



Council Agenda Report

To: Mayor Farrer and the Honorable Members of the City Council

Prepared by: Heather Glaser, City Clerk

Approved by: Reva Feldman, City Manager

Date prepared: June 15, 2020 Meeting date: July 13, 2020

Subject: Submission of a Proposed Measure to the Voters to Increase Transient Occupancy Tax

RECOMMENDED ACTION: 1) Adopt Resolution No. 20-37 ordering the submission of a proposed measure that would increase the City's Transient Occupancy Tax from 12% to 15% at the General Municipal Election to be held on Tuesday, November 3, 2020, as called by Resolution No. 20-27; and 2) Adopt Resolution No. 20-38 setting priorities for filing written arguments regarding the submission of a proposed measure that would increase the City's Transient Occupancy Tax from 12% to 15% at the General Municipal Election to be held on Tuesday, November 3, 2020, as called by Resolution No. 20-27 and directing the City Attorney to prepare an impartial analysis.

FISCAL IMPACT: At this time, the costs associated with adding a ballot measure to the November 3, 2020 General Election ballot are unknown. The Los Angeles County Registrar-Recorder/County Clerk is working to provide estimates for the November 3, 2020 General Election at the end of July 2020. Funding for the November 3, 2020 General Municipal Election the amount of \$50,000 was included in the Adopted Budget for Fiscal Year 2020-2021 in Account Number 100-7007-5150 (Elections).

The Adopted Budget for Fiscal Year 2020-2021 includes \$3.1 million in expected tax revenue from hotels, motels and the short-term rentals of private homes. Based on the projected Transient Occupancy Tax revenue in the Adopted Budget for Fiscal Year 2020-2021, a 3% increase in Transient Occupancy Tax could generate up to \$775,000 in additional revenue annually.

The estimate of \$775,000 assumes that the impacts on travel from the global pandemic will decrease by the end of the calendar year and that the City will continue to receive revenue from the short-term rentals of private homes. If the global pandemic extends into calendar year 2021 and if the Local Coastal Plan Amendment proposed to change the City's short-term rental rules results in a dramatic drop in transient occupancy tax,

the additional amount that will be generated from an increase in the City's tax rate is hard to determine.

WORK PLAN: This item was included as item 6a in the Adopted Work Plan for Fiscal Year 2020-2021.

DISCUSSION: On June 8, 2020, the Council adopted resolutions calling the General Municipal Election and setting the date at Tuesday, November 3, 2020, and requesting the Board of Supervisors of the County of Los Angeles to consolidate the General Municipal Election with the Statewide General Election. On June 8, 2020, the Council also requested staff bring back resolutions placing the following question on the November 3, 2020 ballot:

“Shall a measure be adopted increasing the transient occupancy tax paid by hotel and other lodging guests from 12% to 15% of rent charged, raising approximately \$775,000 annually until ended by voters, with revenue to be controlled and used locally for general municipal services in Malibu?”

Staff has prepared Resolution No. 20-37 (Attachment 1) ordering the submission of the proposed measure on the November 3, 2020 ballot and Resolution No. 20-38 (Attachment 2) setting priorities for filing written arguments and directing the City Attorney to prepare an impartial analysis. On July 9, 2018, the Council adopted Resolution No. 18-46 (Attachment 3) providing for the filing of rebuttal arguments for measures submitted to the voters at municipal elections from that date forward.

ATTACHMENTS:

1. Resolution No. 20-37
2. Resolution No. 20-38
3. Resolution No. 18-46

RESOLUTION NO. 20-37

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU ORDERING THE SUBMISSION OF A PROPOSED MEASURE THAT WOULD INCREASE THE CITY'S TRANSIENT OCCUPANCY TAX FROM 12% TO 15% AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, AS CALLED BY RESOLUTION NO. 20-27

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Recitals.

- A. The City Council adopted Resolution No. 20-27 calling a General Municipal Election to be held on November 3, 2020, for the election of Municipal Officers.
- B. By this Resolution, the City Council places a measure on the November 2020 ballot for consideration by the voters that, if adopted, would increase the rate of the transient occupancy tax paid by hotel, motel, and other short-term guests from its current rate of 12% to 15%;

SECTION 2. Pursuant to the requirements of the laws of the State of California relating to general law cities, the City Council does order submitted to the voters at the General Municipal Election on Tuesday, November 3, 2020, the following question:

Shall a measure be adopted increasing the transient occupancy tax paid by hotel and other lodging guests from 12% to 15% of rent charged, raising approximately \$775,000 annually until ended by voters, with revenue to be controlled and used locally for general municipal services in Malibu?	YES
	NO

SECTION 3. The text of the measure submitted to the voters is attached as Exhibit A.

SECTION 4. The vote requirement for the measure to pass is a majority of votes cast (50%+1).

SECTION 5. The ballots to be used at the election shall be in form and content as required by law.

SECTION 6. The City Clerk is authorized, instructed and directed to coordinate with the Los Angeles County Registrar-Recorder/County Clerk to procure and furnish any and all official ballots, notices, printed matter and all supplies, equipment and paraphernalia that may be necessary in order to properly and lawfully conduct the election.

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. The City Council authorizes all reasonable and actual election expenses shall be paid by the City upon presentation of a properly submitted bill.

SECTION 10. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED and ADOPTED this 13th day of July 2020.

_____, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE

CHRISTI HOGIN, City Attorney

Exhibit A

Text of the Proposed Measure

AN ORDINANCE OF THE CITY OF MALIBU TO INCREASE THE
TRANSIENT OCCUPANCY TAX BY 3% FROM 12% TO 15% AND
AMENDING CHAPTER 3.24 OF THE MALIBU MUNICIPAL CODE

The People of the City of Malibu do hereby ordain as follows:

SECTION 1. Recitals.

A. The purpose of this Ordinance is to increase the rate of the transient occupancy tax paid by hotel/motel and other short-term guests from its current rate of 12% to 15%.

B. The transient occupancy tax is paid only by guests who stay in local hotels and other lodgings so that out-of-town visitors pay their fair share of their use of City roads, parks, the beach, public safety and other City services.

C. The revenues from the TOT remain entirely in the City, are controlled by the City, and are used for unrestricted general municipal purposes such as public safety, infrastructure, street repair and park improvements. TOT revenues cannot be taken by Los Angeles County or the state.

D. An increase of 3% in the transient occupancy tax is estimated to raise approximately \$775,000, which would be used by the City to protect the residents' quality of life and property values and continue to provide excellent services.

SECTION 2. Section 3.24.030 of Chapter 3.24, Title 3 of the Malibu Municipal Code is amended to read:

A. For occupancy of any hotel, motel, hostel, or permitted short term rental as defined, each transient is subject to and shall pay a tax in the amount of 15% of the rent or bill charged by the operator. This tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator of the hotel, motel, hostel, hospital, or other permitted short-term accommodation at the time the rent or bill is paid. If the rent or bill 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, motel, hostel, hospital or other permitted short-term accommodation. If for any reason the tax due is not paid to the operator, the tax administrator may require that such tax shall be paid directly to the tax administrator.

RESOLUTION NO. 20-38

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING THE SUBMISSION OF A PROPOSED MEASURE THAT WOULD INCREASE THE CITY'S TRANSIENT OCCUPANCY TAX FROM 12% TO 15% AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 3, 2020, AS CALLED BY RESOLUTION 20-27 AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. A General Municipal Election is to be held in the City of Malibu on November 3, 2020, at which there will be submitted to the voters the following question:

Shall a measure be adopted increasing the transient occupancy tax paid by hotel and other lodging guests from 12% to 15% of rent charged, raising approximately \$775,000 annually until ended by voters, with revenue to be controlled and used locally for general municipal services in Malibu?

SECTION 2. Primary Arguments. That the City Council authorizes (i) the City Council or any member(s) of the City Council (ii) any individual voter eligible to vote on the above measure, (iii) a bona fide association of such citizens or (iv) any combination of voters and associations, to file a written argument in favor of or against the City measure, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California, and to change the argument until and including the date fixed below by the City Clerk, after which no arguments for or against the City measure may be submitted to the City Clerk.

The deadline to submit arguments for or against the City Measure pursuant to this Resolution is declared by the City Clerk to be July 27, 2020, at 5:30 p.m. Each argument shall not exceed 300 words and shall be filed with the City Clerk, signed, and include the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument.

SECTION 3. Rebuttal Arguments. Pursuant to Section 9285 of the Elections Code of the State of California, when the City Clerk has selected the primary arguments for and against the City Measure which will be printed and distributed to the voters, the City Clerk shall send copies of the primary argument in favor of the Measure to the authors of the primary argument against, and copies of the primary argument against to the authors of the primary argument in favor. The authors or persons designated by them may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk not later than August 6, 2020, at 5:30 p.m. Rebuttal arguments shall be printed in the same manner as the primary arguments. Each rebuttal argument shall immediately follow the primary argument which it seeks to rebut.

SECTION 4. The City Council directs the City Clerk to transmit a copy of the proposed measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of the

measure. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the City. In the event the entire text of the measure is not printed on the ballot, nor in the voter information portion of the sample ballot, there shall be printed immediately below the impartial analysis, in no less than 10-point type, substantially the following: "The above statement is an impartial analysis of the proposed measure. If you desire a copy of the propose measure, please call the election official's office at (310) 465-2489, ext. 228 and a copy will be mailed at no cost to you." The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 5. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

PASSED, APPROVED, and ADOPTED on this 13th day of July 2020.

_____, Mayor

ATTEST:

HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:

THIS DOCUMENT HAS BEEN REVIEWED
BY THE CITY ATTORNEY'S OFFICE
CHRISTI HOGIN, City Attorney

RESOLUTION NO. 18-46

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF MALIBU
PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR
MEASURES SUBMITTED TO THE VOTERS AT MUNICIPAL ELECTIONS
AND REPEALING RESOLUTION NO. 97-94

The City Council of the City of Malibu does hereby find, order and resolve as follows:

SECTION 1. Elections Code Section 9282 provides for written arguments to be filed in favor of or against initiative or City submitted measures not to exceed 300 words in length.

SECTION 2. Elections Code Section 9285 authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for measures submitted to the voters at municipal elections.

SECTION 3. Pursuant to Elections Code Section 9285, when an argument in favor and an argument against a measure have been selected to be printed in the voter information guide, the elections official shall send a copy of the argument in favor of the measure to the authors of the argument against the measure and a copy of an argument against the measure to the authors of the argument in favor of the measure.

The author or a majority of the authors of an argument relating to a City measure may prepare and submit a rebuttal argument or may authorize in writing another person or persons to prepare, submit, or sign the rebuttal argument. A rebuttal argument shall not exceed 250 words. A rebuttal argument relating to a City measure shall be filed with the City Clerk **no later than 10 days** after the final filing date for primary arguments. A rebuttal argument relating to a city measure shall not be signed by more than five persons, shall be printed in the same manner as a direct argument, and shall immediately follow the direct argument which it seeks to rebut.

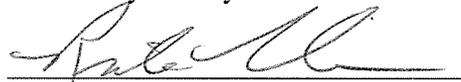
The rebuttal arguments shall be signed, with the printed name(s) and signature (s) of the author(s) submitting it, or if submitted on behalf of an organization the name of the organization, and the printed name and signature of at least one of its principal officers. The rebuttal arguments shall be accompanied by the Declaration by Author(s) of Arguments or Rebuttals.

SECTION 4. Resolution No. 97-94 is hereby repealed.

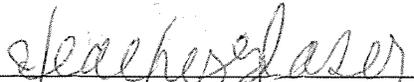
SECTION 5. The provisions of Section 3 shall apply to next ensuing municipal election and at each municipal election after that time.

SECTION 6. The City Clerk shall certify to the passage and adoption of this resolution and enter it into the book of original resolutions.

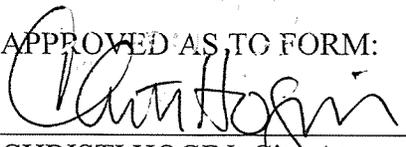
PASSED, APPROVED, and ADOPTED on this 9th day of July 2018.


RICK MULLEN, Mayor

ATTEST:


HEATHER GLASER, City Clerk
(seal)

APPROVED AS TO FORM:


CHRISTI HOGIN, City Attorney

I CERTIFY THAT THE FOREGOING RESOLUTION NO. 18-46 was passed and adopted by the City Council of the City of Malibu at the special meeting thereof held on the 9th day of July 2018 by the following vote:

AYES: 5 Councilmembers: La Monte, Peak, Rosenthal, Wagner, Mullen
NOES: 0
ABSTAIN: 0
ABSENT: 0


HEATHER GLASER, City Clerk
(seal)