



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Small Business Development
Commission

SUBJECT: SEE BELOW

DATE: March 23, 2005

**SUBJECT: PUBLIC TESTIMONY AND COMMISSION RECOMMENDATIONS ON
EMERGENCY COMMUNICATION SYSTEM SUPPORT FEE (“911
FEE”)**

BACKGROUND

As directed by Council, the Small Business Development Commission (SBDC) took public testimony from the small business community regarding the Emergency Communication System Support Fee (ECSSF) on March 9, 2005.

The City Council approved the ECSSF in August 2004 in order to relieve an expected budget shortfall in the City’s General Fund caused by an \$11.4 million reduction in Vehicle License Fee (VLF) Property Tax revenue from the State¹. The City’s new ECSSF was implemented in January 2005.

The ECSSF imposes a \$1.75 monthly fee on phone lines in the City, and a \$13.13 monthly fee on trunk lines in the City, with an annual fee cap of \$20,000 per location. Fees are assessed on all land lines and wireless lines, with certain limited exceptions. The ECSSF is designed to generate \$18.8 million in annual revenue for the City.

PUBLIC TESTIMONY

Four members of the public addressed the SBDC at the March 9, 2005 meeting. Public comments on the ECSSF centered on a number of key points:

- The perception that the ECSSF is a tax rather than a fee and that it should therefore be approved by a public vote. The City’s decision to title the ECSSF a “fee” was interpreted as being motivated by a desire to minimize public debate and circumvent voter consent.
- Concerns that the ECSSF had not received sufficient public debate and media coverage and that it appeared to most consumers on their phone bills without explanation.

¹ Memo to Mayor and City Council From Del Borgsdorf, 13 August 2004.

Telephone service providers did not provide adequate information about the new fee, adding to public confusion and disquiet about the ECSSF.

- Frustrations that the Council delegated public testimony to the Small Business Development Commission, and that the Commission lacks oversight or control over the ECSSF.
- The application of a new fee for services that have been previously funded. As 911 is not a new service, a new fee to suddenly recover all costs associated with this ongoing and long-established service is not justified.
- The feeling that relatively minor adjustments to the New City Hall project would eliminate the need for any new fee or tax.
- The \$13.13 monthly fee for trunk lines adversely impacts small businesses; charging the fee on a per-phone-line basis adversely impacts home-based self-employed.
- The exemption of pay phone owner/operators from the fee is not justified.
- Users of 911 wireless services who reside in other jurisdictions, and City residents that are billed in other jurisdictions, enjoy a free ride at City residents' expense.

ANALYSIS

By imposing the ECSSF, the City appears to have placed the entire burden of adjusting the City budget for the loss of VLF revenue on a single City service: the 911 system. As the 911 system has been funded and operational for many years, the need for a new fee or tax to recover 100% of 911 costs is not perceived as reasonable or necessary.

There is public frustration over the City's decision to recover the entire VLF revenue loss through revenue enhancement rather than through cost reduction, or a combination of cost reduction and revenue enhancement. Although Council has the right to impose a cost recovery fee, this violates the public's common-sense understanding of the requirement that new taxes be approved directly by the voters.

Even under the current budgetary climate, the City wisely—and successfully—placed their trust in the voters to approve new library taxes. As the City continues to struggle with budget shortfalls at the same time as it completes the New City Hall project, Council should be especially sensitive to the need for public debate when placing new cost burdens on the public. Debate and approval of new taxes and fees normally attract great public interest, and the City should seek to demonstrate the utmost transparency when undertaking new revenue enhancement programs.

The Commission believes that the City must also make vigorous and continuous efforts at cost reduction, so that any need to increase tax burdens on City businesses and residents is minimized. The City's elimination of just a single FTE position, out of a total of 175 FTEs responsible for 911 services, does not appear to reflect a vigorous effort to reduce system costs that are now recovered by the ECSSF.

RECOMMENDATION

The ECSSF negatively impacts the City's ability to attract and sustain healthy businesses. The SBDC recommends that Council consider implementing some or all of the following actions:

1. To repeal the ECSFF and place this fee before the voters for approval. Until and unless voter approval is granted, the revenue shortfall from the reduction in VLF should be amortized across all City department budgets.
2. In communications to the public and media about the ECSSF, to emphasize that this fee has a sunset provision in 2006 and is therefore a temporary/emergency measure. When reviewing the ECSSF for renewal in 2006, Council should actively encourage more direct testimony from the public OR Council should seek formal voter approval for a permanent ECSSF at that time.
3. To demonstrate to the public that it is proactively seeking to reduce 911 costs that are recovered by the ECSSF. As 70% of all calls to 911 are non-emergency – and a significant number of these non-emergency calls are totally unrelated to provision of city services – the City should undertake a public education campaign to inform residents of the cost of unnecessary 911 calls.

The City should also impose a special fee or fine on phone lines that originate non-service related calls to 911. This fine schedule would have the benefit of both raising additional revenue, and reducing unnecessary call volume and 911 system costs.

The City should also investigate other costs savings and employee redundancies in the departments responsible for 911 services. City 911 services handle 1,000,000 calls per year, only 30% (300,000) of which can be categorized as emergencies. The cost per emergency call is approximately \$60. The City should investigate and report if this cost-per-call is commensurate with other municipalities of comparable size.

4. To negotiate with the State to recover those costs previously associated with California Highway Patrol (CHP) provision of 911 services to wireless phone customers. Coincident with the imposition of the ECSSF, the City assumed the costs associated with wireless 911 service. The City should therefore recover revenue that the State collects through its separate phone line 911 fee for wireless 911 services that the State no longer provides.

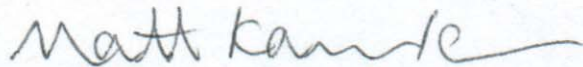
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5. To reduce the ECSSF fee structure for single telephone billing locations with up to five phone lines. This would reduce the negative impact on small businesses, home-based businesses and the self-employed. Any reduction in City revenue as a result of this relief should be compensated by raising the annual \$20,000 ECSSF cap that exclusively benefits very large enterprises.

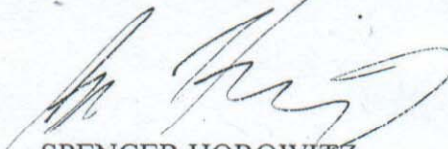
On behalf of the Small Business Development Commission,



MATT KAMKAR

Chair,

Small Business Development Commission



SPENCER HOROWITZ

Commissioner,

Small Business Development Commission