



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL
FROM: City Manager Jim Colangelo
MEETING DATE: February 27, 2008

SUBJECT: CONSIDER ADOPTION OF A RESOLUTION DECLARING THE EXISTENCE OF AN EMERGENCY THAT REQUIRES IMMEDIATE AND URGENT ENACTMENT OF A NEW TAX TO PRESERVE THE PUBLIC PEACE, HEALTH AND SAFETY OF THE CITY, AND A RESOLUTION CALLING A SPECIAL MUNICIPAL ELECTION FOR THE CONSIDERATION OF A TAX INCREASE; AND FIRST READING OF AN ORDINANCE AMENDING CHAPTER 6.09 OF THE MUNICIPAL CODE TO INCREASE THE UNIFORM TRANSIENT OCCUPANCY TAX

RECOMMENDATION:

It is recommended that the City Council take the following actions:

- 1. Adopt a Resolution Declaring the Existence of an Emergency that Requires the Immediate and Urgent Enactment of a New Tax to Preserve Public Peace, Health, and Safety of the City.**
- 2. Adopt a Resolution Calling a Special Municipal Election for the Purpose of Submitting a Proposal to Adopt an Increase to the City's Uniform Transient Occupancy Tax for General Purposes, and Requesting that the Board of Supervisors for Monterey County Provide for the Consolidation of this Election with the Election to be held on June 3, 2008.**
- 3. Approve the first reading of an Ordinance Amending Chapter 6.90 to Title 6 of the City's Municipal Code to Implement General Taxes if They Are Approved at the Election To Be Held on June 3, 2008.**

BACKGROUND:

At its February 20, 2007 meeting, the City Council directed staff to incorporate \$2.2 million in cost reduction strategies into the proposed FY 2008/09 budget, which the Council will consider in April. While these cost reductions are necessary to restore the City's basic financial health,

they are accompanied by broad-based service reductions that could compromise the public safety and quality of life for Pacific Grove residents and visitors. For example, the Fire Department will have 20% fewer firefighters to respond to major emergencies. The Police Department will no longer have resources for crime prevention programs in schools or dedicated traffic enforcement. Maintenance of streets, parks, and public buildings will be further curtailed, leaving enough resources only for infrastructure safety repairs, not aesthetic improvements or maintenance. The museum and the library face reductions of approximately half of their existing budgets, prompting fewer library hours and library services. Reductions in recreation program budgets will require the Youth Center to close.

On February 20th, the Police Officer Association, with evidence of support from a large group of Pacific Grove residents, requested that the City Council consider placement of a Transient Occupancy Tax measure on the June 3, 2008 ballot. An increase in this tax rate from ten percent (10%) to twelve percent (12%) would generate approximately \$650,000 annually. However, it is likely that the passage of such a tax would result in the recently formed Pacific Grove Hospitality Improvement District (PGHID) being disbanded. Without the PGHID, the City would be responsible for contributing approximately \$130,000 annually to the Monterey County Convention and Visitors Bureau. If approved by voters, this revenue could restore reserves within 1-2 years, thereby enabling the City Council to begin restoring services or making investments in the community much sooner.

DISCUSSION:

The purpose of this proposed tax measure is to provide the City Council with an opportunity to consider placing on the ballot for the June 3, 2008 election an increase to the City's Uniform Transient Occupancy Tax to meet the current needs of the City to increase General Fund services, including public safety, recreation, parks, streets, and traffic, and to meet future service demands of the City. The proposed tax measure is estimated to generate approximately \$650,000 annually.

In order to place the proposed tax measure on the ballot to give the City's electorate an opportunity to vote on the measure, two Resolutions and the first reading of the Ordinance need to be approved by the City Council and sent to the County's Elections Department no later than March 7, 2008. The first Resolution Declaring an Emergency makes findings and declares a fiscal emergency. It must be adopted by unanimous vote of the Council. The second Resolution calls for a special election and asks the County to consolidate with the June 3, 2008 election. The proposed Ordinance amends Chapter 6.90 of the City's Municipal Code to increase the Uniform Transient Occupancy Tax from ten percent (10%) to twelve percent (12%).

The proposed Resolutions and Ordinance are not defined as a project under the California Environmental Quality Act ("CEQA") as there is no possibility that the activity authorized herein may have a significant effect on the environment.

The proposed tax measure would be included in the June 3, 2008 election and included with the costs of that election. The City pays Monterey County Elections for the cost of conducting elections. The County bills the City each election year for its share of the total County cost of

conducting the primary election and the general election. This cost is estimated to range from \$20,000 to \$25,000.

The City Council may adopt the Resolutions. Following the public hearing, the Council should review and discuss the draft Ordinance. The Council may approve or reject the first reading of the draft Ordinance. City Council may direct that the publication of the Ordinance as required by the Charter Article 15 may be satisfied by publication of a summary of a proposed Ordinance, approved by the City Attorney. If approved, the Ordinance shall then be set for second reading at the next Council meeting.

FISCAL IMPACTS:

The proposed tax measure is estimated to generate approximately \$650,000 annually. However, it is likely that the passage of such a tax would result in the recently formed Pacific Grove Hospitality Improvement District (PGHID) being disbanded. Without the PGHID, the City would be responsible for contributing approximately \$130,000 annually to the Monterey County Convention and Visitors Bureau.

ATTACHMENTS:

- Resolution Declaring The Existence of An Emergency
- Resolution Calling a Special Municipal Election
- Draft Ordinance Amending 6.90 of the Municipal Code

RESPECTFULLY SUBMITTED:

James J. Colangelo

Digitally signed: I have reviewed this document

James J. Colangelo
CITY MANAGER

RESOLUTION NO. 08-

**A RESOLUTION OF THE CITY OF PACIFIC GROVE
DECLARING THE EXISTENCE OF AN EMERGENCY THAT REQUIRES THE
IMMEDIATE AND URGENT ENACTMENT OF A NEW TAX MEASURE TO
PRESERVE PUBLIC PEACE, HEALTH, AND SAFETY OF THE CITY**

WHEREAS, the City of Pacific Grove (“City”) holds the authority to adopt taxes pursuant to Article XI, Section 5 of the California Constitution; and

WHEREAS, the imposition of a general tax requires, among other things, a two-thirds vote of the City Council (California Government Code section 53724) and a majority vote on the tax measure (California Constitution, Article XIIC); and

WHEREAS, any tax measure submitted to voters must be consolidated with a regularly-scheduled general election for members of the City Council except in cases of emergency as determined by a unanimous vote of the Council pursuant to Article XIIC of the California Constitution; and

WHEREAS, this Resolution is exempt from the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment; and

WHEREAS, the City Council unanimously finds and declares that the financial circumstances of the City requires immediate and urgent enactment of a new tax measure to increase revenues to the City and to preserve the public peace, health, safety and welfare of the community, to avoid work stoppages and service disruptions that will result from additional staff cuts or reductions in force, and to avoid permanent impairment of valued community services provided by the library, recreation department, and other cultural resources within the City; and

WHEREAS, the Council unanimously finds and declares that the financial emergency may result in crippling consequences of budget depletion and may severely impair public health, safety and welfare.

NOW, THEREFORE, THE CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. A special municipal election of the City of Pacific Grove is required to be held on June 3, 2008, for the purpose of authorizing a new general tax measure, with the call for the election set forth by separate Resolution.

SECTION 3. This Resolution confirms the existence of a fiscal emergency in accord with Article XIIC of the California Constitution. Based on that emergency, consolidation of the proposed tax measure with the next regularly scheduled general election for City Council members shall not afford timely relief, and such delay may threaten the public peace, health, safety and welfare of the community.

SECTION 4. The City Clerk is authorized and directed to certify the adoption of this Resolution and to transmit a copy to the County Board of Supervisors of the County of Monterey, and to file certified copies thereof with the County Clerk and the County Registrar of Voters.

SECTION 5. The City Clerk shall publish a copy of this Resolution in a newspaper of general circulation once within fifteen (15) days after its adoption.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS 27th day of February 2008, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

DANIEL J. CORT, Mayor

ATTEST:

CHARLENE WISEMAN, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

RESOLUTION NO. 08-

**A RESOLUTION OF THE CITY OF PACIFIC GROVE
CALLING A SPECIAL MUNICIPAL ELECTION FOR THE PURPOSE OF
SUBMITTING A PROPOSAL TO ADOPT AN INCREASE TO THE UNIFORM
TRANSIENT OCCUPANCY TAX FOR GENERAL PURPOSES AND
REQUESTING THAT THE BOARD OF SUPERVISORS OF MONTEREY
COUNTY TO PROVIDE FOR THE CONSOLIDATION OF THIS ELECTION
WITH THE ELECTION TO BE HELD ON JUNE 3, 2008.**

WHEREAS, the City Council directed staff to incorporate \$2.2 million in cost reduction strategies into the proposed FY 2008/09 budget, which could compromise the public peace, health and safety and quality of life for Pacific Grove residents and visitors.

WHEREAS, a new tax measure that is enacted as soon as possible could provide revenue to restore essential services required to preserve the public peace, health, safety and welfare of the community, to avoid work stoppages and service disruptions that will result from additional staff cuts or reductions in force, and to avoid permanent impairment of valued community services provided by the library, recreation department, and other cultural resources within the City; and

WHEREAS, the City Council has found and declared the existence of an emergency that requires an increase in revenues; and

WHEREAS, the imposition of a general tax requires, among other things, a two-thirds vote of the City Council and a majority vote of the voters voting in an election on the tax; and

WHEREAS, the City Council has identified a new tax measure that will provide some of the needed revenues, and has approved the first reading of an Ordinance amending Chapter 6.09 of the City's Municipal Code to increase the Uniform Transient Occupancy Tax from ten percent (10%) to twelve percent (12); and

WHEREAS, the City relies upon its authority to levy and increase its Uniform Transient Occupancy Tax as a charter city under its home rule powers and in accord with Article XI of the California Constitution. The City alternatively relies upon the general authority to levy this tax set forth in California Government Code §37101; and

WHEREAS, the proposed increase to the Uniform Transient Occupancy Tax is presented as a "general tax", the revenue from which shall be placed into the City's General Fund and be available for any and all municipal purposes. This tax shall be imposed consistent with the provisions of Chapter 6.09 of the Pacific Grove Municipal Code; and

WHEREAS, any tax measure submitted to the voters is required to be consolidated with a regularly scheduled general election for members of the City Council

except in cases of emergency as declared by unanimous vote of the City Council in accord with Article XIII C §2(b) of the California Constitution; and

WHEREAS, there is an election scheduled for June 3, 2008, with this election being conducted in Monterey County by the Monterey County Registrar of Voters; and

WHEREAS, this Resolution is exempt from the California Environmental Quality Act (“CEQA”), Public Resources Code section 21000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment.

NOW, THEREFORE, THE CITY COUNCIL DOES RESOLVE AS FOLLOWS:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. A special municipal election of the City shall be held in the City on June 3, 2008, at which time there shall be submitted a proposed measure to adopt an increase to the Uniform Transient Occupancy Tax set forth in Chapter 6.09 of the Pacific Grove Municipal Code as set forth in this Resolution.

SECTION 3. The ballot format for the proposal to authorize an increase to the Uniform Transient Occupancy Tax of two percent (2%) shall be substantially as follows:

CITY MEASURE ()

Shall the Uniform Transient Occupancy Tax set forth in Chapter 6.09 of the Pacific Grove Municipal Code be increased from ten percent (10%) to twelve percent (12%)?

YES/NO

SECTION 4. The measure shall pass only if a majority of the votes cast by voters voting on the measure are “yes” votes.

SECTION 5. The City Council requests the Board of Supervisors of the County of Monterey to provide for consolidation of the special municipal election called for herein with the general election scheduled for June 3, 2008, and to provide within the City of Pacific Grove the election precincts, polling places, voting booths, and election officers the same as used for the general election. The Board is further requested to provide for the preparation and mailing of sample ballots to qualified voters within the City as appropriate and in the manner provided by law.

SECTION 6. The Board of Supervisors of the County of Monterey is hereby authorized to canvass, or cause to be canvassed, as provided by law the returns of this municipal election, and to certify the results of such canvass of votes.

SECTION 7. The City Clerk is authorized to certify to the due adoption of this Resolution and to transmit a copy to the Board of Supervisors of the County of Monterey and to file a copy, so certified, with the County Clerk and County Registrar of Voters.

SECTION 8. The City Clerk and the County Registrar of Voters are authorized to print such forms, publish such notices and provide such information as may be necessary or convenient to assure the orderly holding of the election, and they shall do all other things necessary to facilitate the holding of the election in a manner harmonious and consistent with law.

SECTION 9. The County Registrar of Voters is authorized to bill the City, on a prorated basis, for costs associated with the election called by this Resolution.

SECTION 10. The City Attorney is directed to submit an impartial analysis of the proposed measure pursuant to section 9203 of the Elections Code on or before March 24, 2008.

SECTION 11. The last day to submit arguments for or against the proposed measure shall be March 14, 2008. Submittals are to be delivered to the Monterey County Elections Office on or before 5:00 p.m. The last day to submit rebuttal arguments for each proposed measure shall be March 24, 2008. Submittals are to be delivered to the Monterey County Elections on or before 5:00 p.m.

SECTION 12. The City Council shall meet to declare the results of the election called for by this Resolution at their first regular meeting following certification of election results.

SECTION 13. The City Clerk shall publish a copy of this Resolution in a newspaper of general circulation once within fifteen (15) days after the adoption of this Resolution.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE THIS 27th day of February, 2008, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

DANIEL J. CORT, Mayor

ATTEST:

CHARLENE WISEMAN, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney

ORDINANCE NO. _____**ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE AMENDING EXISTING CHAPTER 6.09 OF THE CITY OF PACIFIC GROVE MUNICIPAL CODE TO IMPLEMENT GENERAL TAXES IF THEY ARE APPROVED AT THE ELECTION TO BE HELD ON JUNE 3, 2008**

WHEREAS, in response to the request of its citizens, the City Council of the City of Pacific Grove (“City”) desires to exercise its authority to impose a new tax in accord with the results of the election to be held on June 3, 2008; and

WHEREAS, the enactment of a new tax must be approved by the voters of the City; and

WHEREAS, this Ordinance shall take effect if and only if a majority of the voters of the City casts ballots in favor of the ballot measure authorized for that purpose at the election to be held on June 3, 2008; and

WHEREAS, the City relies upon its authority to levy and increase taxes, as a charter city under its home rule powers and in accord with Article XI of the California Constitution. The City alternatively relies upon the general authority to levy this tax set forth in California Government Code §37101; and

WHEREAS, the City Council, by Resolution No. _____, adopted on February 27, 2008, unanimously determined and declared that the financial circumstances of the City immediately and urgently require enactment of new taxes to increase revenue to the City to preserve the public peace, health and safety of the community, to avoid the work stoppage and/or service disruptions that shall result from further staff cuts and reductions in force, and to avoid further impairment of valued services provided by the library, museum and recreation departments; and

WHEREAS, the Council, by Resolution No. _____ unanimously determined and declared that the financial emergency may result in the crippling consequences of budget depletion and may severely impair public health, safety, or both; and

WHEREAS, the Council, by Resolution No. _____, adopted on February 27, 2008, set a special municipal election to be held in the City on June 3, 2008, to consider one (1) measure to authorize an increase to the Uniform Transient Occupancy Tax set forth in Chapter 6.09 of the Pacific Grove Municipal Code as a “general tax”; and

WHEREAS, the tax provided for in this Ordinance shall be enacted solely to raise revenue for any and all municipal purposes, and shall be placed into the City’s General Fund, and is not intended for regulation; and

WHEREAS, the operative date for the increase to the Uniform Transient Occupancy Tax shall be July 1, 2008; and

WHEREAS, this Ordinance is exempt from the California Environmental Quality Act (CEQA), Public Resources Code section 21000 et seq., as it can be seen with certainty that there is no possibility that the activity authorized herein may have a significant effect on the environment; and

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE DOES ORDAIN AS FOLLOWS:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. The text set forth in existing Section 6.09.020 of Chapter 6.09 of the Pacific Grove Municipal Code shall be changed by the deletion of all text shown in ~~strikeout text~~ and the addition of all text shown in bold, italic, underscored text (***bold, italic, underscored text***), as follows:

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of ~~10%~~ ***twelve percent (12%)*** of the rent charged by the operator. The 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 tax administrator may require that such tax shall be paid directly to the tax administrator.

SECTION 3. The proceeds deriving from the provisions of Section 2 shall be a "general tax," the revenue from which shall be placed into the City's General Fund and be available for any and all municipal purposes.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE this ____ of February, 2008, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

DANIEL E. CORT, Mayor

ATTEST:

CHARLENE WISEMAN, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney