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CITY OF OAKLAND



ONE FRANK H. OGAWA PLAZA • 6TH FLOOR • OAKLAND, CALIFORNIA 94612

Office of the City Attorney
John A. Russo
City Attorney

October 21, 2009

(510) 238-3601
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Honorable City Council
City Hall
Oakland, California


Re: Item 12 Finance Committee

Dear President Jane Brunner, Finance Committee Chairperson Jean Quan, and City Administrator Dan Lindheim:

This attached correction to the title of the proposed City Council ordinance amending Oakland Municipal Code (OMC) Chapter 10.36 to Delete Section 10.36.080 is presented by the City Attorney pursuant to the authority provided under the Sunshine Ordinance section 2.20.080(G), which provides an exception that allows the City Attorney to conform documents as to form and legality.

Very truly yours,

John A. Russo
City Attorney

By: 
Alix Rosenthal
Deputy City Attorney

KSB:ksb
cc: City Clerk, LaTonda Simmons

EXHIBIT A

Ordinance Amending the Oakland Municipal Code (OMC) Chapter 10.36 to Delete Section 10.36.080, Which Restricts Parking Meter Revenues to a “Parking Meter Fund” and a “Traffic Control Fund,” Thereby Permitting Deposits of Parking Meter Revenues Into the General Purpose Fund

CITY OF OAKLAND

AGENDA REPORT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

2009 OCT 21 PM 4:30

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Finance and Management Agency
DATE: October 27, 2009

RE: **Ordinance Amending the Oakland Municipal Code (OMC) Chapter 10.36 to Delete Section 10.36.080, Which Restricts the Deposit of Parking Meter Revenues to a "Parking Meter Fund" and a "Traffic Control Fund," Thereby Permitting Deposits of Parking Meter Revenues Into the General Purpose Fund**

SUMMARY

This report discusses the allocation and expenditure of parking meter funds pursuant to Oakland Municipal Code (OMC) Section 10.36.080 and presents a recommendation for City Council approval to amend the Traffic Code to delete outdated sections.

FISCAL IMPACT

Revenue from all on-street parking meters, parking lots with meters, and off-street parking facilities is recorded to the general ledger in the General Purpose Fund (1010), Treasury Operations Organization (08721), and Accounts: On Street Parking (45311), and Off-Street Parking (45312). Adoption of the proposed Ordinance will not change current practice but will bring the Municipal Code into alignment with current practice.

BACKGROUND

The original Traffic Code was established by Ordinance No. 3083 C.M.S. in May of 1949 and provided guidance on the regulation of street traffic and established fine and penalty structures for violations of the Code. In October 1963, it was amended by Ordinance No. 3858 C.M.S.; at the time, the purpose for the process outlined in the existing Traffic Code was to provide funding for specific projects in specific neighborhoods and created the following structure:

- Set allocation of all On-Street Parking Meter Revenues;
- Created Off-Street Parking Meter and Traffic Control Funds;
- Provided for allocation of Off-Street Parking Meter funds to several commercial districts.

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Finance and Management Committee
October 27, 2009

Oakland Municipal Code Section 10.36.080 currently provides in relevant part: “All of the gross revenues received from all on-street parking meters shall be allocated and deposited by the City Treasurer as follows: 1. One-half of such gross revenues shall be deposited in the off-street parking meter fund; and 2. One-half of such gross revenues shall be deposited in the traffic control fund.” Section 10.36.080 further limits the moneys deposited into both the “off-street parking meter fund” and the “traffic control fund” to specific purposes.

It is unclear whether the provisions of OMC Section 10.36.080 were ever implemented; staff could find no evidence to suggest that the procedures outlined in the Code have been followed in recent history. At the same time, it appears that the Code was never amended to reflect the City’s practices, despite a recommendation from the City Attorney to staff to do so during fiscal year 2006-2007. Staff recommends eliminating OMC Section 10.36.080 in its entirety since the language is antiquated and not applicable.

KEY ISSUES AND IMPACTS

The structure and practices as written in the Code in 1963 are no longer relevant or appropriate. It is unclear whether funds required by the code were ever set up; and it has long been the City’s practice to deposit parking meter revenue to the General Purpose Fund. Revenue derived from on- and off-street parking has been allocated to fund broad traffic and parking control objectives including staff time, meter acquisition, and installation and traffic signals. Adoption of the proposed Ordinance would bring the Code into alignment with current practice.

A diagram of how parking meter revenue is currently tracked is provided in *Attachment A*.

SUSTAINABLE OPPORTUNITIES

No environmental, economic, or social equity opportunities have been identified.

DISABILITY AND SENIOR CITIZEN ACCESS

There are no ADA or senior access issues contained in this report.

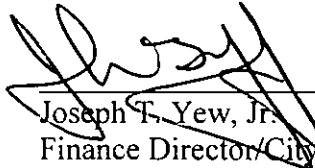
RECOMMENDATION(S) AND RATIONALE

Staff recommends that City Council adopt an ordinance amending the antiquated Oakland Municipal Code (OMC) Chapter 10.36 to delete Section 10.36.080 in its entirety.

ACTION REQUESTED OF THE CITY COUNCIL

Staff recommends that City Council adopt the ordinance.

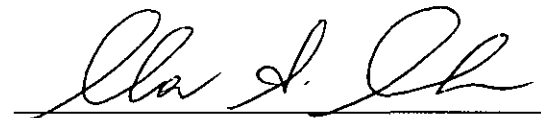
Respectfully submitted,



Joseph T. Yew, Jr.
Finance Director/City Treasurer

Prepared by:
Kip Walsh, Administrative Services Manager II
Finance & Management Agency Administration

APPROVED AND FORWARDED TO THE
FINANCE & MANAGEMENT COMMITTEE:



for Dan Lindheim
Office of the City Administrator

2009 OCT 21 PM 4:30


City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

REVISED


ORDINANCE AMENDING THE OAKLAND MUNICIPAL CODE CHAPTER 10.36 TO DELETE SECTION 10.36.080, WHICH RESTRICTS THE DEPOSIT OF PARKING METER REVENUES TO A "PARKING METER FUND" AND A "TRAFFIC CONTROL FUND," THEREBY PERMITTING DEPOSITS OF PARKING METER REVENUES INTO THE GENERAL PURPOSE FUND

WHEREAS, the City of Oakland collects revenue through on- and off-street parking meters throughout the City; and

WHEREAS, Oakland Municipal Code Section 10.36.080 entitled "Allocation and expenditure of parking meter funds" describes and outdated procedure for the allocation of parking meter revenue; and

WHEREAS, no amendments or changes to section 10.36.080 of the Vehicles and Traffic Chapter of the OMC have been made since 1963, despite the needs of the City and the practices of the administration having changed substantially; and

WHEREAS, the City currently has an automation system in place which effectively tracks and records parking meter revenues and expenditures; now, therefore

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

Section 1. Oakland Municipal Code Section 10.36.080 "Allocation and expenditure of parking meter funds" is hereby deleted in its entirety, thus:

~~10.36.080 Allocation and expenditure of parking meter funds.~~

- ~~A. All of the gross revenues received from all on-street parking meters shall be allocated and deposited by the City Treasurer as follows:
 - ~~1. One half of such gross revenues shall be deposited in the off-street parking meter fund; and~~
 - ~~2. One half of such gross revenues shall be deposited in the traffic control fund.~~~~
- ~~B. The moneys in the traffic control fund shall be expended only for the following purposes:
 - ~~1. Satisfaction of the contractual obligation of the city for the furnishing and installing of parking meters; and~~
 - ~~2. Purposes immediately connected with vehicular traffic control.~~~~
- ~~C. The moneys in the off-street parking meter fund shall be expended only for the following purposes:~~

- ~~1. The acquisition, construction, improvement and maintenance of public off street parking areas;~~
 - ~~2. Administrative and operational costs of the off street parking program; and~~
 - ~~3. The payment of the principal of and interest on, and costs of retirement of, off street parking revenue bonds issued pursuant to Article XXVII of the Charter of the city and reserves for the security of such bonds.~~
- ~~D. Gross revenues received from off street parking facilities, when designated by resolution of the City Council, shall be deposited in the off street parking meter fund.~~
- ~~E. Notwithstanding anything contained in subsections F through I of this section or any other provisions of the Oakland Traffic Code, if any revenue bonds are issued pursuant to Article XXVII of the Charter of the city, and so long as any of such bonds are outstanding, all moneys in the off street parking meter fund shall be expended solely as provided in the resolution or resolutions authorizing the issuance of such bonds.~~
- ~~F. All moneys deposited in the off street parking meter fund, except receipts from off street parking facilities, shall be allocated among the several commercial districts in the city in ratio to the meter revenue received in each respective district, computed by the City Manager, the City Treasurer, and the Traffic Engineer, upon such formula as they may deem to represent the most accurate and equitable allocation. Such allocations formula shall be adjusted periodically as deemed necessary. Moneys deposited in the off street parking meter fund from off street parking facilities shall be allocated to the parking district in which the facility is located.~~
- ~~G. The expenditure of funds for the specific benefit of a district shall be charged solely to said district. All other moneys expended from the off street parking meter fund shall be charged among the several commercial districts in the city in ratio to the receipts from each respective district, computed by the City Manager, the City Treasurer, and the Traffic Engineer upon such formula as they may deem to represent the most accurate and equitable charge in regard to the specific expenditure.~~
- ~~H. The several commercial districts referred to herein shall be delineated in accordance with the parking districts originally created, as expended, for the installation of parking meters. Exact boundaries thereof shall be determined by the City Manager, City Treasurer and Traffic Engineer in computing the allocations thereto herein provided for subject to review by the City Council. Provided, however, that the central business district shall be subdivided into a northerly zone and a southerly zone, each zone representing substantially equal meter revenue, as determined by the City Manager, City Treasurer and Traffic Engineer, and the increase in meter revenue from the central business district shall be allocated one half thereof to the northerly zone and one half to the southerly zone.~~
- ~~I. In the event the petition of any district to have parking meters removed therefrom shall be approved and so ordered by the City Council, and the accumulated and unexpended meter revenues allocated to said district for off street areas is deemed insufficient for said purposes, such accumulated and unexpended revenues shall be used for such off street parking or traffic control purposes as the City Council shall deem to be to the public interest and benefit.~~

Section 2. Severability. If any article, section, subsection, sentence, clause, or phrase of this ordinance or exhibit is held to be invalid or unconstitutional, the offending portion shall be severed and shall not affect the validity of remaining portions which shall remain in full force and effect.

Section 3. Effective Date. This ordinance shall become effective as provided in section 216 of the Charter of the City of Oakland.

IN COUNCIL, OAKLAND, CALIFORNIA, _____, 2009

PASSED BY THE FOLLOWING VOTE:

AYES- BROOKS,
DE LA FUENTE
, KAPLAN, KERNIGHAN, NADEL, QUAN, REID, and PRESIDENT BRUNNER
NOES-

ABSENT-

ABSTENTION-

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

DATE OF ATTESTATION: _____