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AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Sarah T. Schlenk
Acting Budget Director

SUBJECT: Federal and State Budgetary Actions
Standing Report

DATE: July 7, 2016

City Administrator Approval

Date:

7/7/16

A standing report from staff will be scheduled for every Finance and Management Committee meeting, for the purpose of presenting to the Committee any new developments relating to Federal and State budgetary actions and their potential impact on the City.

For questions regarding this report, please contact Jonathan Segarra, City Administrator Analyst, at (510) 238-4906.

Respectfully submitted,

SARAH T. SCHLENK
Acting Budget Director,
City Administrator's Office

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TOWNSEND
PUBLIC AFFAIRS
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MEMORANDUM

To: Mayor Libby Schaaf
Council President Lynette Gibson McElhaney and Members of the City Council

From: Townsend Public Affairs, Inc.

Date: July 6, 2016

Subject: Ongoing update of the 2016-2017 State & Federal Budgets

The purpose of this memo from Townsend Public Affairs, Inc. (TPA) is to provide the City of Oakland with updates regarding Governor Brown's Proposed Budget for 2016-17, released on January 7, 2016, and President Obama's Budget, released on February 9, 2016.

State

On June 27th, the Governor signed the fiscal year 2016-17 state budget just a few days before the beginning of the new fiscal year. The Legislature and the Governor negotiated for several weeks and finally reached an agreement for a \$122.5 billion general fund spending plan for 2016-17, contained in SB 826. With that said, there are still several outstanding issues related to the budget that the Legislature will need to consider prior to the end of session; chief among those issues are a cap and trade expenditure plan, transportation infrastructure funding and the Governor's "by-right" housing proposal.

First I want to highlight two specific City of Oakland earmarks in the budget. Through the leadership of Assembly Members Thurmond and Bonta, money in the budget was specifically set aside for the City of Oakland for:

- \$606,000 for the Oakland Police Department for the Cease Fire Program; and
- \$325,000 for the City of Oakland Grow our Own/Police Pipeline Project.

By Right Housing Proposal

In May of this year, Governor Brown introduced a proposal, as part of the 2016-2017 state budget, to streamline the development of multi-family housing projects that meet certain affordability thresholds. The required threshold varies depending upon the level of affordability and the proximity to transit priority areas. All projects that seek to qualify for the streamlined process would be required to restrict at least 20 percent of units for individuals who earn 80 percent of the area median income. Projects located in transit priority areas would only be required to restrict either 10 percent to lower income individuals or five percent for very low income individuals. Under the proposal, if a project meets the affordability thresholds and satisfies certain criteria, then the development would be permitted "by-right" and local agencies would have limited review authority.

The Administration and TPA have been constantly communicating with the Governor's office on this proposal making it clear what a City like Oakland would benefit from. In the balance is \$400 million of one time funding for essential affordable housing programs from the State, many of which Oakland can utilize.

Namely, we have suggested the following amendments: (1) the proposal should not override local inclusionary zoning ordinances, (2) the affordability thresholds for streamlining eligibility should be increased, (3) the affordability restrictions should apply for longer than 30 years, (4) the proposal should clarify ambiguous terms that are not consistent with state planning law, (5) the proposal should include procedures to ensure transparency and due process for property owners and citizens and a few other technical suggestions.

The proposal has been revised since the Administration reviewed it. The most recent version of the proposal was released to the public on June 10th and this version includes revisions targeted at many of the City's concerns. TPA has been advised that the Governor's office will likely release a further revised version sometime in July. Based on current information, the legislature is expected to consider the proposal in August.

Cap and Trade

The adopted budget does not contain an expenditure plan for state cap and trade proceeds due to the lower-than-expected auction revenues at the most recent auction. More specifically, proceeds were significantly less than the state anticipated, generating only around \$10 million instead of the anticipated \$500 million that had been common in previous auctions. The reason for the low proceeds is not entirely clear, although some indicating that uncertainty regarding the future of the program had a role to play in market confidence. The next cap and trade auction is scheduled for early August and the Legislature will look to put together an expenditure plan once that auction has concluded and the revenue generated is known. If the revenue generated from the August auction returns back to previous levels then the cap and trade funding plan will likely be in the \$3 billion range; however, if proceeds are lower, then the expenditure plan will be significantly less.

As you recall, 60 percent of the auction proceeds are specifically earmarked for the following programs, of which some are of great interest to the City. They are High-Speed Rail projects, Low Carbon Transit Operations, Transit and Intercity Rail projects and the Affordable Housing and Sustainable Communities program.

Transportation Funding

As was the case with cap and trade, the Governor's transportation infrastructure proposal has been sent back to the policy process and was removed entirely from the budget package. Earlier in the budget process, budget committees in both houses rejected the Governor's transportation funding plan, which required a two thirds vote in each house, as it included new fees and taxes. While not in the budget, the Legislature still has an open special session to deal with transportation and infrastructure, in which they can pursue legislation.

Additionally, numerous groups, such as the Fix Our Road coalition, continues to push for a bi-partisan agreement on a transportation funding package within the special session before the adjournment of session at the end of August.

The No Place Like Home Proposal

AB 1618, establishes the No Place Like Home Program (NPLH) to be administered by the Department of Housing and Community Development (HCD), in consultation with an advisory committee with specified membership, to distribute \$2 billion among the counties to finance capital costs, including acquisition, design, construction, rehabilitation or preservation and capitalized operating costs of permanent supportive housing for persons who are eligible for services under Proposition 63 and are homeless, chronically homeless, or at risk of chronic homelessness.

AB 1618 divides potential bond funding into a competitive pot (\$1.8 billion) and a noncompetitive pot (\$200 million). Within the competitive pot of funding, counties will be grouped into four tiers based on total population, within which they will compete for funding:

- Los Angeles County
- Large counties with a population over 750,000
- Medium counties with a population between 200,000 and 750,000
- Small counties with a population under 200,000.

Awards in the competitive pot are not based on a counties' homeless count, and the small county tier will make 8 percent of funds available. Further, there is the option of an alternative process for the counties with more than 5 percent of the statewide homeless population to access funding directly, but this option limits the amount of funding an alternative county accesses in this way to their proportionate homeless count.

While the cap and trade expenditure plan and the transportation infrastructure funding were not part of the signed budget, there were numerous items that may be of interest to the City, including:

Drought:

- The approved budget provides \$334.5 million for drought response.

Early education and education:

- Provides rate increases that will grow to over \$500 million primarily to increase rates for child care and preschool programs to reflect the rising costs of the state minimum wage laws. Also provides funding, growing to \$100 million annually, to add nearly 9,000 full day preschool slots;
- Local Control Funding Formula Increase provides \$3 billion to further implement the LCFF;
- Incentivizes Full Day Kindergarten and begins process of developing financial incentives for school districts to provide full day Kindergarten;
- Expands CA Students, Caps Out-of-State Students at UC. Requires the Regents to adopt a policy regarding out-of-state enrollment. Increases UC funding by about \$190 million, with \$20 million in one-time funding and \$18.5 million to enroll 2,500 new California students; and
- Increases Community Colleges Enrollment and Programs. Supports two percent enrollment growth at Community Colleges, and provides \$200 million to expand career technical education programs.

Earthquake preparedness:

- Creates a seismic safety revolving loan program for retrofitting homes and multiunit buildings (thank you to the Mayor and Council Member Kalb as this was one of the City's top legislative priorities this year and are thrilled to see this in print!); and
- Also provides \$3 million for the Brace and Bolt program.

Expanding support for the homeless/affordable housing:

- There is \$400 million in one-time funds set aside as part of the "by-right" discussion which as we have been reporting in depth the discussions will resume formally in August;
- \$237 million to use Prop 63 funds to address housing issues for the mentally ill;
- \$14.7 million in new funds to expand housing services for families in the CalWORKs program;
- \$45 million for a State Emergency Shelter Grant program;
- Approves changes in law to further the California Housing Finance Agency's (CalHFA) goal of helping more families become first-time homebuyers by combining remaining funds from

multiple down-payment assistance programs into the MYHOME Program and including language to prioritize first-time homebuyers; and

- If you would like greater detail on the No Place Like Home proposal, please let me know.

Helping low income families, assisting seniors and the disabled:

- Increases CalWORKs Housing Services. Increases funding for the Housing Support Program by \$12 million to stabilize housing for our most vulnerable families;
- Funds Minimum Wage Increase. Includes funding associated with the first step of the minimum wage increase to \$15; and
- Continues the Earned Income Tax Credit. The budget funds the second year of the successful CA EITC.

Fire safety:

- \$11 million to assist in the removal and disposal of trees in high hazard areas; and
- \$5 million in grants to cities specific to tree mortality and tree removal.

FPPC:

- Provides \$210,000 and one-half positions in order to implement SB 21 (Hill) which mandates the creation of a new form to enable nonprofit organizations to disclose gifts of travel made to state and local elected officials.

Public safety related:

- Under the topic crime and recidivism prevention programs there is:
 - \$15 million for the Law Enforcement Assisted Diversion program;
 - \$10 million for Proposition 47 program activities at the Bureau of State and Community Corrections;
 - \$5.5 million for restorative justice;
 - \$20 million for municipal police departments to increase positive outcomes between city police and the homeless community, persons with mental health needs, and high-risk youth populations;
 - \$2.5 million for community college inmate education program;
 - \$67.5 million in grants for infrastructure repairs/upgrades/expansions for 1-time resources to community providers focused on mental health treatment, substance use disorder treatment, and trauma-centered services;
 - \$6.8 million to increase and establish a reentry/bridging grant program;
 - \$15.5 million grant program for local governments experiencing spikes in violent crime to promote safer communities;
 - \$5 million to offset local law enforcement agency costs associated with attending and replicating the Attorney General's Implicit Bias Training; and
 - \$600,000 for the Make-it-or-Break-It program.
- For Human Trafficking there is \$10 million for human trafficking prevention grants;
- For Local Public Safety allocates \$270 million of lease-revenue bonds to allow for the expansion and repair of local jails;
- \$5 million for on-going to aid in meeting the requirements of Commercially Sexually Exploited Children (CSEC) mandates, toward ensuring that child welfare agencies can meet their mandate of serving CSEC victims; and
- \$3 million for Workforce Investment Board services to ex-offenders.

Federal Legislative Update

The House and Senate have recessed through the Independence Day holiday. Washington spent the past two weeks reeling from the news of the shooting in Orlando; following the news and public outcry, congressional Democrats spent the better part of the month utilizing congressional

procedure to attempt to force the majority into allowing votes on gun control legislation. Appropriations bills have been stalled due to debates over gun control, Zika virus funding and other controversial issues, which may require the adoption of a continuing resolution to fund the government when the FY2017 fiscal year begins on October 1.

FY 2017 Budget & Appropriations

With the September 30 end of the fiscal year looming, members have less than 30 days in session to pass and conference all 12 appropriations bills. Only three bills have been completed in either body, none of which have been conferenced. Consequently, the prospects of a short-term continuing resolution seem increasingly likely. However, if significant progress is made on the appropriations bills before the election, this could provide the momentum necessary to pass the bills or an omnibus in the lame duck session at the end of the year.

The Commerce, Justice, and Science appropriations bill, which Democrats hope to attach gun control amendments to, is currently under consideration in the Senate. This bill does not include any more funding for The National Oceans and Coastal Security Fund, which typically provides funding for **regional coastal resilience grants**. Instead the committee urged NOAA to use existing funds appropriated for regional coastal resilience grants. The Senate appropriations committee marked up and approved the Homeland Security and Interior-Environment appropriations bills, which include funding for:

- \$2.6 billion for FEMA preparedness grants, which includes:
 - \$1.3 billion for State and Local Assistance Grants
 - \$690 million Firefighter Assistance Grants
 - \$350 million Emergency Management Performance Grants
- \$30 million for Water Infrastructure Finance Act (water infrastructure loans)
- \$297 million for the **National Endowment for the Arts and Humanities** (\$148.5 million for each endowment)

Airports and Drones

- **FAA Reauthorization:** With the July 15 deadline to pass legislation to reauthorize the Federal Aviation Administration (FAA), Congress will once again likely need to pass another short term extension before the leave for summer recess. While the Senate has passed its version of the reauthorization bill, the House has yet to move a bill to the floor, suggesting another temporary authorization will be necessary. This bill will have significant implications for local government in terms of their ability to regulate drones in their jurisdiction and potentially addressing community concerns about new flight paths and related airport noise.

Meanwhile, the FAA issued new drone regulations and addressed the preemption of state and municipal laws that had been debated in the Senate reauthorization bill. Under the new regulations, which pertain to unmanned aircraft weighing less than 55 pounds and flying no more than 400 feet above ground, operators would be required to remain within the visual line of sight of the pilot. Remote operation would be permitted, but would require operators to obtain a remote pilot certificate. Regarding preemption, the FAA stated it was "not persuaded that including a preemption provision in the final rule is warranted at this time," and that "certain legal aspects concerning small UAS use may be best addressed at the state or local level."

- **Air Traffic Controllers:** This month, the House Transportation and Infrastructure Subcommittee on Aviation held a hearing to review the FAA's plans for air traffic controller hiring, staffing, and training. The thousands of controllers hired during the 1981 strike are now reaching mandatory retirement, which threatens to create a major shortfall in the staffing and training of air traffic controllers at airports nationwide.

Supreme Court Decisions

The Supreme Court will adjourn for the year at the end of June, making this week the last week to announce decisions on a host of issues. The court will reconvene in October, albeit with one empty seat due to Senate Majority's continuing opposition to consider President Obama's nominee, Merrick Garland, before the election. Unless Garland is confirmed in the lame duck session, the Court will still only have eight members to consider new cases in 2017 because oral arguments end in April. Before adjourning, the justices issued a number of significant decisions, including:

- *Fisher v. University of Texas at Austin* – The court decided that affirmative action was not unconstitutional and could continue to be used in admissions processes.
- *Voisine v. United States* – The court decided that felons can be legally prohibited from possessing firearms in domestic violence cases.
- *Whole Woman's Health v. Cole* – The court decided that Texas state laws regulating abortion amounted to an undue burden on women's ability to procure a legal abortion.
- *United States v. Texas* – Due to a 4-4 split on the court, the deadlocked court was unable to rule on the legality of Obama administration's policy that would defer deportation for some undocumented immigrants. Because of the tie, the lower court's ruling stands, and the policy is overturned.
- *McDonnell v. United States* – The court overturned former Virginia governor Bob McDonnell's conviction of violating federal laws, making it more difficult to prosecute politicians for corruption in the future due to a more stringent definition of what constitutes "official action."

Puerto Rico Bankruptcy

On Wednesday, June 29, the Senate passed a bill giving Puerto Rico the same ability to restructure its debt that all U.S. states have. Since the House had already passed the same language, the bill will go to the president's desk for signature.

Because of an obscure provision in federal law, Puerto Rico was prevented from utilizing the same bankruptcy powers that the states possess and have extended to municipalities (such as Orange County in the 1990s and Stockton and San Bernardino today). If Congress did not modify that federal restriction, Puerto Rico would have been forced to default on \$2 billion of bonds on Friday, June 1, sending the territory into an economic tailspin. Although some senators opposed provisions in the bill regarding minimum wage, and some wanted to use the must-pass bill as a vehicle for other legislation, the Senate voted 68-32 in a cloture vote and approved the bill in a final vote later that day. If any alterations had occurred, the bill would have had to be sent back to the House, which is already in recess through the July 1 deadline.

E-Cigarettes and Vaping

According to new survey results from the U.S. Centers for Disease Control and Prevention in a study published in the journal *Pediatrics* on July 13, last year just 11 percent of high school students said they'd smoked cigarettes in the previous 30 days -- a significant decline since the 1990s. However, 24 percent said they'd used vape products, such as electronic cigarettes, within the last month. Additionally, adolescents who had never smoked, but who had used e-cigarettes, were substantially more likely to begin smoking combustible cigarettes over the next year. The publication of this study comes on the heels of the May 5, 2016 finalization of a Food and Drug Administration rule regulating the manufacture, import, packaging, labeling, advertising, promotion, sale, and distribution of electronic nicotine delivery systems. The new rule, set to go into effect on August 8, 2016, brings electronic smoking regulations more in line with traditional smoking regulations. It including provisions that require health warnings, ban free samples, require products meet the legal public health standard, and restrict youth access to products.

Looking Ahead

In the week and a half after the Independence Day holiday, we can expect both chambers to focus on:

- Appropriations – With the September 31 end of the fiscal year looming, members have less than 30 days in session to pass and conference all 12 appropriations bills. Only three bills have been completed in either body, none of which have been conferenced. Given the House's difficulty passing the relatively non-controversial Energy and Water bill, the prospects of a continuing resolution seem increasingly likely.
- FAA Reauthorization – Current FAA authorization expires on July 15.
- Gun Control – House Democrats have vowed to resume their sit-in, and the fate of Senator Collins' compromise amendment on gun control is still uncertain.
- Zika Funding – An essential disagreement over level of funding as well as restrictions on the use of that funding have forced the Senate into a stand-still, but the urgency of public health will force Congress to enact some form of funding to combat Zika virus.
- GMO Labelling – Sen. Debbie Stabenow (D-MI), ranking member on the Agriculture committee, says she will push for a vote on her GMO labelling bill after the July 4th recess and believes the legislation will pass.

With that, please let me know if there are any questions or matters for follow up.