



CITY COUNCIL STAFF REPORT

TO: Honorable Mayor and City Council **DATE:** July 9, 2018

FROM: Matthew Bronson, City Manager

PREPARED BY: Matthew Bronson, City Manager
Gayla Chapman, Administrative Services Director

SUBJECT: Placement of Business Tax Certificate Measure on the November 2018 Ballot

RECOMMENDATION

- 1) Adopt the Resolution calling for the placement of a measure to amend the Business Tax Certificate on the General Municipal Election to be held on Tuesday, November 6, 2018, as called by Resolution No. 18-45;
 - 2) Adopt the Resolution setting priorities for filing a written argument regarding a City measure and directing the City Attorney to prepare an impartial analysis; and
 - 3) Adopt the Resolution providing for the filing of rebuttal arguments.
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BACKGROUND

At the June 19, 2018 Council meeting, staff was directed to return with a resolution to place a measure on the November 2018 ballot that would restructure the City’s Business Tax Certificate (BTC) and charge a variable rate based on the level of gross receipts for businesses operating in the city. This direction follows previous discussions on BTC rates and revenues at the April 16, 2018 Council meeting and February 23, 2018 Council Goals Workshop.

Following discussion at these meetings, the Council has elected to consider amending the BTC rate from a flat \$55 amount per business to a variable fee based on level of gross receipts as proposed in the Resolution shown as Attachment 1 and outlined in Table 1 below:

Table 1 – Proposed BTC Rates

<u>Gross Receipts</u>	<u>BTC Rate</u>
\$0-\$24,999	\$60.00
\$25,000-\$49,999	\$120.00
\$50,000-\$149,999	\$240.00
\$150,000-\$999,999	\$360.00
\$1,000,000 and up	\$600.00

The City’s BTC rate of \$55 per business regardless of size has not been changed since it was established in 1980 and generates approximately \$88,000 in annual revenue. This rate covers the vast majority of businesses while a small number of businesses such as contractors pay a different amount. The proposed increase would generate approximately \$102,000 annually in additional general revenue for City services identified by the Council including, but not limited to,

fire, police, and maintenance service and as such require majority (50% + 1) approval from voters. The Resolution includes a Consumer Price Index adjustment to BTC rates on an annual basis and exempts commercial cannabis businesses from paying the BTC rate as these businesses are paying a separate voter-approved commercial cannabis tax along with an annual regulatory permit fee. Licensed commercial cannabis businesses with a physical premise outside the city but delivering to an address within the city would be required to pay for a BTC based on the level of gross receipts occurring in the city. Home-based businesses would be included under these revised rates while professional services firms would only include fees paid by customers in calculating their gross receipts. Lastly, the calculation of gross receipts excludes state and federal tax payments or transportation or pass-through fees such as postage fees paid to the U.S. Postal Service.

The Resolution in Attachment 1 includes a draft Ordinance which would formalize this amendment in the BTC rates if voters approve the ballot measure. The Council may make revisions to the Ordinance following voter approval as long as any changes to tax amount or the methodology for imposing the tax levied by Council does not increase the tax beyond that which was approved by voters. Given the timing of working with the County Clerk's office in placing the tax measure on the ballot, staff is recommending that the Council adopt this Resolution as proposed or with revisions at this meeting. Council may also elect to adopt this Resolution at the July 23rd meeting though that will shorten the timeframe to meet the County Clerk's deadline of August 10 in receiving materials for the November 2018 ballot.

Lastly, the City has met with the Chamber of Commerce and several large businesses in the city to discuss proposed changes to the BTC rates. While there was general support expressed for the direction the city is going and the funding need for City services, there were concerns expressed from businesses about significant increases in business taxes along with other costs of doing business. There were also questions and concerns about other issues such as confidentiality of gross receipts submissions, calculation of gross receipts, extent of increase at one time, and use of gross receipts as the BTC methodology instead of number of employees or square footage of the business. Staff can provide further information to the Council if desired.

FISCAL IMPACT

The cost of placing the measure on the ballot is estimated at \$15,000. The amount of annual revenue that could be generated from this measure is estimated at \$102,000.

ALTERNATIVES

The City Council has the following alternatives to consider:

1. Adopt the Resolution placing the proposed tax measure on the ballot;
2. Provide staff with revisions to the Resolution and draft Ordinance and then adopt the document;
3. Provide staff with direction regarding major revisions and have this item brought back at the July 23, 2018 meeting; or
4. Provide alternate direction to staff.

PUBLIC NOTIFICATION

The agenda was posted in accordance with the Brown Act. A copy of this staff report and the meeting agenda were provided to the Chamber of Commerce President/CEO.

ATTACHMENTS

1. Resolution calling for the placement of a measure on the November 2018 ballot
Exhibit A: Ordinance amending the Business Tax Certificate;
2. Resolution setting priorities for filing arguments and preparation of an impartial analysis
3. Resolution providing for rebuttal arguments
4. Draft Notice to Voters for Filing Arguments

RESOLUTION NO. 18-____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, SUBMITTING TO THE QUALIFIED ELECTORS OF THE CITY AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 6, 2018, A PROPOSED ORDINANCE REPEALING CHAPTER 2, ARTICLE X OF THE GROVER BEACH MUNICIPAL CODE AND ADOPTING A NEW CHAPTER 2, ARTICLE X RELATING TO BUSINESS TAX CERTIFICATE TO RESTRUCTURE THE BUSINESS TAX CERTIFICATE RATE FOR THE PURPOSE OF RAISING REVENUE TO FUND GENERAL MUNICIPAL SERVICES

WHEREAS, Chapter 2 of Article X, "Business Certificate Tax" regulations have not been completely reviewed and updated since 1992; and

WHEREAS, the name of the Chapter is being revised to "Business Tax Certificate" in accordance with the customary use of the term; and

WHEREAS, a substantial number of provisions of these regulations are out of date with current standards and protocol; and

WHEREAS, these regulations represent a structural change in the manner in which the tax for Business Tax Certificates are issued; and

WHEREAS, the subject tax will be charged on a flat tiered rate as measured against the gross receipts or amounts of income and revenue generated by a business; and

WHEREAS, every person engaged in business activity in the City of Grover Beach, with limited exceptions, are required to obtain a business tax certificate and to pay the City's business tax; and

WHEREAS, the City of Grover Beach seeks adequate funding to provide essential public services and all revenues received from the tax will be deposited in the General Fund of the City to be expended for general purposes.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Grover Beach that:

Section 1. Recitals and Findings. All of the recitals set forth above are true and correct to the best of its knowledge and are hereby adopted as findings of the City Council.

Section 2. Call for Consolidated Election. As set forth in Resolution No. 18-45 adopted on June 4, 2018, the City Council of the City of Grover Beach has ordered an election to be called and consolidated with any and all elections also called to be held on November 6, 2018, insofar as said elections are to be held in the same territory or in territory that is in part the same as the territory of the City of Grover Beach, and has requested that the Board of Supervisors of the County of San Luis Obispo order such consolidation under Elections Code Sections 10401 and 10403.

Section 3. Placement of Measure on Ballot. That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question concerning an increase in the City’s transient occupancy tax rate:

CITY OF GROVER BEACH MEASURE __-18 To enhance Grover Beach with funding for maintaining fire, emergency medical, and police services, repairing streets and potholes, maintaining parks, sidewalks, and bike lanes, and other general city services; shall the City of Grover Beach adopt an ordinance amending the annual Business Tax Certificate rate from \$55 for most businesses to a range of \$60 to \$600 based on gross receipts, providing \$100,000 annually in unrestricted funding with all funds staying in Grover Beach?	Yes
	No

Section 4. Proposed Ordinance. The ordinance increasing the City’s transient occupancy tax rate to be approved by the voters is as set forth in “Exhibit A” hereto. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 6, 2018 General Municipal Election, as required by Cal. Const., Art. XIII C, Section 2, subject to the approval of the **majority of the votes cast (50%+1)** on the measure at a combined General and Municipal election. The **entire text** of the ordinance attached hereto as Exhibit A shall be printed in the voter information portion of the sample ballot.

Section 5. CEQA. The City Council finds that based on all available information as of July 9, 2018, that under California Environmental Quality Act (“CEQA”) Guidelines Section 15060(c)(2), subdivisions (2) and (4) of subdivision (b), the involved action does not constitute a project under CEQA and therefore review under CEQA is not required.

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. Publication of Measure. In accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code, the City Clerk is hereby authorized and directed to cause notice of the measure to be published once in a weekly newspaper of general circulation in the City of Grover Beach.

Section 8. Effective Date. This Resolution shall become effective immediately upon its passage and forthwith entered into the book of original Resolutions kept and maintained by the City Clerk of the City of Grover Beach.

Section 9. Certification. The City Clerk is hereby authorized and directed to certify to the due adoption of this Resolution and to transmit a copy hereof so certified to the Board of Supervisors and the Registrar of Voters of San Luis Obispo County.

On motion by _____, seconded by _____, and on the following roll-call vote, to wit:

AYES: Council Members -
NOES: Council Members -
ABSENT: Council Members -
ABSTAIN: Council Members -

the foregoing Resolution was **PASSED, APPROVED**, and **ADOPTED** at a Regular meeting of the City Council of the City of Grover Beach, California this ____ day of July, 2018.

**** D R A F T ****

JOHN P. SHOALS, MAYOR

ATTEST:

DONNA L. McMAHON, CITY CLERK

APPROVED AS TO FORM:

DAVID P. HALE, CITY ATTORNEY

Exhibit A

To Be Provided Under Separate Cover -
Proposed Ordinance Amending the Annual Business Tax Certificate Rate

RESOLUTION NO. 18-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, SETTING PRIORITIES FOR FILING A WRITTEN ARGUMENT REGARDING A CITY MEASURE AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS

WHEREAS, a General Municipal Election is to be held in the City of Grover Beach, California, on Tuesday, November 6, 2018, at which there will be submitted to the voters the following measure:

<p style="text-align: center;">CITY OF GROVER BEACH MEASURE __-18</p> <p>To enhance Grover Beach with funding for maintaining fire, emergency medical, and police services, repairing streets and potholes, maintaining parks, sidewalks, and bike lanes, and other general city services; shall the City of Grover Beach adopt an ordinance amending the annual Business Tax Certificate rate from \$55 for most businesses to a range of \$60 to \$600 based on gross receipts, providing \$100,000 annually in unrestricted funding with all funds staying in Grover Beach?</p>	YES
	NO

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, DOES HEREBY resolve, declare, determine, and order as follows:

SECTION 1. That the City Council, being the legislative body of the City of Grover Beach, hereby authorizes ALL members of the City Council to file a written argument in favor of the City measure not exceeding **300 words** regarding the City measure as specified above, accompanied by the printed names and signatures of the authors submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California. The arguments may be changed or withdrawn until and including the date fixed by the City Clerk after which no arguments for or against the City measure may be submitted to the City Clerk.

The arguments shall be filed with the City Clerk, signed, with the printed names and signature(s) of the authors submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument. The arguments shall be accompanied by the Form of Statement to Be Filed By Author(s) of Argument.

SECTION 2. That the City Council directs the City Clerk to transmit a copy of the measure to the City Attorney, unless the organization or salaries of the office of the City Attorney are affected.

- a. The City Attorney shall prepare an impartial analysis of the measure not exceeding **500 words** showing the effect of the measure on the existing law and the operation of the measure. If the measure affects the organization or salaries of the office of the City Attorney, the City Clerk shall prepare the impartial analysis.

- b. The analysis shall include a statement indicating whether the measure was placed on the ballot by a petition signed by the requisite number of voters or by the governing body of the city.
- c. The entire text of the measure is to be printed in the voter information portion of the sample ballot.
- d. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 3. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

On motion by _____, seconded by _____, and on the following roll-call vote, to wit:

AYES: Council Members -
NOES: Council Members -
ABSENT: Council Members -
ABSTAIN: Council Members -

the foregoing Resolution was **PASSED, APPROVED, and ADOPTED** at a Special Meeting of the City Council of the City of Grover Beach, California this ____ day of July, 2018.

**** D R A F T ****

JOHN P. SHOALS, MAYOR

Attest:

DONNA L. McMAHON, CITY CLERK

RESOLUTION NO. 18-__

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS FOR CITY MEASURES SUBMITTED AT MUNICIPAL ELECTIONS

WHEREAS, Section 9282 of the Elections Code of the State of California provides for written arguments to be filed in favor of or against city measures not to exceed **300 words** in length; and

WHEREAS, Section 9285 of the Elections Code of the State of California authorizes the City Council, by majority vote, to adopt provisions to provide for the filing of rebuttal arguments for city measures submitted at municipal elections.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF GROVER BEACH, CALIFORNIA, DOES HEREBY resolve, declare, determine, and order as follows

SECTION 1. That pursuant to Section 9285 of the Elections Code of the State of California, when the elections official has selected the arguments for and against the measure (not exceeding 300 words each) which will be printed and distributed to the voters, the elections official shall send a copy of an argument in favor of the proposition to the authors of any argument against the measure and a copy of an argument against the measure to the authors of any argument in favor of the measure immediately upon receiving the arguments.

The author or a majority of the authors of an argument relating to a city measure may prepare and submit a rebuttal argument not exceeding **250 words** or may authorize in writing any other person or persons to prepare, submit, or sign the rebuttal argument.

A rebuttal argument may not be signed by more than five (5) authors.

If authorized by the City Council, rebuttal arguments shall be filed with the City Clerk, signed, with the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers by the date fixed by the City Clerk. The rebuttal arguments shall be accompanied by the Form of Statement to Be Filed By Author(s) of Argument.

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.

SECTION 2. That all previous resolutions providing for the filing of rebuttal arguments for city measures are repealed.

SECTION 3. That the provisions of Section 1 shall apply only to the election to be held on Tuesday, November 6, 2018, and shall then be repealed.

SECTION 4. That the City Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions.

On motion by _____, seconded by _____, and on the following roll-call vote, to wit:

AYES: Council Members -
NOES: Council Members -
ABSENT: Council Members -
ABSTAIN: Council Members -

the foregoing Resolution was **PASSED, APPROVED**, and **ADOPTED** at a Special Meeting of the City Council of the City of Grover Beach, California this ____ day of July, 2018.

**** D R A F T ****

JOHN P. SHOALS, MAYOR

Attest:

DONNA L. McMAHON, CITY CLERK



NOTICE TO VOTERS OF DATE AFTER WHICH NO ARGUMENTS FOR OR AGAINST A CITY MEASURE MAY BE SUBMITTED TO THE CITY CLERK

NOTICE IS HEREBY GIVEN that the General Municipal Election is to be held in the City of Grover Beach on **Tuesday, November 6, 2018**, at which there will be submitted to the voters the following measure:

<p>CITY OF GROVER BEACH MEASURE __-18</p> <p>To enhance Grover Beach with funding for maintaining fire, emergency medical, and police services, repairing streets and potholes, maintaining parks, sidewalks, and bike lanes, and other general city services; shall the City of Grover Beach adopt an ordinance amending the annual Business Tax Certificate rate from \$55 for most businesses to a range of \$60 to \$600 based on gross receipts, providing \$100,000 annually in unrestricted funding with all funds staying in Grover Beach?</p>	Yes
	No

NOTICE IS FURTHER GIVEN that pursuant to Article 4, Chapter 3, Division 9 of the Elections Code of the State of California, the legislative body of the City, or any member or members thereof authorized by the body, or any individual voter or bona fide association of citizens, or any combination of voters and associations, may file a written argument, not to exceed **300 words** in length, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument, for or against the City measure(s).

NOTICE IS FURTHER GIVEN that, based upon the time reasonably necessary to prepare and print the arguments and Voter Information Guide for the election, the City Clerk has fixed **Thursday, July 19, 2018**, during normal office hours, as posted, as the date after which no arguments for or against the City measure may be submitted to the clerk for printing and distribution to the voters as provided in the Article 4. Arguments shall be submitted to the City Clerk, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument, at the City Hall, 154 South 8th Street, Grover Beach, California. Arguments may be changed or withdrawn until and including the date fixed by the City Clerk.

NOTICE IS FURTHER GIVEN that the City Council had determined that rebuttal arguments, not to exceed **250 words** in length, as submitted by the authors of the opposing direct arguments, may be filed with the City Clerk, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, or if submitted on behalf of an organization, the name of the organization, and the printed name and signature of at least one of its principal officers who is the author of the argument by no later than **5:00 p.m. on Monday, July 30, 2018**.

NOTICE IS FURTHER GIVEN that any ordinance, impartial analysis, or direct argument filed under the authority of the Elections Code will be available for public examination in the City Clerk's office for not less than 10-calendar days from the deadline for the filing of the arguments and analysis(es). Any rebuttal argument filed under the authority of the Elections Code will be available for public examination in the City Clerk's office for not less than 10-calendar days from the deadline for filing rebuttal arguments.

**** D R A F T ****

Donna L. McMahon, City Clerk

Dated: Tuesday, July 10, 2018