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## COMMITTEE MEMORANDUM

TO: Members of the Public Safety and Neighborhoods Quality of Life Committee

FROM: Alina T. Hudak, City Manager

DATE: September 21, 2022

SUBJECT: **DISCUSSION REGARDING RECOMMENDATIONS BY RESIDENTS CONCERNING THE BUSINESS TAX RECEIPT CRITERIA.**

### **BACKGROUND/HISTORY**

This item was referred to the Public Safety and Neighborhoods Quality of Life Committee (PSNQLC) at the April 21, 2021 City Commission meeting by Commissioner Samuelian. Since then, the item has been sponsored by Commissioner Fernandez. The purpose of the referral is to discuss the business tax receipt (BTR) criteria and proposed modifications sent by residents, including:

- (1) Authorize a review of police calls for service history and code enforcement history for any business seeking BTR renewal and require such review for certain specific types such as dance halls, liquor stores, restaurants, convenience stores, and alcohol beverage establishments, in an effort to identify patterns in calls for police service and/or code enforcement that may point to possible public safety concerns associated with the business seeking BTR renewal.
- (2) When such patterns stated in paragraph 1 are identified, require the City Manager to further vet the business seeking BTR renewal. Such vetting may include a review of business practices and a site visit during hours of operation but must at a minimum include consultation with the Director of Code Enforcement and the Chief of Police prior to the renewal of the BTR.
- (3) Upon such further vetting stated in paragraph 2, allow the City Manager to: (a) deny the issuance of a BTR or (b) issue conditions that must be met for the renewal of the BTR.

An update was provided at the September 20, 2021 meeting of the Committee. The update outlined that several meetings had taken place with a working group that included staff from the City Attorney's Office, Code Compliance Department, Police Department, and Finance Department. The working group reviewed the various sections of the City Code pertaining to BTR's including: application procedures (Section 102-371); grounds for denial (Section 102-372); grounds for suspension, revocation, and denial (Section 102-381); notice of violation, emergency action (Section 102-383); hearing procedures, enforcement of orders (Section 102-385). After close review of the applicable City Code sections, the working group initially felt that there is existing language in the current City Code that can be adequately used to address problematic operators.

## **ANALYSIS**

Over many months, the working group has continued to meet and has been expanded to include staff from the Building and Fire departments. These meetings help the team collaborate in a more proactive approach and exchange information regarding problematic operators so that suitable evidence can be collected to effectively enforce the applicable provisions of the City Code. Since the last update, the team has focused its collective efforts on (1) analyzing businesses that are driving the most police calls for service, (2) further reviewing the City Code for potential changes to incentivize better behavior by problematic businesses, and (3) evaluating the potential impact of additional resources such as dedicated code enforcement positions.

### **Businesses Driving Police Calls for Service**

At the March 2021 FERC meeting, the team presented a list showing the top 24 businesses that drove police calls for service during calendar year 2021. For each business on the list, the team methodically checked that the BTR status was active, the Resort Tax reporting status if applicable, the number of code compliance calls for service, any building department violations, any moneys owed to the City, and whether or not the businesses currently have off-duty police. At the next update of this item to FERC, the team anticipates completing the analysis of the next tier of businesses (25 through 50) and sharing those results.

### **Incentivizing Better Behavior by Problematic Businesses**

Following its initial review, the cross-departmental team now recommends three changes to the City Code. The first is to increase the fines in Section 102-377. Currently, the fine is \$1,000 for first offense and \$500 thereafter. The proposed fine would remain \$1,000 for first offense, but then increase by an additional \$1,000 for each subsequent offense. The team also supports a period of minimum closure or a three-strikes and out rule if an operator has multiple violations in a designated period of time.

The second proposed change to the City Code would be to add specific language in Section 102-373 to allow the City's regulatory departments access to public areas of businesses with a BTR. Currently, Police and Fire have no issues entering businesses, but on occasion, it can be problematic for Code and Building to gain access since the City Code is not as clear as it could be.

The third proposed change is to amend Section 102-371 to codify a current practice which is to have any operator that has not renewed their BTR in over a year to reapply as a new business. This practice incentivizes operators to renew their BTR timely and helps identify any BTR's that may have been transferred to a new operator that may be operating outside their approved conditional use, which has been a problem in the past.

### **Dedicated Code Officers**

The cross-departmental team also recommends the addition of three code officer positions that would be dedicated to BTR and Resort Tax enforcement. This model was used effectively in the past, prior to staff reductions during the Great Recession. Dedicated code officers would be able to react faster to potential situations, be more proactive compared to the current reactive model, develop more familiarity with problematic businesses, and improve coordination with other regulatory departments.

## **CONCLUSION**

The cross departmental BTR team will continue to analyze the next tier of businesses with the highest calls for police service. If the Committee agrees with the recommended changes to the City Code, they would be brought to the City Commission for two readings. The team also recommends the addition of three new code officer positions that could be considered as part of a mid-year budget amendment or as an enhancement in the FY 2024 budget cycle.