City of Biggs

Agenda Item Staff Report
for the Regular City Council Meeting:
July 26, 2016

TO: Honorable Mayor and Members of the City Council
FROM: Mark Sorensen, City Administrator
Subject: Placing Orchard Hospital property tax on the November 2016 ballot.

Background:

In June 2016 Council passed resolution 2016-07 authorizing this item to be placed on the November 2016 ballot. Subsequently, Orchard Hospital's attorney requested minor revisions to Sections 16 and 17 on Page 5 of the resolution. The revised resolution (2016-14) is attached, as is page 5 of the previous resolution for comparison.

By way of resolution 2006-14 the City of Biggs authorized the placement of the question of authorizing a parcel tax to support the local hospital, now Orchard Hospital, on the ballot in 2006. The measure passed in November 2006. The parcel tax was set to expire after a period of ten years.

Hospital representatives wish to place a subsequent question of authorizing, and in effect continue the current parcel tax to support Orchard Hospital. The following resolution authorizes the item to be placed upon the November 2016 ballot within the City of Biggs for voter consideration.

Recommendation: Pass **RESOLUTION 2016-14**

A RESOLUTION OF THE BIGGS CITY COUNCIL CALLING AND GIVING NOTICE OF A GENERAL ELECTION FOR CITY SPECIAL TAX MEASURE (STANDBY COSTS OF PROVIDING EMERGENCY ROOM SERVICES IN A CRITICAL ACCESS HOSPITAL (ORCHARD HOSPITAL)) TO BE HELD NOVEMBER 8, 2016; REQUESTING THE BOARD OF SUPERVISORS OF BUTTE COUNTY TO CONSOLIDATE SAID ELECTION WITH THE GENERAL STATEWIDE ELECTION; APPROVING AN INCREASE IN THE CITY'S SPENDING LIMIT, AND SETTING THE BALLOT LANGUAGE

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Mark Sorensen, City Administrator

RESOLUTION 2016-14

A RESOLUTION OF THE BIGGS CITY COUNCIL CALLING AND GIVING NOTICE OF A GENERAL ELECTION FOR CITY SPECIAL TAX MEASURE (STANDBY COSTS OF PROVIDING EMERGENCY ROOM SERVICES IN A CRITICAL ACCESS HOSPITAL (ORCHARD HOSPITAL)) TO BE HELD NOVEMBER 8, 2016; REQUESTING THE BOARD OF SUPERVISORS OF BUTTE COUNTY TO CONSOLIDATE SAID ELECTION WITH THE GENERAL STATEWIDE ELECTION; APPROVING AN INCREASE IN THE CITY'S SPENDING LIMIT, AND SETTING THE BALLOT LANGUAGE

WHEREAS, the City Council (Council) of the City of Biggs (City) has determined:

1. That the cost to maintain satisfactory levels of health care at the local health care facilities is greater than the revenue those facilities receive.

2. That absent supplemental funding by the citizens of Biggs, the local health care facilities will be forced to close.

3. That closure of the local health care facilities would constitute a detriment of and to the health, welfare and safety of the citizens of the City.

4. That the levy of a City-wide special tax as hereinafter provided is necessary to provide funding to maintain the local health care facilities and services.

WHEREAS, the Council has also determined that it is in the best interest of the community to seek voter approval, which will require approval by two-thirds voters voting thereon, for the proposed special property tax in order to be able to maintain the local health care facilities and services; and,

WHEREAS, the Council has determined that it is necessary and appropriate to submit a proposal to the City voters for the adoption of a this special property tax measure; and,

WHEREAS, if approved by the voters, the special property tax for stand by costs of providing emergency room services in a critical access hospital (Orchard Hospital) will be used solely for the purpose of providing those services; and,

WHEREAS, if this special property tax is approved by the voters, the City may exceed the spending limit as previously established for the City in accordance with the provisions of Article XIII B of the California Constitution; and,

WHEREAS, Article XIIIA, Section 4 of the California Constitution and Sections 50075, 50076, 50077 and 53722 et. seq. of the California Government Code authorize cities, by two-thirds vote of the qualified electors, to impose special taxes; and,

WHEREAS, the City of Biggs is a general law city and is empowered to exercise all powers necessary and appropriate to a municipal corporation for the general welfare of its inhabitants; and,

WHEREAS, pursuant to Elections Code section 1300 and Biggs Municipal Code section 2.05.020, the City of Biggs' general election is to be held at the same time as the statewide general election and said date for both is set forth in Elections Code 1200, and for this year, 2016, is November 8, 2016; and,

WHEREAS, the Council desires to submit this special tax ballot measure to the voters of the City of Biggs for their approval and adoption at the general election to be held in the City on November 8, 2016; and,

WHEREAS, this ballot measure is as follows:

A ballot measure to adopt a local public health facilities and services parcel tax.

WHEREAS, it is desirable that the Butte County Department of Elections canvas the returns of the consolidated election and that the election be handled in all respects as if it were only one election; and,

WHEREAS, the City finds that under the California Environmental Quality Act (CEQA) guidelines sections 15060(c)(2) and 378 subdivisions (2) and (4) of subdivision (b), this measure does not constitute a project under CEQA and therefore review under CEQA is not required; and,

WHEREAS, November 8, 2016 is the date of the state's and the City's general statewide election; and,

WHEREAS, Elections Code 9282 sets forth procedures for how arguments in favor or in opposition of any city measure shall be submitted.

NOW, THEREFORE, THE BIGGS CITY COUNCIL DOES HEREBY RESOLVE, DECLARE, DETERMINE, AND ORDER AS FOLLOWS:

Section 1. Call of Election.

The City Council hereby calls an election at which the questions of the approval of the proposed special tax and spending limit increase shall be submitted to the registered voters within the City. The election shall be held on November 8, 2016. Pursuant to the provisions of California Elections Code Section 10002, the Council hereby requests the Butte County Board of Supervisors to authorize and direct the Butte County Clerk/Registrar of Voters/Election Official to serve as the election official conducting this election in all respects and to consolidate this election with the regular election to be held on that date. The costs of the election shall be borne by the City of Biggs. Pursuant to Elections Code sections 10400 et seq., the election for this measure shall be consolidated with the general statewide election to be conducted on November 8, 2016.

Section 2. Request to Consent.

Pursuant to the requirements of Elections Code section 10403, the Board of Supervisors of the County of Butte is hereby requested to consent and agree to the consolidation of said election.

Section 3. Request for Services.

The Council does hereby request that the Registrar of Voters/Election Official of the County of Butte perform necessary services in connection with said election.

Section 4. Filing of Resolution.

The City Council hereby authorizes and directs the City Clerk to file with the Butte County Clerk and Registrar of Voters/Election Official certified copies of this resolution.

Section 5. Impartial Analysis.

The City Clerk is hereby directed to submit copies of this ballot measure to the City Attorney, who shall prepare an impartial analysis of this measure in accordance with Elections Code 9280. The analysis shall be submitted by the City Attorney to the Registrar of Voters/Elections Official of Butte County, for printing by the date set by the County Registrar of Voters/Elections Official. The analysis shall not exceed 500 words in length for the measure and shall otherwise comply in all substantial respects with the applicable provisions of the Elections Code of the State of California.

Section 6. Arguments.

Arguments for and against the measure shall be filed in accordance with this resolution and applicable provisions of law. Arguments for and against the measure shall be submitted to the Biggs' City Clerk before 5:00 p.m., August 11, 2016. Rebuttal arguments shall be submitted to the City Clerk's office before 5:00 pm, August 22, 2016. The Biggs' City Clerk shall transmit the arguments to the Butte County Clerk and Registrar of Voters/Election Official. Any argument shall not exceed 300 words in length and shall not be signed by more than five persons. Any rebuttal shall not exceed 250 words in length and shall not be signed by more than five persons; those persons may be different persons who signed the direct arguments.

Section 7. Mayor/Subcommittee.

The Mayor or a designated subcommittee consisting of Council Members are hereby authorized to prepare a written argument in favor of this measures not to exceed 300 words each, on behalf of the Biggs City Council. At the Mayor's/subcommittee's discretion, the arguments may also be signed by bonafide organizations or by individual voters.

Section 8. Transmittal of Arguments.

Pursuant to Elections Code section 9285, when the City Clerk has received the arguments for and against the measure, the City Clerk shall send copies of the arguments in favor of the measure to the authors of the arguments against the measure, and copies of the arguments against the measure to the authors of the arguments in favor of the measure.

Section 9. Notices and Text of Implementing Ordinance.

The City Clerk is hereby directed to cause notice of the measure to be published in a newspaper of general circulation, or any other newspaper designated as an official newspaper of the City of Butte in accordance with Elections Code section 12111 and Government Code Section 6061.

The text of the implementing ordinance will be available from the Biggs City Clerk.

Section 10. Hearings.

The City Clerk is hereby directed to provide notice of any necessary public hearing regarding this tax measure and the Council shall hold any such hearings.

Section 11. Funds.

The City Administrator is authorized and directed to appropriate the necessary funds to pay for the City's cost to place the measure on the election ballot.

Section 12. Applicable Law.

All particulars not recited in this resolution regarding the conduct of the holding of the election shall be as provided by law for the holding of municipal elections.

Section 13. Enactment of a Special Property Tax for Stand by Costs of Providing Emergency Room Services in a Critical Access Hospital (Orchard Hospital).

There is hereby enacted within the City, a special tax to be assessed against all taxable real property within the City for stand by costs of providing emergency room services in a critical access hospital (Orchard Hospital). The special property tax shall be assessed against real property based upon the use of the property and in the amount of: $70 per parcel containing one or more residential structures. Vacant and commercial parcels shall not be subject to the tax.

If approved by the voters, the special tax shall continue for 10 years.

Section 14. Authorization for Spending Limit Increase.

To the extent that the revenue from the special property tax enacted by this resolution is in excess of the spending limit for the City as calculated in accordance with the provisions of Article XIII B of the California Constitution and applicable statutory provisions, the approval of this special property tax by the voters shall constitute approval to increase the City's spending limit in an amount equal to the revenue derived from the special property tax for the maximum period of time as allowed by law.

Section 15. Submission of Special Tax Measure to Voters.

This special tax measure and corresponding increase in the City's spending limit established by this resolution shall be submitted to the registered voters within the City at an election for their approval or rejection. This special tax shall not become effective unless approved by two-thirds of the registered voters of the City voting thereon.

Section 16. Ballot Title and Question Submitted to the Voters.

The Butte County Registrar of Voters/Elections Official is hereby requested to include the following ballot title and measure, and the relevant voter pamphlet information, as set forth hereinafter, and that the following ballot question, to be numbered and designated by the County of Butte as a City Council proposed ballot measure, is to appear as follows:

Title: Special Property Tax for Stand by Costs of Providing Emergency Room Services in a Critical Access Hospital (Orchard Hospital)

Shall an existing special property tax to fund standby costs of providing emergency room services at the Orchard Hospital, in the amount of $70 per residential equivalent unit per year for an additional ten years (vacant parcels and parcels without residential units shall not be subject to the tax) to raise approximately $330,000.00 per year, as enacted by Biggs Resolution 2016-14, and a corresponding increase in the City's spending limit, be approved?

YES_____ NO_____

Section 17. Effective Date of Special Tax and Termination Date.

This special tax shall be deemed established and shall be in effect as of the day following the election, upon certification of the election results evidencing approval by at least two-thirds of the registered voters voting thereon, by the Butte County Board of Supervisors and/or the City Council. The increase in the City spending limit shall be deemed effective beginning in the 2016-2017 fiscal year.

This special tax shall be levied against all taxable real property within the City beginning with the 2016-2017 fiscal year. The tax shall terminate effective June 30, 2027.

Section 18. Use of Special Tax Proceeds.

The proceeds of this tax shall be deposited in a special fund, maintained by the City, which proceeds, together with any interest and penalties thereon, collected each fiscal year (collectively, the "Tax Proceeds,"), shall be used for stand by costs of providing emergency room services in a critical access hospital (Orchard Hospital). The City may transfer the Tax Proceeds to another public entity and/or to a private entity for the same purpose. The City shall direct and oversee the expenditure of the Tax Proceeds.

Section 19. Collection of Special Property Tax.

Unless otherwise ordered pursuant to a resolution adopted by the Council, the special property tax shall annually be collected on the County of Butte property tax bill in the same manner and subject to the same penalties as the county property taxes are collected. The City shall annually take such steps as are necessary to have the special property tax collected through the property tax bill and shall coordinate with the County Auditor and Tax Collector in this regard. The County shall be entitled to deduct its reasonable costs incurred in collecting the special tax before the balance of the tax is remitted to the City.

As an alternative to the collection of the special tax through the property tax roll, the Council may direct that the special tax be separately and individually billed to each property owner whose property is subject to payment of the special tax. If billed in this manner, the special tax shall be due and payable within 45 days of the date of the mailing of the bill. Failure to pay the special tax within the 45 days shall result in the automatic imposition of a ten percent (10%) late penalty and thereafter, the balance unpaid, including the penalty and interest, shall accrue interest at the rate of one percent (1%) per month until paid in full.

If the special tax is billed in this alternative manner, the special tax shall constitute a lien against the real property as of January 1st of each year, and any unpaid taxes may be collected on the County property tax bill in the following year.

Section 20. Validation Pursuant to CCP Section 860 et. seq.

Pursuant to the provisions of Government Code Section 50077.5, any judicial action or proceeding to attack, review, set aside, void or annul this resolution and/or the approval of the subject special tax and/or increase in the spending limitation pertaining to the special tax shall be commenced, if at all, within 60 days of the date of the adoption hereof.

I certify that the foregoing Resolution was duly and regularly passed and adopted by the City Council of the City of Biggs at its special meeting of July 26, 2016 by the following vote:

AYES: Council Members: _____

NOES: Council Members: _____

ABSENT: Council Members: _____

ABSTAIN: Council Members: _____

ATTEST:

_____
Roben Dewsnup
CITY CLERK

_____
Roger L. Frith
MAYOR

To the extent that the revenue from the special property tax enacted by this resolution is in excess of the spending limit for the City as calculated in accordance with the provisions of Article XIII B of the California Constitution and applicable statutory provisions, the approval of this special property tax by the voters shall constitute approval to increase the City's spending limit in an amount equal to the revenue derived from the special property tax for the maximum period of time as allowed by law.

Section 15. Submission of Special Tax Measure to Voters.

This special tax measure and corresponding increase in the City's spending limit established by this resolution shall be submitted to the registered voters within the City at an election for their approval or rejection. This special tax shall not become effective unless approved by two-thirds of the registered voters of the City voting thereon.

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Title: Special Property Tax for Stand by Costs of Providing Emergency Room Services in a Critical Access Hospital (Orchard Hospital)

PREVIOUS VERSION

Shall a special property tax to fund stand-by costs of providing emergency room services at the Orchard Hospital, in the amount $70 per residential equivalent unit per year for ten years (vacant parcels and parcels without residential units shall not be subject to the tax), as enacted by Biggs Resolution 2016-07, and a corresponding increase in the City's spending limit, be approved?

YES_____ NO_____

Section 17. Effective Date of Special Tax and Termination Date.

This special tax shall be deemed established and shall be in effect as of the day following the election, upon certification of the election results evidencing approval by at least two-thirds of the registered voters voting thereon, by the Butte County Board of Supervisors and/or the City Council. The increase in the City spending limit shall be deemed effective beginning in the 2016-2017 fiscal year.

This special tax shall be levied against all taxable real property within the City beginning with the 2016-2017 fiscal year. The tax shall terminate effective July 1, 2026.

PREVIOUS VERSION