



Report to City Council

TO: Mayor and City Council

FROM: Marshall Eyerman, Chief Financial Officer

AGENDA DATE: August 4, 2016

TITLE: A RESOLUTION AMENDING RESOLUTION NO. 2016-44 TO RESTATE AND REPLACE THE TRANSIENT OCCUPANCY TAX BALLOT QUESTION AS SET FORTH IN SECTION 2 OF RESOLUTION NO. 2016-44

RECOMMENDED ACTION

Recommendation: That the City Council:

1. Adopt Resolution No. 2016-59, A Resolution of the City Council of the City of Moreno Valley, California, Amending Resolution No. 2016-44 to Restate and Replace the Transient Occupancy Tax Ballot Question as set forth in Section 2 of Resolution No. 2016-44, which was previously submitted to the County of Riverside Registrar of Voters prior to July 1, 2016.

SUMMARY

On June 7, 2016, the City Council adopted Resolution No. 2016-44 (which is attached to the Resolution as Exhibit A) to place a measure on the November 8, 2016 ballot that asks the voters whether the City's Transient Occupancy Tax ("TOT"), also commonly known as the "Hotel Tax," should be increased from 8% to 13%. At that time, the City Council also approved a contract to utilize the resources of The Lew Edwards Group to assist the City through the election process to assure that residents are provided information as they make an informed decision on the ballot.

To satisfy recent state legislation and provide for additional transparency and accountability through the ballot process, it is being recommended that the ballot measure language as set forth in Resolution No. 2016-44 be revised to reflect the following:

- How much additional revenue may be produced on an annual basis;

- That the additional revenue will be subject to audits conducted by independent auditors;
- That the additional revenue will be subject to review and evaluation by a financial oversight committee; and
- That the revenue produced by the tax will only be used for local general municipal services and programs.

In addition, it is being recommended that the ballot measure language reference that if adopted, the measure will result in the adoption of an ordinance (by the people). The proposed ordinance which is attached to the Resolution as Exhibit B will be included in the voters' pamphlet to be prepared by the Registrar of Voters for the November 8, 2016 election.

DISCUSSION

California Revenue and Taxation Code authorizes a city council to levy a tax on the privilege of occupying a 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" ("TOT") or "Hotel Tax" and it is collected to fund general municipal programs and services such as, but not limited to, retaining additional police officers and firefighters, providing youth and senior services, implementing drug and gang prevention programs, expanding library services, and maintaining and improving the City's streets, sidewalks and parks

In addition to providing additional funding for general municipal programs and services for the City's residents, an increase in the City's TOT rate will produce the benefit of helping to recoup costs associated with the impacts travelers and visitors have on the City's many amenities, such as but not limited to, police services, waste collection, parks and recreation, public roads, dog park and equestrian center. This also reduces the per capita cost of general municipal programs and services paid by local residents and businesses.

It is very important to note that TOT is not levied against the City's residents or property owners; rather, it is levied on guests who occupy a "hotel" in the City of Moreno Valley for thirty calendar days or less. A "Hotel" is broadly defined in the Moreno Valley Municipal Code to include a hotel, inn, tourist home or house, motel, studio hotel, bachelor hotel, lodging house, rooming house, apartment house, dormitory, public or private club, mobile home, house trailer, duplex, triplex, single-family dwelling, etc. that are rented out and occupied for 30 days or less.

The City adopted a TOT ordinance 32 years ago in 1984 (upon incorporation) that set the City's TOT rate at 8%. The proposed TOT increase from 8% to 13% is expected to enhance General Fund revenues by \$650,000 based on the number of "hotel" rooms in the City and the current state of the economy. The City currently has 11 hotels/motels with a total of 931 rooms. (Note that this does not include any other establishments that may fall under the definition of "hotel.")

The City's 8% TOT rate ranks the lowest (with two other cities) amongst the 26 cities in Riverside County that have adopted TOT ordinances.

City	TOT Rate
Palm Springs	13.5%
Blythe	13.0%
Indio	13.0%
Riverside	13.0%
Banning	12.0%
Desert Hot Springs	12.0%
Indian Wells	11.25%
Cathedral City	11.0%
La Quinta	11.0%
Norco	11.0%
Beaumont	10.0%
Calimesa	10.0%
Canyon Lake	10.0%
Corona	10.0%
Hemet	10.0%
Lake Elsinore	10.0%
Menifee	10.0%
Murrieta	10.0%
Perris	10.0%
Rancho Mirage	10.0%
Wildomar	10.0%
Coachella	9.0%
Palm Desert	9.0%
San Jacinto	8.0%
Temecula	8.0%
Moreno Valley	8.0%

In light of the foregoing, it is recommended that the prior ballot measure language be replaced with the following:

“Moreno Valley Safety/Vital Services/Fiscal Stability Measure: To maintain community safety/quality neighborhoods by retaining police, firefighters, youth/senior services, drug/gang prevention, library, parks, street maintenance/other city services; shall an ordinance be adopted updating Moreno Valley’s existing transient occupancy tax (hotel tax) from 8% to 13%, paid only by overnight hotel/lodging guests, providing \$650,000 annually, that can only be ended by voters; requiring independent audits, financial oversight committee and all funds used locally?”

Since the City's TOT is considered a "general tax," this measure will require approval by a simple majority of those voting at the November 8, 2016 election.

This Measure, if approved by a simple majority of the voters, would increase the rate of the City's TOT/Hotel Tax from eight percent (8%) to thirteen percent (13%) commencing ten (10) days after the results of the election are certified by the City Council. The increase is expected to produce an additional \$650,000 annually in General Fund revenue for the City which may only be used locally. This additional revenue will also be subject to audits conducted by independent auditors and review and evaluation by a financial oversight committee. The five percent (5%) increase in the Hotel Tax will remain in place unless subsequently repealed by the voters.

Adoption of the attached resolution will amend Section 2 of Resolution No. 2016-44 to restate and replace the ballot measure language set forth in Section 2 of Resolution No. 2016-44, with all other provisions of said Resolution No. 2016-44 remaining the same.

ALTERNATIVES

1. Adopt the attached Resolution that will restate and replace the ballot measure language set forth in Resolution No. 2016-44 for transparency and accountability purposes with respect to the proposal to increase the City's Transient Occupancy Tax from 8% to 13%.

Staff recommends this alternative to satisfy recent state legislation and provide for additional transparency and accountability purposes since the proposed new language discloses how much additional income may be produced and requires that the City's TOT be reviewed by a financial oversight committee and that all funds be used locally.

2. Do not adopt the attached Resolution.

Staff does not recommend this alternative since the current ballot measure language that has been submitted to the Registrar of Voters does not disclose how much additional income might be produced and does not require that the City's TOT be reviewed by a financial oversight committee nor that all funds be used locally.

FISCAL IMPACT

Increasing the TOT from its 1984 level (8%) to 13% is expected to increase General Fund revenues by approximately \$650,000 per fiscal year - based upon current economic conditions and the number of hotel rooms in the City. The estimated cost to place a measure on the ballot is \$50,000 which will be funded by the City Clerk's election budget.

PREPARATION OF STAFF REPORT

Prepared By:
Marshall Eyerman
Chief Financial Officer/City Treasurer

Concurred By:
Steve Quintanilla
Interim City Attorney

Concurred By:
Marie Macias
Interim City Clerk

CITY COUNCIL GOALS

Revenue Diversification and Preservation. Develop a variety of City revenue sources and policies to create a stable revenue base and fiscal policies to support essential City services, regardless of economic climate.

ATTACHMENTS

1. Resolution Amending Resolution 2016-44 to Restate and Replace Transient Occupancy Tax Ballot Question
2. Exhibit A - Resolution 2016-44 Calling Election
3. Exhibit B - Ballot Measure Ordinance Increasing TOT

APPROVALS

Budget Officer Approval	<u>✓ Approved</u>	7/29/16 3:31 PM
City Attorney Approval	<u>✓ Approved</u>	7/29/16 2:14 PM
City Manager Approval	<u>✓ Approved</u>	7/29/16 3:36 PM

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Jesse L. Molina, Council Member
SECONDER:	D. LaDonna Jempson, Council Member
AYES:	Gutierrez, Giba, Price, Molina, Jempson

RESOLUTION NO. 2016-59

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING RESOLUTION NO. 2016-44 TO RESTATE AND REPLACE THE TRANSIENT OCCUPANCY TAX BALLOT QUESTION AS SET FORTH IN SECTION 2 OF RESOLUTION NO. 2016-44 WHICH WAS PREVIOUSLY SUBMITTED TO THE RIVERSIDE COUNTY REGISTRAR OF VOTERS PRIOR TO JULY 1, 2016

WHEREAS, violent crime is on the rise in Moreno Valley and more and more gang members are coming into Moreno Valley from other Southern California communities to commit crimes, and, if approved, this measure will provide funding to help maintain gang and drug prevention programs, increase the number of police officers on our streets and make Moreno Valley safer; and

WHEREAS, fast response times to 9-1-1 calls are critical for saving lives and, if approved, this measure will help maintain rapid response times of our City's paramedics, firefighters, and emergency medical workers who are the first to respond and save lives; and

WHEREAS, Sacramento has taken millions of dollars from Moreno Valley over the last five years, impacting the City's ability to provide services and programs at the levels local residents want, and, if approved, this measure will create a locally-controlled source of funding, that cannot be taken by the State, for vital city services such as police, fire, 9-1-1 emergency response, libraries and street repair; and

WHEREAS, this measure includes strict accountability provisions and fiscal safeguards such as a financial oversight committee and annual independent financial audits to ensure that funds are spent properly and used locally for Moreno Valley's benefit only; and

WHEREAS, safe neighborhoods and parks, well-serviced libraries, programs for children, youth and seniors, and well-maintained roads all contribute to Moreno Valley's quality of life; and

WHEREAS, it is generally understood that between 3 and 6 PM – the hours after school ends and before parents typically return home from work – children without an after school activity are 3 times more likely to use drugs, drink, smoke, and engage in sexual activity, and, if approved, this measure will help maintain city youth safety and after-school recreation programs that are important to keeping keep kids safe and out of trouble; and

WHEREAS, if approved, this measure will be paid for by out-of-town visitors and tourists when they stay at a hotel or motel in Moreno Valley and will not increase taxes for local Moreno Valley residents and businesses; and

WHEREAS, the City Council of the City of Moreno Valley adopted Resolution No. 2016-44 (attached hereto as Exhibit A) on June 7, 2016, calling and giving notice of a general municipal election on Tuesday, November 8, 2016, for certain officers as required by the provisions of the laws of the State of California relating to general law cities and for the submission to the voters of a ballot measure question regarding amending the City's transient occupancy tax; and

WHEREAS, Resolution No. 2016-44 was submitted to the Registrar of Voters on June 27, 2016, prior to the July 1, 2016, submission date set forth in the calendar for the General Municipal Election, November 8, 2016, prepared by the Registrar of Voters; and

WHEREAS, the City Council desires to restate and replace the ballot measure question set forth in Section 2 of Resolution No. 2016-44, with all remaining provisions of Resolution No. 2016-44 remaining the same, to indicate how much additional revenue may be produced on an annual basis; that the additional revenue will be subject to review and evaluation by a financial oversight committee; that the revenue produced by the tax will only be used locally.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. That Section 2 of Resolution No. 2016-44 is hereby amended to restate and amend the ballot measure language set forth in Section 2 of Resolution No. 2016-44 as follows:

Pursuant to its right and authority, the City Council of the City of Moreno Valley, California does also order submitted to the voters at the General Municipal Election, the following question:

Moreno Valley Safety/Vital Services/Fiscal Stability Measure: To maintain community safety/quality neighborhoods by retaining police, firefighters, youth/senior services, drug/gang prevention, library, parks, street maintenance/other city services; shall an ordinance be adopted updating Moreno Valley's existing transient occupancy tax (hotel tax) from 8% to 13%, paid only by overnight hotel/lodging guests, providing \$650,000 annually, that can only be ended by voters; requiring independent audits, financial oversight committee and all funds used locally?	YES
	NO

SECTION 2. That the ordinance (attached hereto as Exhibit B) shall accompany the above measure and be included in the official voters' pamphlet prepared for the November 8, 2016 election by the Registrar of Voters.

SECTION 3. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

SECTION 4. That other than Section 2 of Resolution No. 2016-44, all other provisions of said Resolution shall remain the same.

APPROVED and ADOPTED this 4th day of August, 2016.

Mayor of the City of Moreno Valley

ATTEST:

Interim City Clerk

APPROVED AS TO FORM:

Interim City Attorney

RESOLUTION JURAT

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF MORENO VALLEY)

I, Marie Macias, Interim City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2016-59 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 4th day of August, 2016 by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

(Council Members, Mayor Pro Tem, Mayor)

INTERIM CITY CLERK

(SEAL)

RESOLUTION NO. 2016-44

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, CALLING AND GIVING NOTICE OF A GENERAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 8, 2016, FOR CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES AND FOR THE SUBMISSION TO THE VOTERS OF A QUESTION REGARDING AMENDING THE CITY'S TRANSIENT OCCUPANCY TAX

WHEREAS, under the provisions of the laws relating to general law cities in the State of California, a General Municipal Election shall be held on Tuesday, November 8, 2016 for the election of Municipal Officers; and

Whereas, the City Council of the City of Moreno Valley also desires to submit to the voters of the City at the General Municipal Election a proposal to amend the City's Transient Occupancy Tax provisions of the Municipal Code.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF MORENO VALLEY, CALIFORNIA, DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. Pursuant to the requirements of the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Moreno Valley, California, on Tuesday, November 8, 2016, a General Municipal Election for the purpose of electing a Mayor for the full term of two years, and a City Councilmember from Council District One (1) and a Councilmember from Council District Three (3), as such districts have heretofore been established, for the full term of four years.

SECTION 2. Pursuant to its right and authority, the City Council of the City of Moreno Valley, California does also order submitted to the voters at the General Municipal Election, the following question:

To maintain community safety / quality neighborhoods by retaining police, firefighters, youth / senior services, library, parks and other general city services, shall Moreno Valley's existing transient occupancy tax (hotel tax), paid only by overnight hotel / lodging guests, be set at a uniform thirteen percent for all hotels (including campgrounds/vehicle parks), with annual independent audits?	YES
	NO

SECTION 3. The election will be held and conducted in accordance with the provisions of law regulating statewide elections, including without limitation, Election Code 10418.

SECTION 4. The ballots to be used at the election shall be in form and content as required by law.

SECTION 5. The City Clerk is authorized, instructed and directed to procure and furnish any and all official ballots, notices, printed matter and all supplies and equipment that may be necessary in order to properly and lawfully conduct the election.

SECTION 6. The polls for the election shall be open at seven o'clock (7:00) a.m. of the day of the election and shall remain open continuously from that time until eight o'clock (8:00) p.m. of the same day when the polls shall be closed, pursuant to Elections Code §10242, except as provided in §14401 of the Elections Code of the State of California.

SECTION 7. In all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 8. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed and directed to give further or additional notice of the election, in time, form and manner as required by law.

SECTION 9. In the event of a tie vote (if any two or more persons receive an equal and the highest number of votes for an office) when certified by the County of Riverside Registrar of Voters, the City Council in accordance with Elections Code §15651 (a) shall set a date, time and place and summon the candidates who have received the tie votes to appear and will determine the tie by lot.

SECTION 10. That the City Clerk is authorized to administer said election and all reasonable and actual expenses shall be paid by the City upon presentation of a properly submitted bill by the County of Riverside.

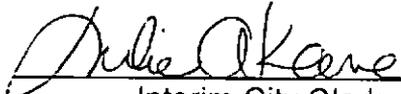
SECTION 11. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

APPROVED and ADOPTED this 7th day of June, 2016.



Mayor of the City of Moreno Valley

ATTEST:



Interim City Clerk

APPROVED AS TO FORM:



Interim City Attorney

RESOLUTION JURAT

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF MORENO VALLEY)

I, Leslie Keane, Interim City Clerk of the City of Moreno Valley, California, do hereby certify that Resolution No. 2016-44 was duly and regularly adopted by the City Council of the City of Moreno Valley at a regular meeting thereof held on the 7th day of June, 2016 by the following vote:

AYES: Council Members Jempson, Molina, Price, Mayor Pro Tem Giba
 and Mayor Dr. Gutierrez

NOES: None

ABSENT: None

ABSTAIN: None

(Council Members, Mayor Pro Tem, Mayor)



CITY CLERK

(SEAL)

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF MORENO VALLEY, CALIFORNIA, AMENDING SECTION 3.24.030 "TAX IMPOSED" OF CHAPTER 3.24 "TRANSIENT OCCUPANCY TAX" OF THE MORENO VALLEY MUNICIPAL CODE INCREASING THE AMOUNT OF TRANSIENT OCCUPANCY TAX RATE FROM EIGHT PERCENT (8%) TO THIRTEEN PERCENT (13%) FOR THE PURPOSE OF FUNDING LOCAL GENERAL MUNICIPAL SERVICES

THE PEOPLE OF THE CITY OF MORENO VALLEY ORDAIN AS FOLLOWS:

Section 1. ELECTIONS CODE SECTION 13119 STATEMENT

That the increase in the Transient Occupancy Tax rate from 8% to 13% is expected to produce an additional \$650,000 annually in General Fund revenue and the five percent (5%) increase in the Transient Occupancy Tax rate will remain in place unless subsequently repealed by the voters.

Section 2. METHOD OF COLLECTION

That the method of collection of Transient Occupancy Taxes shall be the same as set forth in Moreno Valley Municipal Code, Chapter 3.24 Transient Occupancy Tax, Sections 3.24.070 Returns and Remittances; and 3.24.080 Reporting and Remitting.

Section 3. LOCAL USE OF PROCEEDS

That the additional revenue produced by the increase in the Transient Occupancy Tax rate from 8% to 13% may be used for any local general municipal purpose including, but not limited to, retaining police, firefighters, providing youth/senior services, implementing drug/gang prevention programs, expanding library services, and maintaining and improving any of the streets and parks within the City of Moreno Valley.

Section 4. ANNUAL INDEPENDENT AUDITS

That the financial records, accounting practices and internal controls related to the collection, deposit and expenditure Transient Occupancy Tax revenue shall be examined by means of an annual audit conducted by an independent auditor whose services shall be retained by the City through a contract for services as an independent contractor.

Section 5. FINANCIAL OVERSIGHT COMMITTEE

That Transient Occupancy Tax collections and expenditures shall be subject to the periodic review and evaluation of a Financial Oversight Committee that shall be established by the City Council with the members being appointed by the City pursuant to the City's appointment procedures related to the appointment of members of boards, commissions, and committees of the City of Moreno Valley.

Section 6. INCREASE IN TRANSIENT OCCUPANCY TAX

That Section 3.24.030 "Tax Imposed" of Chapter 3.24 "Transient Occupancy Tax" of the Moreno Valley Municipal Code is hereby amended as follows:

3.24.030 Tax imposed.

For the privilege of occupancy in any hotel, each transient is subject to, and shall pay a tax in the amount of ~~eight~~ **thirteen** percent **(13%)** of the rent charged by the operator or otherwise payable by the transient. Insofar as the transient is concerned, the tax constitutes a debt owed by the transient to the operator or to the city. For the purposes of this section, the rent deemed payable on account of time-share occupancy by a transient shall be the rental value of the unit or room(s) which accommodated such occupancy, which rental value shall be computed by determining the pro rata share of the total purchase price of the time-share right or entitlement (whether or not involving an estate or any ownership in real property), which share is allocable to the period of transient occupancy currently involved, and adding thereto the total applicable operating costs including, but not limited to, the applicable real and personal property taxes, plus the total amount of any and all fees, assessments, charges and expenses (not including the previously referred to taxes) charged by the operator as attributable to the timeshare occupancy of the transient by whatever name such fees, assessments, charges or expenses may be denominated, whether "occupying fee," "maintenance or operations charge," "per diem fee," "management fee" or like name or otherwise. In making the computation referred to above of the pro rata share of the total purchase price, in any case wherein the time-share right or entitlement is in perpetuity or for life or otherwise not for a definite or ascertainable term, such pro ration shall be made upon an assumed term of forty (40) years.

Section 7. SEVERABILITY

That should any provision, section, paragraph, sentence or word of this ordinance be rendered or declared invalid by any final court action in a court of competent jurisdiction or by reason of any preemptive legislation, the remaining provisions, sections, paragraphs, sentences or words of this ordinance as hereby adopted shall remain in full force and effect.

Section 8. REPEAL OF CONFLICTING PROVISIONS

That all the provisions of the Municipal Code as heretofore adopted by the City of Moreno Valley that are in conflict with the provisions of this ordinance are hereby repealed.

Section 9. CERTIFICATION

That the City Clerk shall certify to the passage of this ordinance and shall cause the same to be published according to law.

Section 10. EFFECTIVE DATE

That this ordinance shall take effect ten (10) days following the City Council's certification of the results of the November 8, 2016 election.

PASSED AND ADOPTED by the People of the City of Moreno Valley at a general municipal election held on November 8, 2016.

Mayor

ATTESTED BY:

City Clerk