



Council Agenda Report

From: Thomas Frutchey, City Manager
Ryan Cornell, Administrative Services Director

Subject: Transient Occupancy Tax Collections; Waiver of Penalties and Interest

Date: March 27, 2020

Facts

1. Paso Robles Municipal Code Section 3.26.081 authorizes the City Tax Collector (Director of Administrator Services), “for good cause shown,” to waive any penalties or interest, which would otherwise have accrued for unpaid Transient Occupancy Taxes (TOT).
2. The City is in the early ramp-up stages of the COVID-19 global pandemic. During these difficult times, the City has declared a state of emergency and the County has declared a shelter in place for non-essential activities.
3. The impact of the global pandemic and resulting actions has decreased the economic activity in the City. City staff are currently in the midst of understanding the economic impact to the City and the City’s finances, and staff has prepared an early projection that the General Fund could experience significant lost in TOT, sales tax, permit, and other taxes and fees, as detailed in another report on this same agenda.
4. At the same time, the City has committed its fixed operating costs to maintaining essential public services and supporting its personnel to provide those essential services.
5. Lodging businesses within the City are now experiencing drastic declines in occupancy while still having to pay their own fixed operating costs. This is causing a cash flow crisis for a number of the properties. Through Travel Paso, those properties are requesting that February 2020 and March 2020 TOT payments be delayed until after summer 2020.
6. The City fully recognizes that the pandemic is causing a cash flow crisis for other businesses in the City as well. However, other types of businesses do not make regular, significant payments to the City, so the City is limited in the type and scale of assistance it can offer them. The City is assisting many of these other businesses in identifying and qualifying for Federal and State assistance programs.

Options

1. Take no action;
2. Authorize the Director of Administrative Services, as the tax collector, to waive penalties and interest for late Transient Occupancy Tax (TOT) revenues received for February and March 2020 transient lodging services until August 31, 2020 at the latest;
3. Do not waive any penalties and interest accrued for TOT payments not received for February and March 2020;
4. Waive penalties and interest for a different time frame; or
5. Provide alternative direction to staff.

Analysis and Conclusions

It is in the City’s interest to continue to maintain essential services and work with its lodging businesses that have contributed to the City’s financial well-being and will continue to support City’s essential services. Waiving penalties and interest accrued for late TOT payments for a short time period would be a temporary measure that would help the lodging properties (including hotels, RV parks, bed and breakfasts, and short-term rentals) get through this difficult time, while still being able to recognize these payments

during the same fiscal year. Staff is hearing from the lodging community and proposes that Council could delay the late penalties and interest for TOT for the February 2020 and March 2020 payments only, payments that are currently due on March 31, 2020 and April 30, 2020, respectively, until August 31, 2020. The City's General Fund reporting requirements uses the current financial resources measurement focus and the modified accrual basis of accounting. Under this method, revenues are recognized when measurable and available. As such, the City considers all revenues reported in the governmental funds to be available if the revenues are collected within 60 days after the fiscal year-end. By allowing TOT payments to be delayed until August 31, 2020 (60 days after the end of the fiscal year), the City is able to recognize these revenues in the 2019-20 fiscal year, even though the actual payments are received afterwards.

In no way is staff proposing any waiver or deferral of TOT payments. Rather, staff proposes to waive interest and penalties through August for those lodging establishments that may need to submit February and March 2020 payments late. In addition, the lodging operators are expected to pay the City the complete assessments they have collected on behalf of Travel Paso and Visit SLO CAL at the regular schedule; the City does not have the power to waive or defer these payments, absent action by those two entities. The lodging establishments will submit those assessments to the City, along with the full accounting of gross receipts and TOT collected, at the regular schedule. The City will then forward those collections to Travel Paso and to Visit SLO CAL. It will enter accruals for the TOT to be submitted no later than August 31.

It is unknown at this time how federal or state assistance can or will assist lodging properties. The funding of federal efforts appears to be through individual payments and loans. The timing of the loans is currently unknown.

Although PRMC Section 3.26.081 authorizes the City Tax Collector (Director of Administrator Services), "for good cause shown," to waive any penalties or interest that would otherwise have accrued, that authority has typically been exercised on a case-by-case basis. An Urgency Ordinance (Attachment 1) is necessary to implement this recommendation as to all operators under PRMC, Chapter 3.26 and establish the good cause for such a temporary waiver.

Because this a proposed urgency ordinance, a 4/5 vote of the City Council is required to adopt the ordinance.

Fiscal Impact

The City is waiving interest and penalties only, not the TOT payments themselves. If all lodging establishments were to take advantage of the grace period, it would delay TOT collections of approximately \$400,000 by 5 months, and approximately \$250,000 by 4 months. The total interest earnings foregone from such a delay is estimated to be no more than \$30,000; penalties would total no more \$136,500. Any payments not received by August 31, 2020 or any lodging operators who do not submit their TOT tax forms by the original due date will accrue interest from that date and be charged the standard penalties.

Recommendation

Adopt Urgency Ordinance No. XXX authorizing the Director of Administrative Services to waive penalties and interest for late Transient Occupancy Tax (TOT) revenues received for February and March 2020 transient lodging services until August 31, 2020 at the latest.

Attachments

1. Urgency Ordinance No. XXX

URGENCY ORDINANCE NO. XXX

AN URGENCY ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PASO ROBLES, CALIFORNIA AUTHORIZING THE DIRECTOR OF ADMINISTRATIVE SERVICES TO WAIVE PENALTIES AND INTEREST FOR LATE TRANSIENT OCCUPANCY TAX (TOT) ASSESSMENT REVENUES RECEIVED FOR FEBRUARY AND MARCH 2020 TRANSIENT LODGING SERVICES UNTIL AUGUST 31, 2020

WHEREAS, Paso Robles Municipal Code Section 3.26.081 authorizes the City Tax Collector (Director of Administrator Services), “for good cause shown,” to waive any penalties or interest, which would otherwise have accrued for unpaid Transient Occupancy Taxes (TOT); and

WHEREAS, the City is in the early ramp-up stages of the COVID-19 global pandemic and during these difficult times, the City has declared a state of emergency and the County has declared a shelter-at-home order for non-essential activities; and

WHEREAS, staff has heard from lodging properties that are experiencing their own projected reduced revenues due to decreased occupancy, and those properties are requesting that February 2020 and March 2020 TOT interest and penalty payments be delayed until after summer 2020; and

WHEREAS, it is in the City’s interest to continue to maintain essential services and work with its lodging businesses that have contributed to the City’s financial well-being and will continue to support City’s essential services; and

WHEREAS, the City has \$19 million in its General Fund Reserve that is available to help support City operations during the state of emergency.

NOW, THEREFORE, the City Council of the City of Paso Robles does ordain as follows:

SECTION 1. Consistent with Paso Robles Municipal Code Section 3.26.081, the Director of Administrative Services, as the tax collector, is authorized to delay imposition of penalties and interest for late Transient Occupancy Tax (TOT) revenues received for February 2020 and March 2020 transient occupancy lodging services until no later than August 31, 2020.

SECTION 2. This ordinance shall become effective immediately upon passage and adoption hereof, as it is an urgency ordinance intended to immediately protect the public welfare, health, and safety based upon the urgency findings set forth in the recitals above concerning the COVID-19 public health emergency and impact of the pandemic and stay at home orders on local businesses, which are incorporated herein by reference as though fully set forth herein.

SECTION 3. Under the provisions of the California Environmental Quality Act (CEQA) Guidelines Section 15061 (b) (3), this ordinance is covered by the general rule that CEQA

applies only to projects which have the potential for causing a significant effect on the environment. 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, such as the adoption of the regulations contained herein, the activity is not subject to CEQA.

SECTION 4. This ordinance shall not be interpreted in any manner to conflict with controlling provisions of state or federal law, including, without limitation, the Constitution of the State of California. If any section, subsection, or clause of this ordinance shall be deemed to be unconstitutional or otherwise invalid, the validity of the remaining sections, subsections and clauses shall not be affected thereby. If this ordinance, or any section, subsection or clause of this ordinance shall be deemed unconstitutional or invalid as applied to a particular appeal, the validity of this ordinance and its sections, subsections, and clauses in regard to other contracts shall not be affected.

SECTION 5. The City Clerk shall certify to the passage and adoption of this Ordinance, shall enter the same in the book of original ordinances of the City and shall make a minute of the passage and adoption thereof in the records of the meeting at which the same is passed and adopted.

Before the expiration of fifteen (15) days after the passage of this Ordinance, the City Clerk shall cause the same to be posted in three public places within the City of Paso Robles, to wit: 1) City Hall, 1000 Spring Street, Paso Robles, 2) xxx Paso Robles, 3) xxx, Paso Robles.

UPON MOTION OF Council Member _____, seconded by Council Member _____, the foregoing urgency ordinance was adopted by the City Council of the City of Paso Robles this 27th day of March 2020, by the following vote of at least four-fifths of the City Council:

AYES:
NOES:
ABSENT:
ABSTAIN:

Steven W. Martin, Mayor

ATTEST:

Melissa Martin, Deputy City Clerk