COUNCIL AGENDA: 02-10-09
ITEM: 3.4(f),(g),(h)

CITY OF SAN JOSE
CAPITAL OF SILICON VALLEY

Memorandum

TO: HONORABLE MAYOR AND CITY COUNCIL

FROM: James R. Helmer
Jennifer A. Maguire

SUBJECT: **SEE BELOW**

DATE: 01-28-09

Approved

Date 1/29/09

Council District: Citywide

SUBJECT: REPEAL OF RESOLUTION NO. 73338, ADOPTION OF PARKING PENALTY AND LATE PAYMENT PENALTY RESOLUTION, AND ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE GENERAL FUND

RECOMMENDATIONS

It is recommended that City Council:

1. Repeal Resolution No. 73338 and adopt a resolution setting forth the Schedule of Parking Penalties and Late Payment Penalties for Parking Violations to include a courthouse construction parking penalty fee increase of $3.00 effective March 1, 2009.

2. Direct the City Manager to review and evaluate the Schedule of Parking Penalties and Late Payment Penalties for Parking Violations, and to report back to Council by June 2009 if additional adjustments are necessary for certain violations.

3. Adopt the following Appropriation Ordinance and Funding Sources Resolution amendments in the General Fund:

   a. Increase the revenue estimate for Fines, Forfeitures and Penalties by $230,000
   b. Increase the City-Wide appropriation to the Department of Transportation for the Parking Citations/Jail Courthouse Fees in the amount of $230,000

OUTCOME

The recommended actions will increase parking penalties by $3.00 and enable the City to comply with the requirements of SB1407 without a negative impact to the General Fund; will provide direction to the City Administration to determine if other adjustments to the various

parking fines should occur; and amend the Appropriation Ordinance and Funding Sources Resolution as needed.

BACKGROUND

On June 24, 2008, as recommended by the Rules and Open Government Committee of June 18, 2008, the City Council adopted a position of support for SB1407 related to Courthouse Construction. SB1407 which was approved by the Governor during the 2008 Legislative session authorizes the issuance of up to $5 Billion in lease revenue bonds to finance the construction of approximately 40 major capital court projects, including a potential Santa Clara County consolidated Family Resource Court facility.

To support the construction, renovation and debt service on issued bonds, SB1407 increases certain filing fees, and specified fines and penalties. SB 1407 amends California Government Code Section 70372(b) to authorize the removal of an additional $3.00 court construction penalty from each parking citation issued and collected. The additional $3.00 increases the total amount removed by the State of California from $1.50 to $4.50.

Pursuant to California Vehicle Code (CVC) Section 40203.5(a), the governing body of each jurisdiction establishes the schedule of penalties for parking violations within their jurisdictional limits, including those penalties set by the State. The Parking Penalty and Late Payment Penalty Resolution was last modified in August 2006 to update the penalty amount on certain types of violations.

ANALYSIS

Resolution No. 73338 sets forth a $5.00 surcharge on each parking citation to be paid to Santa Clara County ("County") and State of California ("State") pursuant to California Government Code Sections 70372 and 76000. Currently, the City of San Jose is required to forward $5.00 on each collected parking citation to the County. The County, in turn, deposits on behalf of the City a $1.50 courthouse construction parking penalty fee to the State for each parking citation where revenues are collected. In FY07-08, payments to the State for courthouse construction totaled approximately $282,000. SB1407 increases the state courthouse construction fee to $4.50 per collected parking citation. If the City Council adopts a new resolution to repeal Resolution No. 73338 and set forth the additional $3.00 increase, the new resolution will also clarify the amount of surcharges required to be paid to the County and State on each collected citation.

While SB1407 became effective January 1, 2009, based on discussions with the Office of Intergovernmental Relations and California Judicial Counsel, staff believes that local jurisdictions will be given a reasonable period of time to implement the new fee. It is recommended that the increased $3.00 fee become effective March 1, 2009. This will provide time to modify the fine structure in each of the handheld citation writers utilized by DOT's Parking and Traffic Compliance Officers, coordinate with the City's Citation Processing and

Collections vendor to update their systems, and other departments that issue handwritten parking citations regarding the increased fines.

If the $3 increased parking fee is approved by Council, and using a March 1, 2009 effective date, it is anticipated that up to an additional $230,000 will be collected and forwarded to the State for the courthouse construction parking penalty fee through the end of FY08-09.

Review of Parking Penalties
Many of the penalties for various parking violations remain unchanged since 1995. There are also certain categories of violations that have a direct impact on traffic, pedestrian and other safety-related matters, the quality of life in neighborhoods, and the environment. It is recommended that a comprehensive review of all parking penalties occur, with a particular focus on the categories mentioned. Additionally, the review should consider the City's current fiscal constraints. While many penalties remain unchanged since 1995, the issuance, processing and collection costs associated with parking citations, has increased substantially. The ability for the City to absorb these increases is challenging.

EVALUATION AND FOLLOW UP

The recommendations associated with the increased $3 parking penalty do not require follow-up. If approved by Council, staff will return to Council in Spring 2009 with information on the review of various parking penalties and with recommendations on appropriate adjustments to certain violations.

POLICY ALTERNATIVES

Alternative 1: Not to increase parking citations $3 to cover the new State Courthouse Construction Parking Penalty Fee Increase.
Pros: Parking penalty fines will remain the same for motorists who receive parking citations.
Cons: The City will still need to forward payment to the State for the increased courthouse construction parking penalty.

Reason for Not Recommending: Absorbing the additional $3.00 State Courthouse Construction Parking Penalty Fee will negatively impact the General Fund.

Alternative 2: Not to review parking penalties
Pros: Parking penalty fines will remain the same for motorists who receive parking citations.
Cons: Information will not be provided on whether any parking penalties should be further adjusted beyond the state courthouse fee.

Reason for Not Recommending: Many of the parking penalties have remained unchanged since 1995. Various types of violations have a negative impact on safety, quality of life and the environment.

PUBLIC OUTREACH/INTEREST

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

The recommendation to increase parking penalties does not meet any of the above criteria. However, this memorandum will be posted on the City's website for the February 10, 2009 Council agenda.

COORDINATION

This memorandum has been coordinated with the Attorney's Office, and the Office of Intergovernmental Relations.

FISCAL/POLICY ALIGNMENT

City Council adopted a position of support for SB1407 on June 24, 2008.

COST SUMMARY/IMPLICATIONS

The State had implemented an increase to the court construction penalty by an additional $3.00 for each parking citation issued and collected. The estimated cost to the City with the implementation of this increase is up to $230,000, which the recommended increase to the parking citation fine will offset and will have no impact to the General Fund.

BUDGET REFERENCE

Fund #	Appn #	Appn. Name	Total Appn	2008-2009 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	2397	Parking Citations/Jail Courthouse Fees	$1,063,529	IX - 17	06/24/08 Ord. No. 28349

JAMES R. HELMER
Director of Transportation

JENNIFER A. MAGUIRE
Budget Director

I hereby certify that there will be available for appropriation in the General Fund in the Fiscal Year 2008-2009 moneys in excess of those heretofore appropriated therefrom, said excess being at least $230,000.

JENNIFER A. MAGUIRE
Budget Director

For questions please contact Laura Wells, Deputy Director, at 975-3725