



CITY OF BUELLTON

SPECIAL MEETING - CITY COUNCIL AGENDA

**Special Meeting of June 19, 2012 – 6:00 p.m.
City Council Chambers, 140 West Highway 246
Buellton, California**

Copies of staff reports or other written documentation relating to each item of business referred to on this Agenda are on file in the office of the City Clerk and are available for public inspection

CALL TO ORDER

Mayor Holly Sierra

PLEDGE OF ALLEGIANCE

Council Member Ed Andrisek

ROLL CALL

Council Members Ed Andrisek, Judith Dale, Leo Elovitz, Mayor Pro Tem Dave King, and Mayor Holly Sierra

PUBLIC COMMENTS

Speaker Slip to be completed and turned in to the City Clerk prior to commencement of meeting. Limited to matters not otherwise appearing on the agenda. Limited to three (3) minutes per speaker. No action will be taken at this meeting.

BUSINESS ITEMS

(POSSIBLE ACTION)

- 1. Resolution No. 12-20 – “A Resolution of the City Council of the City of Buellton, California, Calling and Giving Notice of the Holding of an Election to be Consolidated with the General Election to be held on Tuesday, November 6, 2012 for the Purpose of Submitting a Measure to the Qualified Voters of Buellton Regarding Raising the Transient Occupancy Tax Rate”**
❖ *(Staff Contact: City Attorney Hanson)*

ADJOURNMENT

The next regular meeting of the City Council will be held on Thursday, June 28, 2012 at 6:00 p.m.

CITY OF BUELLTON
City Council Agenda Staff Report

City Manager Review: JHK
Council Agenda Item No.: 1

To: The Honorable Mayor and City Council

From: Ralph D. Hanson, City Attorney

Meeting Date: June 19, 2012

Subject: Resolution No. 12-20 – “A Resolution of the City Council of the City of Buellton, California, Calling and Giving Notice of the Holding of an Election to be Consolidated with the General Election to be held on Tuesday, November 6, 2012 for the Purpose of Submitting a Measure to the Qualified Voters of Buellton Regarding Raising the Transient Occupancy Tax Rate”

BACKGROUND

At the last City Council meeting, a motion was made to adopt the Resolution to put the increase of the Transient Occupancy Tax (TOT) rate on the November ballot. That motion resulted in a 3-2 vote; however, pursuant to State Law (California Government Code Section 53724) a 4/5th vote was required for adoption.

This special meeting was requested to reconsider the Resolution to put the increase of the Transient Occupancy Tax (TOT) rate on the November ballot.

FISCAL IMPACT

Minimal impact to consolidate the ballot measure on the November 6, 2012 General Election ballot. If approved by the voters, the result could be an increase in annual TOT revenue.

RECOMMENDATION

That the City Council determine which version of the increase method is appropriate and approve and adopt Resolution No. 12-20 – “A Resolution of the City Council of the City of Buellton, California, Calling and Giving Notice of the Holding of an Election to be consolidated with the General Election to be held on Tuesday, November 6, 2012 for the purpose of submitting a Measure to the Qualified Voters of Buellton regarding raising the Transient Occupancy Tax Rate”.

ATTACHMENTS

Staff Report dated June 14, 2012
Resolution No. 12-20 (Version 1 and Version 2)

CITY OF BUELLTON
City Council Agenda Staff Report

To: The Honorable Mayor and City Council

From: Ralph D. Hanson, City Attorney

Meeting Date: June 14, 2012

Subject: Resolution No. 12-17 – “A Resolution of the City Council of the City of Buellton, California, Calling and Giving Notice of the Holding of an Election to be Consolidated with the General Election to be held on Tuesday, November 6, 2012 for the Purpose of Submitting a Measure to the Qualified Voters of Buellton Regarding Raising the Transient Occupancy Tax Rate”

BACKGROUND

At the last City Council meeting, the City Council requested a resolution be returned for Council consideration to add a ballot measure to the November 6, 2012 General Election to increase the Transient Occupancy Tax (TOT) rate to twelve percent (12%).

Additionally, at the last Council meeting there was some discussion to have the proceeds of any TOT increase specifically directed to a particular account. Staff does not recommend any specific designation of funds since this would make this measure a special tax that would be much more difficult to adopt. That is, under current California Law, a general tax increase (revenue that goes to the General Fund for uses determined by the City Council) only requires a greater than 50% vote to pass. However, a special tax (revenue restricted to a particular fund) requires a two-thirds majority to pass. The attached proposed language is a general tax; however if the Council desires to designate a particular expenditure, language may be added.

Attached are two versions of Resolution No. 12-17:

Version 1 – A simple amendment to the tax rate in the Buellton Municipal Code to reflect the TOT rate at twelve percent (12%). If adopted, the rate will go into effect without any City Council discretion.

Version 2 – An amendment to the tax rate in the Buellton Municipal Code to provide that the City Council may, in its discretion, increase the TOT rate to a maximum twelve percent (12%). As the Council is aware, neighboring jurisdictions are considering an increase in the TOT. However, if Buellton voters adopt the increase, but the neighboring jurisdictions do not, it could place Buellton hotels at a competitive disadvantage. This language would allow the City Council the discretion to determine the timing of the increase to the TOT.

FISCAL IMPACT

Minimal impact to consolidate the ballot measure on the November 6, 2012 General Election ballot. If approved by the voters, the result could be an increase in annual TOT revenue.

RECOMMENDATION

That the City Council determine which version of the increase method is appropriate and approve and adopt Resolution No. 12-17 – “A Resolution of the City Council of the City of Buellton, California, Calling and Giving Notice of the Holding of an Election to be consolidated with the General Election to be held on Tuesday, November 6, 2012 for the purpose of submitting a Measure to the Qualified Voters of Buellton regarding raising the Transient Occupancy Tax Rate”.

ATTACHMENTS

Resolution No. 12-17 (Version 1 and Version 2)

RESOLUTION NO. 12-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BUELLTON, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF AN ELECTION TO BE CONSOLIDATED WITH THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012 FOR THE PURPOSE OF SUBMITTING A MEASURE TO THE QUALIFIED VOTERS OF BUELLTON REGARDING RAISING THE TRANSIENT OCCUPANCY TAX RATE

WHEREAS, Chapter 3.28 of the Buellton Municipal Code provides the provisions for the Buellton Transient Occupancy Tax (TOT), a charge for transient occupancy in hotels, motels, etc. (as defined in Section 3.28.020); and

WHEREAS, Section 3.28.030 sets the TOT rate to be charged at ten percent (10%); and

WHEREAS, it is the desire of the City Council to place before the voters of the City of Buellton an amendment to the Buellton Municipal Code to increase the amount of the TOT rate from ten percent (10%) to a maximum twelve percent (12%); and

WHEREAS, it is the further desire and intent of the City Council that all fees and revenues collected through the TOT increase shall be used as the Council shall find will contribute and promote to the growth, enlargement, and prosperity of the City and will forward, encourage, advance, help, aid assist in the growth, enlargement and prosperity of the City; and

WHEREAS, pursuant to existing California Law, the establishment or increase of general or special municipal taxes must be submitted to the voters for approval; and

WHEREAS, under the provisions of the law relating to General Law cities in the State of California, a General Municipal Election shall be held on November 6, 2012; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Buellton as follows:

SECTION 1. That pursuant to the requirements of the laws of the State of California there is called and ordered to be held in the City of Buellton, California on Tuesday, November 6, 2012 an Election for the purpose of submitting to the voters the following Measure:

Shall Section 3.28.030 of the Buellton Municipal Code be amended to increase the Transient Occupancy Tax rate, which applies only to transient occupants of hotels (as defined in Section 3.28.020), from ten percent (10%) to twelve percent (12%)?	YES
	NO

SECTION 2. That the text of the ordinance submitted to the voters is attached as Exhibit “A”.

SECTION 3. That the ballots to be used at the election shall be in form and content as required by law.

SECTION 4. The City Clerk is authorized, instructed and directed 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. Pursuant to the requirements of Section 10403 of the Elections Code, the Board of Supervisors of the County of Santa Barbara is requested to place the Buellton Transient Occupancy Tax Measure on the ballot to be consolidated with the General Election scheduled for November 6, 2012.

SECTION 5. That the polls for the election shall be open at 7:00 a.m. of the day of the election and shall remain open continuously from that time until 8:00 p.m. of the same day when the polls shall be closed except as provided in Section 14301 of the Elections Code of the State of California.

SECTION 6. That in all particulars not recited in this resolution, the election shall be held and conducted as provided by law for holding municipal elections.

SECTION 7. That 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 8. The City Clerk shall certify the passage and adoption of this Resolution.

PASSED, APPROVED and ADOPTED this 19th day of June, 2012.

Holly Sierra
Mayor

ATTEST:

Linda Reid
City Clerk

EXHIBIT A

The Full Text of the Measure is as Follows:

TRANSIENT OCCUPANCY TAX RATE INCREASE

To Be Submitted to the Voters of the City of Buellton

THE PEOPLE OF THE CITY OF BUELLTON DO ORDAIN AS FOLLOWS:

Section 3.28.030 of Chapter 3.28 of the Buellton Municipal Code is hereby amended to read, as follows:

“3.28.030 Rate.

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of twelve percent (12%) of the rent actually charged or customarily charged by the operator for the rooms and/or facilities occupied by the transient. This tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator of the hotel at the time the rent is paid. The unpaid tax is due upon the transient’s ceasing to occupy space in the hotel. If, for any reason, the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax be paid directly to the tax administrator.”

RESOLUTION NO. 12-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF BUELLTON, CALIFORNIA, CALLING AND GIVING NOTICE OF THE HOLDING OF AN ELECTION TO BE CONSOLIDATED WITH THE GENERAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2012 FOR THE PURPOSE OF SUBMITTING A MEASURE TO THE QUALIFIED VOTERS OF BUELLTON REGARDING RAISING THE TRANSIENT OCCUPANCY TAX RATE

WHEREAS, Chapter 3.28 of the Buellton Municipal Code provides the provisions for the Buellton Transient Occupancy Tax (TOT), a charge for transient occupancy in hotels, motels, etc. (as defined in Section 3.28.020); and

WHEREAS, Section 3.28.030 sets the TOT rate to be charged at ten percent (10%); and

WHEREAS, it is the desire of the City Council to place before the voters of the City of Buellton an amendment to the Buellton Municipal Code to increase the amount of the TOT rate from ten percent (10%) to a maximum twelve percent (12%); and

WHEREAS, it is the further desire and intent of the City Council that all fees and revenues collected through the TOT increase shall be used as the Council shall find will contribute and promote to the growth, enlargement, and prosperity of the City and will forward, encourage, advance, help, aid assist in the growth, enlargement and prosperity of the City; and

WHEREAS, pursuant to existing California Law, the establishment or increase of general or special municipal taxes must be submitted to the voters for approval; and

WHEREAS, under the provisions of the law relating to General Law cities in the State of California, a General Municipal Election shall be held on November 6, 2012; and

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Buellton as follows:

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Holly Sierra
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To Be Submitted to the Voters of the City of Buellton

THE PEOPLE OF THE CITY OF BUELLTON DO ORDAIN AS FOLLOWS:

Section 3.28.030 of Chapter 3.28 of the Buellton Municipal Code is hereby amended to read, as follows:

“3.28.030 Rate.

For the privilege of occupancy in any hotel, the City Council may, by ordinance, establish a tax rate at no greater than twelve percent (12%) of the rent actually charged or customarily charged by the operator for the rooms and/or facilities occupied by the transient. Each transient is subject to and shall pay the tax in the amount in the amount set by the City Council. This tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator of the hotel at the time the rent is paid. The unpaid tax is due upon the transient’s ceasing to occupy space in the hotel. If, for any reason, the tax due is not paid to the operator of the hotel, the tax administrator may require that such tax be paid directly to the tax administrator.”