

**City of Culver City, California
Agenda Item Report**

Meeting Date: 07/26/2010		Item Number: <u>A-2</u>	
CITY COUNCIL AGENDA ITEM: Adoption of Resolutions (1) (Unanimous Vote Requirement) Declaring an Emergency Pursuant to Article XIII C of the Constitution of the State of California; (2) Calling and Giving Notice of the Holding of a Special Municipal Election to be Consolidated with the Statewide General Election to be Held on Tuesday, November 2, 2010 for the Purpose of Submitting to the Voters a Measure Relating to Increasing the City's Transient Occupancy Tax; (3) Requesting the Board of Supervisors of the County of Los Angeles Render Specified Services Related to the Conduct of said Election; and (4) Authorizing the City Council and/or Certain Council Members to Submit Ballot Arguments and Rebuttals Regarding the Measure; and (5) (Four-Fifths Vote Requirement) Approving a Related Budget Amendment.			
Contact Person/Dept.: Jeff Muir/Finance		Phone Number: (310) 253-5865	
Fiscal Impact: Yes ☒ No ☐		General Fund: Yes ☒ No ☐	
Public Hearing: ☐		Action Item: ☒ Attachments: ☒	
Commission Action Required: Yes ☐ No ☐ Date: _____			
Public Notification: (E-Mail) Meetings and Agendas – City Council (07/22/10)			
Department Approval: Jeff Muir (07/20/10)		City Attorney Approval: Carol Schwab (by H. Baker) (07/22/10)	
Chief Financial Officer Approval: Jeff Muir (07/20/10)		City Manager Approval: P. Lamont Ewell (07/22/10)	
<u>RECOMMENDATION:</u> Staff recommends the City Council: 1. (Unanimous Vote Required) Adopt a resolution declaring an emergency in accordance with Section XIII C of the Constitution of the State of California; and, 2. Adopt a Resolution calling and giving notice of the holding of a Special Municipal Election to be consolidated with the Statewide General Election to be held on Tuesday, November 2, 2010 for purposes of submitting to the voters a measure which would increase the Transient Occupancy Tax rate from the current 12% to 13% effective July 1, 2011 and from 13% to 14% effective July 1, 2012; and, 3. (Four-fifths Vote Required) Adopt a Resolution requesting the Board of Supervisors of the County of Los Angeles to render specified services to the City relating the conduct of a Special Municipal Election and approve the appropriation of necessary funds; and, 4. Adopt a Resolution authorizing the City Council and/or certain Council Members to submit arguments and rebuttals regarding the ballot measure.			

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BACKGROUND:

On July 12, 2010, the City Council considered a recommendation from staff to place a ballot measure on the November 2, 2010 ballot to increase the City's Transient Occupancy Tax (also known as the Hotel and Motel Tax) rate from 12% to 14%. After considering information from staff and representatives from the Chamber of Commerce and local hotels, there was consensus to move forward with the compromise that the ballot measure would propose increasing the tax from 12% to 13% on July 1, 2011 and from 13% to 14% on July 1, 2012. The representatives from the Chamber of Commerce and the local hotels were accepting of this proposal.

Since the policy discussion and decision was already completed, the purpose of this item is to bring the necessary proposed resolutions before the City Council to do the following:

1. Declare the existence of a fiscal emergency pursuant to Article XIII C of the California Constitution (a unanimous vote is required for the declaration of fiscal emergency); and,
2. .(If the fiscal emergency is declared) Call and give notice of the holding of the special election to be consolidated with the Statewide General Election to be held on November 2, 2010
3. Request the County of Los Angeles provide the services for this election.
4. Authorize the City Council and/or certain Council Members to submit arguments regarding the ballot measure.

DISCUSSION:

Declaring the Existence of a Fiscal Emergency

Section XIII C, Section 2(b) of the Constitution of the State of California states, in pertinent part:

“...No local government may impose, extend, or increase any general tax unless and until that tax is submitted to the electorate and approved by a majority vote. A general tax shall not be deemed to have been increased if it is imposed at a rate not higher than the maximum rate so approved. The election required by this subdivision shall be consolidated with a regularly scheduled general election for members of the governing body of the local government, **except in cases of emergency declared by a unanimous vote of the governing body** (emphasis added).”

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For several years, and most recently during the budget process, staff has presented the City Council and community with information related to the City's structural deficit and the lack of funding for significant deferred maintenance and other long-term liabilities. The severe economic downturn currently being experienced and the significant impacts said downturn is having on the City demonstrates that the City is in the midst of a fiscal emergency. Given the policy decision regarding this item was already made by a majority of the City Council, staff recommends the City Council unanimously adopt a resolution declaring the existence of an emergency to allow the voters to consider this item in November, 2010. Absent this declaration, the earliest this item could be considered by the voters would be April, 2012.

Calling of the Special Election

Should the City Council unanimously adopt the proposed resolution declaring the emergency, then staff recommends the City Council adopt the proposed resolution calling and giving notice of the holding of a Special Election to be consolidated with the Statewide General Election on November 2, 2010.

Requesting the County to Conduct the Election

In accordance with Section 10002 of the Elections Code of the State of California, the governing body of any city or district may, by resolution, request the Board of Supervisors of the county to permit the County Elections Official to render specified services to the city or district relating to the conduct of an election. Because the County is already going to be conducting an election on November 2, 2010, staff recommends this special election be consolidated with the Statewide General Election and recommends the City Council adopt the proposed resolution which requests the Board of Supervisors render specified services to the City relating to the conduct of said election.

Authorizing the City Council and/or Certain Council Members to Submit Arguments

The City Council, authorized members of the City Council, citizen associations and private citizens may submit arguments for or against the proposed Measure. Only one ballot argument for and one ballot argument against each measure and rebuttals to each may be printed in the sample ballot. The Elections Code gives preference to the arguments submitted by the City Council, as a body, or by Council Members authorized to submit arguments by the City Council.

Should the City Council decide to submit an argument as a body, it is automatically placed on the ballot. If the City Council decides to have some of its members submit an argument, those members need to be designated by the City Council in order for their argument(s) to receive priority.

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The City Council should decide whether it will submit initial and rebuttal arguments for or against the measure as a body or designate individual Council Members to submit those arguments. If individual members are to be designated, then the City Council should make those designations at this meeting. Please note, that if more than two City Council Members will be working together to write, or intend to give comments on the same argument, then, pursuant to the Brown Act, those discussions and comments among those members can only occur during a duly noticed public meeting of the City Council.

Based on the calendar in the Los Angeles County Measure Information Booklet for the November 2, 2010 election, primary arguments are due August 16, 2010 and shall not exceed 300 words in length. Rebuttal arguments are due 10 days after the primary arguments are due and shall not exceed 250 words. The deadline for rebuttal arguments would be August 26, 2010.

FISCAL ANALYSIS:

The estimated cost to consolidate the election with Los Angeles County is \$70,000. This was not included in the Fiscal Year 2010-2011 budget and a budget amendment, requiring a four-fifths vote, is necessary in order to appropriate funds from reserves.

ATTACHMENTS:

- 1. Proposed Resolution** Declaring an emergency pursuant to Section XIII C of the California Constitution
- 2. Proposed Resolution** Calling and Giving Notice of the Holding of a Special Municipal Election to be Held on Tuesday, November 2, 2010; Submitting a Question Relating to the Increase of the Existing Transient Occupancy Tax Ordinance.(including Exhibit A thereto which is the proposed Question)
- 3. Proposed Resolution** Requesting the Board of Supervisors of the County of Los Angeles to Render Specified Services to the City of Culver City Relating to the Conduct of a Special Municipal Election to be consolidated with the Statewide General Election to be Held in the City on Tuesday, November 2, 2010
- 4. Proposed Resolution** Authorizing the City Council and/or Certain Council Members to Submit Arguments Regarding the Increase of the Existing Transient Occupancy Tax Measure on the Ballot for the November 2, 2010 Election

MOTION:

That the City Council:

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- 1) **(Unanimous Vote Required)** Adopt a resolution declaring an emergency pursuant to Section XIII C of the California Constitution; and,
- 2) Adopt a Resolution Calling and Giving Notice of the Holding of a Special Municipal Election to be Consolidated with the Statewide General Election to be held on Tuesday, November 2, 2010; Submitting a Question Relating to the Increase of the Existing Transient Occupancy Tax; and,
- 3) Adopt a Resolution Requesting the Board of Supervisors of the County of Los Angeles to Render Specified Services to the City of Culver City Relating to the Conduct of a Special Municipal Election to be Held in the City on Tuesday, November 2, 2010; and,
- 4) **(Four-Fifths Vote Required)** Approve a Budget Amendment appropriating \$70,000 from the General Fund Reserve to cover costs to conduct the Election; and,
- 5) Approve a Resolution Authorizing the City Council and/or Certain Council Members to Submit Arguments Regarding the Increase of the Transient Occupancy Tax;

OR

- 6) (If the City Council determines to Designate Certain Members to submit such arguments) Designate the following Council Members to submit ballot arguments and rebuttals regarding the Increase of the Transient Occupancy Tax:
