TO:       HONORABLE CITY COUNCIL

FROM:      CITY MANAGER

DEPARTMENT:  ADMINISTRATIVE SERVICES

DATE:      JULY 9, 2007  CMR: 294:07

SUBJECT: RECOMMENDATION FROM FINANCE COMMITTEE TO INCREASE THE CITY OF PALO ALTO’S TRANSIENT OCCUPANCY TAX

RECOMMENDATION:
The Finance Committee recommends that Council:

- Authorize the placement of a ballot measure on the November 6, 2007 general election to increase the City’s Transient Occupancy Tax (TOT) from 10 to 12 percent.

Staff further recommends that Council:

- Adopt the attached resolution approving the ballot question language and directing the City Attorney to prepare an impartial analysis.
- Designate up to four council members to author the argument in favor of the measure.

SUMMARY OF COMMITTEE REVIEW AND RECOMMENDATIONS:
At the June 19, 2007 meeting, the Finance Committee unanimously approved staff’s recommendation that Council authorize a ballot measure for the November 6, 2007 election to increase the Transient Occupancy Tax from 10 to 12 percent. In addition, the Finance Committee directed staff to further research the need to amend Chapter 2.33 of the Municipal Code to clarify its application to internet bookings. The Committee’s discussion centered around the potential tax increase and use of Destination Palo Alto as a marketing tool. To support tourism and visitation, the Finance Committee directed staff to develop its review a comprehensive marketing plan for Destination Palo Alto that includes funding considerations. Staff will return to the Finance Committee with the plan in September or October 2007.

Chamber President, Sandra Lonnquist spoke on behalf of local hoteliers. Ms. Lonnquist discussed concerns regarding the proposed increase in the TOT rate. She stated that companies that bring large groups of people to visit Palo Alto looked for the best rates and those companies would book reservations in nearby cities rather than pay more to stay in Palo Alto. She asked the Finance Committee to consider what the increase would do to ensure that an increase in the TOT would not decrease the number of beds in Palo Alto. Ms. Lonnquist suggested that a sales tax increase would be more appropriate as it would distribute the responsibility for helping support the community.
DISCUSSION
Collecting TOT from internet bookings has become a growing issue for cities, particularly cities with a large tourist base. Historically, TOT ordinances have applied to bookings made by travel agents and internet bookings made directly with the hotel. In addition, many cities contend that their existing TOT laws, which contain language similar to Palo Alto’s, are broad enough to apply to all hotel bookings conducted through on-line booking services. Los Angeles and San Diego have already filed lawsuits attempting to collect TOT from online services, and class action status is currently being sought on behalf of all California cities. In the event class certification is denied, it is likely that cities will collaboratively develop an alternative litigation strategy. Given the current developments, staff recommends that no legislative change regarding internet bookings be made at this time. Instead, staff recommends that Palo Alto continue to monitor the existing class action request and other litigation efforts that develop.

NEXT STEPS
Should Council move forward with the proposed ballot measure, there are a number of procedural requirements relating to placing the measure on the ballot. First, the Council must approve the ballot question that will be presented to Palo Alto voters. A proposed resolution is attached as Attachment B and pursuant to GC 53724(b) such resolution must be adopted by the Council by a two-thirds vote. In addition to increasing the tax rate, the ordinance also clarifies that the tax is a general tax that can be used for any purpose. General taxes can be approved by a majority of the voters, rather than special taxes which are subject to a two-thirds vote. Second, Council must decide who will draft the ballot argument for the measure. Third, the Council must direct the City Attorney to draft an impartial analysis of the measure.

The ballot question may not exceed 75 words, and should be presented in clear and concise fashion so that it is clearly understandable to the electorate. The following language, modeled in large part after a measure recently approved by Sunnyvale voters, is suggested:

| Shall the Palo Alto Municipal Code be amended to increase the transient occupancy tax (commonly called “hotel tax”) charged to persons who occupy hotel or motel rooms in the City for 30 days or less from 10% to 12% in order to help maintain the City’s ability to fund basic City services? | YES | NO |

The State elections code provides for the filing of arguments for or against each ballot measure. If submitted, one argument “for” and one argument “against” the measure will be printed with the sample ballot. Ballot arguments may be prepared by the City Council, by any member or members authorized by the City Council, or any combination of voters or associations. If the Council desires to submit an argument on the proposed measure, it may so indicate or provide authorization to up to four council members to prepare the argument either for or against the measure.

Finally, Elections Code Section 9280 provides that the City Attorney may be directed to prepare an impartial analysis of the measure, which is not to exceed 500 words. Direction to prepare such analysis is included in the attached resolution.
ATTACHMENTS
Attachment 1: CMR 265:07
Attachment 2: Resolution and Ordinance

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