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TOWN MANAGER

**CORTE MADERA TOWN COUNCIL  
STAFF REPORT**

REPORT DATE: February 28, 2018

MEETING DATE: March 6, 2018

**TO:** HONORABLE MAYOR AND MEMBERS OF THE TOWN COUNCIL

**FROM:** REBECCA VAUGHN, TOWN CLERK/ ASSISTANT TO THE TOWN MANAGER

**SUBJECT:** CONSIDER ADOPTION OF RESOLUTION 08/2018 OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA (A) CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL ELECTION ON JUNE 5, 2018 TO CONSIDER ADOPTION OF A MEASURE TO (1) REPEAL THE SPECIAL DRAINAGE PROPERTY TAX (\$98 PER RESIDENTIAL UNIT OR PER 1,000 COMMERCIAL SQUARE FEET); (2) EXTEND THE EXISTING GENERAL 1/2¢ SALES TAX (TRANSACTION AND USE TAX) AT A 3/4¢ RATE UNTIL ENDED BY VOTERS; AND (3) REQUIRE AN ANNUAL AUDIT OF, AND A CITIZENS ADVISORY COMMITTEE TO OVERSEE, THE TRANSACTION AND USE TAX EXPENDITURES; (B) REQUESTING CONSOLIDATION OF THE SPECIAL ELECTION WITH THE JUNE 5, 2018 STATEWIDE PRIMARY ELECTION; (C) DIRECTING THE TOWN ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE PURSUANT TO ELECTIONS CODE SECTION 9280; AND (D) AUTHORIZING TWO COUNCILMEMBERS TO DRAFT, SIGN AND SUBMIT A BALLOT ARGUMENT IN FAVOR OF THE MEASURE AND ANY REBUTTAL ARGUMENT, AND TO SELECT COMMUNITY MEMBERS TO SIGN THOSE ARGUMENTS. .



**PURPOSE:**

Adopt Resolution 08/2018 calling for the holding of a special election and ordering the submission of an ordinance to be placed on the ballot repealing the existing storm drainage property tax and continuing the current 1/2 cent sales tax measure at a 3/4 cent rate until ended by voters. The Town Council will also be asked to designate two Councilmembers to draft and sign the Argument in Favor of the ballot measure and direct the Town Attorney to draft the Impartial Analysis.

**STAFF RECOMMENDATION:**

Staff recommends that the Town Council 1) Designate two Councilmembers authorized to draft and sign the Argument in Favor of the ballot measure and any subsequent rebuttals; 2) Adopt Resolution No. 8/2018 as amended to include the names of the designated Councilmembers; and 3) Direct the Town Attorney to draft an Impartial Analysis of the ballot measure.

**OPTIONS:**

1. Designate Councilmembers to draft and sign the Argument in Favor, adopt Resolution No. 08/2018 as amended and direct the Town Attorney to draft the Impartial Analysis
2. Provide direction to staff regarding requested changes to the attached draft Resolution No. 08/2018 and approve resolution as amended, along with designation of Councilmembers to draft and sign the Argument in Favor and direction to the Town Attorney to prepare the Impartial Analysis
3. Take no action, and elect not to submit the measure for inclusion on the June 5, 2018 ballot

**TOWN MANAGER'S RECOMMENDATION:**

Support staff's recommendation.

**BACKGROUND:**

The Town Council, at its January 16, 2018, February 6, 2018 and February 20, 2018 meetings, received reports regarding the funding provided by the half-cent sales tax measure that was approved by voters in November, 2013. The Council also heard presentations from staff, and held discussions, regarding the identification and planning for future infrastructure needs and priorities.

At the February 20, 2018 Town Council meeting, the Town Council voted unanimously to introduce an ordinance that, if approved by voters at the June 5, 2018 election, would repeal the existing storm drainage property tax of \$98 per residential unit or per 1,000 commercial square feet and continue the current ½ cent sales tax measure at a ¾ cent rate until ended by voters.

Following discussion, the Town Council directed staff to prepare a resolution for consideration at the March 6, 2018 Town Council meeting calling for the election, placing the extension of the sales tax measure on the ballot and requesting that the Marin County Department of Elections consolidate the special election with the June 5, 2018 statewide primary election. It is proposed that the sales tax measure would continue until repealed by the voters, and would require the continuation of a citizen's committee review of no more than five (5) residents of the Town to be appointed by the Council, along with an examination audit to ensure funds are spent locally as promised for the benefit of Corte Madera residents.

The deadline to submit the ballot measure in time for placement on the June 5, 2018 ballot is Friday, March 9th. The Town Council therefore is asked to adopt Resolution No. 08/2018 which will call the election to be held and request services and consolidation to be provided by the Marin County Elections Department, as well as an accompanying ordinance imposing the transaction and use tax to be administered by the State Board of Equalization. The operative date of the transaction and use tax will be the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance.

The Resolution also directs the Town Attorney to prepare an impartial analysis of the measure pursuant to Elections Code Section 9280, the deadline for submittal of the impartial analysis is March 19, 2018. The Resolution further authorizes two Councilmembers to draft and submit a ballot

argument in favor of the measure, pursuant to Elections Code Section 9282. The Town Council will be asked to designate, by motion, two members of the Town Council who will draft and sign the Argument in Favor. In addition, the designees would have authority to draft and sign rebuttals to arguments against the measure should such arguments be submitted.

The attached draft resolution provides space to include the designated Councilmembers and following approval by motion of the designated Councilmembers, the draft resolution can then be approved as amended to include the names of the designees.

Further, the two designated Councilmembers are authorized to select three or four additional community members to sign the argument. In no case shall more than five persons sign the argument, at least one of whom must be a Councilmember. The Argument is to be sent to the Marin County Elections Department by March 19, 2018.

Following the March 19<sup>th</sup> deadline for submittal of arguments in favor or opposed to a ballot measure, there will be a ten day public examination period of the primary arguments. The final day to submit rebuttals to the primary arguments is Monday, March 26, 2018.

The deadline and requirements for submittal of arguments for and against ballot measures, as well as subsequent rebuttals to those arguments, are identified in Section 8 of the attached draft resolution. Required forms, instructions and deadlines for filing ballot measure arguments and rebuttals will be available on the Town's website: <http://townofcortemadera.org/702/June-5-2018-Municipal-Election>

At this time, the Town Council is asked to consider the following:

- 1) To designate two Councilmembers authorized to draft and sign the Argument in Favor of the ballot measure and any subsequent rebuttals to the primary argument; and
- 2) To adopt Resolution No. 8/2018 as amended to include the names of the designated Councilmembers; and
- 3) Direct the Town Attorney to draft an Impartial Analysis of the ballot measure

Attachment:

1. Draft Resolution No. 08/2018

**ATTACHMENT 1**  
**DRAFT RESOLUTION NO. 08/2018**

**RESOLUTION NO. 8/2018**

**RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF CORTE MADERA (A) CALLING AND GIVING NOTICE OF THE HOLDING OF A SPECIAL ELECTION ON JUNE 5, 2018 TO CONSIDER ADOPTION OF A MEASURE TO (1) REPEAL THE SPECIAL DRAINAGE PROPERTY TAX (\$98 PER RESIDENTIAL UNIT OR PER 1,000 COMMERCIAL SQUARE FEET), (2) EXTEND THE EXISTING GENERAL 1/2¢ SALES TAX (TRANSACTION AND USE TAX) AT A 3/4¢ RATE UNTIL ENDED BY VOTERS, AND (3) REQUIRE AN ANNUAL AUDIT OF, AND A CITIZENS ADVISORY COMMITTEE TO OVERSEE, THE TRANSACTION AND USE TAX EXPENDITURES; (B) REQUESTING CONSOLIDATION OF THE SPECIAL ELECTION WITH THE JUNE 5, 2018 STATEWIDE PRIMARY ELECTION; (C) DIRECTING THE TOWN ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE PURSUANT TO ELECTIONS CODE SECTION 9280; AND (D) AUTHORIZING TWO COUNCILMEMBERS TO DRAFT, SIGN AND SUBMIT A BALLOT ARGUMENT IN FAVOR OF THE MEASURE AND ANY REBUTTAL ARGUMENT, AND TO SELECT COMMUNITY MEMBERS TO SIGN THOSE ARGUMENTS.**

**WHEREAS**, the Town of Corte Madera continues to face increased demand for, and expenses in providing, essential Town services and facilities that its residents rely on, such as:

- Flood control
- Sea level rise preparedness
- Disaster preparedness
- Fire prevention
- Repairing streets
- Reducing transportation congestion
- Safety improvements
- 911 response
- Senior and youth programs; and

**WHEREAS**, without additional revenue, the Town of Corte Madera will be hampered in providing these and other essential Town services; and

**WHEREAS**, Section 7285.9 of the California Revenue and Taxation Code authorizes the Town to levy, increase or extend a transactions and use tax for general purposes at a rate of 0.125 percent, or a multiple thereof, subject to approval by a two-thirds vote of all of the members of the Town Council and by a majority vote of the qualified voters of the Town voting in an election on the issue; and

**WHEREAS**, Article XIIC, section 2(b) of the California Constitution requires that an election be held when a town council seeks voter approval of a new general tax and that said election be consolidated with a regularly scheduled general election for members of the Town Council; and

**WHEREAS**, a regularly scheduled general election for members of the Town Council has been

established for the date of June 5, 2018; and

**WHEREAS**, this Resolution approves and proposes to the electorate a measure to repeal the existing special property tax currently imposed for storm drainage and flood control infrastructure, and extend a current general one-half of one percent (0.5%) transaction and use tax on retail transactions involving sale and use of personal property. The new tax rate would be three-quarters of one percent (0.75%) of the sales price of the property. The tax revenue would be collected by the State and remitted to the Town. The tax would remain in effect until repealed by the voters; and

**WHEREAS**, consolidation of that election with the statewide direct primary election to be held that same date will avoid confusion of voters and lower the cost to administer the Election; and

**WHEREAS**, the Town Council requests services from the Marin County Clerk for the conduct of that election.

NOW THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Corte Madera that:

SECTION 1. Pursuant to its right, power and authority under the laws of the State of California and the Town of Corte Madera Municipal Code, the Town of Corte Madera hereby calls a special election to be held on the same date and at the same time as the Statewide Primary Election to be held on Tuesday, June 5, 2018, at which it shall submit to the qualified voters of the Town, a measure to repeal the existing special property tax currently imposed for storm drainage and flood control infrastructure, and, as authorized by Revenue and Taxation Code section 7285.9, to extend at a new rate a general transaction and use tax (currently one-half of one percent 0.5%) which on retail transactions involving sale and use of personal property. The new tax rate would be three-quarters of one percent (0.75%) of the sales price of the property. This measure shall be designated by letter by the Marin County Elections Department. Pursuant to Elections Code Section 10400 et seq., the election for this measure shall be consolidated with the previously established election to be conducted on June 5, 2018.

SECTION 2. The ordinance to be approved by this measure is attached hereto as Exhibit A, is incorporated by this reference. The Town Council hereby approves the ordinance, the form thereof, and its submission to the voters of the Town at the June 5, 2018 election. The entire text of the ordinance, attached hereto as Exhibit A, shall be made available to the public upon request. The ordinance (1) repeals the existing special property tax currently imposed for storm drainage and flood control infrastructure; (2) specifies that the rate of the sales tax (currently one-half of one percent (0.5%)), as extended, shall be three-quarters of one percent (0.75%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in the Town; and (3) specifies that the rate of the use tax (currently one-half of one percent (0.5%)), as extended, shall be three-quarters of one percent (0.75%) of the sales price of tangible personal property stored, used or otherwise consumed in the Town and (3) enacts related provisions. The State Board of Equalization shall collect the tax from retailers subject to the tax and remit the funds to the Town. The proposed measure is a general tax as defined in Article XIIC of the California Constitution and shall not take effect unless and until approved by a vote of at least a majority (50% plus 1) of the voters voting on the question at the election.

SECTION 3. The proposed sales tax ordinance shall be submitted to the voters on the ballot in the form of the following question:

<b>Town of Corte Madera</b>	
<p><i>Shall Corte Madera (1) repeal the special drainage property tax (\$98 per residential unit or per 1,000 commercial square feet) AND (2) extend the existing 1/2¢ sales tax at a 3/4¢ rate until ended by voters, providing \$3,500,000 annually for unrestricted general revenue purposes (for example, flood/sea level rise/disaster preparedness, fire prevention, repairing streets, reducing transportation congestion, safety improvements, 911 response, and senior/youth programs) subject to annual audits and a citizens' oversight committee?</i></p>	YES
	NO

**SECTION 4.** In all particulars not recited in this Resolution, the election shall be held and conducted as provided by law for holding municipal elections.

**SECTION 5.** The Town Attorney is hereby directed to prepare an impartial analysis of the measure pursuant to Elections Code Section 9280, showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by the date set by the Town Clerk.

**SECTION 6.** Pursuant to Elections Code section 9282, the Town Council authorizes the individuals identified in section 8, below, to file written arguments in favor of the measure not exceeding 300 words, accompanied by the printed names and signatures of the authors submitting it, in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California. The arguments may be changed or withdrawn until and including the date fixed by the Town Clerk after which no arguments for or against the Town measure may be submitted to the Town Clerk.

**SECTION 7.** The arguments shall be filed with the Town Clerk, shall be accompanied by the "Form of Statement To Be Filed by Authors of Arguments," shall include the printed names and signatures of the authors submitting it, and shall otherwise comply with the requirements of Elections Code Sections 9280, 9282 and 9283. If submitted on behalf of an organization, it shall include 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, and comply with the requirements of Elections Code section 9287(e).

**SECTION 8.** The deadline for filing arguments for and against the ballot measure with the Town Clerk shall be March 19, 2018, and the argument shall not exceed 300 words in length.

Rebuttal arguments shall be filed with the Town Clerk by March 26, 2018 and shall not exceed 250 words in length. Councilmembers \_\_\_\_\_ and \_\_\_\_\_ are hereby authorized to prepare a written argument in support of the proposed ordinance, not to exceed 300 words, on behalf of the Town Council, and to select three or four community members to sign the argument. In no case shall more than five persons sign the argument, at least one of whom must be a Councilmember.

SECTION 9. The Town Council hereby adopts Sections 9285(a) and (c) of the California Elections Code, permitting the filing of rebuttal arguments, pursuant to a filing deadline fixed by the Town Clerk. Pursuant to Section 9285 of the California Elections Code, when the Town Clerk has selected the arguments for and against the measure, which will be printed and distributed to the voters, the Town Clerk shall send copies of the argument in favor of the measure to the authors of the argument against, and copies of the argument against to the authors of the argument in favor.

SECTION 10. The same persons authorized in Section 8 above to prepare and sign the direct argument in favor of the proposed ordinance shall be authorized to prepare and sign the rebuttal argument. Rebuttal arguments shall be printed in the same manner as the direct arguments. Each rebuttal argument shall immediately follow the direct argument, which it seeks to rebut.

SECTION 11. The adoption of this Resolution is exempt from the California Environmental Quality Act (Public Resources Code §§ 21000 et seq. ("CEQA") and 14 Cal. Code Reg. §§ 15000 et seq. ("CEQA Guidelines"). The calling and noticing of a Special Municipal Election is not a project within the meaning of CEQA Guidelines section 15378, subsection (b)(3).

**AND BE IT FURTHER RESOLVED AS FOLLOWS:**

1. The Board of Supervisors of the County of Marin is hereby requested to consolidate the said general election for this measure with the previously established general municipal election on Tuesday, June 5, 2018, and provide services for the general election on said measure, and to provide that, within the Town of Corte Madera, the election precincts, polling places, and voting booths shall in every case be the same and there shall be one set of election officers in each of said precincts, and to further provide that said measure hereinabove set forth shall be set forth in the ballots to be used at said election insofar as the same is held within the Town of Corte Madera.
2. The Board of Supervisors of Marin County is hereby further authorized to canvass, or caused to be canvassed, as provided by law, the returns of said ballot measure election with respect to the votes cast on such proposition and to certify such canvass of votes to the Town Council.
3. The Town Clerk of the Town of Corte Madera is hereby authorized and directed to certify to the due adoption of this Resolution and to transmit a copy thereof so certified to the Board of Supervisors of said County and to file a copy hereof so certified with the Registrar of the County of Marin, pursuant to Elections Code Section 10403.
4. The Town Clerk shall certify to the passage and adoption of this Resolution and enter it into the book of original Resolutions, and to take other appropriate actions necessary to ensure the placement of said tax measure before the voters of the Town of Corte Madera at said General Election.



5. In accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code, the Town Clerk is hereby authorized and directed to cause notice of the measure to be published once in the Marin Independent Journal, a newspaper of general circulation, printed, published, and circulated in the Town of Corte Madera and hereby designated for that purpose by the Town Council of Corte Madera. The Town Clerk may request that the County of Marin Elections Department prepare and publish the required notice.
6. The Town Manager is hereby authorized and directed to expend the necessary funds to pay for the Town's cost of placing the measure on the election ballot.
7. **SEVERABILITY.** If any section, subsection, sentence, clause, phrase or portion of this Resolution or its application to any person or circumstance is for any reason held to be invalid or unconstitutional by the decision of any court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Resolution or its application to other persons and circumstances. The Town Council of the Town of Corte Madera hereby declares that it would have adopted this Resolution and each section, subsection, sentence, clause, phrase or portion thereof irrespective of the fact that any one or more sections, subsections, sentences, clauses, phrases, or portions be declared invalid or unconstitutional and, to that end, the provisions hereof are hereby declared to be severable.

The foregoing Resolution was duly passed and adopted at a regular meeting of the Town Council of the Town of Corte Madera held in said Town on the 6<sup>th</sup> day of March, 2018, by the following vote, to wit:

AYES:

NOES:

ABSENT:

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Carla Condon, Mayor

Attest:

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Rebecca Vaughn, Town Clerk