RESOLUTION NO. 17-20

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF SEASIDE

CALLING A SPECIAL MUNICIPAL ELECTION ON JUNE 6, 2017, FOR THE PURPOSE OF SUBMITTING A PROPOSAL TO ADOPT AN ORDINANCE AMENDING CHAPTER 5.04 OF THE SEASIDE MUNICIPAL CODE TO AUTHORIZE THE CITY TO APPLY A BUSINESS OPERATIONS TAX OF UP TO 10% ON THE GROSS RECEIPTS OF MARIJUANA BUSINESSES IN THE CITY OF SEASIDE FOR GENERAL PURPOSE REVENUES, APPROVING THE BALLOT LANGUAGE AS REVIEWED BY THE CITY ATTORNEY, DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS, AND PROVIDING DIRECTION REGARDING THE SUBMISSION OF BALLOT ARGUMENTS FOR OR AGAINST THE MEASURE

WHEREAS, the City of Seaside (the “City”), despite its diligent efforts of fiscal prudence and responsibility, is operating with limited funds due to the loss of two significant grants, the recent damage caused by heavy winter storms and the potential impact on funding from the November 8, 2016 national election, including a potential loss of Federal and State funding, future capital project needs and the implementation costs from the legalization of adult use of marijuana; and

WHEREAS, the community relies on the City’s services and requires improved local services; and

WHEREAS, the City’s infrastructure has deteriorated due to deferred maintenance and insufficient funding to maintain and rebuild the infrastructure; and

WHEREAS, the City Council has found and declared the existence of an emergency that requires an immediate increase in locally-controlled funding that cannot be taken by the state; and

WHEREAS, the City Council has identified a marijuana business tax measure of up to 10% on gross receipts from marijuana sales that will provide some of the locally controlled funding to maintain city services, such as street maintenance and paving, emergency response service, public parks and water fronts, youth violence prevention, senior programs, other general city services, fiscal stability and our quality of life; and

WHEREAS, nearly 50 other California jurisdictions – typically in collaboration with marijuana businesses – have enacted local measures to impose a general tax on marijuana businesses for the privilege of operating within the local jurisdiction; and

WHEREAS, such business taxes are imposed on marijuana businesses, and not directly on marijuana users or consumers; and

WHEREAS, the City desires to remain competitive with nearby communities that have already acted to tax and regulate marijuana businesses; and

WHEREAS, adopting a local marijuana business tax measure will benefit City residents
by ensuring that marijuana businesses contribute reasonably and fairly towards the costs associated with allowing this emerging industry to operate within the City of Seaside while allowing the City to maintain stable funding for essential City services and continued quality of life; and

WHEREAS, any tax measure submitted to voters must be consolidated with a regularly scheduled general election for members of City Council except in cases of emergency as determined by a unanimous vote of the Council pursuant to Article XIIIIC of the California Constitution.

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF SEASIDE:

Section 1. Pursuant to California Elections Code Sections 9222 and 10201, the City Council hereby orders that a special municipal election shall be held in the City of Seaside on June 6, 2017 for the purpose of approving an annual business operations tax on marijuana businesses at a rate of up to 10% of gross receipts in addition to a proposed measure to increase the transactions and use tax measure by 0.5% for general purpose revenues, as provided in Resolution 17-21, and to submit such other measures to the voters as the City Council deems appropriate. The full text of the proposed Ordinance, attached to this Resolution as Exhibit A, if approved A shall be printed in the voter pamphlet. The measure to be submitted to the voters shall appear and be printed on the ballot as follows:

<table>
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<th>City of Seaside Measure</th>
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| MARIJUANA BUSINESS TAX. To generate an estimated $300,000 annually until ended by voters to maintain essential City services such as 9-1-1 emergency response; anti-drug/anti-gang programs; repairing streets, potholes, storm drains; earthquake, flood preparedness; improving parks, youth/senior programs; other general services; with required independent audits and all funds staying in Seaside, shall the ordinance levying an ongoing tax of up to 10% of gross receipts of marijuana businesses be adopted? | YES  
|                                                               | NO |

Section 2. The City Council hereby approves proposed Ordinance in the form attached to this Resolution as Exhibit A, to be submitted to the voters. The proposed measure is a general tax as defined in Article XIIIIC of the California Constitution and shall not take effect unless and until approved by a vote of at least a majority of the voters voting on the question in the election.

Section 3. The City Clerk is authorized to print such forms, publish such notices, set deadlines, and provide such information and contract for such services as may be necessary or convenient to assure the orderly holding of the election, and the City Clerk shall do all other things necessary to facilitate the holding of the election in a manner harmonious and consistent with law.

Section 4. The City Attorney is directed to submit an impartial analysis of the measure pursuant to Elections Code Section 9280 on or before March 16, 2017.
Section 5. The last day to submit arguments for or against the measure shall be March 14, 2017. Submittals must be delivered to the City Clerk on or before 5:00 p.m.

Section 6. The City Clerk shall publish a copy of this resolution in a newspaper of general circulation within the City once within fifteen (15) days after the adoption of this resolution.

Section 7. The City Council shall meet to declare the results of the election called for by this Resolution at their first regular meeting following certification of the election results.

Section 8. The City Clerk shall certify to the passage and adoption of this resolution.

PASSED AND ADOPTED at a regular meeting of the City Council of the City of Seaside duly held on the 2nd day of March 2017.

AYES:  5  COUNCIL MEMBERS: Alexander, Campbell, Jones, Pacheco, Rubio
NOES:  0  COUNCILMEMBERS: None
ABSENT:  0  COUNCILMEMBERS: None
ABSTAIN:  0  COUNCILMEMBERS: None

Ralph Rubio, Mayor

ATTEST:

Lesley Milton-Reigel, City Clerk
ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF SEASIDE AMENDING CHAPTER 5.04 OF THE SEASIDE MUNICIPAL CODE RELATING TO THE REGULATION AND TAXATION OF MARIJUANA BUSINESSES

THE PEOPLE OF THE CITY OF SEASIDE DO HEREBY ORDAIN AS FOLLOWS:

Section 1. Section 5.04.010 of the Seaside Municipal Code is amended to read in full as follows:

5.04.010 Definitions.

As used in this chapter the words set out in this section shall be defined as follows:

A. "Business" means professions, trades and occupations, and all and every kind of calling carried on for profit or livelihood.

B. "Gross receipts" means the total amount of the sale price of all sales and the total amount charged or received for the performance of any act, service or employment of whatever nature it may be for which a charge is made or credit allowed, whether or not such act, service or employment is done as a part of or in connection with the sale of materials, goods, wares, or merchandise. Included in gross receipts shall be all receipts, cash, credits and property of any kind or nature, and any amount for which credit is allowed by the seller to the purchaser without any deduction therefrom an account of the cost of the property sold, the cost of the materials used, labor or service costs, interest paid or payable, or losses or other expenses whatsoever. Excluded from gross receipts shall be cash discounts allowed and taken on sales, any tax required by law to be included in or added to the purchase price and collected from the consumer or purchaser, and such part of the sale price of the property returned by purchasers upon recision of the contract of sale as is refunded either in cash or by credit.

C. "Marijuana" means all parts of the plant Cannabis sativa L., whether growing or not; the seeds thereof; the resin extracted from any part of the plant; and every compound, manufacture, oil, salt, derivative, mixture, or preparation of the plant, its seeds or resin.

D. "Marijuana business" means any business which entails the distribution, delivery, dispensing, exchanging, bartering or sale of marijuana, including but not limited to, transporting, manufacturing, cultivating, compounding, converting, processing, preparing, storing, packaging, wholesale, or retail sales of marijuana and any ancillary products.

E. "Person" means all domestic and foreign corporations, associations, syndicates, joint stock corporations, partnerships of every kind, clubs, Massachusetts, business or common law trusts, societies, and individuals transacting and carrying on any business in the city.

Section 2. Sections 5.04.320 through 5.04.520 of the Seaside Municipal Code are hereby renumbered as Sections 5.04.330 through 5.04.530, respectively.
Section 3. A new Section 5.04.320 is added to the Seaside Municipal Code to read in full as follows:

5.04.320 Tax-marijuana businesses.

A. Every person carrying on a marijuana business shall pay an annual business operations tax at a rate of up to ten percent of gross receipts.

B. Notwithstanding Elections Code Section 9217 or the maximum tax rate of ten percent of gross receipts imposed under subsection A of this section, the city council may, in its discretion, at any time by ordinance, implement a lower tax rate for all marijuana businesses or establish differing tax rates for different categories of marijuana businesses, as defined in such ordinance, subject to the maximum rate of ten percent of gross receipts. The city council may, by ordinance, also increase any such tax rate from time to time, not to exceed the maximum tax rate of ten percent of gross receipts established under subsection A of this section. The city council may make other minor technical changes to the ordinance to respond to changes in applicable state law.

Section 4. If any provision of this ordinance or the application thereof to any person or circumstances 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 5. This ordinance shall be considered as adopted upon the date the vote is declared by the legislative body, and shall go into effect ten days after that date.

Section 6. The City Clerk shall certify to the passage and adoption of this ordinance and shall cause this ordinance to be published in accordance with the law.

Section 7. The Mayor shall sign and the City Clerk shall attest to the adoption of this ordinance.

PASSED AND ADOPTED by the People of the City of Seaside, State of California, on June 6, 2017.

Ralph Rubio, Mayor

ATTEST:

Lesley E. Milton-Rerig, City Clerk