



CITY OF PACIFIC GROVE
300 Forest Avenue, Pacific Grove, California 93950

AGENDA REPORT

TO: HONORABLE MAYOR AND MEMBERS OF CITY COUNCIL

FROM: Director of Management and Budget James L. Becklenberg

MEETING DATE: June 18, 2008

SUBJECT: CONSIDER INTRODUCTION AND FIRST READING OF AN ORDINANCE TO AMEND THE MUNICIPAL CODE TO ALLOW FOR A SINGLE "MASTER" BUSINESS LICENSE FOR FARMERS PARTICIPATING IN THE MARKET

The farmer's market manager, Iris Peppard, requests the City change the Municipal Code to exempt farmers participating in the market from the requirement to obtain individual business licenses. City staff recommends that this request be denied.

CEQA STATUS This action does not constitute a "Project" as defined by CEQA.

RECOMMENDATION:

Staff recommends Council deny the request and NOT approve first reading of the requested Ordinance.

Iris Peppard instead asks Council to introduce the first reading of the draft Ordinance to amend the Municipal Code to allow for a single "master" business license for farmers participating in the market

EXECUTIVE SUMMARY:

The Municipal Code requires any person transacting business in Pacific Grove to first obtain a business license. The farmers' market manager, Iris Peppard of Everyone's Harvest, requests a City change the City Municipal Code to exempt farmers participating in the market from this requirement. The manager says the exemption is necessary to "ensure the future system of certified farmers markets," as it would be unfeasible for the farmers, who sometimes participate in 10-20 different markets, to make a living wage if every city required a business license. Among more fundamental concerns that the business license rules need to be enforced in a consistent manner, staff feels that the farmers' plight is not significantly different from other struggling businesses in Pacific Grove who are required to obtain a business license.

If the City Council wishes to grant the market manager's request, staff recommends that the attached draft be enacted to allow the manager of a farmers market or other similar event to obtain a "master" license for the market. The amount of the business license tax would be based on the estimated gross receipts for the entire market. The market manager requests the "master"

license apply only to farmers participating in the market. Staff recommends that *if* the Council grants the master license, the license should cover all gross receipts from sales at the market, with an allowance for other participating business to deduct the amount of gross receipts earned at the market from the amount of gross receipts upon which their business tax is paid. Staff additionally recommends authorizing a \$50 administrative fee to process any master license.

DISCUSSION:

City staff met with Iris Peppard, Executive Director of famers' market manager Everyone's Harvest, on May 13, 2008 to discuss the City's business license requirements and ways to potentially minimize the administrative burdens associated with coordinating license applications and payments for the various vendors at the market. Ms. Peppard expressed concern about the requirement for individual businesses to obtain a business license, citing the need to "ensure the future system of certified farmers markets." She feels it could be unfeasible for the farmers, who sometimes participate in 10-20 different markets, to make a living wage if every city required a business license. Ms. Peppard requests a "master" license that could be issued to her organization, Everyone's Harvest, on behalf of all farmers participating in the market. At the meeting, staff reviewed several options to ease the potential administrative burden for market participants to comply with the existing ordinance. For example, the market manager could act as the agent for the farmers and obtain individual licenses on their behalf. Following the May 13th meeting, she sent a letter to the City, which is attached to this report, reiterating her request for a master license.

The Municipal Code does not provide for a master license in these circumstances. PGMC Section 7 is very broad with regard to business activity subject to the tax. Section 7.04.070 allows for a blanket license only for businesses participating in a trade show, exhibition, or other similar event which is organized by a business whose net proceeds are used exclusively for charity (*PGMC language paraphrased*). This provision of the Municipal Code allows the Chamber of Commerce to obtain a master license for Good Old Days. The ongoing nature of the farmers market and the (heretofore) lack of evidence of charitable purpose lead staff to conclude that these exemptions would not apply to participants in the farmers' market.

If the City Council wishes to grant the manager's request, staff recommends an ordinance that would allow the manager of a farmers market or other similar event to obtain a master license for the business. The amount of the business license tax would be based on the estimated gross receipts for the entire market. The market manager is requesting the master license for only the farmers participating in the market. Staff recommends that if the Council grants the master license, the license should cover all gross receipts from sales at the market, with an allowance for other participating business to deduct the amount of gross receipts earned at the market from the amount of gross receipts upon which their business tax is paid. Staff additionally recommends approving a \$50 administrative fee for processing the master license.

In considering whether to allow a blanket ordinance, staff suggests several rationales for and against allowing the master license:

Rationales for allowing the master license:

- *Economic development:* Allowing for a master license could encourage economic development. Events such as the farmers market and the Triathlon at Pacific Grove draw business and activity to town. The master license would simplify the requirements for such activities, thereby encouraging more of such events.
- *Financial incentive for local businesses to participate:* Exempting gross receipts generated at the farmers market from the calculation of annual business tax owed by individual businesses could serve as an incentive to Pacific Grove businesses to participate.
- *Administrative efficiency:* Auditing business license compliance would be much simpler under the “master” provision. Enforcing compliance by all farmers market participants will be much more resource intensive.

Rationales for denying the request for a blanket license:

- *Fairness and consistent application of business license rules:* As mentioned previously, the Municipal Code is very broad as to the business that is subject to the tax. Staff frequently hears complaints from business license holders who argue that they should not be required to obtain a license because they do business in many communities and they do only a small portion of their total business in Pacific Grove. Staff believes the farmers’ situation is not significantly different from these businesses.
- *Relatively inexpensive cost of compliance:* With regard to economic hardship, business license taxes are paid based on gross receipts, with a minimum of \$15 and maximum of \$3,000. If a business produces less than \$15,000 of gross receipts, they pay \$15. This could be the extent of the economic hardship.

Everyone’s Harvest plans to open the farmers market on July 21st, 2008. The City Council’s decision on this matter will not necessarily preclude this opening. Should the City Council approve the request, staff would exercise a provision of the Code (7.04.150) that allows for a 30-day extension of the business license filing period, for good cause. With the extension, Everyone’s Harvest would have to file the master license by August 5th. If the City Council denies the request, farmers participating in the market would have until the opening to obtain their licenses.

To summarize, staff recommends denial of the request in the interests of consistent application of business license rules and fairness to Pacific Grove businesses, required to obtain a business license, facing similar economic circumstances as farmers participating in the market. If the City Council wishes to allow the master license, steps recommended include:

- Introducing an Ordinance amending the Municipal Code to establish a master license provision,
- Directing staff to return to the City Council with a resolution to establish a \$50 administrative fee for processing the master business license.

The City Council may approve or reject the first reading of the draft Ordinance. City Council may direct that the publication of the Ordinance as required by the Charter Article 15 may be satisfied by publication of a summary of the proposed Ordinance, approved by the City Attorney. If approved, the Ordinance shall then be set for second reading at the next Council meeting.

Modification of Business License requirements does not constitute a “Project” as that term is defined under the California Environmental Quality Act (CEQA), CEQA Guideline section 15378.

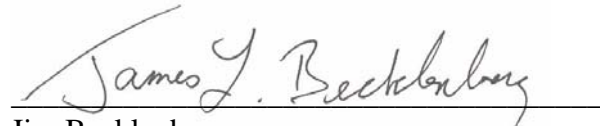
FISCAL IMPACT:

None. Under either licensing scenario, the amount of tax paid will be based on gross receipts generated at the farmers market.

ATTACHMENTS:

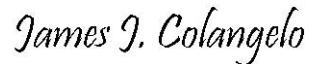
1. Letter requesting “blanket license” from Everyone’s Harvest, dated May 15, 2008
2. Draft Ordinance amending the Municipal Code to allow for a “master” business license

RESPECTFULLY SUBMITTED:



Jim Becklenberg
DIRECTOR OF MANAGEMENT AND BUDGET

REVIEWED BY:



Digitally signed: I have reviewed this document

James J. Colangelo
CITY MANAGER



Everyone's Harvest
Marina's Certified Farmers' Market

Mailing: P.O. Box 1423 Marina, CA 93933
Market Site: 215 Reservation Road (market site)
Iris_Peppard@csumb.edu
Phone: (831) 384-6961
Fax: (831) 582-3568
www.everyonesharvest.org

May 15, 2008

Dear City of Pacific Grove,

This letter is in regard to the PG Business License Tax. After meeting with the Director of Management and Budget, Jim Becklenberg on May 14, 2008 I believe Everyone's Harvest fits into the definition of a charitable organization in Section 7.04.070. In this Section, it does not state that individuals participating in the charitable organizations' event will need to pay a PG Business License Tax. I am willing to provide documentation and sign any paperwork necessary stating Everyone's Harvest is a charitable organization and fits into Section 7.04.070.

If the City of PG disagrees with the above statement, Everyone's Harvest is willing to work with the City on this issue. Even thou, the majority of cities in the United States do not tax farmers. If the City is going to tax the farmers, it is very important to the future survival of certified farmers markets that the farmers are not taxed individually but that Everyone's Harvest pays a blanket fee for all of the farmers. This blanket fee would be determined by the amount of farmers participating in the Market and the amount they profit at the Market. At the present time, Everyone's Harvest requires the farmers to fill out load list stating how much produce they brought to the market and how much they sold at the market. Yet, we do not require the farmers to report on how much money they produce on each market day. If this step is taken, to assist the City of PG in this matter, Everyone's Harvest is willing to change our system to require each farmer to report on how much they produce in revenue at each PG Market day.

This blanket fee is necessary because it ensures the future system of certified farmers markets. Many farmers must go to an average of ten to twenty different cities in a week to make a living selling at farmers markets. If every city required farmers to purchase a business license for every city they sold produce in (usually on four hours a week in each city) it would be unfeasible for the farmer to make a living wage.

Everyone's Harvest is unwilling to allow the City of PG to tax the farmers individually because it would set a presided we do not support. Yet, we understand the City is in need for more revenue. If it is determined that we do not fit into Section 7.04.070, Everyone's Harvest is willing to pay a blanket fee for the farmers

The other vendors at the market will all be from the City of PG and Everyone's Harvest will require every one of these vendors to provide a copy of their PG Business License that Everyone's Harvest will file before they participate in the Market. In addition to, a physical PG address.

Sincerely,

A handwritten signature in cursive script that reads "Iris Diana Peppard".

Iris Diana Peppard, Founder and Executive Director

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PACIFIC GROVE
AMENDING SECTION 7.04.070 OF THE PACIFIC GROVE MUNICIPAL CODE TO
MODIFY BUSINESS LICENSE REQUIREMENTS FOR FARMERS MARKETS
WHERE A LICENSE HAS BEEN OBTAINED BY THE EVENT SPONSOR**

WHEREAS, Chapter 7.04 of the Pacific Grove Municipal Code establishes the basis and requirements pertaining to Business License Taxes in the City; and

WHEREAS, Chapter 7.04 of the Pacific Grove Municipal Code requires, for the sole purpose to raise revenue, that each person transacting business in Pacific Grove shall procure a license from the City to do so; and

WHEREAS, Section 7.04.070 of the Pacific Grove Municipal Code specifies circumstances in which a business may be exempt from procuring such a license; and

WHEREAS, the City Council finds it can enable an event sponsor of a farmers market or similar event to manage that business activity under the scope of a single, umbrella Business License without causing any loss of revenue to the City; and

WHEREAS, the City Council wishes to create an exemption to enable issuance of an umbrella or master Business License for businesses participating in a farmers market, or similar event;

WHEREAS, modification of Business License requirements does not constitute a “Project” as that term is defined under the California Environmental Quality Act (CEQA), CEQA Guideline section 15378.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE:

SECTION 1. The foregoing recitals are adopted as findings of the City Council as though set forth fully herein.

SECTION 2. The text set forth in existing Section 7.04.070 (c) of the Pacific Grove Municipal Code entitled, “Exemptions”, of Chapter 7.04, Business License Tax, shall be changed by the deletion of all text shown in ~~strikeout text~~ and the addition of all text shown in bold, italic, underscored text (***bold, italic, underscored text***), as follows:

7.04.070 Exemptions

(c) Nothing in this chapter shall be deemed or construed to apply to a business conducted by a participant in a trade show, exhibition, street fair, ***farmers market*** or other similar event ~~which is organized or sponsored by a business described in subsection (b) above, where~~ ***provided*** a business license for all businesses participating in such an event has been obtained by

the organizer or sponsor, upon payment of the applicable fee and submission of a form to be provided by the collector, as an annual "master business license" based upon the gross receipts generated by all businesses at the event.

SECTION 3. If any provision, section, paragraph, sentence, clause or phrase of this ordinance, or any part thereof, or the application thereof to any person or circumstance is for any reason held to be invalid or unconstitutional by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this Ordinance, or any part thereof, or its application to other persons or circumstances. The City Council hereby declares that it would have passed and adopted each provision, section, paragraph, subparagraph, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, paragraphs, subparagraphs, sentences, clauses or phrases, or the application thereof to any person or circumstance, be declared invalid or unconstitutional.

SECTION 4. This ordinance shall become effective on the thirtieth (30th) day following passage and adoption hereof.

PASSED AND ADOPTED BY THE COUNCIL OF THE CITY OF PACIFIC GROVE
THIS ____ day of _____, 2008, by the following vote:

AYES:

NOES:

ABSENT:

APPROVED:

DANIEL E. CORT, Mayor

ATTEST:

CHARLENE WISEMAN, City Clerk

APPROVED AS TO FORM:

DAVID C. LAREDO, City Attorney