



**CITY OF BEVERLY HILLS
STAFF REPORT**

Meeting Date: November 30, 2010
To: Honorable Mayor & City Council
From: Scott G. Miller, Ph.D., Director of Administrative Services/CFO
Mark Brower, Senior Budget & Financial Analyst
Subject: A Resolution of the Council of the City of Beverly Hills submitting to the Voters of the City a measure to Increase the Tax on Oil Extracted from the City, to Establish a Tax on Natural Gas Extracted from the City and to Amend the Definition of Gross Receipts in the Business Tax Regulations of the Beverly Hills Municipal Code

Attachments: 1) Resolution

INTRODUCTION

The proposed ballot measure clarifies the City's "oil tax" to make clear that the privilege being taxed is the privilege of severing or removing oil from the City and adds the removal of natural gas as an incident of taxation. Thus, if approved, the tax will be imposed on the privilege of removing oil and natural gas from the City. The proposed tax is not a tax on oil production activity, as is proposed in the City of Los Angeles. This measure would also convert the tax from a flat fee per barrel of oil produced to a flat fee for each well that is bottomed in the City plus a percentage of the gross receipts earned from the oil and natural gas extracted from the City. The tax rate is proposed at 2.5% of gross receipts.

The proposed ballot measure also makes an administrative change to the City's code by revising the definition of gross receipts so that the definition of gross receipts does not automatically exclude any gross receipts used as the measurement of a tax by another local government agency.

DISCUSSION

A. Oil and Natural Gas Extraction Tax

The current oil extraction tax includes two categories. The first category is oil wells located entirely within the City. The current tax rate for such wells is a flat rate of \$3,880.60 for the first 10,000 barrels of oil produced (\$0.388 per barrel) and \$0.36 per each additional barrel.

The second classification is oil wells located partly within the City and partly outside the City. The current tax rate for such wells is a flat rate of \$1,933.20 for the first 10,000 barrels of oil produced (\$0.193 per barrel) and \$0.14 per each additional barrel.

The proposed ordinance would clarify that the incident of taxation is the removal of a natural resource (specifically oil and natural gas) and would add the removal of natural gas from the City as a taxable activity. Currently, the removal of oil is taxed, but not the removal of natural gas.

The newly proposed tax rate is \$2,000 per extraction well plus 2.5% of the gross receipts from the sale of oil and natural gas extracted from the City.

It is estimated that the revision to the tax rate and the addition of natural gas to the resources being taxed is likely to generate an additional one million dollars or more in revenue per year. This number could fluctuate significantly with the price of oil and natural gas and, over the long term, could diminish as the resources within the City diminish.

B. Administrative Change to definition of "Gross Receipts"

Currently, the City's Municipal Code excludes from the definition of gross receipts any gross receipts that are used as the measure of taxes in another jurisdiction. This places the City of Beverly Hills at the whim of other cities who may tax gross receipts that should properly be attributed to Beverly Hills. This revision to the definition of gross receipts will eliminate this exclusion from the definition of gross receipts. Nevertheless, when businesses engage in taxable activity in Beverly Hills and in another jurisdiction, then each city must apportion its taxes so that each city only taxes the portion of the activity properly attributable to that jurisdiction. The change to the definition of gross receipts will not alter this rule, but it will mean that the City of Beverly Hills will not simply defer to the apportionment decision of another jurisdiction.

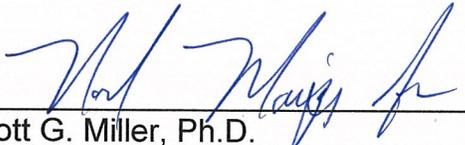
Also, the proposed resolution gives ballot argument priority to City Council members and directs the City Attorney to prepare an impartial analysis of the ballot measure for inclusion in the sample ballot. Both of these choices are optional and the City Council may choose to delete either or both of these provisions from the proposed resolution.

FISCAL IMPACT

The modification to the Oil Extraction tax is projected to generate \$900,000 - \$1,200,000 annually.

RECOMMENDATION

It is recommended that the City Council provide staff direction regarding placing an ordinance to update the City's business taxes on the ballot for the March 8, 2011 municipal election. The deadline for ballot measure placement is December 10, 2010.



Scott G. Miller, Ph.D.
CFO / Director of Administrative Services

Attachment 1

RESOLUTION NO. ____

A RESOLUTION OF THE COUNCIL OF THE CITY OF BEVERLY HILLS SUBMITTING TO THE VOTERS OF THE CITY OF BEVERLY HILLS A MEASURE TO INCREASE THE TAX ON OIL EXTRACTED FROM THE CITY, TO ESTABLISH A TAX ON NATURAL GAS EXTRACTED FROM THE CITY AND TO AMEND THE DEFINITION OF GROSS RECEIPTS IN THE BUSINESS TAX REGULATIONS OF THE BEVERLY HILLS MUNICIPAL CODE

THE COUNCIL OF THE CITY OF BEVERLY HILLS DOES RESOLVE AS FOLLOWS:

Section 1. The City Council hereby submits to the voters of the City of Beverly Hills a measure to enact an ordinance to increase the tax imposed on the extraction of oil from the City of Beverly Hills, to establish a tax on the extraction of natural gas from the City of Beverly Hills, and to amend the definition of gross receipts as used in the City's business license tax regulations. The measure shall be submitted to the voters at the general municipal election to be held on March 8, 2011.

Section 2. The full text of the measure is the proposed ordinance attached hereto as Exhibit A and incorporated herein by this reference and such ordinance shall be printed in the voter pamphlet. The question to be submitted to the voters on the ballot shall be as follows:

"Shall an ordinance that increases the tax on oil extracted from the City of Beverly Hills, establishes a tax on natural gas extracted from Beverly Hills, and makes a change to the definition of gross receipts set forth in the Beverly Hills Municipal Code, be adopted"?	YES _____	NO _____
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Section 3. The City Council directs the City Clerk to transmit a copy of the above referenced measure to the City Attorney. The City Attorney shall prepare an impartial analysis of the measure not exceeding 500 words showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall be filed by the date set by the City Clerk for the filing of primary arguments.

Section 4. The City Council authorizes any and all members of the City Council to file a written argument In Favor or Against the above referenced measure in accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of California and to change the argument until and including the date fixed by the City Clerk after which no arguments for or against the measure may be submitted to the City Clerk.

Section 5. The City Clerk and all other officers of the City are hereby authorized and directed to do any and all things and to execute and deliver any and all documents that they may deem necessary or advisable in order to complete the process for placing the ballot measure on the March 8, 2011 ballot.

Section 6. The City Clerk shall certify to the adoption of this Resolution and shall cause this Resolution and its certification to be entered in the Book of Resolutions of the Council of this City.

Adopted: November ____, 2011

JIMMY DELSHAD
Mayor

ATTEST

BYRON POPE (SEAL)
City Clerk

APPROVED AS TO FORM

LAURENCE S. WIENER
City Attorney

EXHIBIT A

[See attached ordinance]

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY OF BEVERLY HILLS TO AUGMENT LOCALLY CONTROLLED REVENUE FOR CITY SERVICES AND OPERATIONS BY INCREASING THE TAX IMPOSED ON OIL EXTRACTED FROM THE CITY OF BEVERLY HILLS AND ADDING A TAX ON NATURAL GAS EXTRACTED FROM THE CITY OF BEVERLY HILLS AND AMENDING THE BUSINESS TAX PROVISIONS OF THE BEVERLY HILLS MUNICIPAL CODE

THE PEOPLE OF THE CITY OF BEVERLY HILLS DO ORDAIN AS FOLLOWS:

Section 1. Subsurface deposits of oil and associated natural gas are valuable resources of the City of Beverly Hills. Severing these resources from the City by extracting them through a well depletes the resource base and wealth of the City, thereby diminishing a future source of taxes and economic activity.

Section 2. Classification "I" regarding "Oil Production" in Section 3-1-219 of Article 2 of Chapter 1 of Title 3 of the Beverly Hills Municipal Code is hereby amended to read as follows:

"I. Classification I; Oil or Natural Gas Extraction from City of Beverly Hills: All registrants engaged in severing resources from the City by extracting oil or natural gas from the City of Beverly Hills, and classified by finance administration as classification I, Oil or Natural Gas Extraction from City of Beverly Hills, shall pay an annual tax of Two Thousand Dollars (\$2,000), which tax shall be adjusted annually pursuant to the terms of Article 10 of this Chapter, for each extraction well that is used in the extraction of oil or natural gas from the City of Beverly Hills, plus an additional annual gross receipts tax of two and one-half percent (2.5%) of gross receipts derived from the sale of oil and natural gas extracted from the City of Beverly Hills, based on the annualized actual such gross receipts of the prior calendar year or in the case of a new business an estimate by the registrant of the gross receipts during the current calendar year. Oil and natural gas will be deemed extracted from the City of Beverly Hills if oil or natural gas is extracted from a well that is bottomed in the City of Beverly Hills."

Section 3. The definition of "Gross Receipts" set forth in Section 3-1-205 of Article 2 of Chapter 1 of Title 3 of the Beverly Hills Municipal Code is hereby amended by

deleting in its entirety exclusion "I" that reads "I. The amount of gross receipts which has been the measure of a business tax paid to any other city."

Section 4. If any section, subsection, subdivision, sentence, clause, phrase, or portion of this Ordinance or the application thereof to any person or place, is for any reason held to be invalid or unconstitutional by the final decision of any court of competent jurisdiction, the remainder of this Ordinance shall be remain in full force and effect. It is the intention of the City Council that, if any tax increased or imposed by this Ordinance is for any reason held to be unconstitutional or otherwise invalid; it is the intent of the City Council that the tax which would have been in existence and imposed had this ordinance not been adopted shall remain effective.

Section 5. The City Council of the City of Beverly Hills may delete, restore, amend or alter any of the provisions of this ordinance and any provision of the Beverly Hills Municipal Code affected by this ordinance provided that such action does not establish any new tax or increase any existing tax.

Section 6. Pursuant to Elections Code Section 9217, this ordinance shall be considered adopted on the date that the City Council declares a majority vote in favor of the ordinance and shall go into effect ten (10) days after that date. However, the provisions of this ordinance shall not apply to business license taxes for the calendar year 2011 provided that the registrant has paid the 2011 business license tax prior to the effective date of this ordinance.

Adopted: _____

Effective: _____

By: _____
Mayor of the City of Beverly Hills,
California

ATTEST:

_____(Seal)
BYRON POPE
City Clerk