

F I L E D

DEC 04 2019

**RESOLUTION NO. 2019- 56**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE COVE RESTATING AND CORRECTING CLERICAL ERRORS IN RESOLUTION NO. 2019-53 SUBMITTING TO THE CITY OF ORANGE COVE'S QUALIFIED VOTERS AT THE MARCH 3, 2020 ELECTION A MEASURE SEEKING VOTER APPROVAL OF A PARCEL TAX UPON PARCELS OF REAL PROPERTY FOR THE PROVISION OF POLICE AND FIRE PROTECTION SERVICES; ESTABLISHING POLICIES AND PROCEDURES IN CONNECTION WITH SUCH AN ELECTION; REQUESTING THE FRESNO COUNTY BOARD OF SUPERVISORS TO DIRECT THE COUNTY REGISTRAR OF VOTERS TO CONDUCT THE ELECTION, WHICH SHALL BE CONSOLIDATED WITH ANY ESTABLISHED ELECTION ON MARCH 3, 2020; DIRECTING THE CITY ATTORNEY TO PREPARE AN IMPARTIAL ANALYSIS OF THE MEASURE; AUTHORIZING ARGUMENTS AND THE FILING OF REBUTTAL ARGUMENTS FOR OR AGAINST THE MEASURE; AUTHORIZING THE CITY MANAGER TO APPROPRIATE THE FUNDS NECESSARY TO PAY THE CITY'S COST OF PLACING THE MEASURE ON THE ELECTION BALLOT; AND DIRECTING THE COUNTY CLERK TO TAKE STEPS NECESSARY TO PLACE THE MEASURE ON THE BALLOT AND TO CAUSE THE MEASURE OR ORDINANCE TO BE PRINTED.**

2019 DEC 4 PM 5:15:15

**WHEREAS**, the City Council held a noticed public hearing on November 13, 2019 to consider calling a municipal election to seek voter approval of a parcel tax to pay for police and fire protection services, as authorized by Government Code Section 53978 et. seq.; and

**WHEREAS**, in the last five years, Orange Cove's population has grown but the number of police officers patrolling the City has remained at the same level for the last five years. We need more officers on the streets to make Orange Cove safer; and

**WHEREAS**, juvenile felonies, including violent crimes, have increased during the last year, and, that maintaining and increasing successful anti-gang activities will help to make our neighborhoods and schools safer; and

**WHEREAS**, preventing gang and drug related crimes is essential to creating safe neighborhoods in Orange Cove; and

**WHEREAS**, expanding neighborhood-based policing will help make areas around our schools and parks safer; and

**WHEREAS**, 9-1-1/fire and medical emergency calls have increased in the last five years. We need to add more firefighters and paramedics to improve emergency response times; and

**WHEREAS**, police and fire equipment are needed to properly equip police officers and firefighters to ensure that our City remains safe; and

**WHEREAS**, the City Council has evaluated Orange Cove's safety needs with input from the public; and

**WHEREAS**, after holding the public hearing, the City Council concluded that additional funding is necessary to maintain police and fire protection services; and

**WHEREAS**, the tax to be submitted to the voters, if approved, would be imposed on parcels of real property within the City; and,

**WHEREAS**, Elections Code set forth the procedures for arguments in favor of or in opposition of any City measure; and

**WHEREAS**, Elections Code set forth the procedures for rebuttal arguments; and

**WHEREAS**, based on all of the information presented at the November 13, 2019 meeting, both written and oral, including the staff reports, minutes, and other relevant materials, the City Council finds that under CEQA Guidelines 15060(c)(2) and 15378, subdivisions (2) and (4) of subdivision (b), this tax does not constitute a project under CEQA and therefore review under CEQA is not required; and

**WHEREAS**, the previous Resolution 2019-53 contained clerical errors in reference to code sections and there is a need to amend and restate Resolution 2019-53; and

**WHEREAS**, there is a need to correct those errors so as to allow the Fresno County Elections Clerk to proceed with the consolidation of the special election with the primary election to be held March 3, 2020.

**BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF ORANGE COVE, AS FOLLOWS THAT RESOLUTION 2019-53 IS HEREBY AMENDED AND RESTATED AND AS RESTATED SHALL STATE AS FOLLOWS:**

Section 1. The above recitals are true and correct.

Section 2. Pursuant to Elections Code, the City Council of the City of Orange Cove hereby calls a special election to be consolidated with the primary election, at which it shall submit to the qualified voters of the City of Orange Cove a measure that, if approved, would adopt a parcel tax to fund police and fire protection services, as authorized by Government Code Section 53978 and, if approved by a two-thirds majority of voters, will provide for a citizens oversight committee.

Section 3. This measure shall be designated by letter by the Fresno County Registrar of Voters. Pursuant to Election Code Section 10400 *et seq.*, the special election for this measure shall be consolidated with the primary election to be conducted on March 3, 2020.

Section 4. The ballot language for the proposed measure shall be as follows:

<b><u>MEASURE:</u></b>		
<b>ORANGE COVE POLICE AND FIRE EMERGENCY SAFETY MEASURE.</b> Improve public safety and emergency response times; maintain the number of police officers; fight crime/gangs/drugs; provide modern firefighting equipment, with all money used only for local Police and Fire, shall Orange Cove establish an annual special \$36 parcel tax for single-family homes and specified amounts for multifamily, commercial, agricultural, industrial parcels, expected to raise about \$98,000 annually for four years, with independent Citizen Oversight?	<b>YES</b>	
	<b>NO</b>	

Section 5. The following constitutes the synopsis of the measure to be voted on for purposes of meeting the publication requirements of Election Code Section 12111:

SYNOPSIS OF MEASURE

This Measure proposes an ordinance to raise revenue for police and fire protection by authorizing a parcel tax on each parcel of real property in the City. The tax would be paid in addition to current State and local property taxes and would be collected at the same time and in the same manner as the existing real property taxes. \$36 shall be imposed on each single-family residential parcel within the City. A tax of \$25 shall be imposed on each multifamily unit within the City. A tax of \$36 shall be imposed on each agricultural parcel within the City. A tax of \$180 shall be imposed on each commercial parcel within the City. A tax of \$275 shall be imposed on each industrial parcel within the City.

The Measure provides for a citizens oversight committee, and the tax is set to expire in four (4) years if approved by two-thirds of the voters on March 3, 2020.

Section 6. The full text of the ordinance submitted to the voters is attached as Exhibit A. The full text of Ordinance No. 388 is not required to be printed in the Sample Ballot and Voters Pamphlet. However, the full text of the measure shall be made available at the Office of the Fresno County Clerk/Registrar of Voters and the Office of the Orange Cove City Clerk.

Section 7. Passage of this measure requires a two-thirds majority of votes.

Section 8. The City of Orange Cove requests that the Fresno County Clerk/Registrar of voters conduct the special election and canvass the returns, and the City consents to reimburse the Registrar of Voters for all costs incurred by said services.

Section 9. The Fresno County Clerk/Registrar is hereby directed to cause notice of the measure to be published once in The Fresno Bee, in accordance with Section 12111 of the Elections Code and Section 6061 of the Government Code.

Section 10. a. An election on the measure set forth in Section 4 shall be held in the City of Orange Cove on Tuesday, March 3, 2020. The City Council requests that the Board of Supervisors of Fresno County consolidate the special election on the measure with any established election on the same day. The City Clerk is directed to file a certified copy of this resolution with the Board of Supervisors of Fresno County and the Registrar of Voters of Fresno County on or before December 6, 2019.

b. The election on the measure set forth in Section 3 shall be held and conducted, the votes canvassed and the returns made, and the results ascertained and determined as provided for herein. In all particulars not prescribed in this resolution, the election shall be held as provided by law for the holding of primary municipal elections in the City of Orange Cove, and otherwise in accordance with the Elections Code of the State of California.

c. The election for the measure set forth in Section 2 shall be held in Fresno County in the City of Orange Cove on March 3, 2020, as required by law, and the Board of Supervisors of the County of Fresno is authorized to canvas the returns of that election with respect to the votes cast in the City of Orange Cove and certify the results to the City Council of the City of Orange Cove.

d. At the next regular meeting of the City Council of the City of Orange Cove occurring after the returns of the election for the measure set forth in Section 2 have been canvassed and the certification of the results to the City Council, the City Council shall cause to be entered in its minutes a statement of the results of the election.

Section 11.

a. Direct arguments shall not exceed three hundred words and shall be signed by not more than five persons.

b. Rebuttal arguments shall not exceed two hundred fifty words and shall be signed by not more than five persons; those persons may be different persons than the persons who signed the direct arguments.

c. The City Attorney shall prepare an impartial analysis of the measure, not to exceed five hundred words, showing the effect of the measure.

The Mayor is hereby authorized to prepare a written argument in favor of the proposed ordinance, not to exceed 300 words, on behalf of the City Council. At the Mayor's discretion, the argument may also be signed by bona fide associations or by individual voters who are eligible to vote.

Section 12. The City Manager is hereby authorized and directed to appropriate the necessary funds to pay for the City's cost of placing the Measure on the election ballot.

Section 13. The County Clerk is hereby authorized and directed to take all steps necessary to place the Measure on the ballot and to cause the Ordinance or Measure to be printed. A copy of the Ordinance or Measure shall be made available to any voter upon request.

PASSED, APPROVED and ADOPTED this 2<sup>nd</sup> day of December, 2019 by the following vote:

AYES:		COUNCILMEMBERS: Lopez, Silva, R. Rodriguez, Cervantes, E. Rodriguez
NOES:	0	COUNCILMEMBERS: None
ABSENT:	0	COUNCILMEMBERS: None
ABSTAIN:	0	COUNCILMEMBERS: None

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Victor P. Lopez  
Mayor of the City of Orange Cove

ATTEST  
  
\_\_\_\_\_  
June Bracamontes  
City Clerk of the City of Orange Cove



**DRAFT**  
**EXHIBIT "A" TO RESOLUTION NO. 2019- 56**

**ORDINANCE NO. 388**

AN ORDINANCE OF THE CITY OF ORANGE COVE AMENDING MUNICIPAL CODE OF THE CITY OF ORANGE COVE BY THE ADDITION OF TITLE 3, CHAPTER 3.36, ESTABLISHING PARCEL TAX FOR FUNDING POLICE AND FIRE PROTECTION SERVICES AS AUTHORIZED IN GOVERNMENT CODE SECTION 53978, AND PROVIDING FOR THE EFFECTIVE DATE THEREOF.

THE CITY COUNCIL OF THE CITY OF ORANGE COVE DOES ORDAIN AS FOLLOWS:

**SECTION 1:** Title 3 of the Orange Cove Municipal Code is hereby amended by the addition of Chapter 3.36 related to a special parcel tax for police and fire services and, as amended, shall read as follows:

Chapter 3.36 – FUNDING POLICE AND FIRE SERVICES

3.36.010 - Imposition of special tax.

A special tax to fund police services and fire prevention and protection services is hereby imposed on every parcel of land in the City of Orange Cove. The tax shall be imposed each fiscal year in the amounts permitted by this chapter. The tax imposed by this chapter shall be a tax upon each parcel of property within the city and the tax shall not be measured by the value of the property.

3.36.020 - Maximum tax amounts.

The maximum annual amount of the tax imposed on each parcel pursuant to this chapter shall be determined as follows:

A. A tax of thirty-six dollars (\$36.00) shall be imposed on each single-family residential parcel within the city. A "single family residential parcel" shall mean a parcel zoned for single family residences.

B. A tax of twenty-five (\$25.00) dollars shall be imposed on each multi-family residential unit within the city. A multi-family residential unit shall mean a building or portion of a building designed for or occupied by one family which is part of a multiple residential unit parcel. A "multiple residential unit parcel" shall mean a parcel zoned for a building or those portions thereof that accommodate or is intended to accommodate two or more residential units.

C. A tax of thirty-six (\$36.00) dollars shall be imposed on each agricultural parcel within the city. An "agricultural parcel" shall mean a parcel zoned for agriculture under the city's R-A zone.

D. A tax of one hundred and eighty dollars (\$180.00) shall be imposed on each commercial parcel within the city. A "commercial parcel" shall mean a parcel zoned for commercial purposes within the city.

E. A tax of two hundred and seventy-five dollars (\$275.00) shall be imposed on each industrial parcel within the city. An "industrial parcel" shall mean a parcel zoned for light or heavy manufacturing purposes within the city.

#### 3.36.030 - Exemptions.

A. Parcels owned by the city, federal or state government or any other public agency and parcels owned by any public or private entity that is specifically exempted from a parcel tax enacted as a special tax under applicable federal or state statute or regulation shall be exempt from the imposition of the special tax set forth in this chapter.

B. Private property owners claiming an exemption under Subsection A above shall file proof of exemption on a form prescribed by the city manager prior to June 30 for the first fiscal year for which the exemption is sought.

#### 3.36.040 - Administrative determinations; appeal procedures.

A. The records of the Fresno County Assessor as of March 1 of each year shall be used to determine each parcel for the calculation of the tax applicable to that parcel in the following fiscal year.

B. The city manager shall administer the special police and fire tax under this chapter.

C. Appeals of any determination of the city manager shall be submitted in writing to the city clerk not later than June 1 of the prior fiscal year for which the tax is imposed. The city council shall consider the appeal and issue a decision to the appellant in writing.

#### 3.36.050 - Accountability measures.

A. Special Fund; Use of Proceeds. In accordance with Government Code Section 53978, the proceeds of the tax imposed by this chapter shall be placed in a special fund and shall be dedicated and used only for city council approved police services and fire prevention and protection services. Eighty percent of the special tax proceeds shall be used for Police Services and twenty percent of the special tax proceeds shall be used for fire prevention and protection services.

B. Annual Review Report. An annual review report shall be prepared by the city setting forth the amount of revenues received under the special tax and amount of disbursements. The purpose is to assure accountability and the proper disbursement of the proceeds of the special tax. The annual review report shall be filed in the city clerk's office not later than January of each fiscal year in which the tax is levied.



C. Special Tax Oversight Committee. A special tax oversight committee comprised of city residents shall be established by the city council to review the annual review report and related records and to make comments and recommendations to the city council at a scheduled council meeting to ensure compliance with this chapter.

3.36.060 - Collection with property taxes.

The special tax imposed by this chapter shall be due in the same manner, on the same dates, and subject to the same penalties and interest as established by law for other charges and taxes fixed and collected by the County of Fresno on behalf of the City of Orange Cove. The special tax imposed by this chapter, together with all penalties and interest thereon, shall constitute a lien upon the parcel upon which it is levied until it has been paid, and shall constitute a person obligation of the owners of the parcel on the date the tax is due.

3.36.070 - Sunset clause.

The special tax adopted under this chapter shall sunset and expire by operation of law on April 30, 2024.

**SECTION 2. Severability.** If any section, subsection, sentence, clause phrase, or portion of this ordinance is for any reason held to be invalid or unenforceable by a court of competent jurisdiction, the remaining sections, subsections, sentences, clauses, phrases or portions of this ordinance shall nonetheless remain in full force and effect. The people of the City of Orange Cove hereby declare that they would have adopted each section, subsection, sentence, clause, phrase, or portions of this ordinance be declared invalid or unenforceable.

**SECTION 3. Two-Thirds Approval: Effective Date.** The tax imposed by this ordinance is a special tax. This ordinance shall be effective only if approved by two-thirds of the City's voters voting thereon on March 3, 2020, at the special election and shall go into effect ten (10) days after the vote is declared by the City Council.

**SECTION 4. Publication.** Before the expiration of fifteen (15) days after its effective date, this ordinance shall be published in a newspaper of general circulation published and circulated within the City of Orange Cove.

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ORDINANCE No. 388 was PASSED AND ADOPTED by the Voters of the City of Orange Cove, County of Fresno, by a 2/3 vote of the voters at a regular election held on March 3, 2020.

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ATTEST:

APPROVED: /

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June Bracamontes  
City Clerk

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Victor Lopez, Mayor  
City of Orange Cove

APPROVED AS TO FORM:

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Daniel T. McCloskey / \\  
City Attorney

IMPARTIAL ANALYSIS BY CITY ATTORNEY  
CITY OF ORANGE COVE  
MEASURE \_\_\_\_\_

Measure \_\_\_\_\_ proposes to raise revenue for police and fire protection by authorizing a parcel tax on each parcel of real property in the City. The tax would be paid in addition to current State and local property taxes and would be collected at the same time and in the same manner as the existing real property taxes. \$36 shall be imposed on each single-family residential parcel within the City. A tax of \$25 shall be imposed on each multifamily unit within the City. A tax of \$36 shall be imposed on each agricultural parcel within the City. A tax of \$180 shall be imposed on each commercial parcel within the City. A tax of \$275 shall be imposed on each industrial parcel within the City.

California Government Code Section 53798 allows for a general law city to propose a parcel tax under the following conditions: (a) The ordinance proposing that tax is approved by a two-thirds vote of all members of the governing body and is subsequently approved by a two-thirds vote of the qualified voters of the city voting in an election on the issue. (b) The ordinance includes the amount of the parcel tax. (c) The ordinance includes an independent oversight committee.

Measure \_\_\_\_\_ states that parcel tax would be used to “improve public safety and emergency response times; maintain the number of on-duty police officers; fight crime/gangs/drugs; provide modern firefighting equipment, with all money used only for local Police and Fire.” The City is legally bound to use the funds for police and fire protection.

Dated: November 19, 2019

Daniel T. McCloskey  
City Attorney  
City of Orange Cove

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