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OFFICE OF THE CITY CLERK
OAKLAND

2013 OCT 10 PM 5:01
AGENDA REPORT

TO: DEANNA J. SANTANA
CITY ADMINISTRATOR

FROM: Arturo M. Sanchez
Deputy City Administrator

SUBJECT: Appropriation of Medical
Cannabis Dispensary Permit Fees

DATE: October 1, 2013

City Administrator
Approval

Arturo Sanchez

Date

10-8-13

COUNCIL DISTRICT: City-Wide

RECOMMENDATION

Adopt A Resolution (1) Authorizing The City Administrator Or Her Designee To Appropriate Three Hundred Fifty-Six Thousand Six Hundred And Ninety-Three Dollars (\$356,693); (2) Create One Tax Auditor II And One Assistant To The City Administrator Positions; (3) Appropriate Three Hundred Sixty Thousand Dollars (\$360,000) For On-Going Staff And Operating Cost From General Purpose Fund (Fund#1010), City Administrator's Office And Revenue Division On Positions And Operating And Maintenance Necessary To Adequately Regulate Medical Cannabis Dispensaries; And (4) Appropriate On-Going Revenue To Expenditure Accounts As Revenue Is Collected In An On-Going Basis.

OUTCOME

This resolution will appropriate funding for the staff required to adequately monitor, regulate, and enforce the Medical Cannabis Dispensary Ordinance, Oakland Municipal Code (OMC) Chapter 5.80. Adoption of the resolution would also implement Council direction pursuant to Ordinance 13087 C.M.S.

EXECUTIVE SUMMARY

On July 26, 2011 The Oakland City Council amended the Master Fee Schedule Ordinance to increase the annual permit for Medical Cannabis Dispensaries from \$30,000 to \$60,000. The increase was intended to help provide additional funding for positions that staff had identified as being necessary to sustain adequate staff levels to monitor and enforce OMC Chapter 5.80. Staff had originally recommended an increase sufficient to staff an oversight team comprised of Tax enforcement Officer II, Tax Auditor II, Special Combination Code Enforcement Inspector(s), City Attorney, Assistant to the City Administrator, and Administrative Support (Attachment 1 Adopted Ordinance 13087 C.M.S.) Council adopted a significantly lower permit

Item: _____

Finance and Management Committee
October 22, 2013

fee, which would not be sufficient to fund the recommended positions. Staff returns now with a resolution to appropriate the monies collected to date over the last two calendar years to fund two new positions, "Tax Auditor II" and "Assistant to the City Administrator" which will add two positions that are required to regulate the Medical Cannabis Dispensary permits and as originally contemplated upon passage of Ordinance 13087 C.M.S.

BACKGROUND/LEGISLATIVE HISTORY

On July 26, 2011 the Oakland City Council amended Chapter 5.80 to increase the number of permitted Medical Cannabis Dispensaries from four (4) to eight (8). In conjunction with this action staff was asked to determine the appropriate on-going permit fee revenue that would be necessary to fund the staff required to provide adequate oversight over the Medical Cannabis Dispensary permit process. Staff recommended an increase to \$169,600 annually per permit.

The staff proposed increase was designed to be sufficient to staff an oversight team comprised of Tax enforcement Officer II, Tax Auditor II, Special Combination Code Enforcement Inspector(s), City Attorney, Assistant to the City Administrator, and Administrative support. The City Council opted to amend the Master Fee Schedule ordinance to increase the annual permit for Medical Cannabis Dispensaries from \$30,000 to \$60,000, an amount lower than recommended by staff and which would not be sufficient to fund all the recommended positions. Staff is now returning to Council to seek appropriation to fill two positions because the ordinance adopted on July 26, 2011 did not appropriate the funds for expenditure on the identified positions. With almost all permits issued the required staff is needed to properly regulate these facilities according to Council Policy and direction.

Oversight and regulation from July 26, 2011 to date has continued through existing staff on an as needed basis by the City Administrator's Office and Revenue Management staff. This has been possible because the primary focus has been the continued regulation of the four existing dispensaries and the application and selection process of the four new dispensaries, with much of the work being done as needed by existing personnel. With the new dispensaries opening we must have additional staff if we are to adequately monitor and regulate the permits. Since 2011 staff has been collecting the fees and depositing the monies in the designated fund until such time as the fund had accumulated a sufficient amount to fund positions to regulate the Medical Cannabis Dispensary permits.

The fees collected to date must be used for the oversight of the medical cannabis dispensary permits and/or work reasonably related to the regulation of cannabis. The fund has achieved a sufficient level that they may be used to fund at least two of the required staff positions and some support staff. Staff wants to be clear that to date we have not moved to create or fill these positions because there has not been a sufficient amount of fees retained to assure that the program would be cost neutral. While the work has continued it has continued at the most minimal levels possible due to the multiple conflicting priorities that the permitting staff must balance. With the opening of the 6th location, with the 7th and 8th location soon to follow, staff

must move to appropriate funds for staff to work on the regulation and enforcement of OMC Chapter 5.80.

PUBLIC OUTREACH/INTEREST

The appropriate regulation of the Medical Cannabis Dispensary permits will insure that the health and safety of patients is assured. As this report appropriates the monies necessary to provide that oversight public outreach was not necessary.

COORDINATION

The report was prepared in coordination with the City Attorney's Office and the Budget Department.

COST SUMMARY/IMPLICATIONS

The appropriation of these funds will result in an ongoing expenditure covered by ongoing revenue. These ongoing expenditures are not accounted for in the City of Oakland Adopted budget. They will not have an impact on the FY 2013-2014 budget as the funds that will be used to hire and retain these positions are currently in the Medical Cannabis Dispensary Permit Fee account (1.1010.02111.42411.A252610/A252620.IP03) for this specific use. The revenue source for these positions is ongoing, and will continue to be received to make these expenditures cost neutral, to the City's General Fund. The revenue received from the fees must be used for oversight of this program.

FISCAL/POLICY ALIGNMENT

Adoption of this resolution will allow staff to implement Council direction and policy regarding regulation of medical cannabis permits in a cost neutral manner within the General Purpose Fund. Both revenues and expenditures are ongoing.

The one-time revenue collected since the inception of this program is \$51,183.04, which has been deposited into General Purpose Fund (Fund# 1010), City Administrator's Office (Org. # 02111), Special Permit Fee (Account #42411), Cannabis Application Project (Project. # A252620), and Administration Program (Program. # IP03).

The on-going revenue collected since the inception of this program is \$300,510, which has been deposited into General Purpose Fund (Fund# 1010), City Administrator's Office (Org. # 02111), Special Permit Fee (Account #42411), Cannabis Cooperative Project (Project # A252610), and Administration Program (Program # IP03). The on-going annual revenue is \$60,000 from each dispensary. In FY 2013-14, there are currently six dispensaries in operation, which will derive \$360,000 on-going revenue.

The plan is to utilize the on-going revenue as follows:

Add one full-time equivalent of Tax Auditor II	\$127,175
Add one full-time equivalent of Assistant to City Administrator	\$216,021
Operating and maintenance (O & M: phone, printing, equipment, etc.)	\$ 16,804
Total:	\$360,000

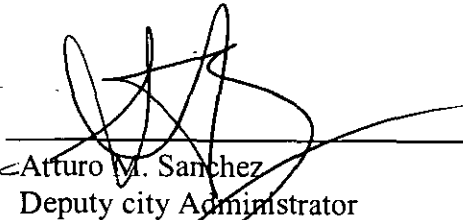
SUSTAINABLE OPPORTUNITIES

Economic: The proposed ordinance should have an immediate positive effect on the local economy by assuring that the Dispensary operators operate lawfully and generate tax revenue.

Environmental: The proposed use of funds will assure that operators abide by regulations and operating standards which assure that they are environmentally sound and responsible as possible.

Social Equity: The City of Oakland has historically supported the need for safe access to medicine. The use of these funds will further assure that operators operate in a safe and accessible manner while providing access to medicine for patients.

Respectfully submitted,



Arturo M. Sanchez
Deputy city Administrator

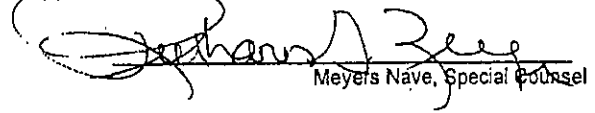
Reviewed by:

Donna Hom
Budget Director

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2011 AUG 10 AM 10:52

APPROVED AS TO FORM AND CALIFORNIA LEGALITY


Mejers Nave, Special Counsel

OAKLAND CITY COUNCIL
ORDINANCE No. 13087 -C.M.S.

AN ORDINANCE AMENDING THE MASTER FEE SCHEDULE (ORDINANCE NUMBER 13024 C.M.S., AS AMENDED) TO ESTABLISH A MEDICAL CANNABIS DISPENSARY PERMIT APPLICATION FEE AND AN ANNUAL REGULATORY FEE FOR PERMITTED MEDICAL CANNABIS DISPENSARIES

WHEREAS, on February 17, 2004, the City of Oakland adopted Ordinance No. 12585, amending Title 5 of the Oakland Municipal Code, Entitled Business Licenses and Regulations, To Add Chapter 5.80, Pertaining to Medical Cannabis Dispensaries, permitting the distribution of medical cannabis to authorized patients through four licensed dispensaries; and

WHEREAS, on November 9, 2010, the City of Oakland adopted Ordinance No. 13049 C.M.S., amending Chapter 5.80 of the Oakland Municipal Code pertaining to Medical Cannabis Dispensary Permits, increasing the number of licensed dispensaries in the City from four to eight; and

WHEREAS, the fee modifications and additions proposed herein have been justified and are identified in a report to the Council, entitled "An Ordinance Amending The Master Fee Schedule (Ordinance Number 13024 C.M.S., As Amended) To Establish A Medical Cannabis Dispensary Permit Application Fee And An Annual Regulatory Fee For Permitted Medical Dispensaries; and

WHEREAS, it is the City Council's intention to ensure that the city has the capacity and resources to permit, regulate and monitor Medical Cannabis Dispensaries permitted under the above referenced ordinance; and

WHEREAS, the City Administrator Office determines that additional staffing is needed to administer and regulate permitted medical cannabis dispensaries, to include Tax Enforcement Officer II, Tax Auditor II, Special Combination Code Enforcement Inspectors, City Attorney, Police Officers, and related administrative support and such resources total a minimum of \$60,000 on an annual basis, therefore the City intends to charge an annual permit fee of \$60,000 for Medical Cannabis Dispensaries to cover the costs of this program; and

WHEREAS, the City Council finds and determines that establishing a medical cannabis Dispensary permit and Cultivation of Medical Cannabis permit application fees of \$5,000 and an annual regulatory fee of \$60,000 for permitted Medical Cannabis Dispensaries are necessary to reimburse the City for the costs of performing the various municipal and regulatory functions associated with Chapter 5.80; and

WHEREAS, a Public Hearing was held on July 19, 2011 to review the proposed fees; and now therefore

THE COUNCIL OF THE CITY OF OAKLAND DOES ORDAIN AS FOLLOWS:

SECTION 1. The Master Fee Schedule as set forth in Ordinance Number 13024 C.M.S., as amended is hereby amended to modify and establish a medical cannabis dispensary permit application fee of \$5,000 and an annual regulatory fee of \$60,000 for permitted medical cannabis dispensaries ✓

SECTION 2. All revenues generated through the adoption of these fees will continue to be deposited in General Purpose Fund (1010), Org (02111), Account (42411), Project (A252610) ✓

SECTION 3. This ordinance shall be effective immediately upon final adoption if it receives six or more affirmative votes; otherwise it shall become effective upon the seventh day after final adoption by the Council of the City of Oakland. ✓

SECTION 4. The Master Fee Schedule is hereby amended to read as shown on Exhibit A; additions are indicated by underscoring and deletions are indicated by strike-through-type; portions of the regulations not cited or not shown in underscoring or strike-through type are not changed:

This ordinance shall be effective upon approval by the Council of the City of Oakland.

In Council, Oakland, California, JUL 26 2011, 2011

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, KERNIGHAN, NADEL, SCHAAF, DE LA FUENTE, BROOKS, KAPLAN AND PRESIDENT REID .. 8

NOES- 0

ABSENT- 0

ABSTENTION- 0

ATTEST: LaTonda Simmons

La Tonda Simmons
City Clerk and Clerk of the Council
Of the City of Oakland, California

FILED
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OAKLAND

OAKLAND CITY COUNCIL

K. Jain
City Attorney

2013 OCT 10 PM 5: ~~RESOLUTION~~ No. _____ C.M.S.

Introduced by Councilmember _____

RESOLUTION AUTHORIZING THE CITY ADMINISTRATOR OR HER DESIGNEE TO (1) APPROPRIATE THREE HUNDRED FIFTY-SIX THOUSAND SIX HUNDRED AND NINETY-THREE DOLLARS (\$356,693) ONE-TIME EXPENDITURES FOR ONE-TIME COSTS, (2) CREATE ONE TAX AUDITOR II AND ONE ASSISTANT TO CITY ADMINISTRATOR POSITIONS, (3) APPROPRIATE THREE HUNDRED SIXTY THOUSAND DOLLAR (\$360,000) FOR ON-GOING STAFF AND OPERATING COSTS FROM GENERAL PURPOSE FUND (FUND# 1010), CITY ADMINISTRATOR'S OFFICE AND REVENUE DIVISION ON POSITIONS AND OPERATING AND MAINTENACE NECESSARY TO ADEQUATELY REGULATE MEDICAL CANNABIS DISPENSARIES, AND (4) APPROPRIATE ON-GOING REVENUE TO EXPENDITURE ON AN ON-GOING BASIS

WHEREAS, on February 17, 2004, the City of Oakland adopted Ordinance No. 12585, amending Title 5 of the Oakland Municipal Code, Entitled Business Licenses and Regulations to Add Chapter 5.80, pertaining to Medical Cannabis Dispensaries permitting the distribution of medical cannabis to authorized patients through four licensed dispensaries.

WHEREAS, on July 26, 2011 The City council adopted fee modifications and additions justified by required staff expenditures as identified in a report to the Council, entitled "An Ordinance Amending The Master Fee Schedule (Ordinance Number 9336, As Amended) To Establish A Medical Cannabis Dispensary Permit Application Fee And An Annual Regulatory Fee For Permitted Medical Dispensaries"; and

WHEREAS, on July 26, 2011 it was the City Council's intention to ensure that the city has the capacity and resources to permit, regulate and monitor Medical Cannabis Dispensaries permitted under the above referenced ordinance; and

WHEREAS, the City has collected three hundred fifty-six thousand and six hundred and ninety three dollars (\$356,693) in FY 2012-13, and

WHEREAS, three hundred sixty thousand on-going revenue will be collected in FY 2013-14, and

WHEREAS, the City Administrator Office determined that additional staffing is needed to administer and regulate permitted medical cannabis dispensaries, to include Tax Enforcement Officer II, Tax Auditor II, Special Combination Code Enforcement Inspectors, City Attorney, related administrative support and such resources including third party security services total \$60,000 on an annual basis, therefore the City intends to charge an annual permit fee of \$60,000 to cover the costs of this program; and

WHEREAS, the City Council found and determined that establishing a medical Cannabis Dispensary Permit application fee of \$5,000 and an annual regulatory fee of \$60,000 for permitted medical cannabis dispensaries were necessary to reimburse the City for the costs of performing the various municipal and regulatory functions associated with Chapter 5.8; and

WHEREAS, Whereas, the City Administrator has determined that the collection of fees has reached a level sufficient enough to fund two additional positions to assist with the regulation of Medical Cannabis Dispensaries; and

WHEREAS, the fees collected by the City of Oakland must be used to provide services and or regulatory oversight as identified in the in the legislation that enabled the fees; and

WHEREAS, the appropriation of General Purpose Fund (Fund# 1010), City Administrator's Office (Org. # 02111) and Revenue Division (Org. #08421), Special Permit Fee (Account #42411), Cannabis Application Project (Proj. # A252610/20), And Administration Program (Prog. # 1P03) is required in order to recruit and fill positions and operating & maintenance expenditures necessary to adequately regulate Medical Cannabis Dispensaries; now, therefore be it

RESOLVED, That the City Council hereby authorizes the City Administrator or her designee to appropriate one-time revenue in FY 2013-14 in an amount of \$356,693 to the General Purpose Fund (Fund# 1010), City Administrator's Office (Org. #02111), various accounts to cover one-time expenditures, Cannabis Application Projects (Project #A252610/20) and Administration Program (Program #1P03); and be it

FURTHER RESOLVE, That the City Council hereby authorizes the City Administrator or her designee to appropriate on-going revenue in FY 2013-14 in an amount of \$360,000 and up to \$480,000 once all eight (8) dispensaries are operating, to the General Purpose Fund (Fund# 1010), City Administrator's Office (Org. #02111) and Revenue Division (Org.# 08421), various accounts to cover on-going expenditures, Cannabis Application Projects (Project #A252610/20) and Administration Program (Program #1P03) ; and be it

FURTHER RESOLVE, That one Tax Auditor position is created in the Revenue Division to perform necessary audit function; and be it

FURTHER RESOLVE, That one Assistant to City Administrator position is created in the City Administrator's Office to regulate and manage the program; and be it

FURTHER RESOLVED, That City Administrator is authorized to appropriate revenue to expenditure accounts within the same fund, projects and program in an on-going basis as revenue is collected; and be it

FURTHER RESOLVED, That the City Administrator is authorized to take any other action necessary consistent with this Resolution and its basic purposes.

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

AYES - BROOKS, GALLO, GIBSON MCELHANEY, KALB, KAPLAN, REID, SCHAAF and PRESIDENT KERNIGHAN

NOES -

ABSENT -

ABSTENTION -

ATTEST. _____
LaTonda Simmons
City Clerk and Clerk of the Council
Of the City of Oakland, California