



**CITY OF PACIFICA  
COUNCIL AGENDA SUMMARY REPORT**

**7/8/2024**

**SUBJECT:**

Resolution of the City Council of the City of Pacifica Calling and Giving Notice for Holding a General Municipal Election to be consolidated with the City's next General Municipal Election on November 5, 2024, and Submitting to the Elector's a Ballot Measure to update the City's Transient Occupancy (Hotel/Lodging Guest) Tax imposed on short term stays by increasing to fifteen percent (15%) by amending Pacifica Municipal Code section 3-7.03; Establishing the Policies and Procedures for such an election; Requesting San Mateo County to Consolidate with the City's General Municipal Election, Statewide General Election and to Provide Election Services; Directing the City Attorney to Prepare an Impartial Analysis; and Authorizing the Filing of Rebuttal Argument

**RECOMMENDED ACTION:**

Move to adopt a Resolution Calling and Giving Notice for Holding a General Municipal Election to be consolidated with the City's next General Municipal Election on November 5, 2024, and Submitting to the Elector's a Ballot Measure to update the City's Transient Occupancy (Hotel/Lodging Guest) Tax imposed on short term stays by increasing to fifteen percent (15%) by amending Pacifica Municipal Code section 3-7.03; Establishing the Policies and Procedures for such an election; Requesting San Mateo County to Consolidate with the City's General Municipal Election, Statewide General Election and to Provide Election Services; Directing the City Attorney to Prepare an Impartial Analysis; and Authorizing the Filing of Rebuttal Argument.

**STAFF CONTACT:**

Kevin Woodhouse, City Manager  
(650) 738-7409  
kwoodhouse@pacificagov

**BACKGROUND:**

Pacifica continues to face long-term challenges, including the need for sustainable financial strategies to address resident-identified City service needs and priorities.

As part of this year's City Budget development process, the City engaged residents in discussions about the budget and City services. This included a community survey and an expansion utilizing the Pacifica Discussion - a community discussion about resident priorities on City services. The result of this process showed resident support for additional locally controlled funding to address City service needs and priorities.

## **DISCUSSION:**

### **Community Input**

This year the City engaged nearly 2,000 residents around the City's budget process. This included two community surveys of over 980 Pacifica voters plus a community dialogue about resident priorities with over 1,000 responses.

Pacifica residents overwhelmingly prioritized funding for City services such as police, fire and 911 emergency response services; street and pothole repair; youth, and senior programs; adapting to sea-level rise and keeping trash off beaches.

In a recently conducted independent community survey, 64% of respondents said they would support a simple majority approval local funding measure to update the City's local transient occupancy tax (hotel tax).

Summary information about survey feedback is available on the City's Vision 2025 & Beyond webpage at: <https://www.cityofpacifica.org/departments/city-manager/vision-2025-and-beyond>

### **Transient Occupancy Tax**

Transient Occupancy Tax (TOT) (also known as a Hotel Tax) is charged as a percentage of a room rate to people who occupy a hotel, motel, inn, or other form of transient lodgings for thirty (30) days or less. The tax is collected by the lodging operator and is remitted to the City by the lodging operator.

TOT is a revenue that has been used to fund city services throughout California and has been adopted in 430 of the 482 cities in the State. It is estimated that Pacifica will receive almost \$3 Million (\$2.978 Million) in TOT revenue in Fiscal Year 2024-25.

Several Bay Area cities raised their TOT rates from 12% to 14% or 15% over the past 6 years with revenue measures approved by voters in those communities. TOT rates have also gone beyond 15% in one local city - Palo Alto (15.5%). TOT rates have also increased to 15% in a few cities in Southern California (Anaheim, Malibu, and Ojai).

If Pacifica voters adopt a measure to increase the City TOT tax rate from 12% to 15%, that change would bring in an estimated additional \$720,000 per year in revenue. Increasing this revenue from the current level of approximately \$3 Million per year to approximately \$3.72 Million per year.

### **Cities In San Mateo County With Transient Occupancy Taxes**

There are 20 cities in San Mateo County. Among these cities, 15 have adopted Transient Occupancy Taxes. Pacifica's 12% TOT tax rate is currently among the lowest in the County. TOT taxes by City in San Mateo County are shown in the table below:

<b>City</b>	<b>Rate</b>
Half Moon Bay	15%
Brisbane	14%
East Palo Alto	14%
Millbrae	14%
San Bruno	14%
San Carlos	14%
San Mateo	14%
South San Francisco	14%
Daly City	13%
Belmont	12%
Burlingame	12%
Colma	12%
Foster City	12%
Menlo Park	12%
<b>Pacifica</b>	<b>12%</b>
Redwood City	12%

### **Placing a General Revenue Measure on the Ballot**

A Transient Occupancy Tax is a General Tax that would require a 2/3 majority vote of the City Council (4 out of 5 Councilmembers) to be placed on the ballot and a simple majority vote (50% + 1) of the voters to pass.

By law, a General Tax may only be placed on the ballot when there is a City Council election, except in cases of emergency declared by a unanimous vote of the City Council. California Constitution Article XIII C Section 2(b) governs this requirement, which restricts the placement of such a measure during such election years. For Pacifica, the next opportunity after 2024 to place a General Tax on the ballot would be November 2026.

### **Proposed Pacifica Transient Occupancy Tax**

The resolution (**attached**) places the ordinance (**Attachment A**) on the ballot for consideration by voters in the City of Pacifica.

If adopted by the City Council, the voters would be presented with the following ballot question to consider the ordinance:

*Shall an Ordinance updating a transient occupancy tax (paid only by hotel and other short term lodging guests) to a 15% rate to continue funding vital Pacifica services, such as police, fire, 911 emergency response; street/pothole repair; youth/senior programs; adapting to sea-level rise; keeping trash off beaches; and generating approximately \$720,000 annually in additional revenue until ended by voters and subject to annual audits, be adopted?*

If adopted by voters, the Ordinance would provide that:

1. The Ordinance would become effective ten (10) days after the City Council has certified the results of that election by resolution. .
2. The ordinance would require that the proceeds resulting from the transient occupancy tax shall be deposited into the city's general fund and become subject to the same audit requirements as other general fund revenues. Any auditor's report shall include an accounting of the revenues received from the transient occupancy tax and shall be presented to the city council and made available for public review.

The City Council's action tonight is not to endorse, oppose or levy a tax -- only voters can decide on this matter. The Council's action tonight is simply to allow voters to decide on this issue or not. Tonight's action by the City Council, if adopted, would place the proposed revenue measure before the voters of the City of Pacifica for their consideration.

**ALTERNATIVE ACTION:**

If the proposed Transient Occupancy Tax revenue measure is not placed on the November 2024 General Election ballot by the City Council and approved by the voters, the next opportunity to place such a revenue measure to the voters would be in November 2026.

**RELATION TO CITY COUNCIL GOALS AND WORK PLAN:**

This item furthers the City Council's Strategic Goals and the City's efforts to **Enhance Organizational and Fiscal Stability**.

**FISCAL IMPACT:**

If the City Council moves forward with the proposed Transient Occupancy Tax revenue measure for the November 5, 2024 ballot and it is approved by the voters, the proposed Transient Occupancy Tax will generate an additional \$720,000 per year in revenue. Increasing this revenue from the current level of approximately \$3 Million per year to approximately \$3.72 Million per year.

**ORIGINATED BY:**

City Manager's Office

**ATTACHMENT LIST:**

Attachment / Exhibit A: Proposed Ordinance Amending TOT (PDF)



RESOLUTION NO. \_\_\_\_\_

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PACIFICA CALLING AND GIVING NOTICE FOR HOLDING A GENERAL MUNICIPAL ELECTION TO BE CONSOLIDATED WITH THE CITY'S NEXT GENERAL MUNICIPAL ELECTION ON NOVEMBER 5, 2024 AND SUBMITTING TO THE ELECTORS A BALLOT MEASURE TO UPDATE THE CITY'S TRANSIENT OCCUPANCY (HOTEL/LODGING) TAX BY INCREASING TO FIFTEEN PERCENT (15%) BY AMENDING SECTION 3-7.03 (TAX IMPOSED) OF THE PACIFICA MUNICIPAL CODE; ESTABLISHING THE POLICIES AND PROCEDURES FOR SUCH AN ELECTION; REQUESTING THAT SAN MATEO COUNTY TO CONSOLIDATE WITH THE CITY'S GENERAL MUNICIPAL ELECTION, STATEWIDE GENERAL ELECTION AND TO PROVIDE ELECTION SERVICES; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AND AUTHORIZING THE FILING OF REBUTTAL ARGUMENT**

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**WHEREAS**, the City of Pacifica provides excellent community services and maintains a strong quality of life for local residents; and

**WHEREAS**, Title 3, Chapter 7 of the City of Pacifica Municipal Code, establishes the City's Transient Occupancy Tax (TOT) regulations which require that each "transient" who occupies a "hotel", as those terms are defined in section 3-7.02(b), must pay the current TOT rate of twelve percent (12%) for the privilege of occupying the hotel; and

**WHEREAS**, Article XIII C, section 2(b) of the California Constitution requires that any general tax, such as the TOT, must be approved by a majority vote of the voters voting on the issue; and

**WHEREAS**, Article XIII C, section 2(b) of the California Constitution requires that an election by the voters to approve a general tax must be consolidated with a statewide general election at which members of the City Council will be elected; and

**WHEREAS**, November 5, 2024 is the date of the statewide general election at which members of the City Council will be elected; and

**WHEREAS**, Pacifica's parks, beaches, coastline, trails and recreation opportunities are what makes the City unique, but as erosion, pollution and flooding increase, this measure will allow us to protect these resources for current and future generations to enjoy; and

**WHEREAS**, this measure will reduce the impact on local taxpayers so local residents do not shoulder the cost and visitors and tourists also contribute to the services they utilize; and

**WHEREAS**, this measure will provide funding to address community identified priorities such as police, fire and 911 emergency response services, street and pothole repair, youth and senior programs, adapting to sea-level rise and keeping trash off of the beaches; and

**WHEREAS**, the proposed measure will include accountability requirements such as annual financial audits and public spending reports; and

**WHEREAS**, the City Council believes that it is in the best interests of the City to submit the proposed 3% upward adjustment to the TOT to the voters of City.

**NOW, THEREFORE BE IT RESOLVED** by the City Council of the City of Pacifica that the City of Pacifica orders as follows:

1. **Call for Election.** Pursuant to Elections Code Section 9222, the City Council hereby calls an election at which it shall submit to the qualified voters of the City of Pacifica, a measure that, if approved, would increase the Transient Occupancy Tax from twelve percent (12%) to fifteen percent (15%) to fund general services in the City. This measure shall be designated by letter by the San Mateo County Registrar of Voters. If a majority of qualified electors shall vote in favor of the proposed measure, it shall be deemed enacted and shall read as provided in Exhibit "A", attached hereto and hereinafter incorporated by reference.
2. **Ballot Lanaguage.** The ballot question for the proposed measure shall be as follows:

<i>Shall an Ordinance updating a transient occupancy tax (paid only by hotel and other short term lodging guests) to a 15% rate to continue funding vital Pacifica services, such as police, fire, 911 emergency response; street/pothole repair; youth/senior programs; adapting to sea-level rise; keeping trash off beaches; and generating approximately \$720,000 annually in additional revenue until ended by voters and subject to annual audits, be adopted?</i>	YES	
	NO	

3. **Approval of Ordinance and Placement of Ordinance No. \_\_\_\_\_ on Ballot.** Pursuant to Elections Code section 9222, the City Council of the City of Pacifica hereby approves Ordinance No. \_\_\_\_\_, attached in Exhibit A to this Resolution. The City Council hereby approves the proposed measure, in the form thereof, and its submission to the voters of the City at the November 5, 2024 election. The full text of the measure shall be printed in the ballot materials and be available for public inspection in the City Clerk’s office and on the City’s website: [www.cityofpacifica.org](http://www.cityofpacifica.org)
4. **Publication of Measure.** The City Clerk is hereby directed to cause notice of the measure to be published in the official newspaper of the City of Pacifica, in accordance with Section 12111 of the California Elections Code.
5. **Request to Consolidate and Conduct Election and Canvass Returns.**
  - (a) Pursuant to California Elections Code Section 10400 *et seq.*, the election for this measure shall be consolidated with the established election to be conducted on November 5, 2024. The City Council hereby requests that the San Mateo Board of Supervisors consolidate the election called by this Resolution with the City’s General Municipal election and statewide election to be conducted on November 5, 2024 and order the election to be conducted by the Chief Elections Officer & Assessor-County Clerk-Recorder. The City Council of the City of Pacifica acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code Section 10418. The City Council recognizes that additional cost will be incurred by the County of San Mateo by reason of the consolidation of the election with the Statewide election and agrees to reimburse the County of San Mateo for any costs that are not reimbursed by the State, and the City Council hereby authorizes the City Manager to pay the County of San Mateo for said services in full. The City Clerk is directed to file a certified copy of this Resolution with the

Board of Supervisors of San Mateo and the Chief Elections Officer & Assessor-County Clerk-Recorder of San Mateo County on or before August 9, 2024.

(b) The election on the measure set forth in Section 3 shall be held and conducted, the voters canvassed and the returns made, and the results ascertained and determined as provided herein. The election shall be held in accordance with the Elections Code of the State of California.

(c) The election on the measure set forth in Section 3 shall be held in San Mateo County in the City of Pacifica on November 5, 2024, as required by law, and the County is authorized to canvass the returns of the election with respect to the votes cast in the City of Pacifica and certify the results to the City Council of the City of Pacifica.

(d) At the next regular meeting of the City Council of the City of Pacifica occurring after the returns of the election for the measure set forth in Section 3 have been canvassed and the results have been certified to the City Council, or at a special meeting called for such purpose if required by law, the City Council shall cause to be entered in its minutes a statement of the results of the election.

**6. Submission of Ballot Arguments.**

(a) Pursuant to Elections Code section 9286(b), arguments in favor and against the measure shall be filed with the City Clerk no later than 5:00 p.m. on August 13, 2024, 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 who is the author of the argument. If the City Clerk receives more than one argument for and/or against, the priorities established by Elections Code section 9287 shall control.

(b) Direct arguments shall not exceed three hundred (300) words and shall be signed by not more than five (5) persons.

(c) Pursuant to California Elections Code section 9285(b), the City Council is hereby adopting provisions for the filing of rebuttal arguments for this measure. Accordingly, when the City Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against it, and copies of the argument against it to the authors of the argument in favor. Rebuttal arguments shall not exceed 250 words and shall be filed no later than 5:00 p.m. on August 20, 2024, accompanied by the printed names and signatures of the persons 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. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut.

**7. Impartial Analysis.** In accordance with California Elections Code section 9280, the City Council directs the City Clerk to transmit a copy of this Measure to the City Attorney, who shall prepare an impartial analysis showing the effect of the measure on the existing law and the operation of the measure. The City Attorney's impartial analysis may not exceed 500 words and shall be filed with the City Clerk no later than 5:00 p.m. on August 20, 2024.

**8. Services of City Clerk.** The City Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the ordinance or measure to be printed. A copy of the measure shall be made available to any voter upon request.

9. **Severance.** Should any section, subsection, clause or provision of this resolution for any reason be held to be invalid, then the remainder of the resolution shall be deemed valid, it being expressly declared that this resolution, and each and every section, subsection, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified even if any other section, subsection, sentence, clause or phrase of this resolution were declared invalid.
  
10. **Compliance with CEQA.** The City Council finds and determines that this activity is not a “Project” as defined under section 15378(b)(4) of the California Environmental Quality Act (CEQA) Guidelines because it is a financing decision without commitment to a specific project that may result in a potentially significant physical impact on the environment; therefore, pursuant to section 15060(c)(3) of the State CEQA Guidelines, the actions proposed are not subject to CEQA.

. . . . .

**PASSED AND ADOPTED** at a regular meeting of the City Council of the City of Pacifica, California, held on the 8<sup>th</sup> day of July, 2024, by the following vote:

- AYES**, Councilmembers:
- NOES**, Councilmembers:
- ABSENT**, Councilmembers:
- ABSTAIN**, Councilmembers:

\_\_\_\_\_  
Sue Vaterlaus, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Sarah Coffey, City Clerk

\_\_\_\_\_  
Michelle Kenyon, City Attorney



EXHIBIT A  
[PROPOSED ORDINANCE AMENDING PMC SECTION 3-7.03]