

RESOLUTION NO. 4385

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CAPITOLA ORDERING THE SUBMISSION TO THE QUALIFIED ELECTORS OF THE CITY OF CAPITOLA A MEASURE TO INCREASE THE CITY'S TRANSACTIONS AND USE TAX TO 0.5% AND EXTEND THE SUNSET DATE FOR THE CITY'S TRANSACTIONS AND USE TAX THROUGH DECEMBER 31, 2034 AT THE GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 5, 2024; REQUESTING CONSOLIDATION BY THE SANTA CRUZ COUNTY BOARD OF SUPERVISORS OF THE ELECTION REGARDING SAID MEASURE WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THE SAME DATE AND THAT SANTA CRUZ COUNTY PROVIDE ELECTION SERVICES WITH FULL REIMBURSEMENT BY THE CITY OF CAPITOLA; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS; AND AUTHORIZING THE CITY COUNCIL TO SUBMIT ARGUMENT SUPPORTING THE MEASURE

WHEREAS, on November 2, 2004, City of Capitola voters adopted Ordinance No. 880, imposing a one-quarter cent (0.25%) on the dollar transactions and use tax ("Sales Tax") for general purposes, which would expire, or sunset, on June 30, 2010; and

WHEREAS, on November 4, 2008, Capitola voters adopted Ordinance 935, which extended the sunset date of the Sales Tax to December 31, 2017; and

WHEREAS, on November 8, 2016, the Capitola voters adopted Ordinance no. 1008, which again extended the sunset date of the Sales Tax to December 31, 2027; and

WHEREAS, proceeds generated by the Sales Tax are deposited into the City's General Fund and support important City services such as police, fire, and paramedic services; 911 emergency response; emergency street repairs and maintenance; neighborhood park and recreation services; and

WHEREAS, the City's budget forecast indicates a fiscal shortfall due to the impending expiration of the Sales Tax, increased pension liabilities, and the steady erosion of retail sales tax when adjusted for inflation; and

WHEREAS, on April 11, 2024, the City Council directed staff to prepare a ballot measure replacing the existing one-quarter of one cent (0.25%) Sales Tax with a one-half of one cent (0.50%) Sales Tax and further extending authority to collect the Sales Tax for another 10 years; and

WHEREAS, the City Council also desires, on its own motion, to submit to the voters at the November 5, 2024 Statewide Election a question relating to the imposition of a one-half of one cent (0.5%) Sales Tax for general purposes ("Sales Tax Measure"); and

WHEREAS, the proposed, locally enacted Sales Tax Measure is projected to generate approximately \$2.2 million in new General Fund revenue annually; and

WHEREAS, the City will incorporate review of the uses of revenue generated by the Sales Tax Measure into the annual financial audit, conducted by independent certified public accountants, as well as a review by the Finance Advisory Committee and City Council; and

WHEREAS, Revenue and Taxation Code Section 7285.9 authorizes the City Council for

the City of Capitola to levy, increase or extend a general Sales Tax if the ordinance proposing the tax is approved by a two-thirds vote of all members of the City Council, and the tax is approved by a simple majority (50%+1) vote of the qualified voters of the City voting in an election on the issue; and

WHEREAS, a general municipal election consolidated with the statewide primary election to be held on Tuesday, November 5, 2024, has been called and, pursuant to Elections Code Section 9222, the City Council desires to submit the proposed Sales Tax Measure to the qualified electors of the City of Capitola at the consolidated election.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Capitola as follows:

Section 1. Compliance with CEQA. The City Council finds and determines that this activity is not a "Project" as defined under Section 15378(b)(4) of the California Environmental Quality Act (CEQA) Guidelines because it is a financing decision without commitment to a specific project that may result in a potentially significant physical impact on the environment; therefore, pursuant to Section 15060(c)(3) of the State CEQA Guidelines, the actions proposed are not subject to CEQA.

Section 2. Call for Election and Ballot Language. Pursuant to California Elections Code Section 9222, the City Council hereby calls an election at which it shall submit to the qualified voters of the City of Capitola a ballot measure designated by the letter of the Santa Cruz County Registrar of Voters proposing to amend the City of Capitola's Municipal Code, to appear on the ballot in substantially the following form:

To protect essential city services including public safety and emergency services; repair potholes, maintain streets, sidewalks, bike lanes, beaches, the new wharf, and recreation programs for youth; improve traffic safety; and support local businesses, shall City-of-Capitola replace its quarter-percent sales tax, approved by voters in 2016, with a one-half percent sales tax, generating an estimated \$ 2.2 million annually for general government use, for ten years, with independent audits, and all funds staying local?	YES	
	NO	

This question requires the approval of a majority vote of the City of Capitola voters voting on the Sales Tax Measure at the election to become effective. If the ordinance referenced in Section 3 is so approved by the City of Capitola voters, then the ordinance shall become effective ten (10) days following the date the vote is declared by the City Council.

Section 3. Text of Measure. The proposed Sales Tax Measure submitted to the voters is as attached in Exhibit A to this Resolution, which is incorporated herein by reference. The City Council hereby approves the proposed ordinance, in the form thereof, and its submission to the voters of the City at the November 5, 2024 election. The text of the measure shall be printed in the ballot materials and be available for public inspection in the City Clerk's office and on the City's website at www.cityofcapitola.org.

Section 4. Publication of Measure. The City Clerk is hereby directed to cause notice of the measure to be published in accordance with Section 12111 of the California Elections Code.

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

(a) Pursuant to California Elections Code Section 10400 et seq., the election for this measure shall be consolidated with the established election to be conducted on November 5, 2024. The City Council hereby requests that the Santa Cruz County Board of Supervisors consolidate the election called by this Resolution with the statewide election to be conducted on November 5, 2024 and order the election to be conducted by the Registrar of Voters. The City Council of the City of Capitola acknowledges that the consolidated election will be held and conducted in the manner prescribed in Elections Code section 10418. The City Council recognizes that additional cost will be incurred by the County of Santa Cruz by reason of the consolidation of the election with the Statewide election and agrees to reimburse the County of Santa Cruz for any costs that are not reimbursed by the State, and the City Council hereby authorizes the City Manager to pay the County of Santa Cruz for said services in full. The City Clerk is directed to file a certified copy of this Resolution with the Board of Supervisors of Santa Cruz and the Registrar of Voters of Santa Cruz County on or before August 9, 2024.

(b) The election on the Sales Tax Measure set forth in Section 3 shall be held and conducted, the voters canvassed and the returns made, and the results ascertained and determined as provided herein. The election shall be held in accordance with the Elections Code of the State of California.

(c) The election on the Sales Tax Measure set forth in Section 3 shall be held in Santa Cruz County in the City of Capitola on November 5, 2024, as required by law, and the Board of Supervisors of Santa Cruz County is authorized to canvass the returns of the election with respect to the votes cast in the City of Capitola and certify the results to the City Council of the City of Capitola.

(d) At the next regular meeting of the City Council of the City of Capitola occurring after the returns of the election for the Sales Tax Measure set forth in Section 3 have been canvassed and the results have been certified to the City Council, or at a special meeting called for such purpose if required by law, the City Council shall cause to be entered in its minutes a statement of the results of the election.

Section 6. Submission of Ballot Arguments.

(a) In accordance with California Elections Code §9282, the City Council orders that the City Council is authorized to file a written argument in favor of the Ordinance, accompanied by the printed name(s) and signature(s) of the author(s) submitting it, and to make any revisions to the argument up to the deadline by which it must be filed with the City Clerk.

(b) Arguments in favor and against the measure shall be filed with the City Clerk no later than 5:00 p.m. on August 16, 2024, 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 who is the author of the argument.

(c) Arguments shall not exceed three hundred (300) words and shall be signed by not more than five (5) persons.

(d) The City Council hereby appoints a subcommittee of the City Council, comprised of Vice Mayor Brooks and Councilmember Clarke , and authorizes said subcommittee to prepare and file the written argument in favor of the proposed measure, on behalf of the City Council, no later than August 16, 2024.

(e) Pursuant to California Elections Code Section 9285(b), the City Council is hereby adopting provisions for the filing of rebuttal arguments for this measure. Accordingly, 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 it, and copies of the argument against it to the authors of the argument in favor. Rebuttal arguments shall not exceed 250 words and shall be filed no later than 5:00 p.m. on August 23, 2024, accompanied by the printed names and signatures of the persons 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. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument that it seeks to rebut.

Section 7. Impartial Analysis. In accordance with California Elections Code Section 9280, the City Council directs the City Clerk to transmit a copy of this Measure to the City Attorney, who shall prepare an impartial analysis showing the effect of the measure on the existing law and the operation of the measure. The City Attorney's impartial analysis may not exceed 500 words and shall be filed with the City Clerk no later than 5:00 p.m. on August 16, 2024.

Section 8. Services of City Clerk. The City Clerk is hereby authorized and directed to take all steps necessary to place the measure on the ballot and to cause the ordinance or measure to be printed. A copy of the measure shall be made available to any voter upon request.

Section 9. Severance. Should any section, subsection, clause or provision of this resolution for any reason be held to be invalid, then the remainder of the resolution shall be deemed valid, it being expressly declared that this resolution, and each and every section, subsection, clause and phrase hereof would have been prepared, proposed, approved, adopted and/or ratified even if any other section, subsection, sentence, clause or phrase of this resolution were declared invalid.

I HEREBY CERTIFY that the foregoing Resolution was passed and adopted by the City Council of the City of Capitola on the 27th day of June, 2024, by the following vote:

AYES: CLARKE, MORGAN, BROOKS, BROWN
NOES: NONE
ABSENT: PEDERSEN
ABSTAIN: NONE

ATTEST: DocuSigned by:
Julia Gautho
4DF085A4462E43B
Julia Gautho, City Clerk

DocuSigned by:
Kristen Brown
8045E01903E9410
Kristen Brown, Mayor

This is to certify that the above and foregoing is a true and correct copy of Resolution No. 4285 passed and adopted by the Capitola City Council on the 27th day of June, 2024.

Julia Gautho
By: City Clerk / ~~Deputy~~

EXHIBIT A

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF CAPITOLA AMENDING SECTIONS 3.10.050 AND 3.10.070 OF THE CAPITOLA MUNICIPAL CODE AND AMENDING SECTION 16 OF ORDINANCE 880 TO INCREASE THE TRANSACTION AND USE TAX TO 0.5% OF ONE CENT AND EXTENDING THE TERMINATION DATE OF THE TRANSACTIONS AND USE TAX THROUGH DECEMBER 31, 2034.

WHEREAS, on November 2, 2004, City of Capitola voters adopted Ordinance No. 880, imposing a one-quarter cent (0.25%) on the dollar transactions and use tax ("Sales Tax") for general purposes, which would expire, or sunset, on June 30, 2010; and

WHEREAS, on November 4, 2008, Capitola voters adopted Ordinance No. 935, which extended the sunset date of the Sales Tax to December 31, 2017; and

WHEREAS, on November 8, 2016, the Capitola voters adopted Ordinance No. 1008, which again extended the sunset date of the Sales Tax to December 31, 2027; and

WHEREAS, proceeds generated by the Sales Tax are deposited into the City's General Fund and support important City services such as police, fire, and paramedic services; 911 emergency response; emergency street repairs and maintenance; neighborhood park and recreation services; and

WHEREAS, the City's budget forecast indicates a fiscal shortfall due to the impending expiration of the Sales Tax, increased pension liabilities, and the steady erosion of retail sales tax when adjusted for inflation; and

WHEREAS, as a result of this budget forecast, on April 11, 2024, the City Council directed staff to prepare a ballot measure replacing the existing one-quarter of one cent (0.25%) Sales Tax with a one-half of one cent (0.50%) Sales Tax, and further extending authority to collect the Sales Tax for another 10 years; and

WHEREAS, the City's budget forecast anticipates budget shortfalls, which would impact the City's ability to perform its functions and maintain the quality of life in the City of Capitola; and

WHEREAS, additional funding will help maintain the City of Capitola's financial viability in coming years and improve the city's local infrastructure, including repairing, paving and maintaining city streets, and maintaining city beaches, including the new Wharf infrastructure and services related thereto; and

WHEREAS, Revenue and Taxation Code Section 7285.9 authorizes the City Council for the City of Capitola to levy, increase or extend a general transactions and use tax if the ordinance proposing the tax is approved by a two-thirds vote of all members of the City Council, and the tax is approved by a simple majority (50%+1) vote of the qualified voters of the City voting in an election on the issue; and

WHEREAS, the City desires to levy an additional one-quarter of one percent (0.25%) Sales Tax for general purposes for a total Sales Tax rate of one-half of one percent (0.50%) for an additional 10 years through December 31, 2034; and

WHEREAS, the amendments proposed by this Measure do not purport to amend the provisions of Capitola Municipal Code Chapter 3.11; and

WHEREAS, if the voters do not adopt the additional 0.25% tax rate, for a total of 0.50%, the City wishes to retain the current 0.25% tax rate, until its sunset date of December 31, 2027.

NOW, THEREFORE, THE PEOPLE OF THE CITY OF CAPITOLA DO ORDAIN AS FOLLOWS:

Section 1. Findings

The People of the City of Capitola find that the above referenced recitals are true, correct, and material to the adoption of this Ordinance.

Section 2. Amend Section 3.10.050 – “Transactions tax rate” of the Capitola Municipal Code. Section 3.10.050 of the Capitola Municipal Code is amended as indicated below, with amended text shown in underlined text, and deleted text shown in ~~strikeout~~ text.

Section 3.10.050 Transactions tax rate.

For the privilege of selling tangible personal property at retail, a tax is imposed upon all retailers in the incorporated territory of the city at the rate of ~~one-quarter~~ one-half of one percent 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 the ordinance codified in this chapter.

Section 3. Amend Section 3.10.070 – “Use tax rate” of the Capitola Municipal Code. Section 3.10.070 of the Capitola Municipal Code is amended as indicated below, with amended text shown in underlined text, and deleted text shown in ~~strikeout~~ text.

Section 3.10.070 Use tax rate.

An excise tax is 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 the ordinance codified in this chapter for storage, use or other consumption in the territory at the rate of ~~one-quarter~~ one-half of one percent 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 4. Amendment of Ordinance 880 (uncodified). Section 16 of Ordinance 880, as amended by Ordinance Nos. 935 and 1008, is hereby amended to read as follows:

“Section 16. Termination Date. The authority to levy the tax imposed by this ordinance shall expire December 31, 2034.”

Section 5. Operative Date.

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance.

Section 6. Voter Approval.

This ordinance shall be submitted to the voters at an election to be held on November 5, 2024. Upon approval by a majority of the voters of the City voting on this ordinance, a Transactions and Use Tax shall be authorized.

Section 7. Severability.

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

Section 8. Effective Date.

This Ordinance shall take effect ten (10) days after the certification by the City Council of the election returns indicating passage of the Ordinance by a majority of voters casting votes in the election.

Section 9. Codification. Sections 2 and 3 of this ordinance shall be codified in the Capitola Municipal Code.

Section 10. CEQA. For purposes of the California Environmental Quality Act (Public Resources Code Section 21000, et seq.), a "project" is defined in State CEQA Guidelines Section 15378 (a) as "the whole of an action, which has a potential for resulting in either a direct physical change in the environment, or a reasonably foreseeable indirect physical change in the environment". The people of the Capitola hereby find that the proposed Ordinance will not result in any change in the environment and thus is not a project subject to the requirements of CEQA. Additionally, the proposed Ordinance involves the creation of a government funding mechanism which does not involve any commitment to any specific project which may result in a potentially significant impact on the environment and thus the proposed Ordinance is not a project subject to the requirements of CEQA pursuant to CEQA Guidelines Section 15378 (b)(4). Further, even if the adoption of this Ordinance was deemed to be a project subject to CEQA, the people of the City of Capitola find the proposed Ordinance is exempt from CEQA under the common sense exemption set forth in Section 15061(b)(3), which provides that CEQA only applies to projects which have the potential for causing a significant effect on the environment, and thus where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA.

APPROVED (or DENIED) by the following vote of the People of the City of Capitola on November ____, 2024:

_____ YES _____ NO _____ TOTAL VOTES

RESULTS DECLARED by the City Council of the City of Capitola on _____, 2024.

SO ORDERED

ATTEST

Kristen Brown, Mayor

Julia Gautho, City Clerk

Dated: _____