



CITY COUNCIL STAFF REPORT

DATE: JULY 3, 2013 NEW BUSINESS

SUBJECT: CONSIDER A MEASURE FOR SUBMISSION TO THE VOTERS AT THE NOVEMBER 5, 2013, GENERAL MUNICIPAL ELECTION, REGARDING A TAX ON THE OPERATIONS OF CANNABIS COLLECTIVES.

FROM: David H. Ready, City Manager

BY: Chief of Staff/City Clerk and City Attorney

SUMMARY

Pursuant to California Elections Code the City Council may add a measure to the November 5, 2013, General Municipal Election. Staff has prepared a general tax measure for placement on the ballot regarding a tax on the operations of cannabis collectives.

The proposed resolution submits the measure to the voters at the November 5, 2013, regular municipal election. A majority vote of the City's qualified voters will be required to adopt the ordinance. Additionally, the recommended action includes the adoption of procedures for the submission of arguments and rebuttal arguments to be printed in the sample ballot.

RECOMMENDATION:

1. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE APPROVING AND IMPLEMENTING A TAX ON THE OPERATIONS OF CANNABIS COOPERATIVES, AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, AS CALLED BY RESOLUTION NO. 23368."
2. Adopt Resolution No. _____, "A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS REGARDING A CITY MEASURE AT THE NOVEMBER 5, 2013, GENERAL MUNICIPAL ELECTION, AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS."

Item No. 5.B.

STAFF ANALYSIS:

City staff has prepared a ballot measure for a general tax measure to be placed on the November 5, 2013, General Municipal Election.

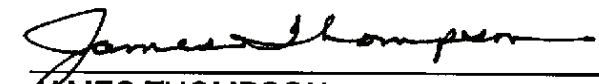
The measure requests the voters approve and implement a tax up-to fifteen percent (15%) on the proceeds from operations of cannabis collectives to be deposited into the City's General Fund.

Pursuant to California law, the general tax measure requires a majority of votes cast to adopt the ordinance and approve and implement the tax on cannabis collectives.

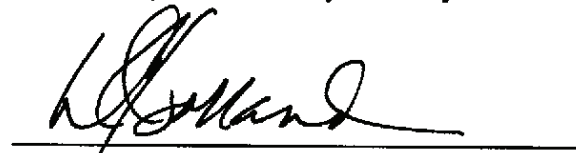
FISCAL IMPACT:

Minimal ancillary costs to add the measure to the ballot, fully budgeted in City Clerk Department General Fund Account 001-1150-43860 (Elections).

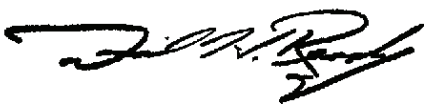
If approved, the annual revenue generated by the proposed tax on the operations of cannabis cooperatives is dependent on the tax rate as implemented by the City Council.



JAMES THOMPSON
Chief of Staff /City Clerk



DOUGLAS C. HOLLAND
City Attorney



DAVID H. READY
City Manager

Attachments:
Resolution Adding the Measure
Resolution Arguments
Proposed Text of the Measure

RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY A MEASURE APPROVING AND IMPLEMENTING A TAX ON THE OPERATIONS OF MEDICAL CANNABIS COLLECTIVES, AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2013, AS CALLED BY RESOLUTION NO. 23368.

WHEREAS, pursuant to the Charter of the City of Palm Springs, Palm Springs Municipal Code Section 2.040.080, and the laws of the State of California, the City Council called the General Municipal Election on Tuesday, November 5, 2013, by Resolution No. 23368, adopted on June 5, 2013; and

WHEREAS, the City Council also desires to submit to the voters at the election a measure relating to a tax on the operations of medical cannabis cooperatives and collectives.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:

SECTION 1. The City Council, pursuant Article XIIC of the Constitution of the State of California, and Sections 200 and 201 of the Charter of the City of Palm Springs, and its right and authority, does order submitted to the voters at the General Municipal Election the following measure and question:

In order to help fund general municipal services, including but not limited to such matters as police protection and crime suppression services, fire prevention and suppression services, emergency medical services, park, recreation, and library facilities and services, and general improvements throughout the City, shall an ordinance to impose a tax at a rate of up to \$15 per \$100 of proceeds on cannabis or marijuana collectives operating in the City of Palm Springs be adopted?	YES
	NO

SECTION 2. The complete text of the measure/ordinance submitted to the voters is attached as Exhibit A.

SECTION 3. The measure submitted to the voters pursuant to Section 1 of this resolution shall require a majority of votes cast for adoption.

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

SECTION 5. 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.

SECTION 6. The City Clerk shall certify to the adoption of this Resolution and submit such to the Registrar of Voters for the County of Riverside.

PASSED, APPROVED AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 3RD DAY OF JULY, 2013.

DAVID H. READY, CITY MANAGER

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on this 3rd day of July, 2013, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PALM SPRINGS, CALIFORNIA, SETTING PRIORITIES FOR FILING WRITTEN ARGUMENTS AND PROVIDING FOR THE FILING OF REBUTTAL ARGUMENTS REGARDING A CITY MEASURE AT THE NOVEMBER 5, 2013, GENERAL MUNICIPAL ELECTION, AND DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS.

WHEREAS, a General Municipal Election is to be held in the City of Palm Springs, California on November 5, 2013, at which there will be submitted to the voters the following question and measure:

In order to help fund general municipal services, including but not limited to such matters as police protection and crime suppression services, fire prevention and suppression services, emergency medical services, park, recreation, and library facilities and services, and general improvements throughout the City, shall an ordinance to impose a tax at a rate of up to \$15 per \$100 of proceeds on cannabis or marijuana collectives operating in the City of Palm Springs be adopted?	YES
	NO

WHEREAS Article 4, Chapter 3, Division 9 of the California Elections Code provides for the filing of written arguments and rebuttal arguments for City measures submitted at municipal elections.

THE CITY COUNCIL OF THE CITY OF PALM SPRINGS DOES HEREBY RESOLVE AS FOLLOWS:

SECTION 1. The City Council authorizes any and all members of the City Council to file a written argument in Favor OR Against the City Measure, accompanied by the printed name(s) and signature(s) of the person(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, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California, and to change the argument 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. No argument shall exceed 300 words in length.

SECTION 2. Pursuant to Section 9285 of the Elections Code of the State of California, when the City Clerk has selected the arguments for and against the measure which will be printed and distributed to the voters, the City Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors in favor. The authors may prepare and submit rebuttal arguments not exceeding 250 words. The rebuttal arguments shall be filed with the City Clerk, accompanied by the printed name(s) and signature(s) of the person(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, not more than 10-days after the final date for filing direct arguments. Each rebuttal argument shall immediately follow the direct argument which it seeks to rebut.

SECTION 3. Any written argument or rebuttal argument filed with the City Clerk shall be accompanied by the Statement of the Author Form required by Section 9600 of the California Elections Code. The City Clerk shall provide such form upon request.

SECTION 4. The City Council directs the City Clerk to transmit a copy of the measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure, not to exceed 500 words, showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

SECTION 5. The City Clerk shall print, or cause to be printed, in the Official Sample Ballot, the entire text of the arguments for or against the measure, and the rebuttal arguments, in uniform type, style and spacing.

PASSED, APPROVED, AND ADOPTED BY THE PALM SPRINGS CITY COUNCIL THIS 3RD DAY OF JULY, 2013.

DAVID H. READY, CITY MANAGER

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, hereby certify that Resolution No. _____ is a full, true and correct copy, and was duly adopted at a regular meeting of the City Council of the City of Palm Springs on July 3, 2013, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE PEOPLE OF THE CITY OF PALM SPRINGS, CALIFORNIA, ADDING CHAPTER 3.35 TO THE PALM SPRINGS MUNICIPAL CODE, APPROVING AND IMPLEMENTING A CANNABIS AND MARIJUANA TAX OF UP TO \$15 PER \$100.00 OF PROCEEDS ON CANNABIS OR MARIJUANA COLLECTIVES OPERATING IN THE CITY.

THE PEOPLE OF THE CITY OF PALM SPRINGS ORDAINS:

SECTION 1. Chapter 3.35 is added to the Palm Springs Municipal Code to read:

CANNABIS AND MARIJUANA TAX

- 3.35.010 Imposition of Tax.
- 3.35.020 Definitions.
- 3.35.030 Payment Obligation.
- 3.35.040 City Council Authorization to Adjust Rates.
- 3.35.050 Payment of Tax Does Not Authorize Activity.
- 3.35.060 Cannabis and Marijuana Tax Is Not a Sales Tax.
- 3.35.070 Amendments and Administration.

3.35.010 Imposition of Tax.

Every person engaged in operating or otherwise conducting a cannabis or marijuana collective, and regardless of whether such collective has a permit pursuant to Section 9.23.15 of this Code, shall pay a cannabis and marijuana tax of \$15.00 for each \$100.00 of proceeds or fractional part thereof.

3.35.020 Definitions

For purposes of this Chapter.

A. A "cannabis or marijuana collective" means any activity regulated or permitted by Section 9.23.15 of this Code, or California Health and Safety Code sections 11362.5, *et seq.*, as may be amended from time to time, or any other activity or business that involves planting, cultivating, harvesting, transporting, dispensing, delivering, providing, manufacturing, compounding, converting, processing, preparing, storing, packaging, or testing any part of the marijuana plant for medical purposes.

B. "Proceeds" means gross receipts of any kind, including without limitation, membership dues; the value of in-kind contributions; reimbursements provided by members regardless of form; any payments made; and anything else of value obtained by a cannabis or marijuana collective.

3.35.030 Payment Obligation.

All taxpayers subject to this Chapter must pay the full tax imposed by this Chapter regardless of any rebate, exemption, incentive, or other reduction set forth elsewhere in this Code, except as required by California or Federal Law. Failure to pay the tax shall be subject to penalties, interest charges, and assessments as the City Council may establish and the City may use any or all other code enforcement remedies provided in the Charter and this Code. No provision in this Code can lower the tax rate set forth in this Section or otherwise reduce the amount of taxes paid hereunder unless the provision specifically states that the reduction applies.

3.35.040. City Council Authorization to Adjust Rates.

The City Council may impose the tax authorized by this Chapter at a lower rate and may establish exemptions, incentives, or other reductions, and penalties and interest charges or assessments for failure to pay the tax in a timely manner, as otherwise allowed by the Charter and California law. No action by the Council under this Section shall prevent it from later increasing the tax or removing any exemption, incentive, or reduction, and restoring the maximum tax specified in this Chapter.

3.35.050 Payment of Tax Does Not Authorize Activity.

The payment of the tax required pursuant to this Chapter shall not be construed as authorizing the conduct or continuance of any illegal business or of a legal business in an illegal manner. Nothing in this Chapter implies or authorizes that any activity connected with the distribution or possession of cannabis is legal unless otherwise authorized and allowed in strict and full conformance to the provisions of this Code, including without limitation the provisions of Section 9.23.15. Nothing in this Chapter shall be applied or construed as authorizing the sale of marijuana.

3.35.060 Cannabis and Marijuana Tax Is Not a Sales Tax.

The Cannabis and Marijuana Tax provided for under the provisions of this Chapter is not a Sales or Use Tax and shall not be calculated or assessed as such. The Cannabis and Marijuana Tax shall not be separately identified or otherwise specifically assessed or charged to any member, patient, or caretaker.

3.35.070 Amendments and Administration.

A. This Chapter was submitted to the voters for approval. Any amendment to Section 3.35.010 to increase the Tax above the rate expressly provided in such Section shall not become effective until such amendment is approved by the voters. The voters expressly authorize the City Council to amend, modify, change, or revise any other provision of this Chapter as the City Council deems in the best interest of the City.

B. The City Manager or the City Manager's designee shall promulgate rules, regulations, and procedures to implement and administer this Chapter to ensure the

efficient and timely collection of the tax imposed by this Chapter, including without limitation, formulation and implementation of penalties and interest to be assessed for failure to pay the tax as provided.

C. The City Manager or the City Manager's designee shall annually audit the cannabis and marijuana taxes imposed by this Chapter to verify that tax revenues have been properly expended in accordance with the law.

D. Pursuant to California Constitution Article XIII B, the appropriation limit for the City is increased to the maximum extent over the maximum period of time allowed under law consistent with the revenues generated by the cannabis and marijuana tax.

SECTION 2. This Ordinance shall become effective upon adoption by a majority of the voters casting votes at the general municipal election on November 5, 2013.

PASSED, APPROVED, AND ADOPTED BY THE PEOPLE OF THE CITY OF PALM SPRINGS AT THE REGULAR MUNICIPAL ELECTION HELD THE 5TH DAY OF NOVEMBER, 2013.

STEPHEN P. POUQUET, MAYOR

ATTEST:

JAMES THOMPSON, CITY CLERK

CERTIFICATION

STATE OF CALIFORNIA)
COUNTY OF RIVERSIDE) ss.
CITY OF PALM SPRINGS)

I, JAMES THOMPSON, City Clerk of the City of Palm Springs, California, do hereby certify that Ordinance No. _____ is a full, true, and correct copy, and was adopted by a majority vote of the People of the City of Palm Springs, at the Regular Municipal Election held the 5th day of November, 2013, as appears by the official returns of said election, and the Statement of Votes Cast as declared by the City Council, Resolution No. _____, adopted the ___ day of December, 2013.

JAMES THOMPSON, CITY CLERK
City of Palm Springs, California