12% | 0% | 0.5% | 12.5% |
| Lompoc | 10% | 0% | 3% | 13.0% |
| Arroyo Grande | 10% | 1.5% | 2% | 13.5% |
| Paso Robles | 10% | 1.5% | 2% | 13.5% |
| Pismo Beach | 11% | 1.5% | 1% | 13.5% |
| San Luis Obispo | 10% | 1.5% | 2% | 13.5% |

Santa Barbara TBID = \$1 Per Occupied Unit (Appox .5%)

Lompoc is budgeted to receive \$2.3 Million in TOT revenues during Fiscal Year (FY) 2021-22. If voters authorize an increase of 1%, an additional \$230,000 in revenue could be realized by the City in the first year of the new TOT rate. If the voters also authorized the hoteliers to retain a percentage of the TOT they collect, to compensate the hoteliers for the cost of processing and collecting the TOT for the City (such as credit card processing fees hoteliers are charged on TOT payments if the hotel customer pays by credit card), then the City would reduce the expected TOT revenues by \$23,000 for every percentage point.

Any increase in the City's TOT tax must be approved by the voters at an election. If the tax revenues are restricted for a particular purpose, such as Public Safety (Police and Fire), then the tax is a special tax that requires a two-thirds vote of the electorate. If the tax revenues are not restricted, then it is a general tax and would only require a majority vote of the electorate voting at the election. A special tax election can be held on any election date (e.g. November 2022, March 2023, or November 2023). A general tax election must be held on the City's general municipal election date (the next of which are November 2022 and November 2024), unless the City Council votes unanimously to hold it on another date due to fiscal emergency.

In order to place the measure on the November 2022 ballot, the County has requested to receive our adopted ballot resolutions and measure text by June 30, 2022. That means the City Council should aim to consider and adopt those resolutions on or before the June 21, 2022, City Council meeting. The absolute latest legally allowable date for the County to receive our ballot resolutions is August 4, 2022, though the County prefers to use the earlier June 30 date.

Fiscal Impact:

If the City were to adopt an increase to the TOT rate that is higher than the current rate of 10%, the City's annual TOT revenues would increase approximately \$230,000 for each additional percentage.

It would cost the City approximately \$40,000 to add this measure to the ballot for the November 2022 General Election. The City would need to add supplemental appropriations if the General Election and all additional ballot measures exceeded the current FY 2022-23 budget of \$23,000.

Conclusion:

The City Council requested a future agenda item to review and discuss potential changes to the City's TOT. If the City Council wishes to place such a measure on the ballot, staff requests direction from the City Council on each of the aforementioned recommendations.

Respectfully submitted,



Jeff Malawy, City Attorney