



ADMINISTRATIVE REPORT

File #: 17-614

Meeting Date: 2/20/2018

Report Prepared by: John Tresidder, Assistant City Clerk, City Clerk's Office; and Kim Espinosa, Planning Manager, Development Services Department

SUBJECT: Calling a Special Election for June 5, 2018 for the Purpose of Enacting a Commercial Cannabis Business Tax

REPORT IN BRIEF

Consideration of Resolutions Calling June 5, 2018 Special Municipal Election for the purpose of placing a tax measure on the ballot regarding cannabis sales and commercial activity and requesting the County Board of Supervisors consolidate the City's election with the Statewide Direct Primary Election being held on the same date.

RECOMMENDATION

City Council - Adopt a motion:

- A. Adopting **Resolution 2018-10**, a Resolution of the City Council of the City of Merced, California, calling a Special Municipal Election to be held on June 5, 2018, for the Purpose of Submitting a Commercial Cannabis Business Tax to the Electorate; and,
- B. Adopting **Resolution 2018-11**, a Resolution of the City Council of the City of Merced, California, requesting that the Board of Supervisors of the County of Merced, California provide for the consolidation of a Special Municipal Election and a Ballot Measure with the Statewide Direct Primary Election to be held on June 5, 2018; and,
- C. Adopting a Categorical Exemption (Environmental Review #18-12) in regards to the proposed Ordinance in accordance with the California Environmental Quality Act; and,
- D. Approving the form and content of the City Council sponsored Initiative Ordinance, entitled: Ordinance No. ____ An Ordinance of the People of the City of Merced, California, Adding Chapter 3.52 to the City of Merced Municipal Code, Approving and Implementing a Commercial Cannabis Business Tax; and,
- E. Directing the City Manager/City Clerk and the City Attorney's Office to execute documents appropriate to carry out the tasks necessary for the Special Municipal Election and to take actions related thereto; and,
- F. Approving a supplemental appropriation from the General Fund unreserved, unencumbered Fund balance in the amount of \$35,000 to cover the cost of the special election.

ALTERNATIVES

1. Approve, as recommended by staff; or,
2. Approve, subject to other than recommended by staff (identify specific findings and/or conditions amended to be addressed in the motion); or,
3. Deny; or,
4. Refer to staff for reconsideration of specific items (specific items to be addressed in the motion); or,
5. Continue to a future meeting (date and time to be specified in the motion).

AUTHORITY

Charter of the City of Merced, Sections 400 and 1000; and, California Elections Code Section 10403; and, Section 20.44.170(O)(6) of the recently adopted Ordinance No. 2480 calls for additional cannabis-specific gross receipts, excise, cultivation, or any other tax approved by the voters of Merced.

CITY COUNCIL PRIORITIES

On March 29, 2017, the City Council held a study session on priorities and medical marijuana regulations were listed under "City Administration-Current Projects."

DISCUSSION

Proposed Commercial Cannabis Business Tax

Based on the options presented at the February 5, 2018, City Council meeting by SCI Consulting, a draft Ordinance has been prepared for consideration by the voters of the City of Merced establishing a Commercial Cannabis Business Tax (Attachment 3).

The Commercial Cannabis Business Tax would be enacted solely to raise revenue for specific governmental purposes for the City of Merced and not for purposes of regulation. All of the proceeds from the tax imposed by this Ordinance shall be used exclusively to fund local police and fire protection services and parks and recreation services and cannot be spent for any other purpose.

The proposed ordinance would impose a commercial cannabis business tax on gross receipts up to a maximum of:

- 7% on medicinal retail, 10% on adult-use retail,
- \$25 per square foot on manufacturing,
- the greater of 10% or \$25 per square foot on indoor cultivation,
- \$4 per square foot on nurseries,
- the greater of 10% or \$5 per square foot on distribution, and,
- \$1 per square foot on testing.

However, in order to give commercial cannabis businesses in Merced a chance to get established financially, the initial rate of the tax on gross receipts would be:

- 4% on medicinal retail, 7% on adult-use retail,

- \$7 per square foot on manufacturing,
- The greater of 4% or \$7 per square foot on indoor cultivation,
- \$0.50 per square foot on nurseries,
- The greater of 2% or \$1 per square foot on distribution, and,
- \$0.25 per square foot on testing.

In accordance with the requirements of the California Environmental Quality Act (CEQA), a Categorical Exemption is being recommended (Attachment 4).

Call for Election

The City has consistently recognized a cost savings in previous years by consolidating the General Municipal Election with the Consolidated District Election and the Unified District Election conducted by the Merced County Elections Office. The County has trained staff and volunteers, in addition to the necessary equipment, software, and locations to conduct elections efficiently and economically. Therefore, staff recommends that the City Council call for the Special Municipal Election on June 5, 2018 and consolidate the Special Municipal Election with the Statewide Direct Primary Election on June 5, 2018, per the two resolutions at Attachments 1 and 2.

IMPACT ON CITY RESOURCES

It is estimated by the Registrar of Voters that the Special Municipal Election will cost approximately \$45,000 to \$60,000. The fiscal year 2017-18 budget included \$25,000 for an anticipated election. A supplemental appropriation in the amount of \$35,000 is needed to cover the estimated cost of \$60,000.

The commercial cannabis business tax is expected to result in up to \$1,000,000 in additional revenue on an annual basis to fund police, fire, and parks/recreation services exclusively.

ATTACHMENTS

1. Resolution 2018-10 (Calling the Election)
2. Resolution 2018-11 (Consolidating the Election)
3. Draft Tax Ordinance
4. Notice of Exemption (Environmental Review #18-12)