



CALL OF SPECIAL MEETING

Antioch City Council Special Meeting

Pursuant to Government Code section 54956, I hereby call a Special Meeting of the Antioch City Council. Said meeting shall be held on the following date, time and place:


DATE: Thursday, August 9, 2018

TIME: 5:15 P.M. Special Meeting

**PLACE: Council Chambers
200 H Street
Antioch, California 94509**

The only items of business to be considered at such special meeting shall be set forth on the Special Meeting Agenda.

Dated: August 8, 2018



**SEAN WRIGHT, Mayor
City of Antioch**

Regular Meetings:
2nd and 4th Tuesday
of each month



Agenda prepared by:
Office of the City Clerk
(925) 779-7009

***REVISED**
ANNOTATED AGENDA
for

**SPECIAL MEETING OF THE
ANTIOCH CITY COUNCIL**

**COUNCIL CHAMBERS
200 H Street
Antioch, CA 94509**

**THURSDAY
AUGUST 9, 2018
5:15 P.M.**

5:16 P.M. ROLL CALL – Council Members Wilson, Thorpe, Tiscareno, Ogorchock and Mayor Wright

PLEDGE OF ALLEGIANCE

PUBLIC COMMENTS – None

1. CONSIDER THE RECONSIDERATION OF THE ADOPTION OF RESOLUTION NO 2018/95 AND ADOPTION OF ORDINANCE NO 2147-C-S, AS APPROVED AT THE SPECIAL MEETING OF THE CITY COUNCIL OF THE CITY OF ANTIOCH ON AUGUST 7, 2018; AND

STAFF REPORT

5/0

2. RESCIND RESOLUTION NO. 2018/95 AND REPEAL ORDINANCE NO. 2147-C-S; AND ADOPT A RESOLUTION AND ENACT AN ORDINANCE SUBMITTING A MEASURE TO THE VOTERS OF THE CITY OF ANTIOCH TO AMEND ARTICLE 4 OF CHAPTER 5 OF TITLE 3 OF THE ANTIOCH MUNICIPAL CODE TO INCREASE THE CITY'S TRANSACTIONS AND USE TAX FROM ONE-HALF CENT TO ONE CENT AND TO IMPOSE THIS TAX AND TO COLLECT SUCH TAX FOR TWENTY YEARS [**TWO-THIRDS VOTE REQUIRED**]

Reso No. 2018/96 AND Ord No. 2148-C-S adopted, 5/0

Recommended Action: It is recommended that the City Council take the following actions:

- 1) Rescind Resolution No. 2018/95 and Repeal Ordinance No. 2147-C-S; and
- 2) Adopt a Resolution of the City Council of the City of Antioch Calling for a Municipal Election on November 6, 2018 to Request City Voters Extend and Increase the City's

Transaction and Use Tax From One-Half Cent to One Cent to Provide for Public Safety and 911 Service, Support Youth, and Maintain Other Quality of Life Services; and

- 3) Enact an Ordinance of the City Council of the City of Antioch Submitting a Measure to The Voters of the City of Antioch to Amend Article 4 of Chapter 5 of Title 3 of the Antioch Municipal Code to Increase the City's Transactions and Use Tax From a Half Cent to One Cent and to Impose This Tax and to Collect Such Tax for Twenty Years.

PUBLIC COMMENTS

STAFF COMMUNICATIONS

COUNCIL COMMUNICATIONS

ADJOURNMENT – 5:36 p.m.



STAFF REPORT TO THE CITY COUNCIL

DATE: Special Meeting of August 9, 2018

TO: Honorable Mayor and Members of the City Council

SUBMITTED BY: Derek Cole, Interim City Attorney

SUBJECT:

1. Consider the reconsideration of the adoption of Resolution No 2018/95 and adoption of Ordinance No 2147-C-S, as approved at the Special Meeting of the City Council of the City of Antioch on August 7, 2018; and
2. Rescind Resolution No. 2018/95 and repeal Ordinance No. 2147-C-S; and Adopt a Resolution and Enact an Ordinance submitting a Measure to the voters of the City of Antioch to amend Article 4 of Chapter 5 of Title 3 of the Antioch Municipal Code to increase the City's Transactions and Use Tax from One-Half Cent to One Cent and to Impose this Tax and to Collect such Tax for Twenty Years
[TWO-THIRDS VOTE REQUIRED]

RECOMMENDED ACTION

It is recommended that the City Council reconsider the Adoption of Resolution No. 2018/95 and Repeal of Ordinance No. 2147-C-S; and take the following actions:

1. Rescind Resolution No. 2018/95 and Repeal Ordinance No. 2147-C-S; and
2. Adopt a Resolution of the City Council of the City of Antioch Calling for a Municipal Election on November 6, 2018 to Request City Voters Extend and Increase the City's Transaction and Use Tax From One-Half Cent to One Cent to Provide for Public Safety and 911 Service, Support Youth, and Maintain Other Quality of Life Services; and
3. Enact an Ordinance of the City Council of the City of Antioch Submitting a Measure to The Voters of the City of Antioch to Amend Article 4 of Chapter 5 of Title 3 of the Antioch Municipal Code to Increase the City's Transactions and Use Tax From a Half Cent to One Cent and to Impose This Tax and to Collect Such Tax for Twenty Years.

STRATEGIC PURPOSE

The proposed action is consistent with Strategy N-1, effectively and efficiently provide legal services in support of the City's policies, procedures and initiatives.

FISCAL IMPACT

Measure C a one-half cent sales tax measure current revenue is \$6.7 million annually. This represents 12 percent of the General Fund revenue. Extending this Transaction and Use Tax (Sales Tax) in the amount of one cent could have the potential to generate \$14 million annually.

DISCUSSION

On August 7, 2018, the City Council adopted the above-referenced Resolution and Ordinance calling for extension of the City's transactions and use tax and increasing the tax from one-half cent to one cent. The vote of the Council was 3-2.

Revenue and Taxation Code section 7285.9, which authorizes cities to impose transactions and use taxes, states as follows:

“The governing body of any city may levy, *increase, or extend* a transactions and use tax for general purposes at a rate of 0.125 percent or a multiple thereof, if the ordinance proposing that tax is approved by a two-thirds vote of all members of that governing body and the tax is approved by a majority vote of the qualified voters of the city voting in an election on the issue.”

To ensure that there are no potential challenges to the City's adoption of the increased and extended transactions and use tax—should the voters approve the tax in November—it is recommended that the City Council reconsider its actions to approve the resolution and ordinance and, if reconsideration is ordered, for the Council to take another vote on the merits of the ordinance and resolution to determine if two-thirds of the Council are in favor of placing the measure on the ballot (which would require 4 members of the Council to vote “aye”.)

ATTACHMENTS

A. Resolution

“Exhibit 1” to Resolution – Ordinance

RESOLUTION NO. 2018/**

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
CALLING FOR A MUNICIPAL ELECTION ON NOVEMBER 6, 2018 TO REQUEST
CITY VOTERS EXTEND AND INCREASE THE CITY'S TRANSACTION AND USE
TAX FROM ONE-HALF CENT TO ONE CENT TO PROVIDE FOR PUBLIC SAFETY
AND 911 SERVICE, SUPPORT YOUTH, AND MAINTAIN OTHER
QUALITY OF LIFE SERVICES**

WHEREAS, existing, voter-approved funding has maintained basic public safety services in Antioch such as police, emergency response, and code enforcement services; and

WHEREAS, the City has solicited public input on priorities, and the community has said it wants the City to increase investment in code enforcement, cleaning up blight, road repairs, youth/senior services, ensuring water quality, and attracting new business and jobs to Antioch; and

WHEREAS, by addressing these quality-of-life priorities, the City can reach its potential for a safe, clean, beautiful place to live; and

WHEREAS, we must continue to keep Antioch safe by maintaining reliable funding for police patrols, 911 emergency response, youth violence and gang prevention, traffic enforcement patrols, and preparing public safety personnel for rapid, coordinated responses to natural disasters; and

WHEREAS, more than one-quarter of Antioch's population is under the age of 18, and many parents commute hours to work each day—the City wishes to expand programs that keep kids off the streets and out of trouble, while providing them safe and healthy places to learn and play; and

WHEREAS, the proposed measure only costs one cent in sales tax for a one-dollar purchase to keep our City safe, clean and well-maintained; and

WHEREAS, this is not a tax on residents' homes or properties; by law, visitors to Antioch share in the cost and critical products such as food purchased as groceries and prescription medications are exempt; and

WHEREAS, all funds raised by this measure are subject to annual independent financial audits and independent citizens oversight to ensure funds are spent responsibly on the community's priorities; and

WHEREAS, every penny of new revenue from this measure is legally required to stay in the City of Antioch and cannot be seized by the State.

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NOW, THEREFORE, BE IT RESOLVED, THE CITY COUNCIL OF ANTIOCH DOES RESOLVE AS FOLLOWS:

Section 1. Call for Election.

Pursuant to California Constitution Article XIII C, Section 2, Government Code Section 53724, and Elections Code Section 9222, the City Council of the City of Antioch hereby calls an election and hereby submits to the voters of the City of Antioch a measure that, if approved, would extend and increase the general transactions and use tax, as authorized by Revenue and Taxation Code section 7285.9. This measure shall be designated by letter by the Contra Costa County Elections Department. Pursuant to Election Code Section 10400 et seq., the election for this measure shall be consolidated with the established election to be conducted on November 6, 2018.

Section 2. Ballot Language.

The question to be presented to the voters shall be as follows:

Antioch's Quality of Life Measure. To maintain Antioch's fiscal stability, police patrols, 911 emergency response, youth violence prevention programs; ensuring water quality/safety; repairing streets; cleaning up parks/illegal dumping; restoring youth afterschool/summer programs; other essential services; shall the measure be adopted approving an ordinance to renew the sales tax at the one-cent rate, raising approximately \$14,000,000 annually, expiring in twenty years, with mandatory annual independent financial audits, and independent citizens oversight?	YES	
	NO	

Section 3. Proposed Ordinance.

The Ordinance authorizing the continuation and increase of the general tax to be approved by the voters is as set forth in Exhibit 1 and incorporated herein by reference. The City Council hereby approves the ordinance, the form thereof, and its submission to the voters of the City at the November 6, 2018 election, as required by Revenue and Taxation Code section 7285.9.

Section 4. Text of Measure to be Published in the Voter Information Pamphlet.

The Ordinance attached as Exhibit 1 to this Resolution is available at no cost from the City Clerk's Office at 925-779-7009 or on the City's website: www.ci.antioch.ca.us. A statement about how to obtain the full text of the Ordinance will be included in the Voter Information Pamphlet below the Impartial Analysis.

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In addition, only the Whereas Clauses above, ballot question, Impartial Analysis, and Arguments are to be printed in the Voter Information Pamphlet for this measure.

Section 5. Request to Consolidate, Conduct Election and Canvass Returns.

The Board of Supervisors of the County of Contra Costa is hereby requested to authorize the County Clerk/Recorder/Registrar of Voters to render all services necessary and proper for the conduct of the municipal election called by this Resolution. Pursuant to California Elections Code section 10403, the City Council hereby requests that the Contra Costa County Board of Supervisors consolidate that election with the election to be conducted on November 6, 2018 and order the municipal election to be conducted by the Registrar of Voters. The Contra Costa County Elections department is authorized to canvass the returns of the election, and the election shall be held in all respects as only one election.

The City Clerk's Office is authorized, instructed and directed to work with the County Elections Division as needed to properly and lawfully conduct the election. The ballots to be used in the election shall be in form and content as required by law. In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

Section 6. Time and Place of Election.

The polls for the election shall be open at 7:00 a.m. on the day of the election and shall remain open continuously from that time until 8:00 p.m. that same day, when the polls shall be closed, except as provided in Section 14401 of the Elections Code of the State of California. The notice of the time and place of holding the election is hereby given, and the City Clerk is authorized to give further notice of the election, as required by law.

Section 7. Publication of Measure.

The City Clerk's Office is hereby directed to cause notice of the measure to be published once in accordance with Section 12111 of the Elections Code.

Section 8. Submission of Ballot Arguments.

The City Clerk's Office, with the concurrence of the County Elections Official, has fixed 5:00 p.m. on August 22, 2018 as the deadline for submittal of arguments for or against the measure. The direct arguments shall not exceed three hundred (300) words, and shall not be signed by more than five (5) persons. The City Council does not adopt the provisions of Elections Code Section 9285(a); there shall be no rebuttal arguments.

Section 9. Council Preparation of Argument In Support of Measure

The City Council hereby authorizes the Mayor or Mayor Pro Tem to prepare and file the written primary argument in support of the ballot measure described above, pursuant to Article 4 of Chapter 3 of Division 9 of the California Elections Code. At the discretion of the Mayor or Mayor Pro Tem the argument may also be signed by other members of the

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City Council, bona fide associations of citizens, or by individual voters who are eligible to vote.

Section 10. Impartial Analysis

Pursuant to California Elections Code Section 9280, the City Council hereby directs the City Clerk's Office to transmit a certified copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words in length, showing the effect of the measure on the existing law and the operation of the measure, and transmit the impartial analysis to the Elections Division by no later than 5:00 p.m. on August 17, 2018.

Section 11. Implementation.

The City Clerk's Office is directed to file with the Board of Supervisors and the Registrar of Voters certified copies of this resolution. The City will reimburse the County for the actual cost incurred in conducting the election upon receipt of a bill stating the amount due as determined by the Election Official.

Section 12. Jurisdictional Boundaries

The jurisdictional boundaries of the City of Antioch have not changed since the last general municipal election.

Section 13. CEQA

The approval of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines section 15060 review under CEQA is not required.

Section 14. Passage of this Resolution.

This tax is a general tax requiring the approval of a majority of qualified electors casting votes. While the measure lists several of the various municipal purposes to be funded, the list is illustrative only and the Council retains complete discretion to expend the tax proceeds for any lawful purposes for the City of Antioch.

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Section 15. Contract with the State.

The City Manager is authorized to negotiate and execute an agreement with the State Board of Equalization in accordance with Revenue and Taxation Code Section 7270 to perform all functions incident to the administration and operation of the ordinance.

Section 16. Rescind Resolution No. 2018/95 and Repeal Ordinance No. 2147-C-S.

This Resolution rescinds Resolution No. 2018/95, adopted by the City Council at the Special Meeting held on August 7, 2018, which included Exhibit 1, Ordinance No 2147-C-S to be repealed.

This Resolution shall become effective immediately upon its passage and adoption.

* * * * *

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the City Council of the City of Antioch at a Special Meeting thereof, held on the 9th day of August, 2018 by the following vote:

AYES:

NOES:

ABSENT:

ARNE SIMONSEN, CMC
CITY CLERK OF THE CITY OF ANTIOCH

ORDINANCE NO. ____-C-S

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF ANTIOCH
SUBMITTING A MEASURE TO THE VOTERS OF THE CITY OF ANTIOCH TO
AMEND ARTICLE 4 OF CHAPTER 5 OF TITLE 3 OF THE ANTIOCH MUNICIPAL
CODE TO INCREASE THE CITY'S TRANSACTIONS AND USE TAX FROM A ONE
HALF CENT TO ONE CENT AND TO COLLECT SUCH TAX FOR TWENTY YEARS**

WHEREAS, at an election on November 5, 2013, the voters of the City of Antioch approved Ordinance 2068-C-S, establishing a one-half cent transaction and use tax; and

WHEREAS, the City Council of the City of Antioch enacted Ordinance 2068-C-S on June 25, 2013, subject to the requirement that the voters ratify the Ordinance at the ensuing special election that was called; and

WHEREAS, Ordinance 2068-C-S codifies Article 4 of Chapter 5 of Title 3 of the Antioch Municipal Code, establishing, among other things, the requirements, collection procedures, and exemptions for the City's transactions and use tax; and

WHEREAS, by its terms Ordinance 2068-C-S is set to expire in seven years from its operative date; and

WHEREAS, in accordance with Elections Code section 9222 and Revenue and Taxation Code section 7285.9, the City Council desires to submit to the voters of the City of Antioch the increase of the transaction and use tax to one cent and to extend the tax through March 31, 2039.

NOW, THEREFORE, BE IT RESOLVED that The People of the City of Antioch do ordain as follows:

Section 1. Section 3-5.405 of the Antioch Municipal Code is hereby amended as follows:

§ 3-5.405 TRANSACTIONS TAX RATE.

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the city at the rate of one-half of one percent (.50%) until March 31, 2019, and thereafter at the rate of one percent (1.0%), of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the territory on and after the operative date of this article.

Section 2. Section 3-5.407 of the Antioch Municipal Code is hereby amended as follows:

§ 3-5.407 USE TAX RATE.

An excise tax is hereby imposed on the storage, use or other consumption in the city of tangible personal property purchased from any retailer on and after the operative date of this article for storage, use or other consumption in said territory at the rate of one half of one percent (0.50%) until March 31, 2019, and thereafter at the rate of one percent (1.0%), of the sales price of the property. The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

Section 3. Section 3-5.417 of the Antioch Municipal Code is hereby amended as follows:

§ 3-5.417 TERMINATION DATE.

The authority to levy the tax imposed by this article shall expire on March 31, 2039.

Section 4. CEQA Findings.

The approval of this Ordinance is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq., "CEQA," and 14 Cal. Code Reg. §§ 15000 et seq., "CEQA Guidelines"). The transactions and use tax to be submitted to the voters is a general tax that can be used for any legitimate governmental purpose; it is not a commitment to any particular action or actions. As such, under CEQA Guidelines section 15378(b)(4), the tax is not a project within the meaning of CEQA because it creates a government funding mechanism that does not involve any commitment to any specific project that may result in a potentially significant physical impact on the environment. If revenue from the tax were used for a purpose that would have either such effect, the City would undertake the required CEQA review for that particular project. Therefore, under CEQA Guidelines section 15060 review under CEQA is not required.

Section 5. Replacement of Ordinance No. 2147-C-S.

This ordinance repeals and replaces Ordinance No. 2147-C-S, enacted by the City Council on August 7, 2018.

Section 6. Severability.

In the event any section or portion of this ordinance shall be determined to be invalid or unconstitutional, such section or portions shall be deemed severable and all other sections or portions hereof shall remain in force and effect.

Section 7. Effective Date.

This ordinance relates to the levying and collecting of the City's transactions and use taxes and shall not take effect until approved by the majority of the voters voting at the general municipal election to be held on November 6, 2018.

Section 8. Certification and Publication.

Upon approval by the voters, the City Clerk shall certify to the passage and adoption of this Ordinance and shall cause it to be published according to law and transmitted to the Board of Equalization.

All other provisions of Ordinance 2068-C-S as adopted by the City Council on June 25, 2013 shall remain in effect.

* * * * *

I HEREBY CERTIFY that the foregoing ordinance was adopted by two thirds of the City Council and submitted to the voters at a Special Meeting of the City Council of the City of Antioch held on the 9th day of August, 2018, by the following vote:

AYES:

NOES:

ABSENT:

Sean Wright, Mayor of the City of Antioch

ATTEST:

Arne Simonsen, CMC City Clerk of the City of Antioch

Ordinance No. _____ was submitted to the People of the City of Antioch at the November 6, 2018 general election. It is hereby certified that this Ordinance was APPROVED by the following vote of the People of Antioch:

YES:

NO:

This Ordinance was thereby adopted by the voters at the November 6, 2018 general election and took effect upon adoption of a resolution declaring the results of the election at a regular meeting of the City Council held on _____ by the following vote:

AYES:

NOES:

ABSENT:

I hereby certify that the foregoing is a true and correct copy of an ordinance duly and regularly adopted by the People of the City of Antioch, California.

Arne Simonsen, CMC City Clerk of the City of Antioch