



Agenda Item C.2
DISCUSSION/ACTION ITEM
Meeting Date: June 17, 2008

TO: Mayor and Councilmembers
FROM: Daniel Singer, City Manager
CONTACT: Tina Rivera, Finance Director
SUBJECT: Business License Options

RECOMMENDATION:

- A. Receive an oral report from staff on input received as a result of outreach effort to business community; and
- B. Provide direction to staff on placing a tax initiative on the 2008 General Election.

BACKGROUND:

At the May 29, 2008, Business License Study Session, Management Partners presented the City Council and the public with the findings and recommendations regarding a Business License program. After much discussion on the matter, Council requested that additional input be solicited from the business community. In that effort, a bilingual letter from the Mayor was sent to Goleta businesses requesting their input, by either a brief online survey, email or call, or in person at tonight's meeting.

The City Council also directed staff to prepare a draft business tax ordinance for further discussion and consideration based on recommendations made in a motion by Councilmember Onnen and passed by the Council. The motion recommended focusing a future business license program on a per employee formula aimed at generating approximately \$750,000 a year for the City. Further details were also included in the motion, which have been incorporated into a proposed program.

DISCUSSION:

In order to provide the Council with as much public input as possible, staff will compile all feedback and survey results up until the day of the Council meeting and share those results with the Council.

Included as Attachment 1 to this report is the draft ordinance which is based on Council's initial direction, including the items listed below. The applicable sections of the corresponding draft ordinance are noted following each item. To ensure that staff has accurately captured Council's direction; staff is recommending a careful and thorough review those sections of the ordinance.

1. A tax ordinance solely for revenue generating purposes (**Section 5.04.050**);
2. A per employee fee structure with optional inflationary increases (**Sections 5.04.390 and 5.04.400**);
3. A program administrative fee that is waived the 1st year of program implementation (**Section 5.04.910**);
4. A reduction in tax as an incentive for startup businesses during the first three years of operation (**Section 5.04.900**);
5. Exemptions in our current ordinance in addition to those otherwise exempt by law (**Sections 5.04.650 thru 5.04.695**) (Attachment 2 also identifies exemptions given in other communities).

The ordinance also addresses the basic sections of a business license program which includes:

- Defining the duties of the Tax Collector
- Definitions
- Conformance to Code Requirements
- Compliance Requirements
- Procedure for Location Change
- Due Dates
- Duplicate Receipt Fees
- Application and Renewal Processes
- Confidentiality of Information Collected
- Accrual of Penalties
- Appeals
- Refunds
- Enforcement
- Rate & Fee Structure
- Subcontracting
- Exemptions
- Posting, Record Keeping and Inspections
- Tax Rate Reduction – Start-up Business

The draft ordinance excludes any regulatory components including those that are part of the current ordinance. Staff is proposing that these items be addressed in a separate ordinance which is not subject to voter approval. Staff recommends referring the matter of regulatory compliance to the Council's Ordinance Committee to develop such an ordinance. Attachment 3 identifies potential regulatory components related to business operations which the Ordinance Committee may wish to consider.

In the drafting of the ordinance, staff made various critical assumptions that are a matter of policy and therefore should be confirmed or revised by the City Council. These include:

- The meaning of a Fulltime Employee Equivalent (Section 5.04.010(5))
- The fee schedule for Real Estate Brokers and Agents (Section 5.04.430)
- Real Estate Developers are taxed in accordance with Section 5.04.390

- The current ordinance imposes a tax on all individual residential or commercial rental property owners since operating a rental property would be considered carrying on a business.
- There is no special tax provision for one-day or special events such as craft fairs, fiesta vendors, etc.

If Council wishes to pursue a Business License Tax, such an action would be subject to a simple majority vote by the Goleta electorate, under Proposition 218. In order to place such a measure on the November 2008 General Election, the ballot language would need to be provided to the County by July 3, 2008. Staff would, therefore, require specific direction as to the tax rate per employee in order to finalize and bring back to Council a complete Business License Program Ordinance. To facilitate that decision, the chart below depicts a couple of rate scenarios (a Gross of \$750,000 and a Net of \$750,000) and possible allocations for the revenues generated.

	Gross	Net
Fee Per Full Time Employee Equivalent	\$ 25	\$ 35
Tax Revenue Generated	\$ 750,000	\$ 1,040,000
ALLOCATIONS:		
Program Administration	\$ 90,000	\$ 90,000
Economic Development	\$ 200,000	\$ 200,000
Net	\$ 460,000	\$ 750,000
Recreation	\$ 400,000	\$ 500,000
Enhance Public Safety	\$ 60,000	\$ 150,000
Infrastructure Maintenance/Improvement	\$ -	\$ 100,000
Total	\$ 460,000	\$ 750,000

Staff is prepared to answer any questions and awaits further direction by Council.

STRATEGIC PLAN:

Revising the Business License Tax program is consistent with the Goal in the Goleta Strategic Plan entitled, “Sustain Sound Fiscal/Budgetary Planning.” Specifically, revising the Business License program meets Objectives “Revision of the Business License Policies/Program” as well as “City Revenue Options” and moves the City closer towards realizing its vision as defined within the City’s Strategic Plan.

LEGAL REVIEW:

The City Attorney has reviewed the ordinance presented.

ALTERNATIVES:

- A. Direct staff to finalize the Business Tax ordinance, based on additional direction provided, and to place on the November General Election.
- B. Take no action by which the existing Business License Program would be retained.

Submitted By:

Reviewed By:

Approved By:

Tina Rivera
Finance Director

Michelle Greene
Admin. Services Director

Daniel Singer
City Manager

Attachments:

- 1. Goleta Business Tax Ordinance
- 2. List of other exemptions
- 3. List of specially regulated businesses

Attachment 1
Goleta Business Tax Ordinance

TITLE 5 BUSINESS TAXES

Chapter: 5.01 Tax Collector

Chapter: 5.04 Business Taxes

Chapter 5.01 TAX COLLECTOR

Sections:

5.01.010 General Duties of Tax Collector.

The Tax Collector is authorized to:

(1) Obtain, receipt for, and deliver to the City Finance Director, daily as received, all taxes and administrative fees payable to the City, and to issue and deliver business tax certificates under Chapter 5.04 of this code.

(2) Investigate each new business commencing in the City so as to ascertain whether such business is subject to the city's business tax .

(3) Investigate complaints pertaining to persons subject or allegedly subject to Chapter 5.04 of this code.

(4) Keep full and complete records of all activities, action taken, tax certificates and licenses issued and moneys received.

(5) Enforce or cause to be enforced the provisions of Chapter 5.04.

(6) Exercise all reasonably necessary and convenient police authority and powers necessary in the discharge and performance of the aforementioned duties.

- 5.04.795 Records - Inspection.**
- 5.04.900 Reduction of Business Tax – Start-up Business.**
- 5.04.910 Administration Fee.**

5.04.010 Definitions.

As used in this chapter:

(1) "Person" means any individual or form of legal entity carrying on any business in the City.

(2) "Business" means professions, trades and occupations and all and every kind of calling carried on for profit or livelihood.

(3) "Fixed location" means the premises in the City occupied for the particular purpose of conducting business there, separate and distinct from any other place of business, and regularly maintained for the purpose of attending to such business.

(4) "Employee" means any person under the employment or direct supervision of the business. This includes temporary or seasonal personnel, and employees working less than standard work hours.

(5) "Full-time employee equivalent" means a single employee or a combination of part-time employees working in the city, that on average works at least 35 hours per week for a business prorated by month on a calendar year basis .

5.04.020 Conformance to Code requirements.

No payment of tax under this chapter will be construed as permission carry on a business at any place within the city where the carrying on of such business is either prohibited by or subject to separate permitting or approval requirements under this code.

5.04.050 Revenue Measure.

This chapter is enacted to raise revenue for municipal purposes and is not intended for the regulation of business.

5.04.060 Compliance Required by Businesses.

It is unlawful for any person to commence or carry on any business in the City without complying with all applicable provisions of this chapter.

5.04.080 Branch Establishments - Separate Tax.

A separate tax must be paid for each branch establishment or separate place of business in which the business is carried on and each payment of tax authorizes the payee to engage only in the business taxed at the location designated in the tax certificate. A warehouses used exclusively in connection with and incidental to a business taxed under

annual taxes to be due in the month of January, the Tax Collector will pro-rate the tax and issue certificate for new businesses and renewals for the remainder of the 2009 calendar year based upon the number of months remaining in 2009 at the time of renewal or initial application.

5.04.180 Delinquent Taxes

All taxes required to be paid under this chapter will be delinquent if not received by the City on or before midnight of the last day of the calendar month in which the applicable tax period begins under Section 5.04.190.

5.04.190 Yearly Computation.

As of January 1, 2010, the business tax year commences on January 1 of each year and expires on December 31 of the calendar year issued. Businesses beginning operations after June 30th of any given year shall pay fifty percent (50%) of the applicable annual fee.

5.04.210 Applications - When Made.

On or before the commencement of business, every person who desires to carry on business within the City, and who is required to pay a tax under the provisions of this chapter, must apply for and pay the applicable tax.

5.04.220 Application - Contents - Issuance.

Application forms are available from the Tax Collector and will require such information as the Tax Collector deems necessary to properly classify the business and determine the amount of the tax to be paid by the applicant. Each applicant must complete the application form, and sign and certify under penalty of perjury that the contents are true and correct. Upon receipt of a completed application, the Tax Collector will compute the proper tax amount and on payment of such amount, and any accrued penalties, issue the appropriate tax certificate.

5.04.230 Application – Determining Number of Full-time Employee Equivalents.

Upon application for the issuance of an initial tax certificate, in all cases where the amount of tax to be paid is measured by applying a specified rate to the number of full-time employee equivalents; the applicant must include in the application the higher of the number of full-time employee equivalents applicable to the business as of the application date or as anticipated at any time during the tax period.

5.04.270 Corrected Application and Statements.

The Tax Collector may require a corrected statement or a corrected application to be filed for any period for which payment of a tax was made at any time within three years from the expiration of such tax period in order to explain an unreasonable inconsistency between reported facts and facts gleaned from other sources.

5.04.280 Information Confidential - Disclosure.

The information furnished or secured pursuant to this chapter, except for the name of the applicant, the name and address of the business, number of employees, and the nature of

5.04.370 Penalties for Failure to Pay Tax on or before Delinquency Date.

Failure to pay any tax prior to the delinquency date will result in a penalty of ten percent (10%) and an additional penalty of ten percent (10%) on the first day of each month thereafter; provided, that the amount of such penalty to be added will in no event exceed one hundred percent (100%) of the tax due.

5.04.390 Tax – Per Full-time Employee Equivalents - Minimum and Maximum Rates.

Every person carrying on business within the City and not otherwise specifically taxed by another provision of this chapter must pay an annual tax based upon the number of full-time employee equivalents at the rate of \$25 per full-time employee equivalent with a minimum tax of \$100 and a maximum tax of \$15,000. (or \$35 per fulltime employee equivalent with a \$100 minimum but not to exceed \$20,000)

5.04.400 Inflationary Adjustment of Tax.

The annual business minimum tax and maximum tax may be increased annually by resolution of the City Council using the percentage change in the Los Angeles/Long Beach Consumer Price Index (All Items) published by the United States Department of Labor, Bureau of Statistics, or any successor index (“CPI index”). Failure of the City Council to adopt a resolution increasing the annual business license minimum or maximum tax in any one fiscal year will not prevent the City Council from adopting such a resolution in a subsequent year. In the event that the City Council adopts a resolution increasing the minimum and maximum annual business tax following one or more years wherein no such resolution has been adopted, such resolution may cumulate the percentage change of the Index since the last resolution increasing the minimum and maximum annual business tax was adopted. Notwithstanding anything above to the contrary, in no event may the City Council increase the annual tax rate by more than 5% over any two-year period regardless of the percentage change in the CPI index.

5.04.430 Tax - Real Estate Brokers and Agents.

(a) Every person conducting or carrying on business in the City as a real estate broker and who is licensed as such by the State of California must pay an annual tax of \$25 or \$35 per full-time employee equivalent, excluding real estate agents, with a minimum tax of \$100 and a maximum tax of \$15,000 or \$20,000.

(b) Every person conducting or carrying on business in the City as a real estate agent or salesperson must pay an annual tax of \$100.00.

5.04.650 Exemptions - Constitution or Statutes of the United States or of the State of California.

Nothing in this chapter will be construed to apply to any person carrying on any business that is exempt by virtue of the Constitution or applicable statutes of the United States or of the State of California from the payment of any tax imposed under this chapter.

Every person liable for the payment to the tax imposed under this chapter must maintain for a period of three years all records necessary to determine or verify the amount of tax for which such person is liable. Upon request, all such records must be made available to the Tax Collector for inspection at all reasonable times.

5.04.900 Reduction of Business Tax – Start-up Businesses.

Any person commencing a new business will be allowed a reduction in business tax of 75% the first year, 50% in the second year, and 25% in the third of operation of such business.

5.04.910 Administration Fee.

The amount of the business tax administration fee required under this chapter is \$25 for the first time paying the tax and \$15 each renewal period thereafter or such other amounts as may be established by resolution of the City Council. A one-time fee waiver will be given to all businesses that register within the first year of the adoption of the ordinance codified in this chapter.

Attachment 2
List of other exemptions

**ATTACHMENT 2
Sample Exemption List**

	Exemptions	Existing Ordinance Includes	Proposed Ordinance Includes	City of Santa Barbara
1	Non Profits/Charitable Org.		X	X
	Exempted by State or Federal			
2	Law		X	X
3	Educational		X	X
4	Religious Organizations		X	X
5	Franchise Public Utilities		X	X
6	Highway Carriers/Transportation Providers - By Law		Covered by item 2	
7	Vendors Doing Business Exclusively with the City			
8	Recreational Instructors & Sports Officials Conducting City-Sponsored Programs			
9	Persons Participating in City-Sponsored Event			
10	Disabled			
11	Veterans			
12	Disable Veterans			X
13	Support to Community Non-profits at Certain Levels			
14	Starter Businesses (for a limited period of time)		X	
15	Blind	X	X	
16	Wholesale Travelers	X	X	
17	Newspaper Delivery	X	X	
18	Farmer's Stands	X	X	X
19	Gross Rcpt less than \$1,200			X
20	Minors with Gross Rcpts > \$500			X

Attachment 3

List of specially regulated businesses

ATTACHMENT 3
Potential Regulatory Components

	Activities Restricted/Regulated	Existing Ordinance Includes	City of Santa Barbara
1	Peddling & Soliciting		X
2	Used Car Lot	X	
3	Handbill & Circulars	X	X
4	Vending/Amusement Machines	X	X
5	Newsracks		X
6	Cable TV		X
7	Rentals		
8	Outdoor Adv. Structures		
9	Christmas Trees		
10	Fireworks Sales		
11	Auctions		X
12	Fortunetelling		X
13	Pawnbrokers, Secondhand & Junk Dealers	X	X
14	Street Begging		
15	Boxing/Sparring/Wrestling	X	X
16	Gaming & Card Rooms		
17	Bingo Games	X	
18	Shows & Entert.		X
19	Road House	X	
20	Filming		X
21	Public Dances	X	X
22	Pool & Billards Halls		X
23	Ferris Wheels/Carnivals/Merry Go Round	X	X
24	Circus/Rodeo	X	X
25	Museums		X
26	Photographer		X
27	Tobacco Sales	X	
28	Massage Parlors	X	X
29	Taxicabs Transp. Providers		X
30	Handgun Dealers	X	
31	Shooting Range/Gallery	X	
32	Auto Wrecking Yard		
33	Towing of Vehicles		X
34	Marijuana Dispensaries		
35	Private Patrol		X
36	Pedicabs		X
37	Home Occupations		
38	Sand Removal	X	
39	Use of Public Right Away - Sidewalks, Street, Beach, etc.		X