



e-mail: Oaklanders@makeoaklandbetternow.org

June 1, 2012

Via E-Mail

Honorable Jean Quan, Mayor
City Administrator Deanna Santana
City Council President Larry Reid
City Council Members Desley Brooks,
Jane Brunner, Pat Kernighan, Ignacio De La Fuente
Nancy Nadel, Libby Schaaf and Rebecca Kaplan

Re: 2012-13 Mid-Cycle Budget Adjustments

Dear Mayor Quan, City Administrator Santana, Council President Reid and Council Members:

Make Oakland Better Now! is a citizens advocacy group standing for improved public safety, public works, transparency, accountability and budget reform in the City of Oakland. We write concerning Mayor Quan's and Ms. Santana's proposed mid-cycle budget adjustments, to be considered by the City Council on June 4, 18 and 28.

We have carefully reviewed the recent report and attachments. These are obviously the result of a great deal of work on the part of staff. Several of our board members have seen many recent examples of hard work and long hours devoted to this project on the part of budget office staff and other staff members involved. We recognize that Oakland's budget challenges continue to be severe, and are pleased to see quite a number of the choices being recommended, particularly in the area of public safety. We also have a number of questions and concerns about portions of the report where we feel the citizens of Oakland are entitled to more information. A summary of our views follows:

Public Safety / Policing Matters

Civilianization: Make Oakland Better Now! has long supported maximizing the cost-effectiveness of policing by civilianizing department functions that need not be performed by sworn personnel. The position is a simple one: sworn police officers should be fighting and investigating crime, not providing IT services, acting as public information officers or providing other services more suitable for civilian personnel. We are pleased to see the City moving in this direction, and hope that Chief Jordan's assessment will be completed in short order so that these efficiencies can be realized soon.

We also strongly support the adoption of a civilian inspector general office, and are pleased to see that the City is investigating experiences in Los Angeles and other cities that have used this model. We have studied Los Angeles closely. We note that it has used a civilian inspector general for more than ten years, and that after nine years under Federal Court supervision similar to Oakland's under the NSA, Los Angeles was released from its consent judgment and lauded by the judge as model for international policing.

Police Academies: We are very pleased to see the recommendation for a second police academy to be held in January, 2013. We recognize that the two scheduled academies are not expected to result in an increase in sworn officers, but only to mitigate department losses caused by attrition. We have several observations in this regard.

First, we are aware that the original 2011-13 budget achieved savings through this attrition, ultimately budgeting for only 588 officers in 2012-13 (a number that increased by 25 restricted-use officers with the DOJ grant). We assume the scheduled August academy will result in the availability of officers from that class who have completed their field training before the end of the 2012-13 fiscal year (albeit toward the end of the year). We urge Council to ensure that the City is ready to hire, and has budgeted for those officers as soon as they are ready to begin working to help make Oakland safer. We cannot be paying for the training of cadets who will go on to work for other police departments.

In addition, we are hopeful that the City's steps to end the reduction in numbers of sworn officers may have at least some positive effect on officer morale, and that this morale improvement may decrease the department's attrition rate. While the academy yield rate is impossible to predict, the projected per-academy yield number of 40 officers would likely result in a net increase of as many as 20 - 30 additional officers in the next two years. It is essential that the City is ready to hire all the officers it trains, regardless of the attrition rate and regardless of the academy yield.

Obviously, we cannot have a meaningful discussion of public safety in Oakland without considering the NSA and Oakland's ongoing compliance problems. For this reason, it is promising that the Mayor and City Administrator propose allocating funds for a department-wide assessment by nationally recognized police experts, with a view toward implementing processes that will bring about the needed departmental reforms. The City's NSA non-compliance is one of the largest problems we face. For that reason, it is important that the public be given as much information as possible about the City's plans in this regard. The current report is not transparent in this regard, and we ask that the administration flesh this information out considerably.

Finally, we raise the question of the City's, and the OPOA's commitment in 2011 to meet and confer concerning further second-tier concessions. We do not presently suggest concessions by the current hardworking men and women of the department. But we attach the summary MOU that both sides signed in July, 2011, in which the parties agreed to continue to meet and confer on this issue. As far as we can determine, no such negotiation process has occurred.

Unanticipated Expenditures Fund

The report proposes allocation of slightly over \$300,000 to an "unanticipated expenditures fund," something we have not seen in previous City budget proposals. We applaud this first step in bringing this important best practice to Oakland. For more than a year, both Make Oakland Better Now! and Oakland's Budget Advisory Committee have urged the City to adopt, by Charter amendment, a Rainy Day Fund mechanism implementing the same best practice. This has been the subject of several presentations to the Council and its Finance and Management Committee. In the past Budget Advisory Committee has demonstrated that had such a fund been in place for only ten years, most of the recent hardships would have been avoided.

Once we are past the City's current budget deliberations, we hope the City will begin serious consideration of a systematic means of protecting against unanticipated expenditures and future drops in revenue.

Concerns

Overspent Budget Amounts: The report reflects three significant overspent budgets by three departments: OPD, the City Auditor and the City Council.

The largest of these is the OPD at either \$8.6 or \$9.6 million. The report is not clear in this regard. It states that OPD overspent for overtime by \$6.6 million for policing in connection with Occupy Oakland. This was truly an unanticipated expense, and might be an appropriate, if unfortunate, use of the reserve. The report also indicates that the OPD overspent its overtime budget by \$3 million for matters not related to the Occupy demonstrations. The same report indicates that the total overspending was \$8.6 million, and this million dollar discrepancy obviously requires clarification. More significantly, the public is entitled to much more information about the reason for the overspending on non-Occupy related overtime. We realize that much overtime results from the serious understaffing of the department. However, the understaffing was known and expected when the budget was adopted. What were the drivers of this overtime? How were the officers on overtime utilized? Also, the report describes the \$8.6 million as a "third quarter projection." Is this a one-year number or a three quarters number?

The overspending of the City Auditor's budget (\$550,000 projected for the year) was as expected; based on the City Attorney's opinion that it would be unlawful to cut the Auditor's budget to the point where she could not perform her charter-prescribed duties, the Auditor previously advised the Mayor and City Council she would not accept proposed cuts. So the main question is why the City would include a reduction in the budget it knew it could not achieve.

Finally, the report indicates the City Council will overrun its budget for this year by \$200,000, based on reductions adopted but not implemented. Oaklanders are entitled to know why the City Council adopted reductions but did not implement them.

Use of One-Time Sources of Income:

City Ordinance 12946 (as amended by Ordinance 13008), Subpart E, requires that one time sources of income be used 50% for payment of internal service funds and 50% for other internal funds absent a declaration of fiscal emergency. We are pleased to see that the current document does not include a declaration of fiscal emergency, and instead suggests an improvement in the City's fiscal condition. Nonetheless, the current report proposes (at page 17) to spend some \$4 million in one-time revenues to pay for the unanticipated police expenses in meeting Occupy Oakland activity. This appears to conflict with the ordinance, and we believe that apparent conflict requires an explanation.

Potentially Insufficient Reserve:

City Ordinance No. 12946 (as amended by Ordinance 13008), Subpart A, requires that the City 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. . . ." If the 7.5% is not met, "the City Administrator shall present to Council a strategy to meet the General Purpose Fund adjustment."

The City shows a reserve of \$48 million, some 12% of the General Purpose Fund. However, there is much uncertainty about Oakland's available funding because of State Controller Chiang's position that many Redevelopment Agency transactions by all agencies must be unwound. The City Administrator and Mayor project that if the State's proposed "clawback" occurs, Oakland's reserve will be reduced from \$48 million to \$25 million. This is \$5 million short of the City ordinance's reserve requirement. We believe an explanation would be appropriate.

Benefits and Other Unaddressed Liability Issues:

As we have commented in the past, Oakland City Budgets have not been balanced in a meaningful sense in that they have not included amortization payments for unfunded or inadequately funded retirement, benefit and capital expenditures. To its credit, the Administration recognizes in this report the unfunded liability for a variety of benefit plans and capital needs.


We appreciate that the administration has included a discussion of these unfunded liabilities in the report and recognizes the need to seriously consider them in the near future. We urge the City to begin incorporate management of these long-term liabilities in the City's cash flow projections when it releases its 5-year financial plan this fall.

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Conclusion

We plan to have representatives at all of the City Council meetings addressing the budget adjustments and to actively participate in the dialogue about these critical issues. We look forward with great interest to the City's responses.

Sincerely,

A handwritten signature in black ink, appearing to read "Bruce Nye", with a stylized flourish at the end.

Bruce Nye
Board Chair
Make Oakland Better Now!

CONFIDENTIAL

**OPOA & City of Oakland
Proposed Concession Framework
MOU Extension
June 22, 2011**

The following represents a proposed framework for a concession agreement between the OPOA and the City of Oakland. The OPOA is not waiving the terms of the current MOU and the tendering of this proposal does not constitute a reopener. All references to the "OPOA" shall include all employees represented by the OPOA, including the Oakland PMA.

- **Wages**
 - The original arbitration award of a 4% COLA due to the OPOA on Jan 1, 2013 shall be paid as follows:
 - 2% July 1, 2014
 - 2% Jan 1, 2015
- **Employee Pension Contribution (EPMC)**
 - July 1, 2011.– All members shall pay the Employer Paid Member Contribution (EPMC) of 9%.
- **Holidays**
 - Existing holiday concession expires as scheduled June 30, 2012
 - Two (2) holidays (Floating holiday & Admission Day) conceded to city each of the following years: FY2012/2013, FY2013/2014, and FY2014/2015.
- **MOU Term**
 - The terms of this proposal will be memorialized along with the current MOU into a MOU which shall expire on June 30, 2015.
- **Job Security**
 - No layoffs for the duration of the MOU.
 - No rank reversions for the duration of the MOU.
 - Layoff / rank reversion provision does not apply to demotion or termination based on disciplinary proceedings.
 - No furloughs
 - For the duration of the MOU there shall be no annuitants employed at OPD, except for the existing seven (7) individual annuitants currently working in IAD and OIG on NSA-related compliance issues.

- City and OPOA resolve pending grievance arbitration concerning assignment of sergeants in the radio room. For duration of MOU, Sergeants will supervise dispatch radio room. Effective August 1, 2011.
- **Patrol**
 - Maintain the 4/10 shift as the core shift in patrol for duration of MOU. No 5/8 shifts for patrol for the duration of the MOU.
 - OPOA withdraws its demand for minimum staffing.
- **Sick Leave Incentive Resolution to current sick leave grievance.**
 - At the time of ratification all time in members' secondary/"virtual" sick time banks shall be converted at 50% to vacation time.
 - Thereafter, members' sick leave banks in excess of 480 hours shall be converted annually in January 50% to vacation time.
 - At termination of service members' sick leave banks shall be cashed out on a 50% basis.
- **Supervisory Notes**
 - The members of the OPOA shall be provided access to their respective supervisory notes files.
- **Written Reprimands**
 - Maintain *status quo ante* of ability to appeal written reprimand and Department must adequately investigate all allegations and comply with members' due process rights.
- **Concession Termination**
 - Concessions in this agreement shall be non-precedential and shall not be introduced in any future collective bargaining or interest arbitration, for any purpose, by either party. The provisions of this agreement and any MOU incorporating the agreement shall not be subject to change in the event the City declares a fiscal emergency.
 - Should the City Council (or any council committee) support, endorse, sponsor, calendar, or vote to place on the ballot, any measure to eliminate or modify existing provisions of City Charter Section 910, as it applies to the OPOA, the economic concessions identified herein will be null and void for the term of the MOU and the terms in the current MOU will control.
- **Ratification**
 - Any agreement arising out of this proposal is subject to:
 - An affirmative vote of the OPOA Board of Directors;
 - An affirmative vote of the OPOA membership
 - Review of the City finances by the OPOA financial experts; and
 - Approval of the Oakland City Council.

• **New Hires**

- July 1, 2011 new hires entitled to 3% at 55 retirement formula
- 3 year average rather than single highest year
- First step only, reduced 10%
- Police Officer Trainee will receive a salary that is 15% less than the new first step
- The OPOA and the City will agree to continue to discuss compensation and benefits for new hires through the term of the MOU. Any modification to wages and / or benefits for new hires shall be subject to mutual agreement. Such discussion shall not constitute a reopener of the MOU, nor lead to impasse proceedings.

• **Equitable Concessions**

- The OPOA concessions are contingent upon all other bargaining units making concessions of equal or greater value.

This proposal is provided on a confidential basis and shall be disclosed only on a need-to-know basis.

City 7/14/11

OPOA 7/14/11

Lauranna Preston

Benj. Dant. 14 Jul 11

[Signature] 7/14/11

[Signature] 14 Jul 11

[Signature] 7/14/11