



Agenda Item 5

DATE: June 17, 2014
 TO: Board of Supervisors
 FROM: Peter Herzog, Chairman
 Fresno County Zoo Authority Board
 SUBJECT: Placing Proposed Extension of Measure Z Sales Tax on Ballot
 (Continued from June 3, 2014)

RECOMMENDED ACTION:

Adopt Resolution approving the inclusion of a measure on the November 4, 2014, Fresno County general election ballot to extend the one tenth of one percent (0.10%) Measure Z sales tax for a ten-year period, and authorize that only the add-on cost (\$38,000 to \$45,000) for said election be charged to the Fresno County Zoo Authority.

This item is continued from the June 3, 2014 Board hearing.

ALTERNATIVE ACTION(s):

Your Board may choose not to approve placing the extension of Measure Z on the November 4, 2014 ballot. If so, the current sales tax will sunset on March 31, 2015, and any remaining funds will be utilized as per the ordinance until fully expended.

FISCAL IMPACT:

The actual add on cost of placing the item on the ballot was estimated by the County Clerk/Registrar of Voters to be between \$38,000 and \$45,000. This cost shall be the responsibility of the Fresno County Zoo Authority, regardless of the outcome, and shall be paid from the Authority's administrative budget.

ADMINISTRATIVE OFFICE REVIEW J. Hays by [Signature] Page 1 of 15



Official Action of
 Board of Supervisors
 [Signature]
 Deputy

APPROVED AS RECOMMENDED

UNANIMOUS BORGEAS _____ CASE MCNAIRY _____ LARSON _____ PEREA _____ POOCHIGIAN _____

Revenue and Taxation Code section 7286.43 requires that this measure be approved by two-thirds of the voters of the County voting on the measure to become effective. In 2004, the original Measure Z passed by 74.3%. Proceeds from Measure Z from inception in 2005 through March 2014 were over \$96.4 million, and are expected to be approximately the same for an extension of the tax.

DISCUSSION:

The Ordinance for the extension of Measure Z was adopted unanimously, with one member absent, by the Fresno County Zoo Authority Board (Authority) on April 30, 2014. (Attachment A). Approval is required by your Board to place a measure on a ballot for voter consideration. Therefore, at the same meeting, the Authority passed Resolution (Attachment B) requesting that your Board do so for the November 4, 2014 ballot.

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BEFORE THE BOARD OF SUPERVISORS
OF THE COUNTY OF FRESNO
STATE OF CALIFORNIA

IN THE MATTER OF)
INCLUSION OF BALLOT MEASURE)
TO EXTEND MEASURE Z)
TRANSACTIONS AND USE TAX)

Resolution No. 14-228

WHEREAS, on July 13, 2004, the Fresno County Board of Supervisors established the Fresno County Zoo Authority (hereinafter the "Authority") pursuant to Revenue and Taxation Code 7286.43 for the support of zoos, zoological facilities, and related zoological purposes in Fresno County; and

WHEREAS, on November 2, 2004, voters approved an ordinance imposing a special transactions and use tax of one tenth of one percent (0.10%) for a period of ten (10) years, the net revenues of which are to be expended for the support of the Fresno Chaffee Zoo; and

WHEREAS, on March 12, 2014, the Authority conducted a first reading for an extension of the 2004 Measure Z ordinance; and

WHEREAS, on April 30, 2014, the Authority approved the ordinance after a second reading and authorized the use of funds from its administrative budget to fund the add-on cost to put the extension of the ordinance on the ballot; and,

WHEREAS, the Authority desires that the ordinance be placed on the November 4, 2014 general election ballot; and,

WHEREAS, under Revenue and Taxation Code section 7286.43, the ordinance must be approved by two-thirds of the voters of Fresno County voting on the ordinance.

NOW, THEREFORE BE IT RESOLVED AS FOLLOWS:

1. The Fresno County Board of Supervisors approves the inclusion of an ordinance on the November 4, 2014 Fresno County General Election ballot

1 to extend Measure Z for a ten-year period, and authorizes charging the
2 Authority the add-on cost to put the ordinance on the ballot. Said cost is
3 estimated to be \$38,000 to \$45,000, based on the following:

4 a. The November 2014 election has been budgeted in the County
5 Clerk's FY 2014/2015 budget, and

6 b. The election will proceed regardless if Measure Z is on the
7 ballot.
8

9 2. The County Clerk/Elections Department shall take any and all
10 necessary steps for the holding of the consolidated election. The Authority
11 agrees to reimburse the County from its administrative budget for the add-on
12 costs of the election, and said costs shall be an obligation of the Authority
13 irrespective of the election outcome.

14 3. The Fresno County Clerk/Registrar of Voters is designated as the
15 Elections Official for the election, and the Board of Supervisors hereby
16 authorizes and directs the Fresno County Clerk/Registrar of Voters to:

17 a. Provide all notices and take all other actions necessary to holding
18 the election, including but not limited to providing notices of times within
19 which arguments for and against are submitted.

20 b. Print the ordinance in its entirety in the Voter's Information
21 Pamphlet section of the Sample Ballot.

22 4. The ballot measure hereby approved for said election shall read as
23 follows:

24 **KEEP OUR ZOO**

25 To ensure the continuing success of Fresno Chaffee Zoo by providing
26 necessary funding for repairs and maintenance, improved animal care,
27 continuing the zoo's Species Survival and Children's Education Programs,
28 maintaining low entrance fees, improving visitor amenities, and providing
animals with safer more spacious natural habitats; shall Fresno County voters
extend the existing 1/10th of one percent sales tax for ten additional years,
with all proceeds exclusively for Fresno Chaffee Zoo?

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5. Arguments in favor of and in opposition to the ballot measure and rebuttal arguments shall be permitted. The County hereby adopts the provisions of Elections Code Section 9161 through 9167 regarding the acceptance of arguments relating to ballot measures. The County Clerk shall fix the dates for submittal of arguments and rebuttals as provided for in the Elections Code.

6. The County Counsel is directed to prepare an impartial analysis of the Measure, pursuant to Elections Code Section 9160(b).

7. The County Auditor Controller/Treasurer Tax Collector is hereby directed to prepare a fiscal impact statement pursuant to Elections Code section 9160(c).

8. Upon approval of the measure by at least two-thirds of the registered voters voting on the measure, the tax will be extended for an additional 10 years.


9. This Resolution shall take effect on and after its adoption.

The FORGOING was passed and adopted by the following vote of the Board of Supervisors of the County of Fresno on the 17th day of June 2014, by the following vote, to-wit:

- AYES: Supervisors Perea, Larson, Case McNairy, Poochigian, Borgeas
- NOES: None
- ABSENT: None


CHAIRMAN, Board of Supervisors

ATTEST:
BERNICE E. SEIDEL
Clerk, Board of Supervisors

By: 
Deputy

BEFORE THE BOARD OF DIRECTORS
OF THE FRESNO COUNTY ZOO AUTHORITY
FRESNO COUNTY, CALIFORNIA

Ordinance No. 2014- 01

AN ORDINANCE IMPOSING AN EXTENSION OF THE COUNTYWIDE
TRANSACTIONS AND USE TAX FOR THE SUPPORT OF ZOOS, ZOOLOGICAL
FACILITIES, AND RELATED ZOOLOGICAL PURPOSES, TO BE ADMINISTERED BY
THE STATE BOARD OF EQUALIZATION.

The Fresno County Zoo Authority ordains as follows:

SECTION 1. Title and Summary.

This ordinance shall be known as the “Fresno County Zoo Authority Transactions and Use Tax Ordinance.” If approved by the voters, this Ordinance will be an extension of the transactions and use tax, and will be the same as the current tax (which expires March 31, 2015), to be applicable in the incorporated and unincorporated territory of the County, the proceeds of which are to be used exclusively for zoos, zoological facilities, and related zoological purposes within the County.

SECTION 2. Submission to the Voters; Voter Approval; Operative Date.

This Ordinance is an ordinance calling for or otherwise relating to an election, and shall therefore take effect immediately upon adoption by this Board. The provisions of this Ordinance are to be submitted to the voters of the County for approval in order that the successor transactions and use tax can become operative, as provided by Revenue and Taxation Code section 7286.43. The tax submitted to the voters by this Ordinance will therefore take effect only if at least two-thirds of the electors voting on

the measure at the November 4, 2014 election vote in favor of the measure. If approved by the voters, the provisions of this ordinance authorizing the levy of one-tenth of one percent (0.10%) transactions and use tax will become operative on the later of April 1, 2015 or the first day of the first calendar quarter following the execution of the State Board of Equalization contract in accordance with Section 5 of this ordinance.

SECTION 3. Provisions of Fresno County Zoo Authority Ordinance Regarding Fresno County Zoo Authority Transactions and Use Tax.

Effective on the date the successor tax becomes operative under Section 2 of this Ordinance, Section 1.010 of Fresno County Zoo Authority Ordinance No. 2004-1 is amended to read as follows:

Section 1.010. Purpose.

This ordinance is adopted to achieve the following, among other, purposes and directs that its provisions are interpreted to accomplish those purposes:

a. To impose a one-tenth of 1 percent (0.10%) retail transactions and use tax according to the provisions of Part 1.6 (commencing with section 7251) of Division 2 of the Revenue and Taxation Code, as specifically authorized by section 7286.43 of Chapter 2.85 of Part 1.7 of Division 2 of the Revenue and Taxation Code;

b. To adopt a retail transactions and use tax ordinance which incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are consistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code;

c. To adopt a retail transactions and use tax ordinance which imposes a tax and provides a measure for it that the State Board of Equalization can administer and collect in a manner that adapts itself as fully as practicable to, and requires the least

possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California Sales and Use Taxes;

d. To adopt a retail transactions and use tax ordinance which can be administered in a manner which, to the greatest degree possible, will be consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, will reduce the cost of collecting the transactions and use taxes and simultaneously will reduce the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

e. To adopt a retail transactions and use tax ordinance that provides funding for zoos, zoological facilities, and related zoological purposes within the County of Fresno.”

SECTION 4. AUTHORITY EXPENDITURE PLAN

Section 4.010. Purpose of Ordinance

The purpose of this ordinance is to allow the Authority to fund the services and programs authorized hereunder pursuant to Revenue and Taxation Code section 7286.43.

Section 4.020. Definitions

The following terms and phrases shall be defined in the manner listed below:

a. “Capital projects” shall mean improvement projects for facilities with a useful life of five years or more as well as the acquisition of animals.

b. “Fresno Chaffee Zoo” shall mean the Fresno Chaffee Zoo in the City of Fresno, or its successor.

c. "Administrative Costs" shall mean actual expenses incurred by the Authority. Apportionment of any overhead and/or accounting of actual costs shall be accomplished in accordance with the standards and procedures found in Title 2 Code of Federal Regulations, Subtitle A, Chapter II, Part 225.

Section 4.030. Imposition and Distribution Formula for Special Fresno County Zoo Transaction and Use Tax

Under the authority granted pursuant to this ordinance as approved by the voters, a one-tenth of one percent (0.10%) transaction and use tax is imposed for the special purposes and programs specified hereunder. The proceeds of the special tax shall be distributed in the following manner:

a. The proceeds of the special tax shall first be applied to reimburse Fresno County for the costs of the election held pursuant to Revenue and Taxation Code section 7286.43. The proceeds of the tax shall also be available to pay the costs of any election for an extension of the tax.

b. Up to 2% of the annual special tax proceeds shall be allocated for administrative costs as defined herein. This administrative allocation shall be made based upon budgeted estimates of administrative costs prior to any distribution made in any fiscal year.

c. The remaining annual special tax proceeds shall be distributed to the Fresno Chaffee Zoo, on a reimbursement basis, for expenditures that fall within the following limitations and are approved by the Authority:

1. A minimum of two-thirds of the funds shall be for capital projects in the Chaffee Zoo approved by the Authority Board. Authority Board approval of

improvement projects for facilities will be based upon preliminary plans submitted by the Fresno Chaffee Zoo.

2. Up to one-third of the funds shall be available for operations and maintenance of the Fresno Chaffee Zoo.

d. Nothing herein shall prevent the Authority from authorizing multi-year capital projects and/or programs within the time period established for this special tax, or from pledging future annual special tax proceeds as security for loans to fund capital projects.

e. The Fresno Chaffee Zoo shall provide the Authority with an annual use statement demonstrating the use of said funds authorized by the Authority. The statement shall be made in a form acceptable to the Authority and shall be approved by a certified public accountant prior to its submission to the Authority. The Authority may request status reports on the progress of projects and programs to be submitted to the Authority for public discussion at any Authority meeting from time to time.

Section 4.040. Ineligible Activities

No funds received by the Fresno Chaffee Zoo shall be expended for the following ineligible activities:

a. Activities normally funded by a city or county through state, federal and/or local revenues such as animal control, health care, criminal justice programs, and social service programs.

b. Programs not open and available on any equal basis to all residents of Fresno County.

c. Programs which promote religious or sectarian purposes.

- d. Scholarships, grants or other payments to individuals for educational purposes.
- e. Except as herein allowed, programs of local, state or federal governments or their subsidiaries.
- f. Out-of-state travel expense.
- g. Programs or policies that discriminate against any individual or group on the basis of race, sex, color, ethnicity, religious preference, or national origin in the operation of facilities or in membership policies.

SECTION 5. Severability and Construction

If any provision of this ordinance, or part thereof, is for any reason held to be invalid or unconstitutional, the remaining sections shall not be affected, but shall remain in full force and effect, and to this end the provisions of this ordinance are severable. The provisions of this ordinance shall be liberally construed to effectuate its main purpose of providing funding to programs and services that support zoos, zoological facilities, and related zoological purposes within Fresno County.

SECTION 6. Sunset Clause

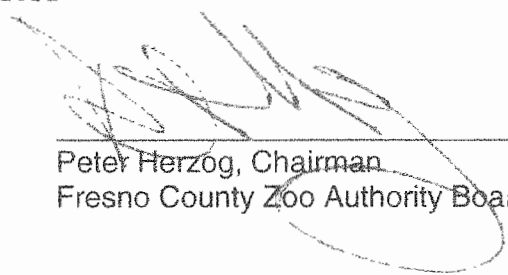
The transactions and use special tax is imposed hereunder at a rate of one-tenth of one percent (0.10%) for the period of ten (10) years. Any surplus remaining at the end of the ten-year period shall be utilized in the manner specified hereunder until the funds are fully utilized.

THE FOREGOING WAS PASSED AND ADOPTED by the Fresno County Zoo Authority Board this 5th day of April, 2014 by the following vote, to-wit:

AYES: Herzog, Lyles, Gray, Swearingin, Toste, Waterhouse

NOES: None

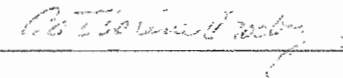
ABSENT: Stratford



Peter Herzog, Chairman
Fresno County Zoo Authority Board

ATTEST:

CATHERINE CROSBY
Zoo Authority Coordinator
Fresno County Zoo Authority Board



BEFORE THE BOARD
OF THE
FRESNO COUNTY ZOO AUTHORITY

FRESNO COUNTY, CALIFORNIA

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In the Matter of) Resolution No. 14-001
CALLING AN ELECTION TO SUBMIT)
BALLOT MEASURE FOR)
TRANSACTIONS AND USE TAX)

WHEREAS, on July 13, 2004, the Fresno County Board of Supervisors established the Fresno County Zoo Authority (hereinafter the "Authority") pursuant to Revenue and Taxation Code 7286.43 for the support of zoos, zoological facilities, and related zoological purposes in Fresno County; and

WHEREAS, on March 12, 2014, the Authority conducted a first reading of an ordinance imposing a special transactions and use tax of one tenth of one percent (0.10%) for a period of ten (10) years, the net revenues of which will be expended for the support of the Chaffee Zoo; and

WHEREAS, on April 30, 2014 the Authority approved the ordinance after a second reading; and

WHEREAS, under Revenue and Taxation Code section 7286.43, the ordinance must be approved by two-thirds of the voters of Fresno County voting on the ordinance; and

WHEREAS, the Authority desires that the ordinance be placed on the ballot for the November 4, 2014 general election and consolidated with that election.

NOW, THEREFORE BE IT RESOLVED:

1. Pursuant to Elections Code sections 9140 and 10403, the Authority hereby requests that the Fresno County Board of Supervisors direct that the above described special transactions and use tax ordinance be placed on the ballot for the November 4, 2014 general election and be consolidated with that election.

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Approved at a regular meeting of the Fresno County Zoo Authority Board, held on the 30th day of April, 2014, by the following vote, to-wit:

AYES: Herzog, Lyles, Gray, Swearengin, Toste. Waterhouse

NOES: None

ABSENT: Stratford



Peter Herzog, Chairman,
Fresno County Zoo Authority Board