DEPT: Board of Supervisors   BOARD AGENDA # *A-5

Urgent ☐   Routine ■   AGENDA DATE June 29, 2010

CEO Concurs with Recommendation YES ■   NO ☐   4/5 Vote Required YES ☐   NO ■
(Information Attached)

SUBJECT:

Approval to Consolidate the City of Riverbank's General Municipal Election with the Gubernatorial General Election to be Held on Tuesday, November 2, 2010

STAFF RECOMMENDATIONS:

Approve the consolidation of the City of Riverbank's General Municipal Election with the Gubernatorial General Election to be held on Tuesday, November 2, 2010.

Contact person: Christine Ferraro Tallman, Clerk of the Board   Telephone: 525-4494

FISCAL IMPACT:

There is no fiscal impact associated with this item.

BOARD ACTION AS FOLLOWS:

No. 2010-407

On motion of Supervisor____Chiesa_____, Seconded by Supervisor ___O'Brien_____
and approved by the following vote,
Ayes: Supervisors:_____O'Brien, Chiesa, Monteith, DeMartini, and Chairman Grover_____
Noes: Supervisors:_____None_____
Excused or Absent: Supervisors:__None_____
Abstaining: Supervisor:_____None_____
1)   X   Approved as recommended
2)_____ Denied
3)_____ Approved as amended
4)_____ Other:
MOTION:

ATTEST: CHRISTINE FERRARO TALLMAN, Clerk   File No.

City of Riverbank

6707 Third Street • Riverbank, CA 95367-2396
Phone: (209) 869-7101 • Fax: (209) 869-7100

June 21, 2010

Christine Ferraro-Tallman
Stanislaus County
Clerk of the Board of Supervisors
1010 10th Street
6th Floor, Suite 6700
Modesto, CA 95354

RE: Request for County Services for the November 2010 General Municipal Election,
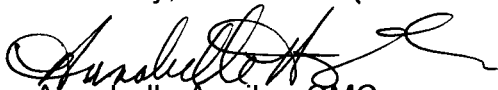   to Include a TOT Ballot Measure

Dear Ms. Ferraro-Tallman:

Per Election Code 10002, enclosed you will find the certified copies of the City of
Riverbank Resolution No. 2010-073 requesting County services for the Tuesday,
November 2, 2010, General Municipal Election and also Resolution 2010-074,to include
a Ballot Measure for a Transient Occupancy Tax (TOT) rate increase from 4% to 9%.

Please place this on your next Board of Supervisors agenda for the June 29, 2010,
meeting.

If you have any questions; please contact me at (209) 863-7198.

Sincerely,

Annabelle Aguilar, CMC
Deputy City Clerk

Enclosures: Resolution 2010-073
             Resolution 2010-074
             Attorney's Opinion to Measure A

CC: Stanislaus County Registrar of Voters Office

CITY OF RIVERBANK

RESOLUTION NO. 2010-073

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION ON TUESDAY, NOVEMBER 2, 2010, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE LAWS OF THE STATE OF CALIFORNIA RELATING TO GENERAL LAW CITIES AND REQUESTING CONSOLIDATION OF THIS ELECTION WITH STANISLAUS COUNTY

WHEREAS, Under the provisions of the laws relating to General Law cities in the State of California, a General Municipal Election shall be held on Tuesday, November 2, 2010, for the election of Municipal Officers.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank does hereby declare, determine, and order as follows:
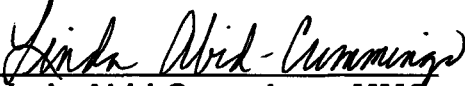
1. That pursuant to the requirements of the laws of the State of California relating to General Law cities, there is called and ordered to be held in the City of Riverbank, California, on Tuesday, November 2, 2010, a General Municipal Election for the purpose of electing two (2) Councilmembers for the full term of four-years (per seat); and,

2. That the Board of Supervisors of the County of Stanislaus is requested to issue instructions to the County Election Official to take any and all steps necessary for the holding of the consolidated election; and,

3. That the City of Riverbank recognizes that additional costs will be incurred by the County by reason of this consolidation and agrees to reimburse the County for such costs; and,

4. That the polls for the election shall open at seven o'clock a.m. (7:00 a.m.) of the day of the election and shall remain open continuously from that time until eight o'clock p.m. (8:00 p.m.), except as provided in §14401 of the Elections Code of the State of California; and,

5. Pursuant to §13307(c) of the Elections Code of the State of California, candidates shall be required to pay, in advance, for the pro rata cost of printing the candidate statement in the voter pamphlet; and,

6. Candidate statements will be limited to no more than 200 words; and,

7. A $700.00 deposit shall be required at the time of filing of the nomination paper of those candidates who wish to submit a statement for printing in the voter pamphlet; and,

8. The amount of the deposit is based upon an estimated cost and candidates will be required to pay the actual cost of printing, and the City Clerk is directed to bill candidates for additional actual expenses or refund any excess amount paid depending upon the actual cost of printing of the candidate statement in the voter pamphlet; and,

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

10. 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; and,

11. That the City Clerk is hereby directed to file a certified copy of this Resolution with the Board of Supervisors and the County Election Division of the County of Stanislaus.
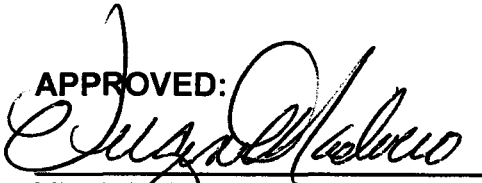
PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on the 14th day of June, 2010, by the following vote of 3-1:

AYES: Councilmembers Fielder, Benitez, and Mayor Madueño.
NAYS: Councilmember J. J. White.
ABSENT: Councilmember D. White.
ABSTAIN: None.

ATTEST:

Linda Abid-Cummings, MMC
City Clerk

APPROVED:

Virginia Madueño
Mayor

CERTIFICATION
I hereby certify the foregoing is a true and correct copy of the original document on file in the office of the City Clerk of the City of Riverbank.

DEPUTY CITY CLERK

DATED 06-21-10

CC Resolution No. 2010-073

CITY OF RIVERBANK

RESOLUTION NO. 2010-074

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF RIVERBANK FOR THE INCLUSION OF A BALLOT MEASURE IN THE NOVEMBER 2010 GENERAL MUNICIPAL ELECTION FOR SUBMISSION TO THE VOTERS OF A QUESTION RELATING TO AMENDING CITY CODE TO INCREASE THE TRANSIENT OCCUPANCY TAX RATE FROM 4% TO 9%

WHEREAS, Pursuant to the California Elections Code, the City Council desires to include in the consolidated General Municipal Election to be held on November 2, 2010, a ballot measure to the voters relating to an increase in the existing Transient Occupancy Tax rate; and,

WHEREAS, Pursuant to California Elections Code Section 9222, the City Council desires to submit to the qualified electors of the City a ballot measure deciding whether an ordinance shall be adopted to increase the rate of a general tax in the City, namely the Transient Occupancy Tax.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Riverbank:

1. Pursuant to California Elections Code Section 9222, the City Council hereby orders that the following question shall be submitted to the qualified electors of the City of Riverbank at the consolidated General Municipal Election:

   Measure A: Transient Occupancy Tax

   Shall an ordinance amending Section 34.47 of the Code of the City of Riverbank, providing that "for the privilage of occupancy in any hotel, each transient is subject and shall pay a tax in the amount of 9% of the rent charged by the operator", be adopted? If Measure A passes, the transient occupancy taxt rate as set forth in section 34.47 of the Riverbank City Code would be increased from 4% to 9%.

   Yes _____   No _____

2. The proposed ordinance for the above-referenced Measure shall be in the form attached hereto as Attachment 1, and it is hereby incorporated by reference into this Resolution.

3. The ballots to be used at the General Municipal Election shall be in the form and content as required by law. The Measure shall be designated as Measure A on

the ballot, unless it must be otherwise designated to accommodate the consolidation of the City's Muncipal Election with the County.

4. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

5. Notice of the time and place of holding the election is given and the City Clerk is authorized, instructed nd directed to give further or additional notice of the election, in the time, form and manner as required by law.

6. The City Clerk shall certify to the passage and adopton of this Resolution.

PASSED AND ADOPTED by the City Council of the City of Riverbank at a regular meeting held on this 14th day of June, 2010, by the following vote of 3-1:

AYES: **Councilmembers Fielder, Benitez, and Mayor Madueño.**
NAYS: **Councilmember J. J. White.**
ABSENT: **Councilmember D. White.**
ABSTAIN: **None.**

ATTEST:

Linda Abid-Cummings

Linda Abid-Cummings, MMC
City Clerk

APPROVED:

Virginia Madueño

Virginia Madueño
Mayor

Attachment: Attachment 1

ATTACHMENT 1

AN ORDINANCE OF THE CITY OF RIVERBANK AMENDING TITLE III: ADMINISTRATION, CHAPTER 34: TAXATION, SECTION 34.47: TAX IMPOSED, OF THE CITY OF RIVERBANK CODE OF ORDINANCES
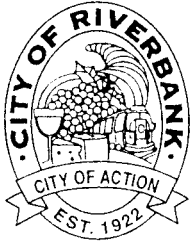
The people of the City of Riverbank do ordain as follows:

Title III: ADMINISTRATION, Chapter 34: TAXATION, Section 34.47: TAX IMPOSED, of the Riverbank City Code shall be amended to read as follows:

§ 34.47 TAX IMPOSED

For the privilege of occupancy in any hotel, each transient is subject to and shall pay a tax in the amount of nine percent of the rent charged by the operator. Said tax constitutes a debt owed by the transient to the city which is extinguished only by payment to the operator or to the city. The transient shall pay the tax to the operator of the hotel at the time the rent is paid. If the rent is paid in installments, a proportionate share of the tax shall be paid with each installment. The unpaid tax shall be 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 shall be paid directly to the Tax Administrator.

City of Riverbank

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IMPARTIAL ANALYSIS BY CITY ATTORNEY

MEASURE

This ballot measure if adopted by city voters, would increase the tax charged for the privilege of occupying a hotel room in the City of Riverbank from four percent (4%) to nine percent (9%). The transient occupancy tax is a tax paid by hotel and motel guests in the City. The tax is on the room rent paid. For example, a hotel guest would currently pay $4.00 tax per night on a $100.00 hotel room. The revenue received by the City from this tax would be placed in the general fund.

Tom Hallinan
City Attorney
City of Riverbank