

IN THE CITY COUNCIL OF THE CITY OF SAN LEANDRO

RESOLUTION NO. 2016-105

RESOLUTION ESTABLISHING NOVEMBER 8, 2016 AS THE DATE FOR A MUNICIPAL ELECTION ON A PROPOSED BALLOT MEASURE SEEKING VOTER APPROVAL TO INCREASE THE CITY'S EXISTING TRANSIENT OCCUPANCY TAX FOR GENERAL FUND PURPOSES FROM TEN PERCENT (10%) TO FOURTEEN PERCENT (14%), ESTABLISHING POLICIES AND PROCEDURES IN CONNECTION WITH SUCH AN ELECTION, AND REQUESTING THAT THE ALAMEDA COUNTY REGISTRAR OF VOTERS CONDUCT SUCH AN ELECTION, AND REQUESTING THAT THE CITY ATTORNEY PREPARE AND FILE AN IMPARTIAL ANALYSIS OF THE PROPOSED BALLOT MEASURE

WHEREAS, on November 21, 1983, pursuant to its authority under California Revenue and Taxation Code section 7280 et seq., the City Council of the City of San Leandro ("the City Council") adopted Ordinance No. 83-033, codified as Title 2, Chapter 2-10 of the Municipal Code, which provides for the imposition and collection of a general excise tax on the privilege of using hotel accommodations in the City (a "transient occupancy tax" or "TOT") to be paid by hotel users and collected by hotel operators; and

WHEREAS, Article XIIC, section 2(b) of the California Constitution requires that any general tax, such as the TOT, must be approved by a majority vote of the voters voting on the issue of the increase of the tax; and

WHEREAS, the City requires additional revenue to fund important City programs; and

WHEREAS, Article XIIC, section 2(b) of the California Constitution requires that an election by the voters to approve a general tax must be consolidated with a statewide general election at which members of the City Council will be elected; and

WHEREAS, November 8, 2016 is the date of the statewide general election at which members of the City Council will be elected; and

WHEREAS, after considering the foregoing information,, the City Council believes that a four percent (4%) upward adjustment to the TOT should be authorized by the voters of the City for general fund revenue purposes.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SAN LEANDRO AS FOLLOWS:

Section 1. Call for Election. Pursuant to Elections Code Section 9222, the City Council hereby calls an election at which it shall submit to the qualified voters of the City of San Leandro, a measure that, if approved, would increase the Transient Occupancy Tax from ten percent (10%) to fourteen percent (14%) to fund general services in the City. This measure shall be designated by letter by the Alameda County Registrar of Voters. Pursuant to Elections Code

Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 8, 2016.

Section 2. Ballot Language. The ballot language for the proposed measure shall be as follows:

To maintain and enhance the City of San Leandro, with funding that cannot be taken by Sacramento, including: enhancing library programming for children, more space for books, reference materials and public access computers, enhancing parks and infrastructure, and other general City services, shall the City of San Leandro increase the ongoing transient occupancy tax charged to hotel guests from 10% to 14%, providing \$200,000 annually, requiring independent citizen oversight, financial audits, and all funds staying in the City of San Leandro

YES

NO

Section 3. Proposed Ordinance. The ordinance authorizing the general tax to be approved by the voters pursuant to Section 2 is as set forth in Attachment 1 attached hereto. The type of tax proposed by the ordinance is an amendment to the City's existing transient occupancy tax, which is a general tax. The ordinance specifies that the existing tax rate would be adjusted from 10% of the room rate to 14%. The full text of the ordinance shall be printed in the voter information guide. Pursuant to California Government Code Section 53724(b), this Resolution, including the approval of the submission of the proposed Ordinance (attached as Attachment 1) must be approved by a two-thirds vote of all members of the City Council.

Section 4. Publication of Measure. The City Clerk is hereby directed to cause notice of the measure to be published once in a newspaper of general circulation in the City in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

Section 5. Request to Consolidate and Conduct Election and Canvass Returns.

- (a) The City Council hereby requests that the Alameda County Board of Supervisors consolidate the election called by this resolution with the statewide election to be conducted on November 8, 2016 and order the election to be conducted by the Registrar of Voters. The City Clerk is directed to file a certified copy of this resolution with the Board of Supervisors of Alameda County and the Registrar of Voters of Alameda County on or before Friday, August 12, 2016.
- (b) The election on the measure set forth in Section 2 shall be held and conducted, the voters canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars, the election shall be held in accordance with the Elections Code of the State of California.
- (c) The election on the measure set forth in Section 2 shall be held in Alameda County in the City of San Leandro on November 8, 2016, as required by law, and the Board of Supervisors of Alameda County is authorized to canvass the returns of the election with respect to the votes cast in the City of San Leandro and certify the results to the City Council of the City of San Leandro.

- (d) At the next regular meeting of the City Council of the City of San Leandro occurring after the returns of the election for the measure set forth in Section 2 have been canvassed and the certification of the results to the City Council, the City Council shall cause to be entered in its minutes a statement of the results of the election.
- (e) The City Council acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418.

Section 6. Submission of Ballot Arguments and Impartial Analysis.

- (a) The last day for submission of direct arguments for or against the measure shall be by 5:00 p.m. on Monday, August 8, 2016.
- (b) The last day for submission of rebuttal arguments for or against the measure shall be by 5:00 p.m. on Thursday, August 18, 2016.
- (c) Direct arguments shall not exceed three hundred words and shall be signed by not more than five persons.
- (d) Rebuttal arguments shall not exceed two hundred fifty words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the direct arguments.
- (e) The City Attorney shall prepare by Friday, August 12, 2016, an impartial analysis of the measure showing the effect of the measure.
- (f) The Mayor is hereby authorized to file a written argument in favor of the proposed measure, not to exceed three hundred words, on behalf of the City Council. At the Mayor's discretion, the argument may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote. In the event that an argument is filed against the measure, the Mayor and Vice Mayor/Council Member are also authorized to file a rebuttal argument on behalf of the City Council, which may also be signed by members of the City Council or bona fide associations or by individual voters who are eligible to vote, which may be different from those who signed the direct argument.
- (g) Pursuant to California Elections Code Section 9285, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut.

Section 7. Appropriation of Necessary Funds. The City Manager is hereby authorized and

directed to appropriate the necessary funds to pay for the City's costs of placing the measure on the election ballot.

Section 8. Services of City Clerk. The City Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the ordinance or measure to be printed. A copy of the ordinance or measure shall be made available to any voters upon request.

Section 9. Compliance with California Environmental Quality Act. The approval of this resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The tax proposed by this resolution is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, pursuant to CEQA Guidelines section 15060 CEQA analyses is not required.

Introduced by Councilmember Prola and passed and adopted this 18th day of July, 2016, by the following vote:

Members of the Council:

AYES: Councilmembers Cox, Lee, Lopez, Prola, Reed, Thomas; Mayor Cutter (7)

NOES: None (0)

ABSENT: None (0)

ATTEST: 

Tamika Greenwood, City Clerk

Attachment 1

An ORDINANCE of the City of San Leandro Amending Title 2, Chapter 2-10 of the San Leandro Municipal Code Relating to Transient Occupancy Tax

Now, therefore, the City Council of the City of San Leandro does ordain as follows:

SECTION 1. Amendments. Section 2-10-110 is hereby amended to read as follows, with deletions in strikethrough and additions in underlined text:

For the privilege of occupancy in any hotel, including but not limited to any inn, motel, or time-share facilities, each transient is subject to and shall pay a tax in the amount of ~~ten~~ fourteen (40 14) percent of the rent charged by the operator. Such tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be due upon the transient's ceasing to occupy space in the hotel. If for any reason the tax due is not paid to the operator of the hotel, the Finance Director may require that such tax be paid directly to the Finance Director.

SECTION 3: Severability. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this Ordinance, or its application to any other person or circumstance. The City Council of the City of San Leandro hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof is declared invalid or unenforceable.

SECTION 4: Publication and Effective Date. This Ordinance shall take effect immediately after approval of the ballot measure related hereto.