

Agenda Item: ID#18-0750 (4-D)

Date: 6/14/18

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FRESNO CITY CLERK



Supplemental Information Packet

Agenda Related Item(s) – ID#18-0750 (4-D)

Contents of Supplement: Amended Staff Report

Item(s)

HEARING to consider submission of a Cannabis Business License Tax to the voters of the City of Fresno.

(1) *** RESOLUTION - Calling a general municipal election to be held on November 6, 2018; approving ballot measure text to be submitted to the voters of the City of Fresno imposing a Cannabis Business License Tax; requesting the assistance of the County of Fresno in connection with that election; and requesting consolidation of that election with any other election held on that date.

Sponsors: City Councilmember Olivier, City Councilmember Baines III and City Councilmember Caprioglio

Supplemental Information:

Any agenda related public documents received and distributed to a majority of the City Council after the Agenda Packet is printed are included in Supplemental Packets. Supplemental Packets are produced as needed. The Supplemental Packet is available for public inspection in the City Clerk's Office, 2600 Fresno Street, during normal business hours (main location pursuant to the Brown Act, G.C. 54957.5(2). In addition, Supplemental Packets are available for public review at the City Council meeting in the City Council Chambers, 2600 Fresno Street. Supplemental Packets are also available on-line on the City Clerk's website.

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The meeting room is accessible to the physically disabled, and the services of a translator can be made available. Requests for additional accommodations for the disabled, sign language interpreters, assistive listening devices, or translators should be made one week prior to the meeting. Please call City Clerk's Office at 621-7650. Please keep the doorways, aisles and wheelchair seating areas open and accessible. If you need assistance with seating because of a disability, please see Security.

REPORT TO THE CITY COUNCIL

June 14, 2018

FROM: Councilmembers Olivier, Baines, and Caprioglio

BY: Tim Orman, Chief of Staff to the Mayor

SUBJECT

HEARING to consider submission of a Cannabis Business License Tax to voters of the City of Fresno.

(1) *** **RESOLUTION** – Calling a general municipal election to be held on November 6, 2018; approving ballot measure text to be submitted to the voters of the City of Fresno imposing a Cannabis Business License Tax; requesting the assistance of the County of Fresno in connection with that election; and requesting consolidation of that election with any other election held on that date.

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RECOMMENDATION

It is recommended that the City Council adopt the attached resolution calling a general municipal election to be held on November 6, 2018, for a ballot measure proposal to approve a new Cannabis Business License Tax, as set forth in a proposed Cannabis Business License Tax Ordinance as Article 14 of Chapter 7 of the Fresno Municipal Code, requesting assistance of the County of Fresno in connection with that election, and requesting consolidation of that election with any other election held on that date.

EXECUTIVE SUMMARY

This item would direct the holding of an election in relation to a proposed Cannabis Business License Tax Ordinance. The proposed tax would be a special tax requiring two-thirds voter approval, with the proceeds from the tax dedicated as follows: (1) ten percent (10%) to a Community Benefit Fund, the goals of which would be established by Council Resolution, with funds therein to be allocated by a special citizens commission and (2) ninety percent (90%) to be deposited into the City's General Fund and spent for vital City services and needs, including police, fire, roads, and parks.

Approval of the proposed resolution would place the following question on the November 6, 2018, ballot:

Shall the measure taxing cannabis cultivation up to \$12.00 per canopy square-foot annually and up to 10% of gross receipts for medical dispensaries and all other cannabis businesses; generating up to \$10 million annually; with 90% of revenues to be used for vital unrestricted general revenue purposes such as police, fire, roads and

parks and 10% placed in a Community Benefit Fund for allocation by a special citizens commission, until repealed by voters, be adopted?

Actual tax rates would be set by a resolution of the City Council at a level not to exceed the above-referenced maximum rates.

BACKGROUND

For many years, the City of Fresno has prohibited medical cannabis dispensaries within the City limits and no cannabis businesses have been permitted for operation in Fresno. However, with the changing landscape surrounding the sale and use of cannabis in the State of California, the Council has recently begun the process to regulate cannabis businesses wishing to operate within the City limits.

By way of background, on November 5, 1996, California voters passed Proposition 215, known as the "Compassionate Use Act," legalizing medical use of cannabis. Thereafter, in September, 2015, the State enacted the Medical Cannabis Regulation and Safety Act ("MCRSA"), establishing a state licensing framework and authorizing local regulation of medicinal cannabis.

On November 8, 2016, California voters passed ballot measure Proposition 64, known as the "Adult Use of Marijuana Act" or "AUMA." Proposition 64 legalizes adult recreational use of cannabis, brings businesses that support adult recreational cannabis and medicinal cannabis use into a regulated market, and allows the City of Fresno to enact local regulations on such businesses in addition to the regulations that will be imposed by the State.

In July 2017, the Governor signed Senate Bill 94, entitled the Medical and Adult-Use Cannabis Regulation and Safety Act ("MAUCRSA"), which took effect immediately. MAUCRSA reconciles the State's MCRSA with AUMA's nonmedical/recreation adult-use cannabis regulations. The State issued the newly revised regulations on November 16, 2017, under their emergency rule making process, and readopted their emergency regulations on June 4, 2018.

On December 14, 2017, Council, by a unanimous Resolution of Initiation, directed staff to review cannabis policies and amend the zoning ordinance to allow medical cannabis operations, cultivation, manufacture, extraction, testing, distribution, delivery, and dispensaries within the City. In March, 2018, the Director of DARM initiated a text amendment to allow adult use cannabis cultivation, manufacture, extraction, testing, and distribution, but not retail sales or delivery within the City.

With the enactment of MAUCRSA, the passing of Proposition 64 and the City's consideration of text amendments to permit cannabis businesses, the City will incur costs to regulate newly-legalized cannabis businesses, including considering, adopting, and enforcing regulations, administering operator permitting, providing for business inspections, ensuring public safety, providing economic development analysis and review to support policy decisions and education/outreach to the industry, and providing information and educational materials to the community.

The City's current business license tax ordinance applies to all businesses operating in Fresno, but does not specifically address cannabis businesses and the unique nature of the enterprise, including cultivation, manufacturing, and retailing. To more directly address the operation of cannabis businesses in the City of Fresno, a separate Cannabis Business License Tax Ordinance is proposed for submission to the voters. Proceeds from the new tax would be used in part to specifically fund a

Community Benefit Fund, which would be allocated at the direction of a special appointed citizens commission. The remainder of the tax revenues would be placed in the City's General Fund to be used for vital City services including police, fire, roads, and parks. The Cannabis Business License Tax Ordinance would authorize the City Council to set specific tax rates, subject to the maximum limits specified in the Ordinance. It is therefore recommended that the City Council, by resolution, call a general municipal election for November 6, 2018, to submit the proposed tax measure to the voters.

Major Components of Tax Ordinance:

- **Special Tax.** The proposed tax would be a special tax requiring two-thirds voter approval, with the proceeds dedicated to specific uses including: (1) ten percent (10%) of tax proceeds to a Community Benefit Fund, the goals of which would be established by City Council resolution, and a commission would be created by one appointment from each Council District, the Mayor, and Police Department, to allocate the revenues received into the fund; and (2) the remaining ninety percent (90%) of the tax proceeds would be deposited into the City's General Fund and may be spent for vital City services such as police, fire, roads, and parks.
- **Tax Rates.** The proposed ordinance would authorize the City Council to implement a business license tax on commercial cannabis businesses of up to ten percent (10%) of gross receipts for retailers, testing laboratories, distributors, and manufacturers, and up to \$12.00 annually per square foot of canopy space for cultivators subject to an annual Consumer Price Index escalator, with the proceeds to be used for the purposes set forth above. With the uncertainty of the evolving industry both at the local and state level, it is recommended that Council retain flexibility to ensure a sustainable and responsible approach to management of cannabis businesses in our community. Tax rates may be set and adjusted by Council Resolution, but cannot exceed the maximum rates authorized by voters.

ENVIRONMENTAL FINDINGS

This action is exempt from the California Environmental Quality Act (CEQA) because it is not a project which has potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change to the environment, pursuant to CEQA Guidelines section 15378.

LOCAL PREFERENCE

Local preference was not considered because this resolution does not include a bid or award of a construction or services contract.

FISCAL IMPACT

This item would place the proposed tax ordinance on the ballot for voter consideration at the November 6, 2018, statewide elections. If passed, the City would only collect a small portion of tax revenue in the first year as most of the businesses would be in start-up phase or still going through the City's licensing process and building permit approval process. Once established, the City would collect a projected \$3 to \$10 million annually.

Attachment:

1. Resolution Calling General Municipal Election on November 6, 2018, with Exhibit A – Cannabis Business License Tax Ordinance