

RESOLUTION NO. 3912-2016

A RESOLUTION OF THE FORT BRAGG CITY COUNCIL CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL ELECTION TO SUBMIT TO THE VOTERS A GENERAL TAX MEASURE WHICH WOULD INCREASE THE CITY'S TRANSIENT OCCUPANCY TAX RATE FROM 10 PERCENT TO 12 PERCENT, SUBJECT TO APPROVAL OF A MAJORITY OF THE ELECTORS VOTING, AND AN ADVISORY ELECTION TO INFORM THE CITY COUNCIL, IF THE VOTERS APPROVE THE GENERAL TAX MEASURE, ABOUT HOW THE GENERATED REVENUES SHOULD BE USED, TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF MENDOCINO TO CONSOLIDATE A SPECIAL ELECTION AND AN ADVISORY ELECTION TO BE HELD ON NOVEMBER 8, 2016, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO SECTION 10403 OF THE ELECTIONS CODE

WHEREAS, a statewide general election is scheduled for November 8, 2016;
and

WHEREAS, the City Council desires to submit to the voters at a Special Election to be held on November 8, 2016 a question relating to increasing the City's Transient Occupancy Tax ("TOT") from the existing 10 percent to 12 percent, subject to voter approval, for general purposes; and

WHEREAS, the City Council also desires to submit to the voters at an Advisory Election to be held on November 8, 2016 a non-binding advisory measure that informs the Council, if the voters approve the general tax measure, about how the revenues generated by the TOT increase should be used; and

WHEREAS, it is desirable that the Special Election and Advisory Election be consolidated with the Statewide General Election to be held on the same date, and that within the City, the precincts, polling places, and election officers of the two elections be the same, and that the County Election Department of the County of Mendocino canvass the returns of the Special Election and that the election be held in all respects as if there were only one election.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Fort Bragg does hereby resolve, declare and order as follows:

Section 1 – Order Calling for a Special Election and an Advisory Election.

A. That pursuant to the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Fort Bragg, California, a Special Election, on Tuesday, November 8, 2016, for the purpose of placing on the ballot a measure to increase the City of Fort Bragg's Transient Occupancy Tax from ten

percent (10%) to twelve percent (12%), effective April 1, 2017. The complete text of the proposed ordinance is attached to this Resolution as **Exhibit A** ("General Tax Measure") and is not to be printed in the voter pamphlet. The full text of the ordinance shall be made available to any voter on request. (Cal. Elections Code §§ 9223, 9280.) The vote requirement for the measure to pass is a majority (50%+1) of the votes cast.

B. That pursuant to the laws of the State of California relating to general law cities, there is called and ordered to be held in the City of Fort Bragg, California, an Advisory Election, on Tuesday, November 8, 2016, for the purpose of placing on the ballot a non-binding advisory measure to inform the City Council, if the voters approve the General Tax Measure, about how the revenues generated by the Transient Occupancy Tax increase should be used ("Advisory Measure"). The results of the advisory vote will in no manner be controlling on the City Council, pursuant to Elections Code section 9603(c).

C. That pursuant to the requirements of section 10403 of the Elections Code, the Board of Supervisors of the County of Mendocino is hereby requested to consent and agree to the consolidation of a Special Election and an Advisory Election with the Statewide General Election on Tuesday, November 8, 2016, for the purpose of the submission of the General Tax Measure and the Advisory Measure to the voters.

D. That the City Council hereby orders each measure to be placed on the ballot in the following form ***[appears on the following page]***:

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

| | | |
|--|------------|--|
| <p>Shall Ordinance No. 924-2016 amending portions of Chapter 3.12 of the Fort Bragg Municipal Code to increase the City of Fort Bragg’s existing Transient Occupancy Tax (a bed tax paid when overnight visitors rent a room) from ten percent (10%) to twelve percent (12%) to fund public services and maintain public areas, effective April 1, 2017, which proposed rate increase and amendment is anticipated to raise an additional \$400,000 per year in revenue and which will continue until repealed by the City Council or the city voters, be adopted?</p> | YES | |
| | NO | |

Advisory Vote Only.

| | | |
|--|------------|--|
| <p>If Measure “ _____ ” is approved by voters, shall the People of the City of Fort Bragg advise the City Council to use the additional funds in the following manner: (i) One-half of the revenues to substantially increase promotions, events, and marketing for Fort Bragg; (ii) One-quarter of the revenues to enhance Coastal Trail maintenance and security; (iii) One-eighth of the revenues to support establishment of the Noyo Center for Marine Science as a premiere visitor attraction; and (iv) One-eighth of the revenues to undertake special projects that support tourism and benefit the community including, but not limited to, repair and enhancement of local athletic fields?</p> | YES | |
| | NO | |

E. The City Council hereby directs the City Attorney to prepare an Impartial Analysis of the General Tax Measure and Advisory Measure in accordance with section 9280 of the Elections Code showing the effect of each measure on existing law and the operation of each measure.

F. That the full text of the General Tax Measure 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.

G. The election shall be held and conducted and the votes thereof canvassed and returns thereof made and the results thereof ascertained and determined as

provided by law for the holding of municipal elections in the City and the consolidation of municipal elections with other elections.

H. The proposed Ordinance is not subject to CEQA because it is not a “project” pursuant to Public Resource Code section 21065 and section 15378(b)(4) of the CEQA Guidelines; further if the proposed Ordinance were to be found a “project,” it is statutorily exempt from CEQA pursuant to section 15273(a)(1) of the CEQA Guidelines, as the purpose of the increase to the transient occupancy tax is to meet operating expenses.

Section 2 – Request for Election Services

A. Pursuant to the requirements of Elections Code section 10403 of the California Elections Code, the Mendocino County Board of Supervisors is hereby requested to consent and agree to the consolidation of the City’s Special Election and Advisory Election with the General Election on November 8, 2016. The consolidated elections will be held and conducted in the manner prescribed in Elections Code section 10418.

B. That the County elections department is authorized to canvass the returns of the Special Election and Advisory Election. The election shall be held in all respects as if there were only one election, and only one form of ballot shall be used.

C. That the Board of Supervisors is requested to issue instructions to the county election department to take any and all steps necessary for the holding of the consolidated election.

D. That the City of Fort Bragg recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for any costs.

E. That the City Clerk is authorized, instructed, and directed to coordinate with the Mendocino 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.

F. 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.

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

Section 3 – Designation of Duties

A. The County Clerk, in conducting the City's election is requested to provide the following services:

1. Establish precinct boundaries to coincide with the General Election;
2. Designate polling places and appoint election officers;
3. Notify election officers of their appointment and instruct inspectors concerning their duties;
4. Hire and pay election officers;
5. Arrange for the availability of polling places and all supplies necessary for casting ballots, and setting up voting booths;
6. Publish lists of precincts, election officers, polling places, and the hours that polls will be open;
8. Provide sample ballots to each voter;
9. Receive absentee voter applications; supply absentee voter ballots to applicants; accept absentee voter ballot returns; retain custody of absentee voter ballots; count absentee voter ballots;
10. Provide Certificate of County Clerk as to Result of the Canvass, for approval by the Fort Bragg City Council.

B. The City Clerk in conducting the City's election shall provide the following services:

1. Publish the Notice of Election;
2. Receive ballot arguments, impartial analysis, and rebuttal arguments.

Section 4 – Ballot Arguments

A. The last day for submission of direct arguments for or against the ballot measures shall be by 5:00 p.m. on July 18, 2016.

B. The last day for submission of rebuttal arguments for or against the ballot measures shall be by 5:00 p.m. on July 28, 2016.

C. The City Attorney shall prepare an impartial analysis of the ballot measures. The impartial analysis shall be filed by 5:00 p.m. on July 28, 2016.

D. Pursuant to Section 9285 of the California Elections Code, when the City Clerk has selected the arguments for and against each measure, which arguments will be printed and distributed to the voters, the City Clerk shall send copies of the arguments in favor of each measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument, which it seeks to rebut.

E. The provisions of Section 9285(a) of the Elections Code relating to arguments are hereby adopted and made applicable.

F. If there is any inconsistency between this Resolution and the schedule of the County Clerk for filing the impartial analysis and the arguments, the schedule of the County Clerk for the County of Mendocino controls.

Section 5 – Direction to City Clerk

The City Clerk is directed to forward without delay a certified copy of this resolution to the Board of Supervisors and to the County Elections Department. The City Clerk is hereby authorized and directed to take all steps necessary to place the Ordinance on the ballot and to cause the Ordinance to be printed. A copy of the Ordinance shall be made available to any voter upon request.

The above and foregoing Resolution was introduced by Councilmember Peters, seconded by Councilmember Cimolino, and passed and adopted at a regular meeting of the City Council of the City of Fort Bragg held on the 27th day of June, 2016, by the following vote:

| | |
|-----------------|--|
| AYES: | Councilmember Cimolino, Deitz, Hammerstrom, Peters, and Mayor Turner. |
| NOES: | None. |
| ABSENT: | None. |
| ABSTAIN: | None. |



DAVE TURNER,
Mayor

ATTEST:



June Lemos
City Clerk

EXHIBIT A

**AN ORDINANCE AMENDING
CHAPTER 3.12 OF THE FORT
BRAGG MUNICIPAL CODE TO
INCREASE THE CITY'S TRANSIENT
OCCUPANCY TAX RATE FROM 10
PERCENT TO 12 PERCENT,
SUBJECT TO APPROVAL OF A
MAJORITY OF THE ELECTORS
VOTING ON THE TAX MEASURE AT
THE NOVEMBER 8, 2016 GENERAL
ELECTION**

ORDINANCE NO. 924-2016

THE PEOPLE OF THE CITY OF FORT BRAGG DO ORDAIN, AS FOLLOWS:

SECTION I: AMENDMENT OF CODE.

Chapter 3.12 of the Fort Bragg Municipal Code is hereby amended as set forth below in italics:

3.12.030 Amount of Tax.

- A. Pursuant to the authority of Cal. Revenue and Taxation Code § 7280, there is levied an occupancy tax on the privilege of occupying a room or rooms in any hotel as defined by § 3.12.020 unless the occupancy is for a period of more than 30 days. Effective April 1, 2017, the amount of the tax shall be 12% of the room rent charged by the hotel operator. It is the responsibility of the hotel operator to collect the occupancy tax in full at the time of renting a room or rooms to a transient. It is the further responsibility of the hotel operator to remit the 12% occupancy tax to the City within the time limits set forth in this chapter.
- B. For purposes of this chapter, the phrase "the privilege of occupying a room or rooms in any hotel" shall be applied and interpreted as described in Cal. Revenue and Taxation Code § 7280(b), as amended from time to time.
- C. In the event that a transient occupies a room or rooms beyond the period originally contracted for with the hotel operator, it is the responsibility of the hotel operator to collect any unpaid occupancy tax upon the transient's ceasing to occupy space in the hotel. In the event that the hotel operator fails to collect the tax from the transient, the hotel operator shall be responsible for payment in full of the occupancy tax to the City.
- D. The Director of Finance, at the direction and request of the City Manager, shall keep account of how the proceeds of the 2% of the tax added by Ordinance No. 924-2016 are being used, and shall annually render an itemized written report to the City Council detailing such expenditures.

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 a majority of the electors voting on this ordinance approve the imposition of the tax at the General Election to be held on November 8, 2016.

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 8, 2016 General Election, and if approved, shall become effective April 1, 2017.

The foregoing Ordinance was introduced by Councilmember Peters at a regular meeting of the City Council of the City of Fort Bragg held on June 13, 2016, and adopted at a regular meeting of the City of Fort Bragg held on June 27, 2016, by the following vote.

AYES: Councilmember Cimolino, Deitz, Hammerstrom, Peters, and Mayor Turner.
NOES: None.
ABSENT: None.
ABSTAIN: None.



Dave Turner
Mayor

ATTEST:



June Lemos
City Clerk

PUBLISH: June 16, 2016 and July 7, 2016 (by summary)
EFFECTIVE DATE: April 1, 2017 (if approved by voters)