



**DATE:** July 14, 2020

**TO:** Mayor and City Council

**FROM:** Director of Finance

**SUBJECT:** Transient Occupancy Tax: Adopt Resolutions Establishing November 3, 2020 as the Date for a Proposed Ballot Measure Asking Hayward Voters to Approve an Increase in the City's Transient Occupancy Tax

### **RECOMMENDATION**

That Council takes the following actions to place an increase in the City's Transient Occupancy Tax from 8.5 percent to up to 14 percent (Attachment II) before the voters of Hayward at the November 3, 2020 election:

1. Adopts the attached resolutions approving the ballot question as it will appear on the ballot, the underlying ordinance to be enacted, and the request that the Alameda County Board of Supervisors authorize the City Clerk and Registrar of Voters to provide election services and canvass the returns; and
2. Directs the City Attorney to develop an impartial analysis of the proposed ballot measure.

### **SUMMARY**

The purpose of this item is for the Council to take the necessary steps to place a revenue measure on the November 3, 2020 ballot to allow an increase to the Transient Occupancy Tax (TOT) of up to 14%, to be determined in the future by Council based on economic conditions. The steps include: 1) adopting a resolution calling for an election on the measure; 2) adopting a resolution establishing the ballot question for the proposed measure; 3) adopting a resolution establishing the schedule and policy for ballot arguments; and 4) directing the City Attorney to prepare an impartial analysis the ballot measure.

### **BACKGROUND**

On January 15, 2020, staff updated the Council Budget and Finance Committee on the City's Long-Range Financial Model. Staff assumptions included a mild recession in FY 2021, resulting in a structural deficit in FY 2021, falling below the 20% target General Fund reserve in FY 2022, and depletion of the General Fund reserve by FY 2024. The Council Budget and Finance Committee requested an updated analysis of a potential ballot measure increasing the TOT and a request for direction be presented to the full Council.

At the June 30, 2020, meeting, the City Council considered a report from staff regarding a possible ballot measure to be submitted to Hayward voters at the November 3, 2020 general municipal election. The report considered regional TOT rates for cities with similar populations, results of polling carried out in 2018, and potential revenue impacts of increased TOT at various rates. The June 30, 2020 report can be found [here](#). After discussion, the Council, on a vote of 7-0, directed staff to prepare resolutions formally submitting said measure to Hayward voters. The resolutions are attached (Attachments II and III). The proposed measure is a general tax measure requiring a simple majority for approval.

**DISCUSSION**

The first of the two attached resolutions (Attachment II) sets forth the question that would be included on ballots Hayward voters would approve or reject by voting ‘yes’ or ‘no’ as follows:

<p>Shall amendments to the Hayward Transient Occupancy Tax be adopted?</p>	<p>YES</p>
<p>To support City of Hayward services, including: repairing streets and sidewalks; 911 emergency and firefighter response times; disaster preparedness; extended library hours and after-school programs; and other general City services with revenue that cannot be taken by the State; shall the City of Hayward increase the transient occupancy tax paid only by hotel and motel guests from 8.5% to up to 14%, providing an estimated \$3,000,000 annually, until repealed by voters, all funds benefiting Hayward?</p>	<p>NO</p>

The resolution also directs the City Clerk to ask the Alameda County Board of Supervisors to authorize the Registrar of Voters to provide election services and to canvass the returns.

The resolution also directs the City Attorney to prepare an impartial analysis of the measure, which would be printed in the voter information guide.

The second attached resolution (Attachment III) establishes the schedule and policies governing the filing of ballot arguments for the TOT measure. The primary argument filing period closes at noon on August 11, 2020. The rebuttal argument period closes on August 21, 2020. Each argument period shall be followed by a ten-day public review period.

The resolution also includes a Certification of Author(s) and Proponents (s) in Attachment V - Exhibit A. Per Elections Code §9600, all arguments must be accompanied by a completed Certification at the time of submission.

**ECONOMIC & FISCAL IMPACT**

Based on staff analysis, the increase in the TOT could result in up to \$1.6 million in additional revenues annually, based on actual TOT revenues for the last five fiscal years and a TOT rate set at the maximum amount of 14 percent. Exact revenues will be dependent on the TOT level and the total rents charged by hotel operators.

The cost of the November 3, 2020 election is estimated to be \$250,000, which would include this ballot measure, and four seats on the City Council.

## STRATEGIC ROADMAP

This agenda item supports the Strategic Priority of Improve Organizational Health. Specifically, this item relates to the implementation of the following project(s):

Project 1, Part 1.a: Maintain and Expand Fiscal Sustainability: Evaluate an increase in the Transient Occupancy Tax

## PUBLIC CONTACT

This agenda item was published in compliance with the requirements of the Brown Act. In addition, the Director of Finance presented to the Chamber of Commerce Government Relations Committee on Friday, July 10. Feedback from that meeting will be presented to Council at the Council meeting.

## NEXT STEPS

The calendar below outlines key dates related to these measures.

Date	Action
July 14, 2020	Presentation of proposed TOT increase ballot measure language to Council.
August 7, 2020	Deadline to deliver City resolution calling ballot measure election and request election consolidation.
August 11, 2020	Deadline for submission of Direct Arguments for/against proposed ballot measure. <b>(12pm - Noon)</b>
August 21, 2020	Close of Public Examination Period for Primary Arguments. Deadline for submission of Rebuttal Arguments for/against proposed ballot measure. <b>(12pm - Noon)</b>
August 31, 2020	Close of Public Examination Period for Rebuttal Arguments.
September 24, 2020	First Pre-Election Campaign Statement Deadline FPPC Form 460 - Period covers 7/1/20 - 9/22/20.
October 19, 2020	Last day to register to vote (for the November 3, 2020 election).
October 22, 2020	Second Pre-Election Campaign Statement Deadline FPPC Form 460 - Period covers 9/23/20 - 10/20/20.
November 3, 2020	Election Day. Polls open at 7am and close at 8pm.
December 3, 2020	Last day for Alameda Registrar of Voters to certify results to City.
December 8, 2020	Council to certify election results.
January 31, 2021	Semi-Annual Filing Campaign Statement Deadline FPPC Forms - Period covers 10/21/20 - 12/31/20.

*Prepared and Recommended by:*

Dustin Claussen, Director of Finance  
Rick Rivera, Management Analyst I  
Miriam Lens, City Clerk

Approved by:

A handwritten signature in black ink, appearing to read 'K. McAdoo', written in a cursive style.

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Kelly McAdoo, City Manager