

CITY OF OAKLAND

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OFFICE OF THE CITY CLERK
OAKLAND

2018 MAY 31 PM 5:41

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Christine S. Daniel
Assistant City Administrator

SUBJECT: Supplemental Report – Training and
Job Center Program and
Disbursement Process

DATE: May 31, 2018

City Administrator Approval

Date:

5/31/18

RECOMMENDATION

Staff recommends the City Council take no action at this time on the proposed ordinance to set aside funding for various job training programs until further analysis is undertaken.

REASON FOR SUPPLEMENTAL

At the May 15, 2018 City Council meeting, the City Council discussed the proposed ordinance setting aside portions of various City funds and directing those funds to several job training programs. At this meeting the author of the proposed ordinance introduced amendments that deleted the following language: "gas tax funded capital improvements, Measure KK funded projects, Measure DD funded projects, Measure B funded capital improvements." However, the proposed ordinance continues to include general reference to "all bond projects and all other capital projects funded from other sources excluding sewer repairs..." and specific reference to the "Development Services Fund" and the "Parking Fund." Finally, the proposed ordinance creates a new revenue stream by imposing a "Contractor payment in the amount of 30 cents per hour worked or paid" for contractors performing construction work under City contracts and dedicates those funds to the specified job training programs.

The City Council continued the item to the June 5, 2018 City Council meeting for further analysis. This supplemental report provides information about the Development Services Fund, Fund 2415, and the Parking Fund, Fund 1750.

ANALYSIS

Development Services Fund

Section 3 of the proposed ordinance, entitled *Funding, Appropriations* and subsection 3, entitled *Development Services Fund*, requires "Allocating an amount equal to five-percent of all gross revenues to the Development Services Fund shall be deposited to the Cypress Mandela Training Program, Men of Valor and Laborers Community Training Foundation and the East and West Oakland Neighborhood Career Centers Fund...."

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The Development Services Fund is Fund 2415 which was created by the City Council through Ordinance No. 12741 C.M.S. in 2006. The purpose of creating the Fund was to help ensure that the City complied with Health & Safety Code section 17951, as well as to establish a more direct correlation between development and enforcement fees and penalties and the services provided for those activities. Section 5 of Ordinance No. 12741 specifically provides that "Expenditures from the Development Services Fund shall be restricted to paying direct and indirect costs of the services and programs supported by the fees...."

Health & Safety Code Section 17951 is found in Division 13 Housing Laws, Part 1.5 Regulation of Buildings Used for Human Habitation of the state Health & Safety Code. Section 17951(c) provides: "The amount of the fees...shall not exceed the amount reasonably required to administer or process these permits, certificates or other forms or documents to defray the costs of enforcement required by this part to be carried out by local enforcement agencies, and shall not be levied for general revenue purposes." (Emphasis added.)

There are a number of different fees that provide revenue into Fund 2415, refer to Table 1 on the next page. These fees are regulatory fees that are exempt from the definition of a "tax" established by Proposition 26 and thus do not require voter approval. "A charge imposed for the reasonable regulatory costs to a local government for issuing licenses and permits, performing investigations, inspections...and the administrative enforcement and adjudication thereof" is not a tax. The exemption is limited to charges imposed to pay for a program that regulates the activity or business of the fee payor. Building permit fees are an example of regulatory fees that are subject to the exemption and thus do not require voter approval." While there has been much litigation resulting from Proposition 26, it is clear that a fee charged in connection with regulatory activities that does not exceed the reasonable cost of providing services necessary for the activity for which the fee is charged and that is not levied for unrelated revenue purposes is not a tax. For more information, please refer to the following link:
<http://www.cacities.org/Prop218andProp26/>.

The fees described in Table 1 on the next page are regulatory fees that were approved by the City Council and did not require voter approval. The fees are used to support the direct services provided by City Departments including Planning and Building, Public Works and the Department of Transportation, including over 160 Full Time Equivalent staff.

Table 1: City Council Approved Regulatory Fees

☐ **DP300 - Oakland Public Works Department**

42211 - Permits: Construction
42312 - Permits: Sewer
42313 - Permits: Grading and Excavating
42314 - Permits: Encroachment
43215 - Penalties: Service Fees for Returned Checks
45113 - Public Works Fee: Sewer Service Charge
45114 - Public Works Fee: Inspection/Application Fees
45119 - Public Works Fee: Miscellaneous
45423 - Other Fees: General Plan Surcharge
45424 - Other Fees: Field Check Inspection
48727 - Other Revenue: Other Income

☐ **DP350 - Department of Transportation**

42211 - Permits: Construction
42313 - Permits: Grading and Excavating
42314 - Permits: Encroachment
42315 - Permits: Obstruction
45111 - Public Works Fee: Street, Sidewalk, and Curb Repair
45113 - Public Works Fee: Sewer Service Charge
45114 - Public Works Fee: Inspection/Application Fees
45115 - Public Works Fee: Plot Plan Review Fees
45119 - Public Works Fee: Miscellaneous
45419 - Other Fees: Miscellaneous
45424 - Other Fees: Field Check Inspection
45721 - Other Svc Charges: Damages to City Property - Labor
45722 - Other Svc Charges: Damages to City Property - Materials
45723 - Other Svc Charges: Damages to City Property - Overhead
48411 - Claims/Settlements: Insurance

☐ **DP840 - Planning and Building Department**

42211 - Permits: Construction
42313 - Permits: Grading and Excavating
42314 - Permits: Encroachment
42417 - Special Permits: Tree Removal
42511 - Planning Permit: Zoning
42512 - Planning Permit: Subdivision
42513 - Planning Permit: Environmental Impact Report
43114 - Fines: Other
43115 - Fines: Miscellaneous
43215 - Penalties: Service Fees for Returned Checks
43313 - Collections: Permits
44119 - Interest: Miscellaneous Income
45114 - Public Works Fee: Inspection/Application Fees
45119 - Public Works Fee: Miscellaneous
45415 - Other Fees: Report of Residential Building Records
45416 - Other Fees: Certificate of Occupancy
45418 - Other Fees: Special Design Review Exemptions
45419 - Other Fees: Miscellaneous
45421 - Other Fees: Annual High-Rise Inspection
45422 - Other Fees: Business Tax Certificate
45423 - Other Fees: General Plan Surcharge
45424 - Other Fees: Field Check Inspection
45425 - Other Fees: Process Coordination
45426 - Other Fees: Notification

For the reasons described above, staff recommends that references to the Development Services Fund as a source of funding for job training programs be removed from the proposed ordinance.

Parking Fund

Fund 1750 is the City's off street parking fund. It is a negative fund that is currently on a repayment plan. Revenues from off street parking operations are deposited into the Fund and used to pay for the operations of the garages. The majority of expenditures in FY 2018-19 are O&M to pay for miscellaneous contract services for parking garage operations. The remainder of funds are used to cover the cost of personnel, internal service funds, and other miscellaneous Operations and Maintenance (O&M) categories including rental costs, maintenance, fees, and capital leases.

Table 2 below reflects the proposed FY 2018-19 Midcycle Budget which anticipates approximately \$9.48 million in off street parking revenues. These revenues are generated from fees charged at City-owned off street parking facilities. In addition, the City anticipates receiving \$445,000 from the operation of the City's Car Share program. However, this revenue is restricted to transportation related programs as required by the grant agreement establishing that program. The FY 2018-19 forecast revenues are highly consistent with FY 2017-18 results year-to-date.

The Finance Department estimates that Fund 1750 will have a negative Fund Balance of (\$1,342,512) at the end of FY 2017-18. Staff anticipates paying down \$265,000 of the negative balance in FY 2017-18 (included in the estimated negative) and another \$400,000 in FY 2018-19.

Table 2: FY 2018-19 Midcycle Budget – Off Street Parking

	FY 2018-19 Budget
Revenues	
<i>Off Street Parking</i>	\$ 9,481,056
<i>Car Share (Grant Revenue)</i>	\$ 445,000
<i>Miscellaneous (Interest, etc.)</i>	\$ 25,812
Subtotal Revenue	\$ 9,951,868
Expenditures	
<i>Personnel</i>	\$ 640,478
<i>O&M</i>	\$ 9,311,390
Subtotal Expenditures	\$ 9,951,868
Surplus / (Deficit)	\$ -

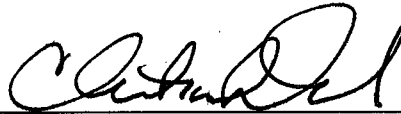
There is a total of 1.86 FTE supported by Fund 1750. For the reasons described above, including that Fund 1750 is a negative fund, staff recommends that references to the Parking Fund as a source of funding for job training programs be removed from the proposed ordinance.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends the City Council take no action at this time on the proposed ordinance to set aside funding for various job training programs until further analysis is undertaken.

For questions regarding this report, please contact Christine S. Daniel, Assistant City Administrator at (510) 238-6906.

Respectfully submitted,



CHRISTINE S. DANIEL
Assistant City Administrator