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OFFICE OF THE CITY CLERK
OAKLAND

2015 OCT -1 PM 12:36

AGENDA REPORT

TO: Sabrina B. Landreth
City Administrator

FROM: Kiran Bawa
Budget Director

SUBJECT: Establishing a Restructured
Budget Advisory Commission

DATE: September 21, 2015

City Administrator Approval

Date:

9/30/15

RECOMMENDATION

**Staff recommends that the City Council:
Adopt An Ordinance Repealing Resolution No. 74826 C.M.S. And Establishing A Budget
Advisory Commission To Replace The Budget Advisory Committee And Transferring To
Budget Advisory Commission The Duties And Functions Of The Budget Advisory
Committee.**

EXECUTIVE SUMMARY

Staff is asking the City Council to approve an ordinance that will reform the structure and operations of the body, which provides advice and support to the Mayor and City Council on budgetary and fiscal issues. The existing establishing legislation for this body was drafted prior to Charter Amendments affecting Boards & Commissions and has many provisions that are inconsistent with the current Charter. The existing establishing legislation also contains provisions that make it difficult for the body to perform the duties outlined in the City of Oakland Consolidated Fiscal Policy. The proposed ordinance improves and clarifies provisions related to commission membership, commission governance, member terms of office, and quorum requirements to facilitate more consistent and effective work of this body.

BACKGROUND / LEGISLATIVE HISTORY

In March 1999 the City Council adopted Resolution No. 74826 C.M.S., listed as **Attachment A**, establishing the 15 member Budget Advisory Committee, which combined the Citizen's Budget Advisory Committee and Business Budget Advisory Committee. This resolution contains numerous provisions that are inconsistent with the current City Charter as amended by Measures X and P in the years 1998 and 2004, respectively. The City Charter currently provides that:

The Council may create by ordinance such operational, advisory, appellate or rule-making boards and commissions as may be required for the proper operation of any function or agency of the City and prescribe their function, duties, powers, jurisdiction and the number of board and commission members, their terms, compensation and reimbursement for

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expenses, if any, subject to the provisions of this Article. Members of boards and commissions shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the Council and may be removed for cause, after hearing, by the affirmative vote of at least six members of the Council.

In April 2013, the City Council adopted Resolution No. 84385 C.M.S. the Oakland Budget Process Transparency and Public Participation Policy. This policy assigned new duties to the Budget Advisory Committee including: assisting the City in an Assessment of Stakeholder needs, concerns, and priorities; the submission of a published written report regarding the Mayor's Proposed Budget; and submission of an informational report on the quality of and suggested improvements to the budget process. Resolution No. 84385 C.M.S. was subsequently incorporated without significant changes into Ordinance No. 13279 C.M.S. the City's Consolidated Fiscal Policy in December 2014.

Due to the age of the present establishing legislation (Resolution No. 74826 C.M.S., **Attachment A**), the new duties assigned to the Budget Advisory Committee and ongoing challenges with achieving quorum, the Budget Advisory Committee membership suggested reforming the establishing legislation of this body. Staff concurred with this proposal and developed new establishing legislation that would resolve various concerns.

ANALYSIS AND POLICY ALTERNATIVES

Staff recommends that the City Council adopt this ordinance to reform the structure and operations of the Commission that provides advice and support to the Mayor and City Council on budgetary and fiscal issues. This ordinance will serve as new establishing legislation for an advisory body and differs from Resolution No. 74826 C.M.S., (**Attachment A**), in a number of ways. The key changes in the legislation are noted in Table 1. below.

Table 1. Key Changes

Key Change	Original	Revised	Rationale
Legislative Form	Resolution	Ordinance	To comply with City Charter Section 601. Boards and Commissions.
Member Appointments	By various elected officials	By the Mayor with the recommendation of various elected officials	To comply with City Charter Section 601. Boards and Commissions.
Term Length	2-Years	3-Years	To provide enhanced continuity of membership.
Term Expiration Date	At varied times in the Spring	October 1st	To ensure that changes in membership do not happen during critical points in the budget process
Quorum Requirements	8 members	50% of seated members (no less than 5)	To ensure that vacant positions do not interfere with the Commission's ability to carry out its duties.
Officers	President select at appointment	President, Vice-President, & Liaison chosen annually	To allow the members with the greatest knowledge and availability of time to fulfill certain key roles.

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Legislative Form

City Charter Section 601: Boards and Commissions provides that the City Council may create by ordinance operational, advisory, appellate or rule-making boards and commissions. Staff thus has drafted the revised establishing legislation in the form of an ordinance. Further in order to comply with the nomenclature used in the charter and to distinguish it from the extant Budget Advisory, the new body is renamed the "Budget Advisory Commission."

Member Appointments

Resolution No. 74826 C.M.S., (***Attachment A***) provides that the 15 members of the Budget Advisory Committee be appointed by various members of the City Council. However, the City Charter requires that "Members of boards and commissions shall be appointed by the Mayor subject to confirmation by the affirmative vote of five members of the Council." In order to preserve the intent of the original legislation and comply with the Charter, the ordinance allows various City officials to recommend members. Each Councilmember and the City Auditor shall recommend one member. The Finance & Management Committee Chairperson shall recommend two additional members, the Community and Economic Development Committee Chairperson shall recommend one additional member, and the Mayor shall recommend three members. The total membership of the Budget Advisory Commission is 15.

Term Length

Resolution No. 74826 C.M.S. (***Attachment A***) provided for terms of office spanning two years. This ordinance would provide for a three year term of office in order to improve the experience and continuity of the membership. The City's Budget process is biennial. By providing for three years terms the ordinance safeguards that one-third of the membership will have experienced that phase of the budget process previously.

Term Expiration Date

The current terms of BAC members expire in the spring of each year. Most terms expire near May 25th. This is a suboptimal time for terms to expire and for new members to join the body as it is in the heart of both the Biennial and Midcycle Budget processes. The ordinance provides that terms of five members (one-third of the membership) will expire on October 1st of each year. The October 1st date was chosen as it occurs after all timelines noted in the Consolidated Fiscal Policy and sufficiently before other key processes are initiated. Having consistent term start and end dates for all members whose terms expire that year will also facilitate improvement management of reappointments and vacancies.

Quorum Requirements

The Budget Advisory Committee, like other City Board's & Commissions, is often unable to achieve a quorum of eight members at meetings. This is especially true if there vacancies. To alleviate this problem and allow the new Budget Advisory Commission to continue its work despite any temporary vacancies in its 15 seats, this ordinance adjusts the definition of quorum for this body to at least 50 percent of the filled seats. However, at no time may a quorum consist of fewer than five members.

Officers

The only officer provided for in Resolution No. 74826 C.M.S. (**Attachment A**) is a chairperson. The duties of that position are tied to the specific seat held. This ordinance provides that the Budget Advisory Commission elect its own officers including a chair and vice-chair for terms of one-year. This will allow those persons most experienced or most capable of dedicating their time to serve in these key roles. The election of a vice-chair will allow for continuation of duties if the chairperson is not available. The ordinance also provides for the election of a Liaison to the Finance & Management Committee to ensure that the Budget Advisory Commission is informed on significant issues pending before the City Council.

Transitional Provisions

The ordinance provides that the current Budget Advisory Committee will continue to operate until 8 members have been appointed and confirmed to the Budget Advisory Commission. This will ensure that there is no time period where the City Council and Mayor are without the advice and support of this citizen body.

FISCAL IMPACT

There is no direct fiscal impact from the adoption of this ordinance. The City currently maintains positions and resources that provide support to the current Budget Advisory Committee. Those same positions and resources would provide support to the restructured body. Staff believes that the new Budget Advisory Commission will operate more effectively and thus may be able to provide improved advice on fiscal matters to the City Council and Mayor.

PUBLIC OUTREACH / INTEREST

The subject of a revised establishing legislation was noticed at three Budget Advisory Committee meetings in the year 2015; however, at none of those meetings was a quorum established. Individual members of the public attending these meeting were given a chance to share opinions on this topic.

COORDINATION

This report and legislation have been reviewed by the Office of the City Attorney and the Controller's Bureau. Its contents were developed in conjunction with the Office of the Mayor.

SUSTAINABLE OPPORTUNITIES

Economic: There are no Economic opportunities associated with this report

Environmental: There are no Environmental opportunities associated with this report

Social Equity: The establishment of a restructured body with more consistent terms of office and quorum procedures may allow for a more diverse group of persons to attend meetings and/or serve on the commission. A body with improved functions and capacity may be better able to address issues of social equity associated with budgetary and financial decision making.

ACTION REQUESTED OF THE CITY COUNCIL

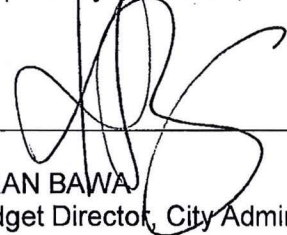
Staff is asking this Council to approve the proposed ordinance that will reform the structure and operations of the Commission, which provides advice and support to the Mayor and City Council on budgetary and fiscal issues. This new body will be titled the Budget Advisory Commission and will assume the duties of the Budget Advisory Committee.

The existing establishing legislation for this body was drafted prior to Charter Amendments affecting Boards & Commissions and has many provisions that are inconsistent with the current Charter. The existing establishing legislation also contains provisions that make it difficult for the body to perform the duties noted in the City of Oakland Consolidated Fiscal Policy.

The proposed ordinance improves and clarifies provisions related to commission membership, commission governance, member terms of office, and quorum requirements to facilitate more consistent and effective work of this body.

For questions regarding this report, please contact Bradley Johnson, Assistant to the City Administrator, at (510) 238-6119.

Respectfully submitted,



KIRAN BAWA
Budget Director, City Administrator's Office

Reviewed by:
Sarah Schlenk, Agency Administrative Manager

Prepared by:
Bradley Johnson, Asst. to the City Administrator
Budget Department

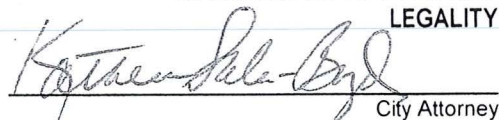
Attachments (2):

Attachment A: Resolution No. 74826 C.M.S.
Exhibit 1: Ordinance Establishing the Budget Advisory Commission

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APPROVED AS TO FORM AND
LEGALITY


City Attorney

OAKLAND CITY COUNCIL

ORDINANCE No. _____ C.M.S.

ORDINANCE REPEALING RESOLUTION NO. 74826 C.M.S. AND ESTABLISHING A BUDGET ADVISORY COMMISSION TO REPLACE THE BUDGET ADVISORY COMMITTEE AND TRANSFERRING TO BUDGET ADVISORY COMMISSION THE DUTIES AND FUNCTIONS OF THE BUDGET ADVISORY COMMITTEE

WHEREAS, on March 2, 1999 the City Council adopted Resolution No. 74826 C.M.S. establishing the Budget Advisory Committee for the purpose of advising the City Council regarding the City's two-year policy budgets; and

WHEREAS, the City Council has determined that reforming this body through the establishment of a Budget Advisory Commission with new establishing legislation that clarifies the purpose of the body, reforms provisions related to terms and term limits, and addresses problems related to vacant seats, absenteeism, and the establishment of a quorum; and

WHEREAS, on November 20, 2014 the City Council adopted Ordinance No. 13279 C.M.S. creating the City's Consolidated Fiscal policy, which establishes new roles and responsibilities for the Budget Advisory Committee that were not contemplated at the time the Budget Advisory Committee was established; and

WHEREAS, the City Council wishes to conform the provisions for appointment of Budget Advisory Commission members to the requirements of the City Charter and the current, actual means of such appointments; now therefore

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

1. City Council Resolution No. 74826 C.M.S. establishing the Budget Advisory Committee is hereby repealed and replaced with the following:

SECTION 1. ESTABLISHMENT

There shall be established by the City Council a Budget Advisory Commission. The Budget Advisory Commission shall take the place of the Budget Advisory Committee,

which was established pursuant to Resolution No. 74826 C.M.S. All references to the Budget Advisory Committee in existing legislation shall be understood to reference the new Budget Advisory Commission.

SECTION 2. DUTIES AND FUNCTIONS

(a) The Budget Advisory Commission (hereafter “the Commission”) shall report regularly to the Finance and Management Committee on topics deemed important to the fiscal health of the City, encouraging public participation and input into fiscal decision making, and improving the transparency and accountability of City fiscal information and decision making. The Commission shall perform duties assigned to it by action of the City Council, including responsibilities identified in the City’s fiscal policies, and reviewing any fiscally related goals and objectives of the Mayor or City Council. The Commission shall have such other functions as may be directed by the City Council.

(b) No less than three years following the first meeting of the Commission, the Commission shall develop and complete a process of self-evaluation and strategic planning. Thereafter, self-evaluation and strategic planning shall occur every three years.

SECTION 3. MEMBERSHIP

(a) The Commission shall be composed of fifteen individuals appointed by the Mayor and confirmed by the Council in accordance with Section 601 of the City Charter.

(b) Each councilmember shall recommend one Commission member. The City Auditor and Chairperson of the Community Economic and Workforce Development Committee shall also recommend one Commission member each. The Chairperson of the Finance and Management Committee shall recommend two Commission members. The Mayor shall select three Commission members.

(c) To the extent practicable, appointments to the Commission shall reflect the geographical diversity of the City. All members of the Commission shall be residents of the City of Oakland.

SECTION 4. TERMS OF MEMBERS, COMPENSATION

(a) Of the initial members of the Commission, five appointments shall be for one-year terms, five appointments shall serve for two-year terms, and five appointments shall be for three-year terms. Thereafter, all terms shall be for three years. Members of the Commission shall serve no more than two consecutive three-year terms plus any initial term of less than three years. All terms of members shall begin on October 1 and end on September 30.

(b) The Commission members shall receive no salary for serving.

SECTION 5. COMMISSION GOVERNANCE

(a) At its first meeting following October 1st of each year, the Commission shall select a Chairperson, a Vice-Chairperson, and a Liaison to the Finance and Management Committee from within its membership.

(b) The Chairperson shall be responsible for chairing meetings, coordinating meeting times and agenda items in concert with City staff, representing the Commission in conversations with the Mayor, City Council President, City Administrator when required, and representing the Commission in public forums & meetings.

(c) The Vice-Chairperson shall assist the Chairperson and shall perform the duties of Chairperson when the Chairperson is unavailable to perform those duties.

(d) The Liaison with the Finance and Management Committee shall be responsible for listening and where possible attending meetings of that body, keeping the Commission informed on significant issues, and coordinating reports submitted to the Finance and Management Committee.

(e) A quorum of the Commission shall consist of a majority of appointed members, not including vacancies, and shall never consist of less than five members. Any action by the Commission shall be approved by a majority of members present.

SECTION 6. TRANSITIONAL PROVISIONS

The terms of office and provisions of this ordinance shall begin on October 1 following the appointment and confirmation of 8 members to the Commission. Until that time, the existing Budget Advisory Committee shall continue to perform functions currently accorded to it by Resolution No. 74826 C.M.S. and Ordinance No. 13279 C.M.S. When eight members have been appointed and confirmed to the Commission, the terms of the currently seated Budget Advisory Committee members shall terminate and the body shall be dissolved. Budget Advisory Committee members may be reappointed to the new Commission in accordance with the provisions of this Ordinance. Terms served by members of the Budget Advisory Committee shall not be terms on the new Commission for the purpose of term limits.

2. This Ordinance shall become effective immediately on final adoption if it receives six or more affirmative votes; otherwise, it shall become effective upon the seventh day after final adoption.

IN COUNCIL, OAKLAND, CALIFORNIA,

PASSED BY THE FOLLOWING VOTE:

AYES – BROOKS, GALLO, GUILLEN, KALB, KAPLAN, REID, WASHINGTON, and PRESIDENT
GIBSON MCELHANEY

NOES –

ABSENT –

ABSTENTION –

ATTEST: _____

LATONDA SIMMONS
City Clerk and Clerk of the
Council of the City of Oakland,
California

NOTICE AND DIGEST

ORDINANCE REPEALING RESOLUTION NO. 74826 C.M.S. AND ESTABLISHING A BUDGET ADVISORY COMMISSION TO REPLACE THE BUDGET ADVISORY COMMITTEE AND TRANSFERRING TO BUDGET ADVISORY COMMISSION THE DUTIES AND FUNCTIONS OF THE BUDGET ADVISORY COMMITTEE

The Ordinance establishes a Budget Advisory Commission and transfers to it the duties and functions of the current Budget Advisory Committee. The Budget Advisory Commission will consist of 15 members and shall be charged advising the Mayor and City Council on policies related to the fiscal health of the City, public participation in fiscal decision making, and the transparency of the City's finances and decision making processes.

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OAKLAND CITY COUNCIL

RESOLUTION No. 74826 C.M.S.

INTRODUCED BY COUNCILMEMBER _____

BCS
CM

RESOLUTION ESTABLISHING THE BUDGET ADVISORY COMMITTEE

WHEREAS, the City Council has previously created the Citizen's Budget Advisory Committee on July 26, 1988 by Ordinance No. 11025 C.M.S. and amended by Ordinance No. 11775 C.M.S., for the purpose of advising the City Council regarding expenditures for the revenues for all general fund municipal services and development of a five-year financial plan for the City of Oakland; and

WHEREAS, the City Council has previously created the Business Budget Advisory Committee on April 1, 1997 by Ordinance No. 11973 C.M.S., for the purpose of advising the City Council regarding issues related to the fiscal management of the City of Oakland; and

WHEREAS, the City Council has determined that it would be in the best interest of the City of Oakland to create a new Budget Advisory Committee to replace the Citizen's Advisory Committee and the Business Budget Advisory Committee for the purpose of advising the City Council regarding the City's two-year policy budgets.

NOW THEREFORE, THE COUNCIL OF THE CITY OF OAKLAND RESOLVES:

SECTION 1. ESTABLISHMENT

There shall be established by the City Council a Budget Advisory Committee (BAC). The Budget Advisory Committee shall be composed of fifteen (15) individuals appointed as follows:

- (a) eight members shall be appointed by the Councilmembers; seven (7) appointed by the Councilmembers to represent each of the seven districts; the at-large Councilmember shall appoint one member;
- (b) the Mayor shall appoint one (1) individual from the City to be the Chairperson; and
- (c) the Chamber of Commerce will recommend a list of twelve (12) people from which
 - (1) the Mayor will appoint three (3) members;
 - (2) the Chairperson of the Finance and Management Committee will appoint two (2) members, and
 - (3) the Chairperson of the Economic Development Committee will appoint one member, who shall be confirmed by the majority vote of the City Council.

To the extent practicable, appointments to the Budget Advisory Committee shall reflect the geographical diversity of the City. All members of the Budget Advisory Committee shall be residents or taxpayers of the City of Oakland.

SECTION 2. DUTIES AND FUNCTIONS

- (a) The Budget Advisory Committee shall submit regular status reports to the Finance and Management Committee, or such other committee as the City Council may designate as liaison to the Budget Advisory Committee. The regular status report must be submitted once every quarter or more frequently as directed by the Chairperson of the City Council committee to which the Budget Advisory Committee reports.

(b) Status reports submitted in fulfillment of subsection (a) above must include a detailed description of operating and staffing needs, to be developed and maintained by the department responsible for staffing and administration of the Budget Advisory Committee.

(c) Each year, the Budget Advisory Committee shall review the annual goals and objectives of the City Council. Review of City Council goals and objectives shall be undertaken to provide the Budget Advisory Committee the opportunity to better integrate the activities of the Budget Advisory Committee with the City's overall goals and objectives.

(d) City Council approval must be obtained prior to the creation of any standing committee of the Budget Advisory Committee and must include information regarding the costs associated with the standing committee, and the costs of complying with noticing and reporting requirements resulting from the establishment of any such standing committee of the Budget Advisory Committee.

SECTION 3. APPOINTMENTS

(a) Staggered Terms. Commencing with the effective date of this Ordinance, Budget Advisory Committee members shall be appointed to the staggered terms, said terms to commence upon the date of appointment, except that an appointment to fill a vacancy shall be for the unexpired portion of the member's term only.

(b) Length of Terms. Except for the initial appointments made immediately following passage of this Resolution which may be of lesser terms of two (2) years or one (1) year in order to establish staggered terms pursuant to subsection (a), all appointments shall be for a period of two (2) years.

(c) Limit on Consecutive Terms. No person shall be appointed to serve more than two (2) consecutive terms as a member of the Budget Advisory Committee.

(d) Removal. To assure participation of Budget Advisory Committee members, attendance by the members of the Budget Advisory Committee to all regularly scheduled and special meetings shall be recorded, and such record shall be provided semi-annually to the Office of the Mayor for review. Any member may be removed by the Mayor for cause, which shall include conviction of a felony, misconduct, incompetence, inattention to or inability to perform duties, or absence from three (3) consecutive regular meetings except on account of illness or when absent from the City by permission of the Budget Advisory Committee.

IN COUNCIL, OAKLAND, CALIFORNIA, MAR - 2 1999, 1999

PASSED BY THE FOLLOWING VOTE:

AYES- BRUNNER, CHANG, MILEY, NADEL, REID, RUSSO, ~~SPEES~~, AND PRESIDENT DE LA FUENTE - 7


NOES- None

ABSENT- None

ABSTENTION- None

Excused- Spees - 1

ATTEST:


CEDA FLOYD
City Clerk and Clerk of the Council
of the City of Oakland, California