



Agenda Report

July 11, 2022

TO: Honorable Mayor and City Council

THROUGH: Finance Committee

FROM: Department of Finance

SUBJECT: **DIRECTION TO PREPARE AN ORDINANCE AMENDING PASADENA MUNICIPAL CODE CHAPTERS 4.44 AND 4.101 TO ENHANCE THE CITY'S ABILITY TO COLLECT UNPAID TRANSIENT OCCUPANCY TAXES AND TOURISM BUSINESS IMPROVEMENT DISTRICT MONIES**

RECOMMENDATION:

It is recommended that the City Council:

1. Find that the proposed actions are exempt from the California Environmental Quality Act ("CEQA") pursuant to State CEQA Guidelines Section 15061(b)(3) (Common Sense Exemption); and
2. Direct the City Attorney to prepare and return with an ordinance within 60 days to enhance the City's ability to collect delinquent Transient Occupancy Tax or Tourism Business Improvement District monies.

BACKGROUND:

As the City Council is aware, the City has been attempting to collect unpaid Transient Occupancy Tax (TOT), penalties and interest from the former owner and operator of the Sheraton Hotel through civil litigation in a California court and through one of the operator's bankruptcy proceedings in a Delaware bankruptcy court. In order to strengthen provisions relating to administration and collection of the City's TOT and Tourism Business Improvement District (TBID) monies, staff recommends that the City Council direct the City Attorney to prepare an ordinance amending the TOT ordinance (Chapter 4.44) and TBID ordinance (Chapter 4.101) to make the following changes, among others:

- a. Allow the City to file a certificate of lien for outstanding TOT or TBID (i.e., providing that the final City decision confers lienholder rights, without the need to litigate the issue);
- b. Allow enforcement by warrant, seizure and sale of hotel property;

- c. Allow imposition of TOT and TBID liability on successor owners consistent with state law;
- d. Allow imposition of attorney's fees and costs where the City brings an action to recover unpaid TOT and TBID; and
- e. Add criminal and civil penalties in addition to TOT and TBID penalties and interest already allowed.

Staff also recommends additional clean-up amendments to the TOT and TBID ordinance to conform the two enforcement processes to each other. For example, staff recommends both ordinances allow operators to appeal assessments to the City Council. Both ordinances assess TOT and TBID on the same hotel revenues, but only the TOT ordinance presently allows for an appeal to the City Council, following a tax administrator assessment.

Currently, the Pasadena Municipal Code (PMC) provides for penalties up to 50% of the amount of the tax and an additional penalty of up to 25% if the delinquent payment is due to fraud. Interest on unpaid taxes accrues at 1% per month. The PMC does not provide for specific enforcement action nor does it define the means by which the City may attempt to collect the debt. The proposed PMC amendments will provide several options to collect debt beyond a traditional civil court filing.

COUNCIL POLICY CONSIDERATION:

The proposed amendments of Chapter 4.44 and 4.101 would help maintain fiscal responsibility, support and promote quality of life and the local economy, and ensure public safety and generate additional revenue for the City of Pasadena.

ENVIRONMENTAL ANALYSIS:

This proposed Ordinance is categorically exempt from the California Environmental Quality Act (CEQA) pursuant to State CEQA Guidelines section 15061(b)(3) because there is no possibility that the activity in question may have a significant effect on the environment.

FISCAL IMPACT:

As a result of the proposed ordinance, it is anticipated that the City's ability to collect unpaid TOT and TBID for delinquent operators will be significantly improved. At this time, the exact fiscal impact cannot be determined.

Respectfully submitted,



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Director of Finance

Approved by:



CYNTHIA J. KURTZ
Interim City Manager