COUNCIL AGENDA: 01-27-09
ITEM: 3.6

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: Joseph Horwedel
Jennifer Maguire

SUBJECT: SEE BELOW

DATE: January 8, 2009

Approved

Date 1/12/09

COUNCIL DISTRICT: City-Wide
SNI AREA: All

SUBJECT: ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE GENERAL FUND FOR REBALANCING THE PLANNING AND BUILDING DEVELOPMENT FEE PROGRAM BUDGETS

RECOMMENDATIONS

1. Adoption of the following 2008-2009 Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

   a. Decrease the Licenses and Permits (Building Fee Program) earned revenue estimate by $5,650,000;
   b. Decrease the Departmental Charges (Planning Fee Program) earned revenue estimate by $1,848,055;
   c. Increase the earned revenue estimate from Local Agencies by $29,000;
   d. Decrease the Building Fee Program Earmarked Reserve by $2,600,000;
   e. Decrease the Planning Fee Program Earmarked Reserve by $900,000;
   f. Decrease the Fire Fee Program Earmarked Reserve by $120,000;
   g. Decrease the Planning, Building and Code Enforcement Personal Services appropriation by $3,416,170;
   h. Decrease the Planning, Building and Code Enforcement Non-Personal/Equipment appropriation by $255,000;
   i. Decrease the Information Technology Personal Services appropriation by $105,885;
   j. Decrease the Information Technology Non-Personal/Equipment appropriation by $72,000.

2. Elimination of 52 positions included in Attachment A of this memorandum.

OUTCOME

The outcome of these actions will be to re-balance the Planning and Building Fee Programs by closing an estimated $7,498,000 gap between projected costs and projected revenues in 2008-2009, restoring the fee programs to the Council-approved 100% cost-recovery levels. An additional reduction of $300,000 from the loss of overhead from the development fee programs to the General Fund will be included in the Mid-Year Budget Review scheduled for review in February 2009. The Department evaluated a variety of cost savings measures, including ideas that came forward from staff and the bargaining units, in developing the package of proposed re-balancing actions. Specifically, if the City Council approves the proposed package, the Department will have a revised budget that reflects updated development activity levels anticipated through the remainder of the fiscal year. The Department will be able to provide development services commensurate with the reduced development activity, meet most of its performance targets, as well as continue to work on process improvements.

EXECUTIVE SUMMARY

The City provides a wide range of development services including, but not limited to, planning, zoning, permitting, environmental clearance, building plan check, and construction inspection. These services are paid for through fees to cover the City's costs of providing those services at the Council approved 100% cost-recovery level. The largest portion of fee program dollars goes to pay for the salaries and benefits of the City employees who deliver those services to the paying customers.

The 2008-2009 Operating Budget assumed some reduction in development activity; however, it did not anticipate the dramatic and steep decline that has occurred year-to-date. As a result, the Department of Planning, Building and Code Enforcement is facing a projected $7,498,000 gap between projected revenues and costs. This memorandum recommends that the City Council take several actions to close this gap, including:

- Use of Earmarked Building, Planning and Fire Fee Program Reserves (48%),
- Reduction of Non-Personal/Equipment (4%),
- Miscellaneous Personal Services savings (20%),
- Elimination of vacant positions (12%), and
- Elimination of filled positions (15%)

BACKGROUND

On December 2, 2008, the Council received an Information Memorandum from Joseph Horwedel and Jennifer Maguire regarding a Development Services budget projected shortfall. Development Services partners consist of Planning, Building and Code Enforcement (PBCE), Public Works, and Fire. In that memorandum, it was noted that the economic downturn has resulted in a significant decrease in development activity and associated revenues such that, even with numerous staff vacancies, development fee revenues are projected not to cover this fiscal year's development services expenses.

The pace of development has continued to decline since the November projections, and, at the current rate of development activity, revenues in the Building and Planning Fee Programs are now estimated to be approximately $18,200,000 and $4,854,000, respectively. For the Building Fee Program, this is approximately 24% ($5,650,000) less than the budgeted revenue of $23,850,000. For the Planning Fee Program, this is approximately 28% ($1,848,000) less than the budgeted revenue of $6,702,500. This represents an overall $7,498,000 gap for the two PBCE Development Fee Programs in 2008-2009. As discussed in the December Information Memorandum, the Fire Fee Program revenues are also experiencing a gap between projected costs and projected revenues. Appropriate re-balancing actions for the Fire Fee Program will be included as part of the Mid-Year Budget Review once additional information has been received and analyzed this month. It is recommended, however, as part of re-balancing actions for the Building Fee Program, to reduce the Fire Fee reserve by $120,000 to fund two Building Associate Engineer positions to address service level issues this year. As also discussed in that memorandum, the Public Work's Fee Program is currently not experiencing a revenue and expenditure imbalance, however, the program is on careful watch and if any shortfall is forecasted by year-end, appropriate re-balancing actions will be brought forward for City Council consideration later this year.

As mentioned in the December Information memorandum, using a portion of the Planning and Building Fee Program Earmarked Reserves, as well as eliminating vacant positions in both programs, would only partially fill the gap. This memorandum identifies specific cost savings actions for Council's consideration to prevent more aggressive actions later in the fiscal year.

ANALYSIS

The Department of Planning, Building, and Code Enforcement (PBCE) used the following principles to determine the specific actions needed to reduce costs in a manner that would meet the revised projected revenues:

- Ensure fiscal health by matching projected revenues with projected costs;
- Maintain sufficient reserves to be able to provide service for which fees have already been paid;
- Maintain core services;
- Communicate openly and frequently with employees, customers, and bargaining units regarding the fiscal situation and potential actions;
- Continue to invest in process improvements/streamlining and training to enable staff to do their best work and meet performance targets;
- Minimize disruptions to the customer and morale impacts to staff;
- Determine adjustments to fees to cover the cost of services without assuming an across the board fee increase;
- Explore all feasible options for cost savings before considering lay offs, including: vacancy savings; use of non-fee funding sources; use of a portion of reserves (reserves need to cover works-in-progress); and
- Organize staff resources to respond flexibly to changes in activity, including rapid response to economic recovery.

The Department applied these principles in the careful evaluation of a variety of cost savings measures, including ideas that came forward from staff and the bargaining units. The Department has assembled a proposed package to close the $7,498,000 gap between costs and reduced revenues, as detailed below. Please note that the numbers mentioned below are rounded to the nearest $1,000.

This package, particularly the proposed cuts of filled positions, was very difficult to put together and was done thoughtfully and deliberately. Frequent communication has occurred with the employees and bargaining units and will continue to occur as the budget rebalancing actions occur and we prepare for the 2009-2010 operating budget process.

Use of Reserves - $3,620,000
The Building and Planning Fee Program Earmarked Reserves currently are $3.7 million and $1.4 million, respectively. The Department recommends the use of $2,600,000 in the Building Reserve and $900,000 in the Planning Reserve, bringing the Building Reserve down to $1.1 million and the Planning Reserve down to $500,000. In addition, a total of two positions can be shifted to the responsibility of the Fire Fee Program for the balance of this fiscal year. These positions provide plan checking and will be trained in completing architectural review of fire code requirements. As a result, a reduction of $120,000 from the Fire Fee Reserve (which currently is $4.3 million) is recommended.

The Administration does not recommend bringing the reserves below the proposed amounts. The purposes of the reserves are (1) to fund current works-in-progress for projects whose fees have already been remitted, but the work is not yet completed; and (2) to provide a small budgetary cushion for severe decreases in revenues in order to maintain a minimum service delivery to development customers. Based on past history of other economic downturns, San José's economic recovery from the current downturn will likely involve new development and/or improvements to existing properties. It is essential that the City has the necessary staff expertise on hand to respond promptly to development applications. The reserves provide that ability.

Non-Personal/Equipment Reductions - $327,000
Non-Personal/Equipment budget savings in the Building and Planning Fee program of $255,000 would be realized by implementing more prudent purchases to replace the Department's technology equipment, such as desktop PCs, scanners, and plotters. With a lower than anticipated decline in activity levels, the funding for plan check contractual services is proposed for elimination. In alignment with the reductions in staffing level, a corresponding decrease in training budget is also proposed. In addition, the Department is proposing reductions in travel and other miscellaneous Non-Personal/Equipment budget. Funding for hardware and software maintenance for the various development systems is budgeted in the Information Technology Department. Renewal costs for the current year have come in lower than budgeted and these savings ($72,000) are available with no impact to service levels.

Miscellaneous Personal Services Savings - $1,514,000
The Department has identified the following areas to reduce costs and realize additional savings of $1,514,000:

- Voluntary staff furlough ($93,000). Several employees in the Planning and Building Fee Programs have signed up for the City's Voluntary Furlough and Special Reduced Work Week programs whereby employees schedule unpaid time at specific points during the fiscal year.

- Vacancy savings ($575,000). Savings in Personal Services have been generated from long-term vacancies through the first half of the year.

- Temporary work in other City departments and another city ($288,000). One Planning position was redeployed to Los Gatos to assist with Planning activities, and the City is being reimbursed for these services. In addition, two Building Inspectors have been temporarily reassigned to the Public Works Department to address staffing shortfalls in the capital program, and a Senior Analyst will be reimbursed for providing management services to the Human Resources Department. Planning will also be reimbursed for work done on the Tesla project.

- Reallocation of three Building Inspector positions to CDBG funds ($165,000) supporting the Building Code Compliance Program consistent with the objective of serving low/moderate income persons by using code enforcement activities to correct substandard housing often created as a result of unpermitted additions/alterations to residential dwellings. These Building Inspectors would also respond to and address other code violations in CDBG-eligible neighborhoods in an effort to improve the quality of life for low-income residents. This staff is currently funded in the development fee program and a majority of their time is spent on resolving illegal construction complaints.

- Limit overtime in the Building Division to obtain savings of $175,000 with no service level impacts anticipated at this time.

- Funding shifts to move non-fee funded sources from elimination of vacant positions to filled positions ($218,000) at no additional cost to those funds.

Elimination of Vacant Positions - $908,000
The Department proposes the elimination of both vacant and filled positions. The positions that have been identified for elimination are from all levels of the organization and impact all levels and core services of PBCE, including inspection/plan check/planning, clerical support, and key executive leadership positions. The PBCE fee programs currently have a total of 22.4 vacancies out of 206 positions. This action recommends the elimination of all but 2.5 of these vacant positions. A total of 24 vacant positions in all funds are recommended to be deleted: 17.67 in the Building Fee Program and 6.33 in the Planning Fee Program. The remaining 2.5 vacant positions in the development fee programs are not recommended for elimination at this time as they are deemed critical to the operations of the Department. Of the 24 vacant positions recommended for deletion, a vacant Network Engineer position that is in the Information Technology Department that provides support to the development fee program is included for elimination. All of the position eliminations are detailed in Attachment A.

Elimination of Filled Positions - $1,100,000
A total of 28 filled positions are recommended for elimination. Due to the slowdown in development activity that is projected to continue in 2008-2009, the proposed staffing complement should allow

the Department to achieve agreed upon service levels. After these proposed actions, a total of 154 positions would remain in PBCE to deliver these important development services.

The City's layoff rules, contained in the Civil Service Rules and the bargaining unit Memoranda of Agreement, provide certain rights and options to employees. With the use of these rules, employees who are displaced from a job class may not necessarily be laid off from City employment -- they may retain a different City job through the "bumping" process, or be offered the opportunity for "redeployment" in lieu of layoff. The term "layoff" includes situations that result in an employee either leaving City employment involuntarily, or leaving his/her classification involuntarily. Employees whose positions are discontinued may have rights to other positions in their class. If there are no opportunities for reassignment, bumping, or other placement, then the employee may be separated from City service. "Reassignment" is the process for determining which employees may be relocated to different positions in the same classification or possibly to a lower classification. All impacted employees will receive a 30-day notice at the time this memorandum is public. Given the unique circumstances of each affected employee, Department management will be conducting one-on-one meetings with each impacted employee to keep the individuals apprised of their specific situation. All employees impacted by these actions will be evaluated on a case-by-case basis by the Human Resources Department during this time period.

Employees that are at risk of layoff, their co-workers and managers/supervisors will be provided with training and resources from the City's contracted provider for our Employee Assistance Program to assist them in dealing with this difficult situation. They will receive support and have a contact person in Human Resources that will answer any questions and assist them in the redeployment process. In addition, employees for which there are no opportunities for reassignment, bumping. Or other placement that are separated from City service will be placed on a reinstatement list for their classification in order of seniority. Reinstatement lists shall be in effect for three (3) years from the date of the layoff from the class, and employees on these lists will have the right to be rehired into vacancies in the classification they held when laid off as they occur in the City. In most cases, the last day of service for employees who may be separated from the City as a result of the actions in this memorandum is February 27, 2009.

The City Administration is balancing compassionate handling of this situation with minimizing disruption of City services. While the ripple effects go beyond Planning, Building and Code Enforcement, the Administration appreciates everyone's patience and understanding as we work through these challenging transitions as seamlessly as possible.

Service Impacts

The cuts recommended in this memorandum will affect service delivery in PBCE through the loss of overall capacity and flexibility to accommodate unplanned assignments and referrals. While the intention is to continue to meet as many performance targets as possible, it is likely that cycle times for various services will increase due to the number of commitments already made for work activities and the sudden loss of resources. For example, wait times at the Development Services Permit Center will increase for walk-in customers. The reduction in flexibility to assign work and the desire to minimize hand-offs between staff will cause processing time to increase for Planning and Plan Check applications, and it is anticipated that building inspections will revert to schedules a couple of days out instead of the next day inspection customers currently experience.

Department management will continue to collect and analyze performance data and make necessary service adjustments to minimize the impacts to our customers. Process improvements and training will continue in order to improve efficiencies in operations. Communication with the staff and customers will be on-going so that changes in service delivery can be discussed openly and ideas for improvement can be explored collaboratively.

EVALUATION AND FOLLOW-UP

PBCE will continue to monitor its development activity and revenues. If activity continues to decline beyond the revised projections discussed in this memorandum, then the City Council will be asked to take additional cost savings measures later this year and/or as part of the 2009-2010 budget process. Conversely, when development activity begins to increase, the Department would seek to administratively reinstate Planners and Inspectors temporarily in order to respond proactively and promptly to customer needs. If activity picks up substantially and is determined to be sustainable, then the Council will be asked to take appropriate action to restore positions to ensure staff levels are adequate to respond to the customer demands of an economic recovery.

PBCE will continue to work with its partners (Fire and Public Works Departments) and its customers to develop strategies to make targeted fee adjustments to improve cost recovery, as well as complete its analysis of services that are not cost recovery. The Department may propose to modify, suspend, or eliminate such programs. Examples of programs that are currently not cost recovery include tree removal permits, Small Business Ambassador Program, and administrative handling of City taxes paid at building permit issuance.

POLICY ALTERNATIVES

Alternative #1: Delay staff reductions until the next President is in office and his federal economic stimulus package is released.
Pros: With the new federal policy changes expected, there is a potential that development activity will pick up as credit markets once again begin loaning money to developers. If so, the projected revenues could be greater than anticipated in this memorandum and therefore not all of these reductions would be necessary.
Cons: San José will likely not see the immediate results from federal policy changes to solve the budget shortfall in this fiscal year.
Reason for not recommending: Based on communications with customers and continuous review of the literature, it is unlikely that that there will be a dramatic turnaround in development activity in 2008-2009. Therefore, the gap between actual and projected revenue will continue to increase if cost cutting actions are not taken now. The longer the City waits to take cost cutting actions, the more staff reductions will be needed later and the General Fund would not be reimbursed. The workload is not sufficient to sustain the current staffing complement. Waiting for any length of time puts the Department and, consequently the City, as considerable fiscal risk for not meeting revenue projections. When the development begins to increase, staffing levels will be reassessed to add staff for sustained activity levels.

Alternative #2: Increase Non-Personal/Equipment reductions.
Pros: In view of rapidly declining permit activity, additional savings could be realized by increasing reductions in Non-Personal/Equipment costs, such as training, supplies, and contractual services. Additional savings of $20,000 to $100,000 could be realized.
Cons: Staff may be limited in their ability to effectively and efficiently perform their jobs.
Reason for not recommending: While it is acknowledged that additional savings could be realized by further reducing the Non-Personal/Equipment budget, the Department firmly believes that additional reductions in this area would negatively impact the ability of the staff to do their daily work. As PCs and other technology equipment experience failures, staff currently are swapping out failed equipment for old equipment that is also barely functional. In addition, if the Department does not invest in training the existing staff, the capacity to continue to provide efficient and effective service will noticeably decline. Additionally, since the Department currently has a very low Non-Personal/Equipment budget when compared to actual need, the possible cuts in this area would be minimal, and it is unlikely that savings of $100,000 could be realized without significant impact.

PUBLIC OUTREACH/INTEREST

☐ **Criteria 1**: Requires Council action on the use of public funds equal to $1 million or greater.
(Required: Website Posting)

☐ **Criteria 2:** Adoption of a new or revised policy that may have implications for public health, safety, quality of life, or financial/economic vitality of the City. **(Required: E-mail and Website Posting)**

X **Criteria 3:** Consideration of proposed changes to service delivery, programs, staffing that may have impacts to community services and have been identified by staff, Council or a Community group that requires special outreach. **(Required: E-mail, Website Posting, Community Meetings, Notice in appropriate newspapers)**

Two Department meetings were held in late 2008 to keep employees informed and to provide a forum for discussion. All upper management has had an "open door" to staff ideas, and these suggestions were taken seriously in the development of the proposed package. Communication with the affected bargaining units also occurred after the release of the November Information Memorandum to foster open discussion about possible actions.

The November Information Memorandum was distributed to the Developer and Construction Roundtables to communicate the magnitude of the revenue shortfall and the need to take action in early 2009. This topic also was discussed at the December 22, 2008 Community and Economic Development Committee, informing the Committee, customers, and the public that action would be forthcoming. Additional informal communications are ongoing with customers and staff members.

Once this memorandum is public, it will be distributed to employees and customers. Management will also be talking on a one-on-one basis to all directly impacted staff, with the intention of sensitively following City Policy and Ordinances regarding layoffs.

COORDINATION

The preparation of this memorandum was coordinated with the Office of Employee Relations, City Manager's Office, Human Resource Department, and the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

The proposal contained in this memorandum is consistent with the City of San Jose's goal of being fiscally responsible.

COST SUMMARY/IMPLICATIONS

As discussed in this memorandum, a package of cost savings proposals are recommended to close a $7,498,000 gap between projected revenues and costs in the Planning and Building Development Fee Programs. Specifically, if the City Council approves the proposed package, the Department would have a revised budget that reflects development activity. The Department would be able to provide development services commensurate with the reduced development activity and meet most of its performance targets as well as continue to work on process improvements.

BUDGET REFERENCE

The table below identifies the fund and appropriations that will be impacted from the actions recommended as part of this memo.

Fund #	Appn #	Appn. Name	Total Appn.	Amt. to Reduce	2008-2009 Adopted Operating Budget (Page)	Last Budget Action (Date, Ord. No.)
001	8609	Fee Supported Reserve-Building	3,775,740	(2,600,000)	IX-32	10/21/08-Ord. No. 28422
001	8637	Fee Supported Reserve-Planning	1,419,097	(900,000)	IX-32	10/21/08-Ord. No. 28422
001	8636	Fee Supported Reserve-Fire	4,260,435	(120,000)	IX-32	10/21/08-Ord. No. 28422
001	0581	PBCE Personal Services	34,321,330	(3,416,170)	VIII-106	10/21/08-Ord. No. 28422
001	0582	PBCE Non-Personal/ Equipment	3,008,826	(255,000)	VIII-106	10/21/08-Ord. No. 28422
001	0431	Info Technology Personal Services	12,237,371	(105,885)	VIII-80	10/21/08-Ord. No. 28422
001	0432	Info Technology Non-Personal/ Equipment	5,798,430	(72,000)	VIII-80	10/21/08-Ord. No. 28422
Total Funding for Recommended Actions				**(7,469,055)**		

CEQA

Not a project.

JOSEPH HORWEDEL, DIRECTOR
Planning, Building and Code Enforcement

JENNIFER MAGUIRE, DIRECTOR
City Manager's Budget Office

For questions please contact Joseph Horwedel at 408-535-7900.

Attachment A

Positions Proposed for Elimination

Classification	Filled	Vacant	Total
Planning Program			
Marketing/Public Outreach Manager		(0.13)	(0.13)
Office Specialist	(1.00)		(1.00)
Planner	(7.00)	(2.00)	(9.00)
Planning Technician		(1.00)	(1.00)
Principal Office Specialist	(0.50)		(0.50)
Principal Planner		(1.00)	(1.00)
Senior Office Specialist		(2.20)	(2.20)
Senior Planner	(5.00)		(5.00)
	(13.50)	**(6.33)**	**(19.83)**
Building Program			
Associate Engineer		(4.00)	(4.00)
Building Inspector	(9.00)	(4.00)	(13.00)
Marketing/Public Outreach Manager		(0.87)	(0.87)
Network Engineer		(1.00)	(1.00)
Office Specialist		(1.00)	(1.00)
Senior Permit Specialist		(1.00)	(1.00)
Permit Specialist	(2.00)	(1.00)	(3.00)
Planner	(1.00)	(1.00)	(2.00)
Principal Office Specialist	(0.50)		(0.50)
Supervising Building Inspector		(1.00)	(1.00)
Senior Office Specialist		(2.80)	(2.80)
Senior Supervisor, Administration	(1.00)		(1.00)
Senior Architect	(1.00)		(1.00)
	(14.50)	**(17.67)**	**(32.17)**
GRAND TOTAL	**(28.00)**	**(24.00)**	**(52.00)**