

City of Calistoga

Staff Report

19

TO: Honorable Mayor and City Council Members
FROM: Dylan Feik, City Manager
DATE: June 19, 2018
SUBJECT: Discussion and Consideration of a Resolution Placing Special TOT Tax Measure on the November 6, 2018 Ballot.

APPROVAL FOR FORWARDING:



Dylan Feik, City Manager

1
2 **ISSUE:** Discussion and Consideration of a Resolution Placing Special TOT Tax Measure
3 on the November 6, 2018 Ballot which would increase the City of Calistoga Transient
4 Occupancy Tax rate by one percent (1%) for Housing that is Affordable.
5

6 **RECOMMENDATION:** Adopt Resolution.
7

8 **BACKGROUND / DISCUSSION:** Following City Council discussion on May 15, 2018, and
9 June 5th, the City modified the language of the proposed resolution to include the word
10 “workforce” within the text. In addition, City staff has continued collaborating with other local
11 governments in the County to provide similar ballot language countywide in an effort to
12 avoid confusion. It is requested to slightly modify the ballot language in an order consistent
13 across multiple jurisdictions.
14

15 **Option 1 - Original Proposal to City Council on 6/5/18**

16 To help increase, improve and preserve the City’s affordable housing stock, shall an
17 ordinance be adopted to increase the City of Calistoga’s existing Transient Occupancy
18 Tax (a bed tax paid when overnight visitors rent a room) from twelve percent (12%) to
19 thirteen percent (13%), with no sunset date and estimated to generate \$512,325 annually
20 in tax revenue?
21

22 **Option 2 - Final Proposal following countywide discussions**

23 To increase, improve, and preserve affordable and workforce housing in the City of
24 Calistoga, shall an ordinance be adopted to levy an ongoing transient occupancy tax

25 (hotel tax) of 1% on hotel charges to visitors of 30 days or less, increasing the maximum
26 hotel tax rate from 12% to 13%, with all annual revenue from the new tax (estimated at
27 \$512,325) to be restricted to providing programs and services for affordable and
28 workforce housing.
29

30 The proposed ballot language is Option 2.

31
32 **COUNCIL GOALS:** The project conforms to Council Goal 2: Address the community's
33 existing and future housing needs as shown below -
34

35 Objectives

- 36 1. Expand balanced housing opportunities including workforce housing and mixed use
37 residential housing.
- 38 2. Protect and promote special needs housing for such groups as seniors, low-income
39 earners and persons with disabilities.
- 40 3. Maintain the existing housing stock in good condition.
- 41 4. Promote and expand use of Accessory Dwelling Units

42 Priority Projects

- 43 1. Support the "Rebuilding Calistoga" housing rehabilitation efforts by Calistoga
44 Affordable Housing and continue to implement the HOME and CDBG residential
45 rehabilitation loan programs.
- 46 2. Consider deleting allowed commercial activities from appropriate residential zoning
47 districts in order to maximize the inventory of sites available for housing
48 development.
- 49 3. Consider reclassifying appropriate potential development sites to residential land
50 use classifications or higher-density land use classifications.
- 51 4. Consider increasing the qualifying income for inclusionary ownership housing units
52 from 120% of area median income (AMI) to 150% AMI to facilitate development and
53 increase the feasibility of their purchase by households with sufficient income.
- 54 5. Modify the "multi-family residential" definition to allow detached units in order to
55 provide more design flexibility.
- 56 6. Subsidize or defer connection fees for ownership units affordable to households with
57 incomes less than 120% of area median income.
- 58 7. Review and consider using 1.25 persons/household when calculating the potential
59 population for senior projects under the Growth Management System in order to
60 create additional growth management allocations.
- 61 8. Acquire suitable properties for residential development targeted to local employees
62 and partner with developers to provide housing.

63

64 **CEQA REVIEW:** Under California Environmental Quality Act (“CEQA”) Guidelines section
65 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a
66 government funding mechanism that does not involve any commitment to any specific
67 project that may result in a potentially significant physical impact on the environment. If any
68 project is to be funded by revenue from the approved tax, analysis will be performed for
69 the project prior to approval in accordance with the then-applicable CEQA provisions.

70
71 **FISCAL IMPACT:** The Fiscal Year 2017-18 Original Budget includes \$6,147,902 for total
72 TOT tax collections. This amount represents all 12% of general fund revenue collected by
73 the City. An additional 1% increase is estimated to be \$512,325 annually.

74
75 **ATTACHMENTS:**

- 76
77 1. Proposed Resolution Placing Special TOT Tax Measure on the November 6, 2018
78 Ballot
79 2. Proposed Ordinance Amending Chapter 3.16 of the Calistoga Municipal Code to
80 Increase the City’s TOT Tax Rate, Subject to Voter Approval of Two-Thirds of Electors
81 Voting on the Measure at the November 6, 2018 General Election

A RESOLUTION OF THE CALISTOGA CITY COUNCIL ORDERING THE SUBMISSION TO THE VOTERS OF THE CITY A SPECIAL TAX MEASURE WHICH WOULD INCREASE THE CITY'S TRANSIENT OCCUPANCY TAX RATE FROM 12 PERCENT TO 13 PERCENT, THE REVENUES OF WHICH WOULD BE USED SOLELY FOR HOUSING-RELATED EXPENDITURES, SUBJECT TO APPROVAL OF TWO-THIRDS OF THE ELECTORS VOTING AT THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018

WHEREAS, the City's general municipal election will be held on November 6, 2018; and

WHEREAS, the City Council desires to submit to the voters at the general municipal election a question relating to increasing the City's Transient Occupancy Tax ("TOT") from the existing 12 percent to 13 percent; and

WHEREAS, the City Council desires for the increased tax revenues generated from a 1 percent increase in the TOT to be dedicated solely for housing-related expenditures; and

WHEREAS, the ordinance attached hereto as Exhibit "A" and incorporated herein by reference (the "Ordinance"), if approved by the voters, would increase the TOT from 12 percent to 13 percent effective January 1, 2019, and dedicate the increased TOT revenue for affordable and workforce housing programs and services up to and including, without limitation, land acquisition, land donation, building acquisition, building rehabilitation, building demolition, housing construction, maintaining the community's supply of mobile homes, providing housing subsidies to lower income residents, and/or preserving existing public subsidies for developments facing conversion to market rates.

NOW, THEREFORE, the City Council of the City of Calistoga does hereby resolve, declare and order as follows:

Section 1. That pursuant to Government Code section 36503 and Calistoga Municipal Code section 2.06.050, there is called and ordered to be held in the City of Calistoga a general municipal election on Tuesday, November 6, 2018.

Section 2. The City Council orders submitted to the voters a measure for the approval of the Ordinance increasing the City of Calistoga's Transient Occupancy Tax from 12 percent to 13 percent, effective January 1, 2019. The full text of the Ordinance shall be made available to any voter on request. The vote requirement for the measure to pass is a supermajority (two-thirds) of the votes cast.

Section 3. The measure shall be designated by letter by the Napa County Elections Department. The question to appear on the ballot for voter consideration shall be as follows:

Measure “___” APPROVAL OF INCREASE TO THE TRANSIENT OCCUPANCY TAX

To increase, improve and preserve affordable and workforce housing in the City of Calistoga, shall an ordinance be adopted to levy an ongoing transient occupancy tax (hotel tax) of 1% on hotel charges to visitors of 30 days or less, increasing the maximum hotel rate from twelve percent (12%) to thirteen percent (13%), with all revenue from the new tax (estimated: \$512,325 annually) to be restricted to providing programs and services for affordable and workforce housing?	YES	
	NO	

Section 4. The Mayor is authorized to select two members of the City Council to prepare a ballot argument in favor of the measure on behalf of the City Council, as specified in section 9282 of the California Elections Code. At the discretion of the Mayor, the argument may also be signed by members of the City Council or citizen associations or individual voters, subject to sections 9282 and 9283 of the California Elections Code. If an argument is filed against the measure, the Mayor is also authorized to select two members of the City Council to prepare a written rebuttal, which also may be signed by members of the City Council or citizen associations or individual voters, subject to sections 9282 and 9283 of the California Elections Code.

Section 5. The City Clerk is hereby directed to transmit a copy of the measure to the City Attorney, who shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure in accordance with Section 9280 of the California Elections Code, and to file that analysis no later than the deadline established by the Napa County elections official.

Section 6. Ballot arguments and rebuttals shall be filed with the City Clerk in compliance with sections 9282, 9283, and 9285 of the California Elections Code by the deadline established by the Napa County elections official.

Section 7. That the full text of the Ordinance shall not be printed in the Voter Information Pamphlet, but a statement shall appear under the Impartial Analysis informing voters that the information may be obtained from the City Clerk’s office and the City’s website.

Section 8. The Board of Supervisors of Napa County is hereby requested to issue instructions to the County Election Department to take any and all steps

necessary for the holding of the election and to consolidate this ballot measure with any other applicable election conducted on the same day in the City.

Section 9. Notice of the Election is hereby given and the City Clerk shall give such further notice of the election as required by law.

Section 10. The City Clerk is hereby directed to file a certified copy of this Resolution with the Napa County Board of Supervisors and the Napa County Elections Department.

Section 11. The City Clerk is authorized and directed to take all other steps necessary to conduct the election on the Measure.

Section 12. The City Manager is authorized and directed to appropriate the funds necessary to fund the cost of the Election.

Section 13. This Resolution shall take effect upon its adoption.

PASSED, APPROVED AND ADOPTED BY AT LEAST TWO-THIRDS OF THE CITY COUNCIL THIS _____ DAY OF _____, 2018.

**AYES:
NOES:
ABSENT:
ABSTAIN:**

**Chris Canning
Mayor**

ATTEST:

**Kathy Flamson
City Clerk**

APPROVED AS TO FORM:

**Michelle Kenyon
City Attorney**

Exhibit A

[full text of Ordinance to be attached]

DRAFT

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 3.16 OF THE CALISTOGA MUNICIPAL CODE TO INCREASE THE CITY'S TRANSIENT OCCUPANCY TAX RATE FROM 12 PERCENT TO 13 PERCENT, SUBJECT TO APPROVAL OF TWO-THIRDS OF THE ELECTORS VOTING ON THE TAX MEASURE AT THE NOVEMBER 6, 2018 GENERAL ELECTION

THE PEOPLE OF THE CITY OF CALISTOGA DO ORDAIN, AS FOLLOWS:

SECTION I: AMENDMENT OF CODE.

Section 3.16.020 (Imposition of Tax) of the Calistoga Municipal Code is hereby amended to read as follows:

"3.16.020 Imposition of Tax.

A. For the privilege of occupancy in any hotel, as defined in this chapter, each transient is subject to and shall pay a tax in the amount of 13 percent of the rent charged by the operator including meals and amenities if included in the charge for occupancy. Said tax constitutes a debt owed by the transient to the City which is extinguished only by payment to the operator or to the City.

B. 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 cessation of occupancy.

C. 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.

D. Of the 13 percent tax imposed in paragraph A of this section, 12 percent is a general purpose tax, the revenues of which may be used for any lawful municipal purpose, and 1 percent is a special purpose tax, the revenues of which are dedicated solely for affordable and workforce housing programs and services up to and including, without limitation, land acquisition, land donation, building acquisition, building rehabilitation, building demolition, housing construction, maintaining the community's supply of mobile homes, providing housing subsidies to lower income residents, and/or preserving existing public subsidies for developments facing conversion to market rates and shall be deposited in a separate account. An annual report shall be filed by the City Manager or designee to the City Council in compliance with Government Code section 50075.3 for the special purpose tax revenues collected and expended."

SECTION II: SEVERABILITY.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid by a court of competent jurisdiction, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby. The City Council finds and declares that it would have adopted each and every provision of this ordinance, even if it had not adopted any other provision.

SECTION III: STATUTORY AUTHORITY FOR TAX.

This ordinance is adopted pursuant to Revenue and Taxation Code section 7280.

SECTION IV: ELECTION REQUIRED.

This ordinance shall not become operative unless and until two-thirds of the electors voting on this ordinance approve the imposition of the tax at the General Election to be held on November 6, 2018.

SECTION V: EFFECTIVE DATE.

This ordinance relates to the levying and collecting of the City transient occupancy tax ("TOT") and shall take effect only if approved by a majority of the voters voting on the measure at the November 6, 2018 General Election, and if approved, shall become effective January 1, 2019.

PASSED, APPROVED, AND ADOPTED BY THE PEOPLE OF THE CITY OF CALISTOGA AT THE REGULAR MUNICIPAL ELECTION HELD ON THE 6TH DAY OF NOVEMBER, 2018.

Chris Canning
Mayor

ATTEST:

Kathy Flamson
City Clerk

APPROVED AS TO FORM:

Michelle Kenyon, City Attorney