



CITY OF OAKLAND

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2014 SEP -3 PM 2:54

AGENDA REPORT

TO: HENRY L. GARDNER
INTERIM CITY ADMINISTRATOR

FROM: Gregory Minor

SUBJECT: Authorization of Witness Rewards Fund and
Appropriation of Funds for Public Awareness
Campaign

DATE: August 25, 2014

City Administrator
Approval

Date

9-2-14

RECOMMENDATION

Staff recommends that the City Council adopt a resolution that (1) authorizes the establishment of an illegal dumping and graffiti witness rewards fund pursuant to Oakland Municipal Code (OMC) 8.11.710 and 8.10.600 and (2) appropriates \$10,000 towards a public awareness campaign in support of the City's illegal dumping and graffiti enforcement efforts.

EXECUTIVE SUMMARY

In 2013 the City Council passed new ordinances to address illegal dumping and graffiti, two major quality of life issues in the City of Oakland (the City). These new ordinances allow the City Council by resolution to establish a reward funds for those that provide information that leads to the identification and apprehension of illegal dumping and graffiti violators.

Accordingly, staff has drafted a resolution authorizing the City Administrator or their designee to establish such a fund using the civil penalties collected in successful illegal dumping and graffiti enforcement actions. The resolution also authorizes the distribution of rewards from this fund for each witness who enables successful enforcement to take place.

Further, the resolution authorizes the appropriation of \$10,000 from funds already collected in enforcement actions to increase public awareness of the City's illegal dumping and graffiti enforcement efforts, which will be essential to effectively utilizing the rewards fund.

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OUTCOME

This resolution will assist the City's ongoing efforts to deter illegal dumping and graffiti by creating a reward fund that will encourage citizens to report information regarding illegal dumping and graffiti violators. This resolution will also increase awareness of the City's related enforcement efforts by appropriating funds towards a public awareness campaign.

BACKGROUND

While deterring graffiti and illegal dumping remains a consistent challenge, the Oakland Public Works Department (OPW), Office of the City Attorney (City Attorney) and the Office of the City Administrator (OCA) have developed a promising collaborative approach to illegal dumping enforcement. This approach emphasizes direct evidence, fully utilizing cost recovery and civil penalty authorities available (e.g. fines of up to \$1,000 for each day illegally dumped debris remain in the public right of way), and resolving cases prior to seeking administrative or judicial review. Since citizens live and work throughout the City and are often armed with cell phone cameras, the City has been able to build strong cases that encourage violators to settle with the City prior to a hearing. As a result, the City has created a relatively efficient and effective means for holding violators accountable and recovering funds.

This approach relies heavily on community members, though. Community members often supply the photographs and descriptions that serve as the basis for the City's enforcement actions against illegal dumping and graffiti violators. The testimony of community members is also vital to introducing evidence against suspected violators when a case proceeds to an administrative hearing.

On the other hand, reluctant or uncooperative witnesses can serve as major obstacles to this process. The City can only pursue enforcement against a graffiti or illegal dumping violator when there is sufficient evidence against a suspected violator. Thus, if citizens fail to report information, the City has limited to zero means of successfully pursuing enforcement. Likewise, uncooperative witnesses can undermine enforcement efforts as hearing officers and judges may disregard anonymous or unverified reports and license plate information.

Consequently, programs that increase the number of citizens reporting information about illegal dumping and graffiti violators and programs that improve the cooperation of these citizens during the enforcement process will greatly assist the City's enforcement efforts.

ANALYSIS

A rewards fund for illegal dumping and graffiti witnesses will both encourage additional community members to report needed information and improve witnesses' cooperation after they make their initial report. While many citizens find reporting information about illegal activity as part of their civic duty and holding illegal dumping and graffiti violators accountable as a reward in itself, more reluctant or disinterested community members may benefit from a direct financial incentive. Furthermore, reserving financial rewards to only those witnesses that provide

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information that leads to successful collection of fines will unify the goals of witnesses and the City.

In creating this rewards fund, the City will not sacrifice any cost recovery as only civil penalties collected from enforcement actions will finance the fund. For example, if the OCA issues an illegal dumping citation for \$1,500 in civil penalties, \$111 in City Attorney investigative costs and \$425 in Public Works removal costs, funds will only be diverted to the witness rewards fund if the OCA reaches a settlement or obtains a judgment in an amount greater than \$536. Thus in this scenario if the OCA and the illegal dumping violator reach a settlement whereby the violator agrees to pay \$800 and perform community service, the OCA has \$264 from which a reward payment can be distributed to the witness who helped make the successful enforcement possible. This resolution grants the OCA flexibility to determine the exact amount of the reward payment, though at no point may the reward exceed the amount of civil penalties received in a given enforcement action. This built in flexibility is designed to make the reward program as efficient and effective as possible, whereas an arbitrary reward cap may prove either too high or too low.

PUBLIC OUTREACH/INTEREST

In order for the witness rewards fund to be successful, community members, particularly those not already aware of the City's illegal dumping and graffiti enforcement efforts, must be made aware of the program. While OPW, the City Attorney and the OCA will continue to publicize their efforts through regular neighborhood outreach, public meetings, flyers, and press releases, a public awareness campaign is needed to attract the attention of those operating outside of these standard channels.

Accordingly, the resolution authorizes the OCA to appropriate \$10,000 of funds already collected in successful illegal dumping and graffiti enforcement actions towards a public awareness campaign in support of the City's enforcement efforts. Below is a table outlining the funds already collected through illegal dumping enforcement as of August 19, 2014:

| | FUND | ORGANIZATION | ACCOUNT | PROJECT | PROGRAM | AMOUNT |
|---|------|--------------|---------|---------|---------|----------|
| Sidewalk Encroachment/ Public Works Crew | 1720 | 30676 | 43114 | 0000000 | NB35 | \$12,812 |
| Civil Penalty/Appeal Fee | 1010 | 02111 | 43114 | A252110 | IP03 | \$6,723 |
| City Attorney's Office | 1010 | 04311 | 48412 | 0000000 | IP20 | \$2,440 |
| Total Funds Collected | | | | | | \$21,975 |

The public awareness campaign will then target the areas where illegal dumping and graffiti most often occur in the City. OCA, City Attorney and OPW staff are currently working with public relations staff on crafting and carrying out an effective campaign.

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COORDINATION

The City Attorney, OPW, OCA and the Budget Office were consulted in the preparation of this report.

COST SUMMARY/IMPLICATIONS

Any negative fiscal impacts associated with the rewards fund will be minimal. The City will continue to recover its costs related to illegal dumping and graffiti enforcement and rewards will only be paid to witnesses when a citation is successfully collected. Moreover, if the rewards program is successful, the City would receive an increase in reporting of illegal dumping incidents and witness cooperation resulting in more revenue from penalties and cost recovery.

Civil penalties collected in enforcement actions against illegal dumping or graffiti violators will be deposited into the rewards fund and appropriated to the Comprehensive Clean-up Fund (1720), City Administrator: Administration Org (02111), and Project To Be Established. Because prompt reward payouts are key to an effective rewards program, a modest seed budget of \$2,000 will be appropriated for the rewards fund. Additional appropriations will be contingent upon civil penalty revenues received.

The public awareness campaign to promote the rewards program will be funded by illegal dumping and graffiti citation revenue already collected in the General Purpose Fund and the Comprehensive Clean-up Fund. Funding of \$6,000 will be appropriated in the General Purpose Fund (1010), City Administrator: Administration Org (02111), Advertising & Promotion Account (53314), Project To Be Established, and funding of \$4,000 will be appropriated in the Comprehensive Clean-up Fund (1720), City Administrator: Administration Org (02111), Advertising & Promotion Account (53314), Project to be established for a total appropriation of \$10,000 towards the campaign.

SUSTAINABLE OPPORTUNITIES

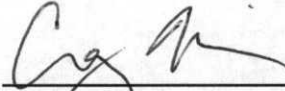
Economic: More effective enforcement against illegal dumping and graffiti violators will deter future illegal dumping and graffiti, improving the physical appearance of the City of Oakland, which helps attract and retain businesses and promote civic pride.

Environmental: A decrease in the amount of dumped materials and litter will lessen the amount of debris that enters the storm-drain systems and pollutes our creeks and waterways.

Social Equity: By providing rewards to witnesses, the City will better deter graffiti and illegal dumping, which at present disproportionately affects more impoverished areas of the City.

For questions regarding this report, please contact Greg Minor, Assistant to the City Administrator, at (510) 238-6370.

Respectfully submitted,



Greg Minor
Assistant to the City Administrator,
Office of the City Administrator

Reviewed by:

Frank Foster, Oakland Public Works Department
Richard Illgen, Office of the City Attorney

Encl:
Resolution

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FILED
OFFICE OF THE CITY CLERK
OAKLAND

OAKLAND CITY COUNCIL

[Signature]
City Attorney

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RESOLUTION No. _____ C.M.S.

Introduced by Councilmember _____

A RESOLUTION TO (1) ESTABLISH A REWARDS FUND FOR ILLEGAL DUMPING AND GRAFFITI WITNESSES WHO PROVIDE INFORMATION THAT LEADS TO SUCCESSFUL ENFORCEMENT ACTIONS AND (2) APPROPRIATE \$10,000 FOR A RELATED PUBLIC AWARENESS CAMPAIGN

WHEREAS, the City Council adopted revised graffiti and illegal dumping Ordinances in 2013, Oakland Municipal Code (OMC) 8.10 and 8.11 et seq., in order to better address illegal dumping and graffiti in the City of Oakland; and

WHEREAS, OMC 8.10.600 and OMC 8.11.710 both authorize the City Council to establish a rewards fund to encourage illegal dumping and graffiti witnesses to cooperate with the City of Oakland (the City) by supplying information that enables successful illegal dumping and graffiti enforcement; and

WHEREAS, witness cooperation is vital to the City's ability to effectively enforce the illegal dumping and graffiti ordinances; and

WHEREAS, gaining witness cooperation is one of the major obstacles to effectively pursuing illegal dumping and graffiti violators; and

WHEREAS, in the spring of 2013 the Oakland Public Works Department (OPW), the Office of the City Attorney (City Attorney) and the Office of the City Administrator (OCA) began a new collaborative illegal dumping enforcement initiative; and

WHEREAS, this collaboration has collected over \$20,000 thus far; and

WHEREAS, OPW, the City Attorney and OCA believe that their collaboration would be even more effective with a witness rewards fund to encourage witnesses to come forward and cooperate with the City in pursuing illegal dumping and graffiti violators;

WHEREAS, the City's ability to recover its costs associated with illegal dumping and graffiti will not be impaired by a witness rewards fund as the fund will be exclusively funded by civil penalties collected in enforcement actions;

WHEREAS, the City needs to raise public awareness of this rewards fund and the City needs the public's assistance in order for enforcement efforts to be effective;

WHEREAS, City staff seeks initially \$10,000 to develop a public awareness campaign; therefore be it

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PUBLIC WORKS CMTE.

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RESOLVED, the City Council hereby creates a witness rewards fund and appropriates the civil penalties collected in enforcement actions against illegal dumping or graffiti violators into this fund; and be it

FURTHER RESOLVED, the rewards funds shall be maintained in the Comprehensive Clean-up Fund (1720), City Administrator: Administration Org (02111), Project To Be Established; and be it

FURTHER RESOLVED, the City Administrator is authorized to distribute to illegal dumping and graffiti witnesses who provide information that leads to the successful collection of civil penalties rewards in such amount as determined appropriate by the City Administrator for an effective graffiti and illegal dumping enforcement program and is further authorized to develop any regulations or procedures he or she deem necessary to implement the rewards program; and be it

FURTHER RESOLVED, the reward payment made by the City Administrator at the conclusion of a successful illegal dumping or graffiti enforcement action shall not exceed the amount of civil penalties collected by the City in that particular enforcement action; and be it

FURTHER RESOLVED, that \$2,000 shall be appropriated in the Comprehensive Clean-up Fund (1720) for initial rewards payments, and additional amounts appropriated will be contingent upon actual civil penalty revenues received; and be it

FURTHER RESOLVED, the City Council hereby authorizes the City Administrator or his designee to develop a public awareness campaign and appropriate \$6,000 in the General Purpose Fund (1010), City Administrator: Administration Org (02111), Advertising & Promotion Account (53314), Project To Be Established and \$4,000 in the Comprehensive Clean-up Fund (1720), City Administrator: Administration Org (02111), Advertising & Promotion Account (53314), Project to be established for a total appropriation of \$10,000 towards a public awareness campaign in support of the City's illegal dumping and graffiti enforcement efforts; and be it

IN COUNCIL, OAKLAND, CALIFORNIA, _____

PASSED BY THE FOLLOWING VOTE:

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

NOES -

ABSENT -

ABSTENTION -

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PUBLIC WORKS CMTE

ATTEST: _____ SEP 16 2014

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