

JUN 22 2022

1:45 pm

City of South Gate

CITY COUNCIL

AGENDA BILL

For the Regular Meeting of: June 28, 2022
Originating Department: City Manager's Office

Interim City Manager:  Interim City Manager: 
Chris Jeffers *Chris Jeffers*

SUBJECT: DISCUSSION REGARDING POSSIBLE BUSINESS LICENSE TAX INCREASE

PURPOSE: To give a presentation and receive direction whether an ordinance should be developed adjusting the business license fees for Materials Recovery Facilities located within the City of South Gate along with the establishment of an automatic adjustment every third year of business license fees within Chapter 2.08 (Business License Tax) of the City of South Gate Municipal Code.

RECOMMENDED ACTION: The City Council will consider providing direction to staff as to whether an ordinance making changes to Chapter 2.08 (Business License Tax), relating to Material Recovery Facilities businesses and creating an automatic adjustment to license taxes every three years based on the Consumer Price Index ("CPI"), should be considered at the July 12, 2022, City Council meeting.

Any such ordinance passed by the City Council would have to be submitted to and approved by the voters prior to becoming effective. Staff suggests that the November 8, 2022, regular municipal election would be an appropriate time to submit the consideration of a Business License Tax increase to the voters.

FISCAL IMPACT: There is limited fiscal impact to giving direction as to whether an ordinance should be developed for consideration at the next regular City Council meeting (July 12, 2022).

ANALYSIS:

1. Why an Ordinance may be needed: Pursuant to South Gate Municipal Code ("SGMC") Section 2.08.020 (Purpose), the sole purpose of business license taxes is to raise money for the City's general fund. The business license tax rate charged to Materials Recovery Facilities appears to be below (perhaps substantially below) current market rates. This creates a significant disparity in the amount a similar business pays along with a negative effect on the City's general fund. Adjusting the business license tax rate to address these problems requires an ordinance passed by the City Council and approved by a majority of City voters.

2. Current fees and agreements: A Materials Recovery Facility is defined as a facility within the city which is operated for the purposes of collecting, handling, storing and/or processing solid waste (SGMC Section 2.10.725 (Material recovery facility)). Solid waste can range from normal trash, construction materials, green waste, and other materials that are collected to be recycled or landfilled at a later point.

Recently, staff researched the business license taxes and business license fees assessed under SGMC Section 2.08.450 (License fees and permit fees for material recovery facilities) against businesses that operate Materials Recovery Facilities within the City. The City currently has six (6) such businesses. Staff's review showed that rather than charging the taxes and fees at rates specified in Section 2.08.450, the City had, instead, entered into written agreements with those businesses to pay the City different amounts. These written agreements were permitted under the SGMC as a result of a 2005 change to 2.08.450 (B). The amounts called for in those agreements were likely fair to both parties at the time the agreements were entered into, but, given the passage of time, they may no longer be fair to the City.

The agreements all have varying terms and amounts the businesses will pay to the City for their business licenses. Those terms and rates are:

<u>Businesses</u>	<u>Term Expiration</u>	<u>Fee</u>
Construction & Demolition Recycling	6/30/2021	\$1.40 per ton
SA Recycling	11/27/2017	\$1.14 per ton
Blue Diamond Materials	12/11/2007	2.5% per load
County Sanitation District	Perpetuity	\$1.80 plus CPI (per ton)
Green Waste Soil Technologies	9/10 /2038	\$1.32 per ton (CPI increase each 5 years)
USA Waste of California	6/30/2025	Flat Fee -\$400,000 (annually)

Within the agreements, there is little historic information as to how the methodology was applied to either the term or rate for the businesses. It is evident that the initial terms of half of the agreements have expired, but the businesses are simply paying the minimum business license fee provided under our schedule each year.

3. Rates charged by the City are below market: Staff believes the rates being paid under these agreements are below current market rates paid by Material Recovery Facilities in other cities. While staff has not been able to identify a single source survey to show what similar rates are for Material Recovery Facilities in the area, a recent study by HF&H showed such operations were paying more than \$2.00 per ton on average. Those fees were adjusted on some regular basis by the CPI, as well. The rates reported by HF&H are consistent with other information obtained by staff. Staff checked with a business that operates several Material Recovery facilities in various Southern California cities. That business is paying between \$1.32 and \$5 per ton for an average of \$2.66 per ton. In addition, the City of Gardena reports that it imposes a \$2 per ton fee which is increased annually by CPI.

Material Recovery Facilities have a significant impact upon the community in terms of wear and tear on streets and emissions. It would appear that the City may be shortchanged approximately \$200,000 or more, annually, based on previous amounts received under these current agreements. This annual shortfall will likely increase as current business fees paid in other communities continue to outpace those charged by South Gate.

4. Public vote is required to raise these taxes and fees. City Council does not have the ability, under its own authority, to adjust rates or add new rates. Article XIII C of the State Constitution – better known as Proposition 218, which was adopted by the state's voters in 1996 – requires that no new general tax may be imposed, and no existing general tax may be extended or increased, without voter approval. Thus, such fees often become very outdated for most cities.

There is a time sensitivity to asking for this discussion. Such matters may only be submitted to voters at each regular municipal election unless a fiscal emergency is enacted by the legislative body. Those conditions do not currently exist. The County is requesting all such measures be submitted to them before the end of July. Should we miss those deadlines, we will have to wait until 2024 before the City Council could again consider the item.

Staff has looked at several cities that have asked their voters to consider indexing business license fees to the CPI to keep the rates consistent with their present value. The cities researched have varying adjustment schedules such as annual or a time period. The Council may consider a time period of between 3 and 5 years for such scheduled increases. As an example, the fee may be adjusted by CPI in 2024 and then would not be adjusted again until 2027 or 2029 using the 3–5-year example. Staff suggests that any ordinance passed by the City Council should provide that the fees and taxes be adjusted every three (3) years.

5. An illustration of the problem: Overall, the business license fees have not been adjusted or reviewed since 1993, nearly 30-years ago. For perspective, the value of a single revenue dollar in 1994 would now need to be \$1.97 in revenue received in 2022. Should voters approve a tax increase with a CPI adjustment, it would be prospective and not retroactive. Thus, permitting future adjustments based on CPI is designed to prevent that dollar from falling further behind in value or support to the general fund. Such an increase could not begin until 2024, at the soonest, given the set-up time to print and adjust schedules necessary for businesses to know what the underlying rates are.

ATTACHMENT(S): None