



City Council Agenda Item

City Council Meeting Date: June 7, 2022

TO: Honorable Mayor and City Council Members

FROM: Jeff Malawy, City Attorney
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Dean Albro, City Manager
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SUBJECT: Adoption of Election Resolutions to Place Before City Voters, at the November 8, 2022, General Municipal Election, a 1% Special Transient Occupancy Tax Measure for Police and Fire Purposes; Call of that Election and Request for Consolidation with the Statewide General Election; Direction for Impartial Analysis and Ballot Arguments for Measure

Recommendation:

Staff recommends the City Council consider whether to adopt:

- 1) Resolution No. 6510(22) (Attachment 1), which:
 - a. Orders the submission to the qualified electorate of the City of Lompoc a 1% Special Transient Occupancy Tax Measure for Police and Fire Purposes, and allowing hotel operators to retain 2% of all transient occupancy taxes collected to cover collection costs (Measure), at the General Municipal Election to be held on November 8, 2022;
 - b. Calls that election for November 8, 2022;
 - c. Requests that the County of Santa Barbara consolidate that election with the Statewide General Election to be held on Tuesday, November 8, 2022, 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; and
**City Council to give direction on ballot label language not to exceed 75 words for this resolution.*

- 2) Resolution No. 6511(22), directing the City Attorney to draft the impartial analysis and setting ballot arguments (Attachment 2); and
**City Council to determine whether to designate up-to two Council Member authors for ballot arguments, or not.*

- 3) Resolution No. 6512(22) authorizing rebuttal arguments (Attachment 3); and
**Optional*
- 4) Finally, if the City Council places the Measure on the ballot, then staff recommends the City Attorney read aloud the title of the Measure 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 Amending Chapter 3.12 Entitled “Transient Occupancy Tax” of Title 3 of the Lompoc Municipal Code, To Impose a 1% Special Transient Occupancy Tax for Police and Fire Purposes, and to Allow a Collection Discount for Hotel Operators to Recover Tax Collection Costs
- 5) Additionally, if the City Council places the Measure on the ballot, then staff recommends the City Council adopt Resolution No. 6513(22) approving appropriations to pay for the election (Attachment 4).

Background:

The California Revenue and Taxation Code (Sections 7280 et seq.) permits the City to impose a transient occupancy tax upon the privilege of occupying a room or rooms, or other living space, in a hotel, inn, tourist home or house, motel, or other lodging. This is commonly known as a “Transient Occupancy Tax” (TOT). The City currently imposes a TOT at a rate of 10%, found in Chapter 3.12 of the Lompoc Municipal Code.

At the May 3, 2022, City Council meeting, the City Council discussed potential changes to the City’s TOT, including a 1% increase in TOT, which would be restricted for public safety uses only, and allowing operators a discount to cover their costs of collecting the TOT for the City. After discussion, the City Council directed staff to prepare the tax measure and necessary resolutions to place the measure on the ballot, for the City Council to consider at a future meeting.

The ballot measure before the City Council (the “Measure”) proposes an additional 1% special TOT, the revenues from which would be restricted to use for police purposes (65% of revenues) and fire protection purposes (35% of revenues). The Measure must be adopted by two-thirds of the voters to take effect.

The first available date for voter consideration of the Measure is the General Municipal Election to be held on November 8, 2022. Several resolutions must be adopted to place the proposed Measure before the voters on November 8, 2022, pursuant to the requirements of Proposition 218, the California Constitution and the Government Code.

The proposed Measure is a special tax because the revenue generated will be restricted to use for certain purposes only (65% police and 35% fire). Under Proposition 218,

increases and/or extensions of a special tax must be approved by two-thirds of voters (Cal. Const. article 13C, § 2(d)).

Discussion:

I. Proposed Transient Occupancy Tax Measure

The Measure, if adopted by the voters, would impose an additional 1% special TOT in addition to the current general TOT rate of 10%. Additionally, the proposed Measure would permit operators to retain 2% of their TOT collections if such TOTs are remitted on time to the City by the operator, to allow operators to recover costs they incur in collecting TOT for the City.

The estimated annual revenue from the additional 1% TOT is currently \$230,000. The 2% collection discount reduces the estimated annual revenue from the Measure to \$179,400.

II. Three Election Resolutions

Three election resolutions concerning the Measure are presented for the City Council's consideration.

A. RESOLUTION CALLING THE ELECTION AND REQUESTING CONSOLIDATION WITH THE NOVEMBER 8, 2022, STATEWIDE GENERAL ELECTION [RESOLUTION NO. 6510(22)]

The first resolution (Resolution No. 6510(22)) orders the submission of the Measure to the voters at the November 8, 2022, election, and requests that the County consolidate the election with the Statewide General Election occurring on the same date. (See Attachment 1). The resolution calling for the election and placing the Measure on the ballot includes the proposed ordinance to be considered for adoption by the voters as Exhibit "A".

Resolution No. 6510(22) also includes the actual ballot question language to be presented to voters with respect to the Measure:

Shall the measure, imposing a 1% special transient occupancy tax paid by hotel guests, with 65% of revenues to be used for Lompoc police purposes and 35% of revenues to be used for Lompoc fire protection purposes, and permitting hotel operators to retain 2% of all collected transient occupancy taxes to cover collection costs, which will raise approximately \$180,000 annually in transient occupancy tax revenues, until ended by voters, be adopted?	YES
	NO

The City Council may use the above question, or may direct staff to make revisions. But, in choosing ballot question language, the following rules must be followed:

- 1) 75 words maximum (Elections Code § 9051.)
 - a. The recommended question above has 71 words;
- 2) Must use the phrase: “Shall the measure (stating the nature thereof) be adopted?” (Elections Code § 13119(a));
- 3) Must include an 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, “until ended by voters” (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. 6510(22) also proposes to direct the Santa Barbara County Registrar of Voters to consolidate the Measure’s presentation to voters with the November 8, 2022, Statewide General Election.

The City Clerk’s Office requires a budget appropriation of \$10,000 in Account 110CCE-534150 – Clerk – Elections – County Contract. Adding this TOT Measure to the November 8, 2022, General Election ballot has been estimated to cost the City approximately \$10,000.

In order to place a ballot measure on the November 2022 ballot at this time, the Santa Barbara County Elections Office requires the following deadlines to be met:

Date	Deadline
6/30/22	Clerk of the Board Agenda deadline (City’s deadline to adopt resolution placing measure on the ballot)
7/12/22	Board of Supervisors meeting
7/24/22	Publication-Notice of Election/Submit Arguments
7/26/22-8/4/22	Period for Submitting Direct Arguments
8/5/22-8/14/22	10-day Public Exam Period
8/5/22-8/14/22	Period for Submitting Rebuttal Arguments
8/15/22	Deadline for Impartial Analysis
8/16/22-8/25/22	10-day Public Exam Period

Date	Deadline
8/12/22	Board of Supervisors Direct Auditor to Prepare Fiscal Impact Statement
8/18/22	Deadline for Fiscal Impact Statement
8/19/22-8/28/22	10-day Public Exam Period
8/29/22	Election Official's Deadline for Submission of Local Measure Info to Printer

Table 1 – Elections Office Deadlines

B. RESOLUTION CALLING FOR CITY ATTORNEY IMPARTIAL ANALYSIS AND SETTING BALLOT ARGUMENTS [RESOLUTION NO. 6511(22)]

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. 6511(22) (Attachment 2).

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.

By adopting Resolution No. 6511(22), 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. 6511(22) 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.

If the City Council wishes to submit an argument, the City Council has the option of (i) meeting in an agenda meeting to collectively craft a ballot argument, or (ii) designating not-more-than two City Council Members to craft the ballot argument, or (iii) 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.

C. OPTIONAL RESOLUTION PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS [RESOLUTION NO. 6512(22)]

The third resolution provides for the filing of rebuttal arguments to the primary written arguments. The rebuttal arguments are prepared by the opposite authors of the primary written arguments.

Rebuttal arguments are not legally required. If the City Council does *not* wish to authorize rebuttal arguments on the ballot, the City Council can simply choose not to adopt Resolution No. 6512(22).

Fiscal Impact:

If two-thirds of voters approve the Measure, then the City’s annual TOT revenues would increase approximately \$180,000. (\$230,000 in increased annual revenue, minus \$50,600 annually for the 2% discount on all collected TOT, equals \$179,400.)

It would cost the City approximately \$10,000 to add this measure to the ballot for the November 2022 General Election. Resolution No. 6513(22) (Attachment 4) will authorize appropriations to pay for the election.

Conclusion:

Placing the Measure on the ballot will allow voters to decide on the proposed 1% special TOT, setting the measure for the November 8, 2022, election, ordering an impartial analysis by the City Attorney, and providing for the submittal of ballot arguments.

The Measure would not be adopted until after certified approval by two-thirds of the voters.

Respectfully submitted,



Jeff Malawy, City Attorney

Dean Albro, City Manager

June 7, 2022

Transient Occupancy Tax Ballot Measure

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- Attachments:
- 1) Resolution No. 6510(22)
 - 2) Resolution No. 6511(22)
 - 3) Resolution No. 6512(22)
 - 4) Resolution No. 6513(22)