

Council gives hoteliers extra time to pay TOT

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While Crescent City is experiencing a shortfall of tax revenues during the coronavirus shut down, the City Council approved allowing innkeepers extra time to remit their transient occupancy taxes (TOT) for the first quarter ending in March.

At a special meeting on April 28, the council members unanimously approved an urgency ordinance allowing owners of hotels, motels Airbnbs, vacation rentals and RV parks until Aug. 31 to remit the 10 percent TOT. Finance Director Linda Leaver explained that the move allows city staff to capture the funds in the current fiscal year 2019-20. A second option of deferring the TOT payments until Oct. 13 would force staff to count the revenue to the 2020-21 fiscal year.

Leaver said in her research, there aren't many cities deferring TOT remittance, but those that are have set the end of August or sooner as a deadline.

"Deferring payment of this TOT might provide some short-term cash flow relief to these businesses to allow them to get some other plans in order or obtain other financing to help them through this," Leaver said.

She said 21 lodging facilities have already remitted their TOT for January through March.

"If the hotel uses that TOT money to basically pay its own expenses during this time, then, of course, they're going to be faced with having to recover that money in order to pay the city back at a future time on top of whatever TOT they will owe in that future quarter," Leaver added.

The transient occupancy tax is a 10 percent tax the city imposes on guests who stay at lodging facilities city limits. The TOT makes up 25 percent of Crescent City's general fund, with the money going toward public safety, recreation and other city services, Leaver explained.

However, City Manager Eric Wier said with the closure of the facilities that collect the TOT, the city is in jeopardy of losing several hundred thousand dollars in revenue.

“Cash flows will be starting to be depleted so we do have to be very mindful from a fiscal standpoint when it comes to all decisions from this point out,” Wier said.

A special City Council meeting was scheduled for May 7 to discuss the city’s financial situation, Wier said.

Leaver said TOT for January through March is normally due on April 30. The hotelier collects those dollars and turns the fees over quarterly to the city. Leaver said options to waive those dollars would constitute a gift of public funds.

City Attorney Martha Rice told the City Council that if the city is going to give public dollars to private individuals, including business, nonprofit organization, or a sole proprietor, there has to be a public benefit.

“The public benefit needs to be direct and substantial and any benefit to the business needs to be only incidental,” Rice said. “That’s what we’re looking at when we analyze each one of these allocations of public money.”

Lodging facilities had little traffic since a March 29 order from Del Norte County Public Health Officer Dr. Warren Rehwaldt prohibiting short-term stays due to the COVID-19 pandemic.

The councilors also explored creating a 12-month payment plan with payments beginning in October. Leaver said none of that revenue would be counted in the 2019-2020 fiscal year. Some of that money would be counted for fiscal year 2020-21 and some wouldn’t be counted until 2021-22.

Rice explained that there is also the question of whether those businesses would have been charged interest if they signed up for the payment plan. Losing interest is different from losing the entire TOT remittance, though further analysis is needed, she said.

“There’s also rules and regulations on where the city can put its money, so I’m seeing if any of that comes into play as well as the responsibility that the City Council has when investing or making loans,” she said. “What’s the risk? If it’s too risky, it may not be a tolerable use of public funds.”

Another 25 percent of the city’s general fund comes from sales tax. An executive order from Gov. Gavin Newsom allows small businesses to defer their first-quarter sales tax remittances for 90 days, Leaver said. They can also set up a payment plan, paying up to \$50,000 over 12 months.

“We are going to be heavily impacted by this emergency,” Leaver added, promising to go into specifics at the May 7 meeting. “We don’t know how long this will last, but we’re looking at anywhere in the range of several hundred thousand dollars to a million dollars or more, depending on how long this lasts and how severe the shutdown orders are and for how long. We have to start thinking about the city’s ability to provide essential services without interruption.”

During discussions, Councilor Jason Greenough noted that in these uncertain times that may last all year, if the city’s hotels go under, it will create more havoc. However, he disagreed that the taxes hoteliers collect belong to the city even before they are remitted to the city.

“Since a government order prevented them from doing business, the government should help them out,” Greenough said. “We, as the government, we supported this shut down of our hotels through the county’s health officer’s order. So, in essence, we’ve taken a semi-truck and we’ve driven it into our hotels and they are unable to do business. I think we need to do something to help them out.”

Mayor Pro Tem Heidi Kime, sharing her thoughts, agreed with Greenough.

“I don’t think people are going to cry unfair if we’re making sure that we’re going to keep that hotel owner in business. If that hotel owner goes out of business, then your TOT just took a dive, and then everyone is affected by that,” Kime said.

Mayor Blake Inscore revisited the notion that if the city gives lodging facilities a break on their TOT, it needs to give something comparable to other businesses, including service-related businesses that don’t take sales taxes.

Inscore explained he initially liked the idea of giving hoteliers 12 months to remit their TOT, getting them through the next tourist season. But with the city standing to lose several hundred thousand dollars or more from the pandemic, Inscore said his initial plan would be fiscally unsound.

“The idea of giving them some time and keeping it within the 2019-20 fiscal year seems to make more sense with all the information that I’ve gotten now,” he said. “As much as I would like to help more, we cannot do what we cannot afford to do.”