



Memorandum

TO: HONORABLE MAYOR AND
CITY COUNCIL

FROM: Hans F. Larsen
Jennifer A. Maguire

SUBJECT: SEE BELOW

DATE: 11-22-10

Approved

Date

12/2/10

COUNCIL DISTRICT: Citywide

SUBJECT: REPEAL OF RESOLUTION NO. 75555 AND ADOPTION OF PARKING PENALTY AND LATE PAYMENT PENALTY RESOLUTION, AND ADOPTION OF APPROPRIATION ORDINANCE AND FUNDING SOURCES RESOLUTION AMENDMENTS IN THE GENERAL FUND

RECOMMENDATION

It is recommended that City Council:

1. Adopt a resolution to repeal Resolution No. 75555 and set forth the Schedule of Parking Penalties and Late Payment Penalty for Parking Violations to include a State Trial Court Trust Fund penalty fee in the amount of \$3.00, to increase or decrease certain other parking penalties and make corrections to the schedule, effective January 1, 2011.
2. 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 \$290,000;
 - b. Increase the Citywide appropriation to the Department of Transportation (DOT) for the Parking Citations/Jail Courthouse Fees in the amount of \$290,000.

OUTCOME

The recommended actions will increase the current State required surcharges on each parking citation from \$9.50 to \$12.50, increase or decrease certain parking penalties up to \$2, and make certain changes to the Schedule of Parking and Late Payment Penalties for Parking Violations as described in this memorandum, and amend the Appropriation Ordinance and Funding Sources Resolution as needed. This will enable the City to comply with State law requiring payments to the State Trial Court Trust Fund, provide additional revenue to the General Fund, and reconcile the schedule with violations identified in the San José Municipal Code (SJMC).

BACKGROUND

The State 2010 Budget Act, which was signed by the Governor on October 8, 2010, included Senate Bill (SB) 857 as a budget “trailer” bill that increases various court fees including filing fees and penalty assessments. SB 857 amends California Government Code Section 76000 by adding a \$3 State surcharge on each parking citation issued and collected to be remitted to the county and deposited in the State Trial Court Trust Fund. The additional surcharge will increase the total State required surcharges from \$9.50 to \$12.50 per collected parking citation. The provisions of SB 857 relative to the additional State surcharge are effective December 7, 2010 and become inoperative on July 1, 2013, unless subsequent legislation extends or repeals the sunset date.

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. On September 14, 2010, the City Council adopted Resolution No. 75555 which set forth the current Schedule of Parking Penalties and Late Payment Penalty for Parking Violations to include a 35% collection fee on any unpaid parking citations submitted to the California Franchise Tax Board Interagency Offset program. To incorporate the additional \$3 State surcharge, the schedule needs to be further amended.

ANALYSIS

State Law Surcharges

Resolution No. 75555 set forth a \$9.50 surcharge on each parking citation to be paid to Santa Clara County (County) and the State of California (State) pursuant to California Government Code Sections 70372, 76000, 76100 and 76101 (\$5 to County and \$4.50 to State). With the adoption of SB 857, the State has added a \$3 penalty for every paid parking citation for the State Trial Court Trust Fund. In Santa Clara County, the required surcharges for each issued and collected parking citation will be as follows:

County Courthouse Construction Fund	\$ 1.50
County Criminal Justice Facilities Construction Fund	\$ 1.50
County General Fund	\$ 2.00
State Court Facilities Construction Fund	\$ 4.50
State Trial Court Trust Fund (new in 2010-11)	\$ 3.00
Total County and State Surcharges	\$ 12.50

Effective July 1, 2013 the total County/State surcharge on each collected parking citation will be reduced to \$9.50. At that time, if the State has not extended or repealed the sunset date, staff will perform an assessment of the citation fine amounts and determine if adjustments to the Schedule of Parking Penalties should be brought forward for Council consideration.

Review of Parking Penalties

In response to direction from City Council to review and evaluate the Schedule of Parking and Late Payment Penalties for Parking Violations, staff brought forward recommended changes at the June 16, 2009 Council meeting. The City Council approved changes to certain parking citations between \$2 and \$22 effective July 1, 2009, with the largest increases associated with safety violations, such as parking in a crosswalk or obstructing traffic. Additionally, at that time efforts were made to simplify the schedule by rounding penalties to the nearest five dollar increment for most violations to minimize confusion or transposing of amounts when submitting payment. Concurrent with this required additional \$3 State penalty, staff is recommending that fine amounts continue to be adjusted to the nearest five dollar increment. For most penalties the fine amount would be rounded up \$1 to \$2; with some rounded down by \$1.

A summary of all parking violations and associated penalties is shown on the attached proposed Schedule of Parking Penalties and Late Payment Penalty for Parking Violations. In addition to the recommended citation increases and decreases, the schedule includes one correction to reflect parking violations currently identified in the SJMC. The specific change includes the reinstatement of violation 11.44.045 – Off Street Parking Violation that was unintentionally omitted during recent updates.

It is recommended that the new parking penalties become effective January 1, 2011. Although the provisions of SB 857 become effective December 7, 2010; with prior increases to State mandated surcharges, local jurisdictions have been provided with a reasonable amount of time to implement the new fee. A January 1, 2011 effective date will provide time to modify the fine structure in each of the handheld citations devices used 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. In the event the State requires retroactive payment for citations issued during the approximate 3 week period prior to January 1, 2011 the additional revenue generated by the proposed rounding to the nearest five dollar increment could be used to offset that possible additional transfer.

The 2011-2012 Preliminary General Fund Forecast projects a significant shortfall. With limited revenue opportunities currently available to the City, the additional revenue that could be generated by amending parking citation penalties to increments of five dollars will enable the City to cover the additional \$3 State surcharge and generate approximately \$300,000 annually to provide some contribution towards mitigating General Fund service reductions that are likely to be necessary as part of the 2011-2012 Budget.

EVALUATION AND FOLLOW UP

If the July 1, 2013 sunset date for the additional \$3 surcharge has not been extended or repealed, at that time staff will perform an assessment of the citation fine amounts and, if appropriate,

bring forward for Council consideration any recommended adjustments to the Schedule of Parking Penalties.

POLICY ALTERNATIVES

The City Council could choose to maintain the current parking citation penalties. This is not recommended as the General Fund will need to absorb an estimated \$580,000 annually to forward payment to the County for the additional \$3 State surcharge. Alternatively, the City Council could choose to only modify parking penalties by the \$3 surcharge and not round parking citations to the nearest five dollar increment. Doing so would forego the opportunity to generate additional revenues up to approximately \$300,000 annually in the General Fund and provide some level of contribution towards closing the 2011-2012 projected budget shortfall.

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)**

This memorandum will be posted on the City's website for the Council agenda.

COORDINATION

This memorandum has been coordinated with the City Attorney's Office.

FISCAL/POLICY ALIGNMENT

The State 2010 Budget Act establishes the additional \$3 surcharge on collected parking citations, and the recommended actions in this memorandum related to the \$3 surcharge aligns with the City Council-approved Budget Strategy to set fees that recover costs.

COST SUMMARY/IMPLICATIONS

The recommended changes to the parking citation penalties will generate an estimated total of \$880,000 annually in additional revenues in the General Fund. It is anticipated that approximately \$580,000 annually (\$290,000 in 2010-2011) will be generated to fully offset the additional required payments to the State Trial Court Trust Fund. It is also anticipated that an

additional amount up to \$300,000 annually (\$150,000 in 2010-2011) will be generated from the proposed rounding to the nearest five dollar increment of parking penalties. However, this additional revenue is currently not recommended to be recognized as part of this memorandum. As this additional revenue collection is received, staff may bring forward for Council approval recommendations to adjust the budget during the fiscal year.

BUDGET REFERENCE

The table below identifies the fund and appropriation proposed to provide for the parking citations and jail courthouse fees.

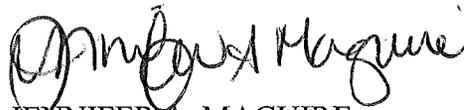
Fund	Appn.	Appn. Name	Total Appn.	2010-2011 Adopted Operating Budget Page	Last Budget Action (Date, Ord. No.)
001	2397	Parking Citations/Jail Courthouse Fees	\$1,922,449	Page IX-31	6/29/2010. Ord. No. 28765

CEQA

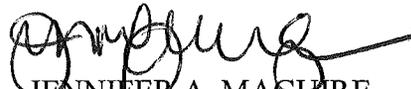
Statutorily Exempt, File No. PP10-067 (a), CEQA Guidelines Section No.15273 – Rates, Tolls, Fares and Charges.

/s/

HANS F. LARSEN
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 2010-2011 moneys in excess of those heretofore appropriated therefrom, said excess being at least \$290,000.


JENNIFER A. MAGUIRE
Budget Director

For questions please contact Joe Garcia, DOT Division Manager, at 535-3833.

Attachment: Proposed Schedule of Parking Penalties and Late Payment Penalty

