

MEETING DATE: July 25, 2011

AGENDA ITEM : Discussion and Direction Regarding a Recommendation to Place a Ballot Measure on the April 10, 2012 Ballot to Increase the City's Transient Occupancy Tax Rate from 12% to 14%.

ATTACHMENTS

	<u>Pages</u>
1. Staff Report from July 12, 2010 Meeting	1-4
2. Minute Excerpt from July 12, 2010 City Council Meeting	5 - 7
3. Staff Report from July 26, 2010 Meeting	8-12
4. Minute Excerpt from July 26, 2010 City Council Meeting	13 - 14

City of Culver City, California
Agenda Item Report

Meeting Date: 07/12/2010		Item Number: A-2	
CITY COUNCIL AGENDA ITEM: Discussion and Direction Regarding Recommendation to Place a Ballot Measure on the November 2, 2010 Ballot to Increase the City's Transient Occupancy Tax Rate from 12% to 14% and Authorization of a Consultant to Assist City Staff with Educational Program Related Thereto.			
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 (06/xx/10)			
Department Approval: Jeff Muir (06/30/10)		City Attorney Approval: Carol Schwab (by H. Baker) (07/08/10)	
Chief Financial Officer Approval: Jeff Muir (06/30/10)		City Manager Approval: P. Lamont Ewell (07/08/10)	
 <u>RECOMMENDATION:</u> Staff recommends the City Council provide direction to staff to bring back the necessary items for City Council action in order to place a measure on the November 2, 2010 ballot to increase the City's Transient Occupancy Tax (TOT) rate from 12% to 14% and authorize a public education process about the measure. <u>BACKGROUND:</u> California Revenue and Taxation Code (Section 7280) authorizes the legislative body of any city or county in the State of California to levy a tax on the privilege of occupying a room, hotel room or other lodging establishment for a period of 30 days or less. This tax is commonly referred to as a "transient occupancy tax" or "hotel tax." The City of Culver City's TOT was originally adopted at 4% as a general tax in 1964 by Ordinance No. CS-498. Over the years it was gradually increased, the last being in 1989 when it went from 10% to the current 12%. The previous increases to the tax rate were approved by the City Council prior to the current legal requirement that all new taxes or tax increases must be approved by the voters. The City's TOT is established in Sections 11.02.100 through 11.02.160 of the Culver City Municipal Code (CCMC).			

City of Culver City, California
Agenda Item Report

DISCUSSION:

Staff recommends the City Council consider a ballot measure to increase the City's transient occupancy tax from 12% to 14%. The TOT is charged only to persons who occupy hotel/motel rooms in the City and transmitted to the City by those who collect room charges. Therefore, this increase would impact only those that stay in the hotel/motel rooms - mainly visitors and travelers. There will be no impact on residents unless they utilize hotel accommodations in the City. The TOT is only applied to hotel and motel rooms; it is not applied to any other facilities and services offered by the hotels such as catering, banquet, food, spa, etc. If approved by voters, the estimated increase in TOT revenue would be \$237,000 during the upcoming 2010-2011 Fiscal Year, as the increase would only be in effect for half of the fiscal year. The annual increase for future years is estimated at \$475,000. Additional TOT revenue may be used for any purpose, such as to support government operations and services, including public safety, street and infrastructure improvements and to support other city services.

Benefits of considering an increase in the TOT rate include placement of a larger portion of the tax burden to provide city services and maintenance on transient travelers and visitors to the community who utilize City assets such as parks, streets, and emergency services. Residents would benefit from this method of spreading the costs of services over a larger tax base, and those visiting our community would pay a proportionate share of the cost to provide the high level of services enjoyed in Culver City. From 2002 through 2008, there have been 53 California city and county TOT measures to establish, increase or expand the TOT that have been successful. Staff is not aware of any concrete evidence that an increase in the TOT has a negative impact on hotel bookings. The proposed increase puts Culver City at the same rate as its surrounding cities.

City	Rate
Beverly Hills	14.0%
Los Angeles	14.0%
Santa Monica	14.0%
West Hollywood	12.5%*

(*Note: West Hollywood also has a 1.5% TOT rate that goes directly to their Visitors Bureau, making the total rate paid a customer 14%)

The adopted Fiscal Year 2010-2011 budget was the first of a two-year plan to close the structural deficit in Culver City's General Fund. There is a remaining deficit amount estimated at \$2 million that must still be addressed. The City Manager's recommendation was that negotiations immediately begin with the City's employee bargaining groups to eliminate the deficit through compensation or benefit concessions. It was also recommended that the City Council consider an increase to the TOT rate as part of the strategy, as it would greatly assist the City in securing

City of Culver City, California
Agenda Item Report

its financial future going forward. The final alternative was to consider further position and service reductions.

The TOT cannot be increased without a vote of the people due to State law (Prop. 218). The current TOT is considered a general tax because the City has discretion on how the proceeds are spent. It is recommended that the City retain this discretion with the proposed increase. As a general tax, a majority vote of Culver City voters is required to increase the TOT. If the additional tax proceeds were dedicated to a specific purpose (only public safety, only street improvement, etc.), it would be considered a special tax and a two-thirds majority vote would then be required.

In order to meet the County's deadline and also provide adequate time for proper execution and delivery of the documents, the City Council must take formal action to place this measure on the ballot and consolidate the election with the County by July 26, 2010. Staff is seeking City Council approval of the recommendation to move forward with this item so that the necessary items can be brought back for approval by this date.

If the City Council approves this item moving forward, staff is also recommending the use of a consultant to assist with a public education program for the ballot measure. It is very important that the public understand what they are being asked to vote on, especially when it comes to tax measures. State law permits cities to provide impartial educational campaigns for ballot measures that they place on the ballot for voter consideration. Staff is proposing a budget not-to-exceed \$25,000 to include the usage of a consultant with expertise in the development and implementation of an impartial educational campaign. Funding for such services was included in the Fiscal Year 2009/2010 budget and would be re-appropriated in the Fiscal Year 2010/2011 budget. Should the City Council determine not to use the services of a consultant, City staff will have to be responsible for creating the educational materials, and it is estimated there will be up to \$15,000 in printing and mailing costs.

FISCAL ANALYSIS:

The estimated cost to consolidate the election with Los Angeles County has been requested from the County and is expected to be received by the time of the July 12, 2010 meeting. This was not included in the Fiscal Year 2010/2011 budget and will need to be added. The total not-to-exceed budget request for professional assistance with an impartial educational campaign is \$25,000. An additional \$15,000 is recommended for printing and mailing costs. The amount of \$40,000 was included in the Fiscal Year 2009-2010 budget for this purpose, and will be re-appropriated in Fiscal Year 2010-2011.

City of Culver City, California
Agenda Item Report

ATTACHMENTS:

None.

MOTION:

That the City Council:

- 1) Direct staff to bring back the necessary items for City Council action in order to place a measure on the November 2, 2010 ballot to increase the City's Transient Occupancy Tax rate from 12% to 14%.

AND

- 2) Authorize the use of a consultant to develop and implement an impartial public education program.

OR

- 3) Direct staff to not pursue an increase to the City's Transient Occupancy Tax rate.

Excerpt from the Approved Minutes
City Council
July 12, 2010

Item A- 2

Discussion and Direction Regarding Recommendation to Place a Ballot Measure on the November 2, 2010 Ballot to Increase the City's Transient Occupancy Tax Rate from 12% to 14% and Authorization of a Consultant to Assist City Staff with Educational Program Related Thereto.

Mayor Armenta invited public participation.

The following members of the audience addressed the City Council:

Steven Rose, Culver City Chamber of Commerce, provided a presentation on the proposed increase to the transient occupancy tax () tax; expressed concern with the potential loss of business and competitive edge for the local hotels; he discussed **TOT** taxes and allocations in surrounding areas; and he noted that the Chamber of Commerce and hoteliers were ready to sit down with the City Council's Economic Subcommittee with creative funding ideas in place of increasing the **TOT** tax.

Antonio Ruiz, Courtyard by Marriott Hotel, expressed concern with the proposed increase to the **TOT** and potential loss of revenues.

Councilmember O'Leary requested information on how Culver City hotels rank compared with other hotels in their chains.

Audience participation continued:

Bill Reider, Radisson Hotel Culver City, expressed concern with the proposed increase to the **TOT**; discussed occupancy, rates, the recession, and recovery; concern with losing their advantage over other area hotels with a higher **TOT**; and negotiating rates for 2011.

Discussion ensued between the City Council and Mr. Reider regarding contract group business and direct competitors.

Melissa Williams, Four Points by Sheraton Los Angeles Westside, expressed concern with the proposed **TOT** increase and discussed the current **TOT** as a competitive edge over other area hotels.

Sandra Kallander expressed opposition to the \$25,000.00 allocated for the educational campaign which she did not feel would be impartial.

Douglas Newton, The Culver Hotel, discussed rates; noted that Culver City is a secondary market; expressed concern that the proposed increase to the **TOT** would severely impact their business; and he suggested waiting on the increase.

Alice Prasad, Associate Analyst, read written comments submitted by the following:

Lynne Davidson

Jeff Muir, Chief Financial Officer, provided a summary of the material of record.

P. Lamont Ewell, Interim City Manager, suggested letting residents vote on the increase; he noted the effects of deferred maintenance on the City; and he discussed focusing on a marketing strategy to draw people to the City.

Discussion ensued between the City Council and staff regarding the timeline to get the measure on the ballot; a strategy for phasing the tax in; the room rate as the deciding factor during booking; competing hotels and comparisons with surrounding cities; average rates; jump- starting economic development; driving business to the hotels; concern with raising costs for businesses during the recession; creating an unbiased educational piece; implementation of the increase; offsetting maintenance costs; stability of the current tax rate for the past 21 years; allocation of revenue; corporate clients and tour groups; competitor hotels; trimming the bottom line; working with the Chamber of Commerce; voter decision on the **TOT** tax; the percentage of Internet bookings; and **TOT** taxes from online bookings.

At this time, Steven Rose, Culver City Chamber of Commerce, discussed activities at the state level regarding **TOT** taxes; online retail sales; closing loopholes; and concern

with negative effects of the proposed increase.

Following discussion, the following motion was voted on:

MOVED BY COUNCILMEMBER WEISSMAN AND SECONDED BY COUNCILMEMBER COOPER, THAT THE CITY COUNCIL:

1. DIRECT STAFF TO BRING BACK THE NECESSARY ITEMS FOR CITY COUNCIL ACTION IN ORDER TO PLACE A MEASURE ON THE NOVEMBER 2, 2010 BALLOT TO INCREASE THE CITY'S TRANSIENT OCCUPANCY TAX RATE FROM 12% TO 13% ON JULY 1, 2011, AND FROM 13% TO 14% ON JULY 1, 2012; AND
2. AUTHORIZE THE USE OF A CONSULTANT TO DEVELOP AND IMPLEMENT AN IMPARTIAL PUBLIC EDUCATION PROGRAM.

AYES: Councilmembers Cooper, Malsin, Weissman, Armenta

NOES: Councilmember O'Leary

ABSTAIN: None

ABSENT: None

Discussion ensued between the City Council and staff regarding requirements to produce an impartial educational piece; availability of funds; and the process for approval of the piece.

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

Meeting Date: 07/26/2010		Item Number: A-2	
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.			

City of Culver City, California
Agenda Item Report

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)..."

City of Culver City, California
Agenda Item Report

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.

City of Culver City, California
Agenda Item Report

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:

City of Culver City, California
Agenda Item Report

- 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:

Excerpt from the Approved Minutes
City Council
July 26, 2010

Item A- 2

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.

Staff provided a summary of the material of record.

Mayor Armenta invited public participation.

The following member of the audience addressed the City Council:

Bill Reider, representing the Radisson Hotel, expressed concern with acting in haste; felt the research was inconclusive; discussed an article on a bed tax backlash in New York City and travel agencies interviewed to make the decision; and he requested the City Council to reconsider the move to increase the tax.

Alice Prasad, Associate Analyst, read written comments submitted by:

Sandra Kallander
Lynne Davidson

Discussion ensued between the City Council and staff regarding the costs to hold the election; potential revenue; what constitutes a fiscal emergency; mail ballots; the New York bed tax; City of El Segundo's proposed increase; the revenue stream and infrastructure issues; **TOT**

revenue; special elections versus regular elections; searching for other revenue sources; and the need for a unanimous vote.

***NOTE FROM THE CITY CLERK: From the discussion, it was evident that the required unanimous vote would not be achieved. Therefore, the City Council did not take action on the item.