



AGENCY:	City Council
MEETING DATE:	March 28, 2016
DEPARTMENT:	Administration
PRESENTED BY:	Turner/ Peters/ Ruffing

## AGENDA ITEM SUMMARY REPORT

### **TITLE:**

**RECEIVE COUNCIL AD HOC COMMITTEE REPORT ON INTERVIEWS WITH LODGING OWNERS; RECEIVE COMMITTEE RECOMMENDATIONS REGARDING POTENTIAL BALLOT MEASURE TO INCREASE FORT BRAGG'S TRANSIENT OCCUPANCY TAX (BED TAX) RATE AND MODIFICATIONS TO THE CITY'S MARKETING AND PROMOTIONS PROGRAM; AND PROVIDE DIRECTION TO STAFF**

### **ISSUE:**

At the February 8, 2016 City Council meeting, an ad hoc committee comprised of Mayor Dave Turner and Vice Mayor Lindy Peters was formed to explore the possibility of a ballot measure to increase the transient occupancy tax (TOT) rate to generate revenue for activities that will help expand Fort Bragg's slice of the California tourism business. TOT is a surcharge imposed on visitors staying at lodging facilities. The committee was tasked with talking to local lodging owners and operators to receive feedback on the possibility of a TOT increase.

In late February and early March, the committee met with owners and/or operators of nearly all of Fort Bragg's 23 lodging establishments. This agenda item allows the ad hoc committee to report back to the entire Council on its findings and recommendations.

### **RECOMMENDED ACTION:**

1. Provide direction to the ad hoc committee and staff regarding drafting two ballot measures (for the November 2016 ballot) for the Council's consideration with the following key components:
  - A general tax measure that increases the TOT rate in the City of Fort Bragg to 12%, effective April 1, 2017. The TOT rate is currently 10%, meaning that the proposed measure, if passed, would generate an additional 2% in revenue per year.
  - A companion 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 in relation to the following purposes:
    - 1% (i.e., one-half of the revenues) to substantially increase promotions and marketing for Fort Bragg;
    - 0.5% (i.e., one-quarter of the revenues) to enhance Coastal Trail maintenance and security;
    - 0.25% (i.e., one-eighth of the revenues) to support establishment of the Noyo Center Oceanarium (also known as the Whale House or Discovery Center) as a premiere visitor attraction; and
    - 0.25% (i.e., 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.
2. Provide direction to staff to initiate the actions necessary to re-form the Fort Bragg Promotions Committee as a Council-appointed advisory committee with seats assigned to specific business

sectors; and to prepare to take responsibility for implementation of marketing and promotion activities in-house effective July 1, 2016.

**ALTERNATIVE ACTION(S):**

1. No action. Under this alternative, a TOT measure would not be placed on the November 2016 ballot.
2. Continue action on the matter and request additional information.
3. Provide direction to staff to proceed with drafting of ballot measure as recommended by the ad hoc committee, but with the increase identified as a special tax rather than a general tax measure.
4. Provide alternative direction regarding changes to the Fort Bragg Promotions Committee.

**ANALYSIS:**

**Summary of lodging interviews**

The Council's ad hoc committee, accompanied by the City Manager, spent the better part of four days visiting lodging establishments and talking with their proprietors or site managers about a number of issues. Discussions were held with representatives from a total of 22 of the 23 lodging establishments in Fort Bragg. While the conversations were informal and free-ranging, the committee attempted to ask each owner the following questions:

1. Would you consider supporting a TOT increase for:
  - ~ Coastal Trail maintenance and security?
  - ~ Marketing and Promotion to Visitors?
  - ~ Whale House on Coastal Trail?
  - ~ Playing field upgrades (to attract tournaments)?
2. If the tax were used to support your priorities, would you support a 2% increase?
3. What are your thoughts regarding visitor promotion/ marketing of Fort Bragg?
  - ~ Are you aware of the work of the Fort Bragg Promotion Committee?
  - ~ Are there other ways in which the City could help your business?
  - ~ Any other suggestions for marketing and promotions?
4. Other issues or concerns?

Attachment 1 is a matrix that summarizes the responses received from lodging owners.

Overall, the ad hoc committee heard support from local lodging establishments for a TOT increase. Of the 22 lodging establishments surveyed, representatives of 16 establishments supported an increase, five were not supportive, and one was undecided but leaning towards supporting it. The support was qualified insofar as nearly all of the respondents wanted to ensure that the revenues collected were used for the specified purposes. There was a call for transparency and reporting on how funds are spent. Specific suggestions included the following:

- ~ Provide an annual report on expenditures;
- ~ Start implementation of the tax after the winter season;
- ~ Start with a 1% increase and then increase to 2%;
- ~ Exempt Bed & Breakfast establishments from the increase.

There was near unanimity among lodging that more marketing and promotion of Fort Bragg is needed. Feedback on the fortbragg.com website was generally negative. Nearly half of the respondents either were unaware of the Fort Bragg Promotion Committee or had misconceptions about it. Suggestions included:

- ~ Fix the website; “website should be amazing!”
- ~ Market the coastal trail; “who knows about it?”
- ~ Define Fort Bragg’s brand- what makes this place so special (quiet; peaceful; uncrowded; nature; ocean; beauty; hiking and biking; coastal trail; whales; history; weather; Skunk; sport fishing)
- ~ Target markets: Sacramento Valley and north to Chico and Redding; Bay Area; families; retirees; outdoor enthusiasts; techies; hipsters

The ad hoc committee believes that, with some exceptions, Fort Bragg lodging owners/operators would be supportive of a 2% increase in the TOT rate, provided that the revenues generated are used for the following purposes:

- ~ 1% to substantially increase promotions and marketing for Fort Bragg;
- ~ 0.5% to enhance Coastal Trail maintenance and security;
- ~ 0.25% to support establishment of the Noyo Center Oceanarium (i.e., the Whale House) as a premiere visitor attraction; and
- ~ 0.25% to undertake special projects and activities that support tourism and benefit the community, including but not limited to repair and enhancement of local athletic fields.

A 2% increase in the TOT rate would generate nearly \$400k per year in additional revenue. If allocated in the amounts recommended by the committee, this would mean an additional \$200k per year for marketing and promotion (in addition to the \$70k currently allocated), which could include efforts to improve the City’s website. Approximately \$100k would be available for the Coastal Trail, helping to offset the costs of an additional Maintenance Worker position in the Public Works Department and costs associated with increased patrols and calls for service by the Police Department. Approximately \$50k would be dedicated to the Noyo Center as a local funding commitment that is necessary in order to attract the large foundation funding necessary to complete the Oceanarium. And the remaining \$50k would be available for special projects, including repair and maintenance of the school district’s athletic fields.

The ad hoc committee recommends that the measure be put forth as a general tax, as opposed to a special tax, because a general tax can be passed by 50%+1 of the voters. A special tax requires a 2/3 majority vote to pass. A “general tax” is defined as any tax imposed for general governmental purposes. See Cal. Const., art. XIII C, §1(a). A “special tax” is defined as any tax imposed for specific purposes, including those taxes that are imposed for specific purposes where the revenues are placed in the general fund. See Cal. Const., art. XIII C, §1(d).

The practice of presenting a general tax measure for imposition of a tax that can be used for general governmental purposes, along with a companion non-binding advisory measure whereby the voters can express their preference for the expenditure of those funds for specific purpose, raises the prospect of an argument that the tax measure is really a special tax cloaked as a general tax and thus ought to be subject to the 2/3<sup>rd</sup> voter approval requirements. However, in *Coleman v. Santa Clara County* (1998) 64 Cal. App. 4<sup>th</sup> 662, the Court allowed the local agency to place a general tax on the ballot along with a non-binding, advisory measure stating the voters’ preferences on how the revenue raised by the general tax should be spent noting that (a) the proceeds of the tax were deposited into the local agency’s general fund; (b) the measures were

presented to the voters as two separate and distinct measures; and (c) the advisory measure did not bind the local agency in making decisions about how to spend the general tax. Accordingly, the TOT measure and non-binding advisory measure would need to conform to these principles in order to maintain the tax measure's status as a general tax.

**The ad hoc committee's recommendations for a TOT ballot measure are as follows:**

- 1. A general tax measure should be placed on the November 2016 ballot which, if approved by the voters, would increase the City's TOT rate to 12% of the room rate.**
- 2. The ballot measure should establish an effective date for the TOT increase of April 1, 2017. This would give lodging establishments an opportunity to ease in to the new rates, and would start the collection as business picks up for the summer season.**
- 3. The ballot measure should identify specific requirements for reporting on expenditures of the new revenues to ensure transparency and accountability.**
- 4. A companion non-binding advisory ballot measure should also be placed on the November ballot, whereby the voters can inform the Council about how the new TOT revenues should be used in relation to the purposes listed above.**

In addition to the ballot measure, the ad hoc committee has prepared a recommendation regarding the City's promotion and marketing efforts. After talking with lodging owners, it was clear that it is time for a shift in the City's marketing and promotion program.

Since 1999, the City's promotional efforts have been overseen and, in large part, implemented by the Fort Bragg Promotion Committee (FBPC). The FBPC has created an annual marketing plan and advised the City on how to spend the funds that are earmarked for marketing and promotion. Initially, the FBPC was appointed by the City Council with each Councilmember nominating one member. Then, in 2010, the Council contracted with the Mendocino Coast Chamber of Commerce to administer the FBPC, and the FBPC morphed into a subcommittee of the Chamber. With the administrative support of Chamber staff, the FBPC has continued to prepare and implement an annual marketing plan, but in recent years progress on some items has been hampered for a variety of reasons.

The ad hoc committee believes that it is time for the City to recommit itself to a strong and effective marketing and promotions program. Regardless of whether a TOT measure is put to the voters, the City should dedicate additional staff resources to supporting the FBPC and to development and implementation of a marketing plan. The committee has talked this over with the City Manager and she believes that, with the recent reorganizations in the Community Development Department and the Administrative Services Department, an effective staff team can be created to oversee marketing and promotions utilizing existing staff resources. Bringing the FBPC back in-house also creates an opportunity to revitalize the committee and recruit additional members. It is hoped that the existing FBPC members would continue to serve.

**Specific recommendations of the ad hoc committee are as follows:**

- 1. The City should work with the Chamber of Commerce to smoothly transition the FBPC and the City's marketing and promotion program back in-house, effective July 1, 2016.**
- 2. A new FBPC should be established with seats assigned to various business sectors and a majority of seats held by lodging (one seat each to: B&B; motel-chain; local motel; unassigned lodging; restaurant; downtown business; visitor attraction).**
- 3. A representative of the Chamber of Commerce and a representative of the Mendocino County Tourism Commission should be requested to sit on the FBPC as non-voting members.**

4. The City Council should appoint members to the FBPC and the committee should operate in accordance with Brown Act procedures.
5. The FBPC should have regular quarterly meetings, as well as special meetings on an as-needed basis.
6. Each year, the FBPC should present an annual report and a marketing plan for Council approval.
7. The City Manager should be directed to assign appropriate staff resources to support the FBPC, to implement the marketing program, and to oversee the work of consultants and contractors.

**FISCAL IMPACT:**

If the Council moves forward with the ballot measures, there will be some staff and attorney costs associated with preparation of the measures. There would also be costs associated with the election. Because the election would be consolidated with the general statewide election, the City Council election, and possibly other local measures, the costs are estimated to be in the \$5,000 range. A 2% TOT increase would yield an estimated additional \$400k per year in revenue.

**IMPLEMENTATION/TIMEFRAMES:**

If the Council chooses to move forward with the ballot measures, the specific language will be drafted and the measures will be brought forward for Council consideration. The last day to call the election for the measures is no less than 88 days prior the November 8, 2016 general election. Thus, the deadline for transmitting a ballot measure to the County Elections Office is in mid-August. It is anticipated that the measure would be brought back for Council action well in advance of the deadline.

**ATTACHMENTS:**

1. Matrix summarizing results of interviews with Fort Bragg lodging owners and operators

**NOTIFICATION:**

1. Fort Bragg Lodging Owners (via email)
2. Fort Bragg Promotion Committee
3. Chamber of Commerce, Executive Director
4. Mendocino County Tourism Board, Executive Director

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Agency Action	<input type="checkbox"/> Approved	<input type="checkbox"/> Denied	<input type="checkbox"/> Approved as Amended
Resolution No.: _____	Ordinance No.: _____		
Moved by: _____	Seconded by: _____		
Vote: _____			
<input type="checkbox"/> Deferred/Continued to meeting of: _____			
<input type="checkbox"/> Referred to: _____			