

FILED
OFFICE OF THE CITY CLERK
OAKLAND

CITY OF OAKLAND

AGENDA REPORT

2010 APR -1 PM 6:24

TO: Office of the City Administrator
ATTN: Dan Lindheim
FROM: Budget Office
DATE: April 13, 2010
RE: **Proposed Amendment to Ordinance No. 12946 C.M.S. Requiring that Before the City Council Takes Any Action that Has a Fiscal Impact or Cost, the Council Must (1) Identify and Approve the Funding Source to Fully Fund the Cost of the Proposed Council Action, Such As the Approval of or Changes to a Policy, Program, Services, or Positions and (2) Make Any Adjustments to the Budget that are Necessary to Maintain a Balanced Budget**

SUMMARY

At the request of Rules Committee, staff is submitting a proposed amendment to the City's financial policy (Ordinance No. 12946 C.M.S.) to require that, prior to City Council action on any changes to programs, policies and/or services that have a fiscal impact, the Council must:

- Identify and approve the funding source to fully fund the cost of the proposed actions; and
- Make any adjustments to the most recently adopted/amended budget necessary to maintain a balanced budget.

If new programs and/or initiatives are presented as cost-covering, an analysis of such cost-coverage must be conducted annually through the life of the initiative to ensure that the change is and remains budget neutral. If such program, policy and/or service is deemed not cost-covering in any year, its appropriation will be suspended. The program/policy service must be re-presented for City Council approval prior to re-appropriation.

Any exceptions to this policy would be time-sensitive initiatives/proposed expenditures that require an immediate change in policy or program, such as ongoing programmatic expense as a result of a legal settlement. Such exception may be determined by a majority vote of the City Council. Staff would be required to return to the City Council within 60 days to present an analysis of fiscal impacts and any required proposal for maintaining a balanced budget as necessary for Council review and approval.

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FISCAL IMPACT

There are no direct fiscal impacts that would result from approval of the changes to the ordinance. Nonetheless, City Council approval of these proposed revisions to the financial policy would ensure that new programs and/or initiatives considered are budget neutral.

BACKGROUND

The City of Oakland is facing an unprecedented General Purpose Fund budget shortfall. After closing a GPF budget deficit of \$91-97 million as part of FY 2009-11 budget approval, staff projected a mid-year shortfall totaling **\$29.7 million** in FY 2009-10 and **\$42.6 million** in FY 2010-11. Staff is scheduled to present balancing measures for these deficits at the City Council special budget meeting on April 1st for approval on April 29th. These proposals present a broad range of deficit elimination strategies to bridge these gaps, including program eliminations, staff reductions and revenue enhancements. In this period of limited appropriations for existing programs, a high threshold must exist for Council to approve new programs and initiatives, especially where no identified funding source exists.

KEY ISSUES AND IMPACTS

From time to time, the City Council may present changes to existing City policies, programs and/or services that may have a cost not anticipated in the most recently adopted or amended policy budget. Fiscal prudence requires that prior to City Council approval of such changes in policies, programs, and/or services, (a) a viable funding source to fully fund the cost of the proposed actions must be identified and; (b) adjustments to the most recently adopted/amended budget must be approved to maintain a balanced budget.

Cost Covering Programs, Policies and/or Services

Changes in policy, program or services may be presented as cost-covering. To ensure the fiscal integrity of such initiatives and the City's budget overall, an analysis of such cost-coverage must be conducted prior to approval of the proposed changes to program, policies or services. Such analysis must be conducted annually through the life of said program, policy or service change. If said program, policy and/or service change is deemed not to be cost-covering in any year per audited financials, it must be re-presented for City Council approval in order for its appropriation to continue. In the meantime, said policy, program or service change may be suspended.

Exceptions to Proposed Policy

Exigent circumstances may require that Council approve a new program, policy or service prior to conducting and reviewing the fiscal impact. Such instances may be due to the City Council's decision to settle pending litigation rather than risk an unfavorable outcome. The City Council may determine such an emergency by majority vote. Staff would be required to return to the

City Council within 60 days to present an analysis of fiscal impacts and any required proposal for maintaining a balanced budget as necessary for Council review and approval.

SUSTAINABLE OPPORTUNITIES

There are no direct sustainable opportunities associated with this report.

DISABILITY AND SENIOR ACCESS

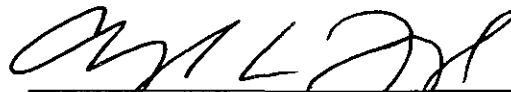
There are no direct disability and senior access opportunities associated with this report.

ACTION REQUESTED OF THE CITY COUNCIL

Staff request that the City Council approve the proposed amendment to Ordinance No. 12946 C.M.S. requiring that before the City Council takes any action that has a fiscal impact or cost, the City Council must

- identify and approve the funding source to fully fund the cost of the proposed council action, such as the approval of or changes to a policy, program, services, or positions; and
- make any adjustments to the budget that are necessary to maintain a balanced budget.

Respectfully submitted,



CHERYL L. TAYLOR
Director, Budget Office

APPROVED FOR FORWARDING TO
THE FINANCE & MANAGEMENT COMMITTEE


Office of the City Administrator

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Finance & Management Committee
April 13, 2010

DRAFT

FILED
OFFICE OF THE CITY CLERK
OAKLAND

APPROVED AS TO FORM AND LEGALITY

INTRODUCED BY COUNCIL MEMBER _____
2010 APR -1 PM 6:24

CITY ATTORNEY

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

ORDINANCE AMENDING ORDINANCE NO. 12496 C.M.S. TO CLARIFY GENERAL PURPOSE FUND (GPF) RESERVE REQUIREMENTS; REQUIRE A MAYORAL DECLARATION OF FISCAL EMERGENCY AND APPROVAL BY COUNCIL OR A COUNCIL DECLARATION OF FISCAL EMERGENCY BEFORE THE GPF RESERVE CAN BE DRAWN DOWN; REQUIRE THAT EXCESS REAL PROPERTY TRANSFER TAX REVENUES BE USED TO BUILD UP THE GPF RESERVE, PAY BACK NEGATIVE INTERNAL SERVICE FUND BALANCES, ESTABLISH SET-ASIDES FOR OTHER POST-EMPLOYMENT BENEFITS (OPEB) AND POLICE AND FIRE RETIREMENT SYSTEM (PFRS) LIABILITIES, AND FUND CAPITAL IMPROVEMENTS PROJECTS; REQUIRE THAT ONE-TIME REVENUES BE USED TO REPAY NEGATIVE FUND BALANCES IN INTERNAL SERVICE AND OTHER FUNDS; AND PROVIDE CRITERIA FOR PROJECT CARRYFORWARDS AND ENCUMBRANCES IN THE GPF; AND REQUIRE THAT PROPOSED CHANGES TO PROGRAMS, POLICIES AND SERVICES INCLUDE FISCAL IMPACTS AND MAINTAIN A BALANCED BUDGET.

WHEREAS, on June 30, 2009, the City Council adopted Ordinance No. 12946 C.M.S., which revised the amended reserve policy for the City's undesignated general fund balance to clarify the established reserved requirements; establish criteria for the use of GPF reserve, use of excess Real Estate Transfer Tax (RETT) revenue, and use of one-time revenues; and; to minimize drawdowns from the GPF reserve by previously approved project carryforwards and purchase order encumbrances and

WHEREAS, to ensure fiscal prudence and responsibility, the City desires to amend its reserve policy to require that proposed changes to City programs, policies and services include fiscal impacts and maintain a balanced budget; now therefore,

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

SECTION 1. The City Council finds and determines the forgoing recitals to be true and correct and hereby adopts and incorporates them into this Ordinance.

SECTION 2. The Municipal Code is hereby amended to add, delete, or modify sections as set forth below (section numbers and titles are indicated in **bold type**; 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).

SECTION 3. Ordinance No. 12946 C.M.S. is hereby amended in its entirety to read as follows:

A. General Purpose Fund Reserve Policy

1. Council hereby declares that it shall be the policy of the City of Oakland to provide in each fiscal year a reserve of undesignated, uncommitted fund balance equal to seven and one-half percent (7.5%) of the General Purpose Fund (Fund 1010) appropriations for such fiscal year (the "General Purpose Fund Reserve Policy").

2. Each year, upon completion of the City's financial audited statements, the City Administrator shall report the status of the General Purpose Fund Reserve to City Council and on the adequacy of the 7.5% reserve level. If in any fiscal year the General Purpose Fund Reserve Policy is not met, the City Administrator shall present to Council a strategy to meet the General Purpose Fund Reserve Policy. Each year, the City Administrator shall determine whether the 7.5 % reserve level requires adjustment, and recommend any changes to the City Council.

3. The amounts identified as the General Purpose Fund Reserve may be appropriated by Council only to fund unusual, unanticipated and seemingly insurmountable events of hardship of the City, and only upon declaration of fiscal emergency. For the purposes of this Ordinance, "fiscal emergency" may be declared (1) by the Mayor and approved by the majority of the City Council or (2) by a majority vote of the City Council.

B. Capital Improvements Reserve Fund

1. There is hereby established a fund in the Treasury of the City of Oakland to be known as the "Capital Improvements Reserve Fund".

2. On an annual basis, an amount equal to \$6,000,000 shall be held in the Capital Improvements Reserve Fund. Revenues received from one-time activities, including the sale of real property, shall be deposited into the Capital Improvements Reserve Fund, unless otherwise provided in Sections D and E of this ordinance or otherwise directed by a majority vote of the City Council. Interest earnings on monies on deposit in the Capital Improvements Reserve Fund shall accrue to said fund and be maintained therein.

3. Monies on deposit in the Capital Improvements Reserve Fund may be appropriated by Council to fund unexpected emergency or major capital maintenance or repair costs to City-owned facilities and to fund capital improvement projects through the Five-Year Capital Improvement Program.

4. Each year, upon completion of the City's financial audited statements, the City Administrator shall report the status of the Capital Improvements Reserve Fund to City Council. If in any fiscal year the required Capital Improvements Reserve Fund threshold of \$6,000,000 is not met, the City Administrator shall present to Council a strategy to meet the said threshold.

C. Prior to appropriating monies from the reserves established by this Ordinance, the Budget Office shall prepare an analysis of the proposed expenditure and the City Administrator shall present such analysis to the City Council. Upon review and approval of the proposed expenditure by the City Council, and appropriate fiscal emergency declaration necessary for the use of GPF reserve, the City Administrator will have the authority to allocate from the reserves. For the purposes of this Ordinance, "fiscal emergency" may be declared (1) by the Mayor and approved by the majority of the City Council or (2) by Council majority vote.

D. Use of Excess Real Estate Transfer Tax (RETT) Revenues To Build Up the GPF Reserve, Pay Back Negative Internal Service Fund balances, Establish Set-Asides for Other Post-Employment Benefits (OPEB) and Police and Fire Retirement System (PFRS) Liabilities, and Fund Capital Improvements Projects.

To ensure adequate levels of the General Purpose Fund reserves and to provide necessary funding for municipal capital improvement projects, the City shall require that excess Real Estate Transfer Tax revenues be defined and used as follows:

- 1) The "excess" Real Estate Transfer Tax (RETT) revenue is hereby defined as any annual amount collected in excess of the "normal baseline" collection threshold of \$40 million.
- 2) The excess Real Estate Transfer Tax collections, as described in this section, shall be used in the following manner:
 - a. Replenish General Purpose Fund (GPF) reserves until such reserves reach to 10 percent of current year budgeted GPF appropriations.
 - b. After such reserves have been replenished, the order of use of the remaining excess collection is as follows: 50 percent to repay negative internal services funds balances; 30 percent set aside for the Police and Fire Retirement System (PFRS) liability until this obligation is met; 10 percent to establish a trust for Other Post-Employment Retirement Benefits (OPEB); and 10 percent to replenish the Capital Improvements Reserve Fund until it reaches \$10,000,000.
- 3) Use of the "excess" RETT revenue for purposes other than those established above may only be allowed upon declaration of a fiscal emergency. For the purposes of this Ordinance, "emergency" may be declared (1) by the Mayor and approved by the majority of the City Council or (2) by a majority vote of the City Council.

E. Use of One Time Revenues To Repay Negative Fund Balances in Internal Service and Other Funds; and Provide Criteria for Project Carryforwards and Encumbrances in the GPF.

- 1) From time to time, the City may receive "one time revenues", defined as financial proceeds that will not likely occur on an ongoing basis, such as sales of property or proceeds from the refinancing of debt, but not including additional Real Estate Transfer Tax revenues discussed in Section "D" above.
- 2) Fiscal prudence and conservancy requires that one time revenues not be used for recurring expenses, that outstanding negative balances in various City funds be paid off, and that municipal capital projects addressing health and safety issues be adequately funded. Therefore, upon receipt of one time revenues, such revenues shall be used in the following manner, unless legally restricted to other purposes: 50 percent to pay off negative fund balances in the Internal Service Fund, and another 50 percent to pay off negatives in all other funds.
- 3) Use of the "one time revenues" for purposes other than those established above may only be allowed upon declaration of a fiscal emergency. For the purposes of this Ordinance, "emergency" may be declared (1) by the Mayor and approved by the majority of the City Council or (2) by a majority vote of the City Council.

F. Criteria for Project Carryforwards and Encumbrances in the General Purpose Fund.

Previously approved but unspent project appropriations ("carryforwards"), as well as funding reserved to pay for purchases or contracts that are entered into in the current year but are not paid for until the following year ("encumbrances"), draw down funding from reserves. Fiscal prudence requires that such drawdowns be limited in the General Purpose Fund (GPF). Therefore:

- 1) Funding for non-operating projects and purchases shall be restricted within the General Purpose Fund; capital purchases and projects in particular shall not be funded from the General Purpose Fund.
- 2) In cases when non-capital, operating projects and purchases must be funded in the General Purpose Fund, these shall be included in an annual budget and supported with new annual revenues.
- 3) Carryover of unspent project carryforwards and encumbrances in the GPF from one year into the next, with no new funding, will be allowed only on an exception basis.
- 4) In the beginning of each fiscal year, before project carryforwards and encumbrances are carried over from the prior year, and no later than August 1:
 - The Budget Director shall liquidate all unspent project carryforwards and encumbrances in the GPF and advise affected City departments of said action.
 - The Budget Director shall provide a report of all unspent project carryforwards and encumbrances to the City Council for review and direction.
- 5) Departments may request to retain some or all of the liquidated GPF carryforwards and encumbrances, only if and when such balances are deemed essential to the delivery of city projects, programs and services, and only if the liquidation of such balances would be in violation of legislative or legal requirements, could lead to health or safety issues, and/or would greatly impact essential City projects, programs and services.
- 6) A request to retain some or all of the liquidated carryforwards or encumbrances must be submitted in writing to the Budget Director within five (5) working days of receiving an advisory from the Budget Office about said liquidations, and must detail specific reasons necessitating such a request, including but not limited to those stated in item (3) above.
- 7) The Budget Director, upon review of a department's request, shall recommend an action to the City Administrator within five (5) working days of receiving the department's request.
- 8) The City Administrator, in consultation with the Budget Director, shall make a final determination of any and all requests for exceptions by departments, by August 20, and all requesting departments should be so notified by August 30.

G. Requirement That Before The City Council Takes Any Action That Has A Fiscal Impact Or Cost, The Council Must (1) Identify And Approve The Funding Source To Fully Fund The Cost Of The Proposed Council Action, Such As The Approval Of Or Changes To A Policy, Program, Services, Or Positions And (2) Make Any Adjustments To The Budget That Are Necessary To Maintain A Balanced Budget

From time to time, the City Council may present changes to existing City policy, programs and/or services that may have a cost not anticipated in the most recently adopted or amended

policy budget. Fiscal prudence requires that prior to City Council approval of such changes in policy, program, and/or services, the following occur:

- 1) Identification of existing, viable funding source to fully fund the cost of the proposed actions. If new programs and/or initiatives are presented as cost-covering, an analysis of such cost-coverage be conducted prior to approval of the proposed changes to program, policies or services, and that such analysis of cost-coverage be conducted annually through the life of said program, policy or service change. If cost-coverage of said program, policy and/or services changes is deemed not to be cost-covering in any year per audited financials, it must be re-presented for City Council approval in order for its appropriation to continue. Such program, policy and/or service may be suspended until the City Council re-approves appropriation at the Council's own discretion; and
- 2) Propose any adjustments to the most recently adopted/amended budget necessary to maintain a balanced budget for City Council approval in concert with approval of the proposed changes to program, policies and/or services.

Exceptions to this policy exist if proposed changes to policy, program and/or services are time-sensitive requiring an immediate change in policy or program, such as ongoing programmatic expense as a result of a legal settlement. Such urgency may be determined by a majority vote of the City Council. Staff must return to the City Council within 60 days to present a report analyzing these fiscal impacts and any required proposal for maintaining a balanced budget as necessary for Council review and approval.

SECTION 4. This ordinance shall be effective immediately, if passed by the affirmative vote of at least six City Council members; if this ordinance is passed by the affirmative vote of five City Council members, it will be effective seven days after final passage.

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