The City Council, with certain statutory exceptions, can only take action upon properly posted and listed agenda items.

Unless otherwise noted in the Agenda, the Public can only comment on City-related business that is within the jurisdiction of the City Council and/or items listed on the Agenda during the Public Communications portion of the Meeting. The time limit for comments is five (5) minutes per person.

Before speaking to the City Council, please come to the podium and state: Your name and residence and the organization you represent, if desired. Please respect the time limits.

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact City Clerk, 524-2305. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting.

SPECIAL MEETING OF THE EL SEGUNDO CITY COUNCIL
Tuesday December 8, 2009 – 5:00 P.M.

CALL TO ORDER

ROLL CALL

PUBLICCOMMUNICATIONS – (Related to City Business Only – 5 minute limit per person, 30 minute limit total) Individuals who have received value of $50 or more to communicate to the City Council on behalf of another, and employees speaking on behalf of their employer, must so identify themselves prior to addressing the City Council. Failure to do so shall be a misdemeanor and punishable by a fine of $250. While all comments are welcome, the Brown Act does not allow Council to take action on any item not on the agenda. The Council will respond to comments after Public Communications is closed.
SPECIAL ORDERS OF BUSINESS -

1. Consideration and possible action to direct staff to draft the necessary documents to place a ballot measure on the April 13, 2010 election for purposes of increasing the City's business license taxes (Chapter 4 of the El Segundo Municipal Code). If the Council directs that staff prepare the appropriate ballot measure documents, the documents will be placed before the Council at its December 15, 2009 Regular Council Meeting for potential final action.

Recommendation – (1) Consideration and possible action to direct staff to draft the necessary documents to place a ballot measure on the April 13, 2010 election for purposes of increasing the City's business license taxes (Chapter 4 of the El Segundo Municipal Code); (2) Alternatively discuss and take other action related to this item.

ADJOURNMENT:

POSTED:
DATE: 12-7-09
TIME: 2:45 pm
NAME: Cathy Dornan

2.
AGENDA DESCRIPTION: Consideration and possible action to direct staff to draft the necessary documents to place a ballot measure on the April 13, 2010 election for purposes of increasing the City's business license taxes (Chapter 4 of the El Segundo Municipal Code). If the Council directs that staff prepare the appropriate ballot measure documents, the documents will be placed before the Council at its December 15, 2009 Regular Council Meeting for potential final action.

RECOMMENDED COUNCIL ACTION:

1. Consideration and possible action to direct staff to draft the necessary documents to place a ballot measure on the April 13, 2010 election for purposes of increasing the City's business license taxes (Chapter 4 of the El Segundo Municipal Code).

2. Alternatively discuss and take other action related to this item.

ATTACHED SUPPORTING DOCUMENTS:

Staff Report and PowerPoint presentation from the December 1, 2009 Regular Council Meeting and Five-Year Forecast and Assumptions.

FISCAL IMPACT: Projected revenue increase not included in FY 2009-2010 adopted budget. The estimated increase in this revenue source would not be realized until FY 2010-2011.

Amount Budgeted: $N/A
Additional Appropriation: N/A
Account Number(s): N/A

ORIGINATED BY: Deborah Cullen, Director of Finance
REVIEWED BY: Mark Hensley, City Attorney
APPROVED BY: Jack Wayt, City Manager

BACKGROUND AND DISCUSSION:

At the December 1, 2009, Council Meeting, the Council considered but did not approve placing a measure on the April 2010 election to raise the City's business license taxes. The Mayor and Mayor Pro-Tem requested that staff schedule a Special Council Meeting so that Council can further discuss possible options for placing a ballot measure for the April election.
AGENDA DESCRIPTION:

Consideration and possible action to (1) place an initiative on the ballot for the previously called April 13, 2010 municipal election to amend the City’s utility user tax ("UUT") regulations (El Segundo Municipal Code ("ESMC") Chapter 3-7) to update the language in regulations with regard to maintaining the City’s revenues from the UUT tax based upon technological changes in communications methods; and (2) place an initiative on the ballot for the previously called April 13, 2010 municipal election to amend the City’s business license tax regulations to (i) increase the tax amount annually based upon the ten-year average of percentage increase in public safety costs incurred by cities in California (ESMC Title 4), and (ii) reduce from a 50% credit to a 25% credit, over a three year period, the amount that businesses can reduce their annual business license tax based upon the annual sales/use tax they generate for the City. (Fiscal Impact: Projected approximate 6% per year increase to the City’s business license tax for which the City collects an estimated $9,000,000 annually.)

RECOMMENDED COUNCIL ACTION:

1. Adopt Resolution placing an initiative on the ballot amending utility user tax regulations;
2. Adopt Resolution placing an initiative on the ballot amending business license tax regulations;
3. Consider Adopting a Resolution directing the City Attorney to prepare an impartial analysis for the two ballot initiatives; and,
4. Determine whether the Council will appoint itself or members thereof to draft the arguments and rebuttal arguments in favor of the tax measures.
5. Alternatively discuss and take other action relation to this item.

ATTACHED SUPPORTING DOCUMENTS:

Resolutions; proposed draft initiatives for utility users tax amendments and business license tax amendments.
Business License Indexing Special Meeting Presentation on November 12, 2009.

FISCAL IMPACT: Projected revenue increase not included in FY 2009-2010 adopted budget. The estimated increase in this revenue source would not be realized until FY 2010-2011.

Amount Budgeted: $N/A
Additional Appropriation: N/A
Account Number(s): N/A

ORIGINATED BY: Deborah Cullen, Finance Director
REVIEWED BY: Mark Hensley, City Attorney
APPROVED BY: Jack Wayt, City Manager
BACKGROUND AND DISCUSSION:

General Municipal Election

The City’s general municipal election will be held on April 13, 2010. Based upon past direction from Council, staff is proposing that the Council place two ballot measures on the election for consideration for the electorate: (1) an amendment to the City’s UUT regulations for purposes of ensuring that the City continues to capture the tax revenues from commercial communications based upon the changes in communication technologies; and (2) an increase in the City’s business license tax amounts. Both of these taxes are and will remain general taxes (meaning they will be deposited into the City’s general fund and can be used for any lawful local government purpose) and require approval by a majority of the electorate.

Utility Users Tax

The City’s existing utility user tax ("UUT"), which covers telephone, electricity, water and gas services, was adopted in 1998 and modified by election in 1996. The existing telephone UUT, applicable only to commercial and industrial service users, generates approximately $530,000 annually.\(^1\) A large portion of this revenue is at risk due to outdated language in the telephone tax and changes in federal law.

Since 1988, communication services changed dramatically. Telecommunications are no longer limited to standard “land line” telephone services. Cellular/wireless telephone calls, which are even among the simpler forms of communication today, now represent a greater portion of the telephone tax revenue than traditional land lines. Another newer technology, Voice Over Internet Protocol, is telephone service that is administered over an Internet line, not a telephone line and is fast becoming one of the most popular means of providing home and office telephone service. Moreover, the telephone companies’ billing practices have changed over time and often traditional telephone services are bundled together with other communication services for a flat rate, resulting in additional complications in applying the existing UUT ordinance to modern services.

The City’s existing UUT regulations contain outdated definitions of communications services. The Cities of Los Angeles, Long Beach, Sacramento, Palo Alto and the County of Los Angeles have litigated over the application and validity of these types of outdated definitions. Voter approval of the proposed modern communication services tax ordinance would eliminate some of the concerns being litigated by other cities.

The proposed ordinance would update the existing ordinance to apply the telephone tax to all types of communication services, unless precluded by federal statute. Currently, a federal statute precludes local taxation of Internet services and broadband services providing access to the

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\(^1\) In fiscal year 2005-2006, $530,948 of the General Fund revenue was generated from the telephone tax specifically, and in fiscal year 2006-2007, the tax generated $535,601. The 2008-2009 budget estimated that $536,269 was generated from the tax in 2007-2008.
Internet. The proposed ordinance would not apply to digital downloads such as music, games and ringtones.

The proposed ordinance would continue to only apply to commercial and industrial users and is proposed to remain at 2%. However, the Council could set a different proposed tax rate (higher or lower) to submit to the voters in April. In an attempt to keep the changes in the ordinance revenue-neutral, some cities have chosen to reduce the tax rate by 0.5% or 1%. The voters in cities such as Hermosa Beach, Malibu, Los Angeles and Huntington Park approved modern communication services ordinances subject to a reduced tax rate. While the voters approved these measures, it is important to note that a reduction in tax rate can be misunderstood by voters because it may not result in an actual reduction in the actual amount of taxes paid. Pasadena, Daly City, and Emeryville were able to obtain voter approval for their new UUT ordinances without reducing the tax rate, resulting in increased revenues.

California cities have placed similar modern communication services ordinances on the ballot of their general municipal elections, and most of them to date (more than 50) were ultimately approved by the voters (approximately ten ordinances did not receive the required votes). Several more cities such as Palm Springs, Pomona and Cupertino have placed similar ordinances on the November 3, 2009 ballot.

**Business License Tax**

During the City Council’s budget workshops, the Council indicated a willingness to place a measure on the ballot that would increase the City’s business license taxes. The business license taxes have not increased since 1993 and accordingly as a percentage of the budget revenues and in terms of real dollars (when adjusted for inflation), the amount of business license taxes collected by the City continues to decline. In fiscal year 1992-1993 Business License Tax covered almost 45% of the General Fund costs and 92% of the Public Safety costs. These ratio’s have declined to 15% and 27% respectively (see page 7 of the attached presentation).

Based upon the above information, at its September 1, 2009 Council Meeting, the Council directed staff to prepare specific options for Council to consider with regard to increasing the City’s business license taxes. Accordingly, staff in consultation with Muni-Financial Services developed a number of alternatives for Council to consider at a Special Council Meeting that was held on November 12, 2009 (attached is a copy of the PowerPoint presentation that was presented to the Council at the meeting).

In short, there were a number of options that were analyzed and presented for Council consideration at the Special Meeting. The options included annual fixed percentage rate increases, increases based upon the Consumer Price Index and increases based upon percentage increases in public safety costs to local agencies (either on a county-wide or state-wide basis). Additionally, the Council was presented with the option of reducing the credit that businesses currently receive against their annual business tax liability based upon the amount of sales/use tax they generate for the City.
At the conclusion of the Special Meeting, the Council directed that the proposed ballot measure be drafted to include an index to increase the City’s business license taxes based upon annual public safety cost increases. Additionally, staff was directed to prepare language that would reduce the sales/use tax credit received by business from its current 50% cap to: 40% starting January 1, 2010; 30% starting January 1, 2011; and 25% starting January 1, 2012 remaining at 25% thereafter.

Public Safety Index

The majority of the City’s budget expenses (60% currently) are driven by police and fire costs. It is anticipated that this will continue to be true into the future. Over the past 10 years, the City’s police and fire expenditures have increased on average by 6.4% per year. Over this same time period, the local Consumer Price Index increased an average of 2.56% per year, while the “public safety index” (on a state-wide basis) has increased an average of 5.9% per year.

Based upon concerns that public safety costs would continue to increase at twice the rate of the Consumer Price Index, staff in consultation with Muni-Financial Services developed the proposed “public safety index.” While to staff’s knowledge this index has not been utilized by any other governmental agency in California, it more accurately reflects the percentage of annual budget expenditure increases that are being incurred by the City and, accordingly, provides a better mechanism for helping the City to balance its budget.

When the public safety index was discussed with Council at the November 12 Special Council Meeting, staff was focusing more on the potential of using a Los Angeles County-based public safety index. This index has averaged an annual percentage increase of approximately 6.2% over the past 10 years. While a Los Angeles County public safety index would more accurately reflect the costs being incurred by the City, the staff is recommending that Council use a public safety index based upon the annual average increase in public safety costs incurred by all cities in the state because this information is more readily available to the City and the public. In reviewing the availability of the County versus the statewide information regarding public safety costs, it has been determined that the State Controller’s Office publishes an annual report that makes the state-wide information available annually each spring. Conversely, the County public safety costs are not consistently available with regard to when the Controller’s Office will publish the information, and it is a much more involved process for the City and the public to extrapolate such information from the report.

The ballot measure, if passed by a majority of the electorate, would result in the City increasing its business license taxes commencing on January 1, 2011 for the 2011 calendar year. The increase would be based upon averaging the last ten years of available statewide public safety increases for California cities and adding this ten-year average percentage increase to the City’s current tax rates. Based upon the information the City has received, the latest data that will be available before January 1, 2011 will be the statewide public safety costs for fiscal year 2007/2008. Thus, the initial ten-year increase will be based upon the average of the eleven fiscal years of public safety costs (comparing the percentage of change from each successive fiscal year to the prior fiscal year and then dividing the total percentage increases by ten) for the period commencing with the 1997/1998 fiscal year and ending with the 2007/2008 fiscal year. Once this factor is calculated, the new fee will be calculated by using a cumulative factor rounded to
the nearest penny to ensure that all fees are increased at an equitable amount each year. See below for an example of this rounding methodology.

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Sales Tax Credit

The City’s current business license tax regulations allow businesses to offset their business license taxes by utilizing a credit that is based upon the amount of sales/use tax the City receives from sales/use tax revenues generated by businesses. Currently, a business can use up to 50% of the sales/use tax the City receives from the business as a credit against the amount of the business license tax it owes the City. For example, if a business generates $50,000 of sales/use tax for the City, it is entitled to apply 50% or $25,000 as a credit toward its BLT. If the businesses BLT liability totaled $25,000 or less, the business’s actual business license tax owed to the City would be zero.

City staff is recommending that the 50% credit amount be reduced down to 25% over a three-year period as set forth above. This credit was created to encourage businesses to self-accrue sales/use tax directly to the City. Over the last 10 years the City has not realized significant increases from this program, and in analyzing the data even at 25% credit most businesses already benefitting from this credit will still receive substantial savings on their Business License Tax.

Over the past 10 years Business License Tax revenues have covered an average of 47% of public safety costs but is currently at only 27%. The decline of this ratio puts an additional burden on other General Fund revenues and/or results in reduced services provided to residents. Indexing and implementing a phased sales/use tax credit will enable this tax revenue to maintain the historical coverage of public safety costs and not rely on other tax sources to cover the deterioration of this ratio. Page 11 of the attached presentation shows the deterioration of the coverage of the Business License Tax revenues to the Public Safety costs.

Staff also recommends changes to ESMC § 4-2-4 relating to the tax rate dollar amounts. These changes reflect the actual tax amounts after the tax reductions authorized by ESMC § 4-2-3. This is more of a practical change, rather than substantive, to help efficiently implement the tax rate calculations. There is no actual change to the tax rate; the dollar amount simply reflects what the City already charges based upon existing regulation.
General Ballot Measure Information

Impartial Analysis

The Council may, but is not required to, direct the city attorney to prepare an impartial analysis of the measure. The analysis must show both the effect of the measure on existing law and its operation. The analysis cannot exceed 500 words and must precede the arguments for and against the measure on the sample ballot.

Ballot Arguments

The following persons may write an argument, not exceeding 300 words, for or against the measure:

1. The City Council;
2. Councilmembers authorized by the City Council;
3. Voters eligible to vote on the measure (i.e., a registered voter in the city);
4. A bona fide citizens' association; or
5. Any combination of voters and associations.

An argument cannot be accepted unless it is accompanied by the name(s) of the person(s) submitting it. If an organization submits an argument, it must include the organization's name and the name of at least one principal officer. Only the first five signatures appearing with an argument will be printed on the sample ballot.

The city clerk must select a reasonable deadline for submitting arguments, taking into account that voters must be allowed to examine the elections material for at least 10 calendar days before printing.

One argument for the measure and one argument against the measure must be printed on the sample ballot. If there is more than one argument submitted, the city clerk must select from among them. The city clerk must give preference and priority to arguments in the following order:

1. The City Council, or Councilmembers authorized by the Council.
3. Individual voters eligible to vote on the measure.

The Elections Code allows the City Council to draft ballot arguments as a body or to appoint one or more of its members to draft a ballot argument. If the City Council wishes to authorize one of its members to draft an argument, it may do so by minute order. Please note that public resources, including staff time, cannot be used in opposing or supporting any initiative or
referendum once a petition qualifies for the ballot. Accordingly, the City Council cannot designate a staff member to prepare ballot arguments.

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NOVEMBER 12, 2009
BUSINESS LICENSE INDEMNITY
number one revenue producer

source in the City. In 1992-2001 BLT was the

BLT is the third largest General Fund revenue

Tax, TOT and Franchise Tax

economy

components that respond to the

Other major General Fund revenues have

years ago

Business License Tax (BLT) last indexed 16

BUSINESS LICENSE INDEXING
- Top 25 businesses generate 70% of the BLT
- Sales/Use Tax Credits can offset up to 100% of BLT
- Of this $2.1 million, $668,000 covered 50 companies' entire business license tax liability.
Establish a ratio for BLT to cover General Fund costs

- 25% Phased Sales Tax reduction over three years to

- Base Rate adjustment

- Fixed Percentage Increase

- CPI - Rolling 10-Year average

OPTIONS REVIEWED

BUSINESS LICENSE INDEXING
average of 37% over the past 10 years.
Public Safety costs in the City (down from an
Currently BII T revenue supports 27.4% of
across the State.
much faster than CPI in El Segundo and
Historically, these costs have grown at a rate
General Fund Budget.
General Fund revenues, utilizing 55% of the
Public Safety is the major expenditure of
BUSINESS LICENSE INDEXING
Public Safety costs from 2003 to the present.

Key Factors in the reduction of this ratio--No

FY 97-98
FY 92-93
FY 02-03
FY 08-09
Business License Indexing
This type of indexing uses as an escalator that directly ties to relevant increases in General Fund costs.

An index utilizing total Public Safety costs for Los Angeles County/LA City will allow the Business License Tax to sustain a stable growth ratio to Public Safety costs.

The decline in the ratio between Public Safety costs to Business License Tax revenues, minimal growth with existing General Fund revenues, and no new revenue sources to offset increasing costs to bridge this gap.
Business License Tax revenues
Ratio between Public Safety costs to Base Rate
Policy Considerations:

Business License Indexing

- Time Increase
- Raise the base tax rates to provide a one-time increase.
- Reduction of sales/use tax credits to 25%.
- Revenues:
  - Between Public Safety costs and BLT

Index the BLT to maintain a stable ratio.
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<td>FY'S 10/11-14/15 FIVE YEAR FORECAST</td>
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WORKERS' COMPENSATION RATES PER STATE RECOMMENDED GUIDELINES

OPEN ECONOMY - PER VALUATION REPORT

- Per Capita Increases from 10% to 15% for WC
- Per Capita Increases from 5% to 10% for MISC
- Per Capita Increases in Health Benefit Costs

BENEFIT BASE:

- Upon Elevation - $100,000/600
- City Employees - 2% through 6/30/00
- Supervisory/Professional - 2% through 6/30/00
- Maintenance Group - 2% through 6/30/00
- Police - 2% through 6/30/00
- \( \text{Per Term of MOUs} \)

SALARIES:

- \( \text{Per Term of MOUs} \)

EXPENDITURES:

- Electric Ut.
- Gas Ut.
- Temporary Occupancy Tax
- Building Activity
- Business License Tax
- Property Tax
- General Fund

MAJOR ASSUMPTIONS:

- FY 2013 Torques 2013-2014

CITY OF EL SEGUNDO