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MEMORANDUM

TO: HONORABLE MAYOR &
CITY COUNCIL

FROM: Erin Roseman
Director of Finance

SUBJECT: FY 2020-21 Master Fee Schedule
(MFS) Questions/Responses 1

DATE: June 7, 2021

City Administrator
Approval

Date: June 7, 2021

INFORMATION

PURPOSE

The purpose of the memorandum is to transmit to the City Council and public, responses raised by City Council Members related to the Fiscal Year (FY) 2021-22 Master Fee Schedule (MFS). To the extent additional information becomes available on any of the responses below, updates will be provided.

QUESTIONS AND RESPONSES

The City Council provided this direction to staff to return with responses to the questions raised during the 5/18/21 Council meeting. This report addresses the following questions:

Questions (1-6) - Council Member Taylor:

- 1) Credit Card Fees – “It seems to me that it’s a no-brainer if we are incurring credit card processing fees we should be passing those along to those who are paying with a credit card. And so I’m glad to see this focus on making sure that we are doing true cost recovery. And my question is: Are there any departments (since this was specific to DOT) for which the credit card fees are not included? So it’s my desire/urge and expectation that we sort of ensuring that credit card fees are authorized through this process for all departments where we are accepting credit card payments.”*

Response:

After further investigation into this issue, there are numerous legal and regulatory requirements imposed by the State and federal banking regulations to take into consideration in order to implement a city wide credit card fee. Additionally, there are internal system issues that need to be addressed prior to fee implementation at a department level. We will therefore be removing the proposed fee for DOT at this time. Staff is working with Office of the City Attorney, the city's merchant bank and

Information Technology Department to work through the process towards implementation. City wide implementation is likely multiyear endeavor.

- 2) *“On the recreation facility usage: I know that cost recovery is extremely important. And also, utilization of our recreation centers and rec facilities is important. So for me, in looking at the rec facility fee increases to use the fees I’d like to understand what our current utilization is and whether or not the fee is already cost prohibitive. And if so, I’d like to have a deeper discussion on whether or not we should be raising the fees if we are only say at 25% & 20% capacity on using the rec center.”*

Response:

OPRYD would need to undertake a comprehensive analysis to provide complete utilization rates for each recreation center in order to determine if recreational programming fees are cost prohibitive and in line with the market based on the recreation centers location.

The specific rate increases proposed in the MFS only relate to rental activity of specific rooms at particular locations. These rates do not affect recreational programming. OPRYD has provided room rental utilization rates by location in the table presented below.

Table 1.

Site	FY18/19* Utilization (based on 365-days)
Joaquin Miller Community Center	13%
Jack London Aquatic Center	42%
Woodminster	85%
Dunsmuir	4%
Malonga (Theatre, Box Office, Lobby)	24%
Malonga (Conference Room A)	36%
Malonga (Studio B)	100%
Malonga (Studio D)	84%

**FY18/19 has been chosen as it is the latest non-COVID year*

- 3) *“I also wanted to understand the elimination of fees for the Aquatic Center. I wasn’t sure why we are eliminating those. Is that no longer available for usage thru OPRYD?”*

Response:

The fee adjustments are reflective of a different marketing strategy as opposed to eliminating fees. OPRYD is proposing a different configuration of the same room rental offerings due to inability to physically segment rooms as offered. At the Aquatic Center, the result of eliminating rental options still leave renters the options to rent either “Main

Room, Conference Room, Sun Room” or only the “Sun Room.” The reason OPRYD is eliminating the other options is to stop the occurrence of guests accessing rooms for which they did not pay.

Rental guests renting only the “Main Room” must walk through the “Sun Room” to access the “Main Room.” Furthermore, the “Main Room” and “Conference Room” are on the same floor and adjacent and cannot be closed-off from one another; therefore, renters who have paid only for the “Main Room” can also access the “Conference Room” and “Sun Room” on the day of the event. As a result, rental guests renting only the “Main Room” inadvertently gain access to the “Sun Room” and “Conference Room” at the rate of only the “Main Room.”

The OPRYD proposal to have a rate for the rental of all 3 contiguous rooms eliminates unauthorized access and loss of income. Exclusive rental of the “Sun Room” remains a valid option as this room can be closed off from the “Main Room” and “Conference Room.”

4) *“It seems to me that we should have a standard CPI amount or at least a way of across the board addressing that so that we don’t end up with fees that end up getting stale. And I don’t necessarily see a mechanism for that when we have a every two-year review of the fee schedule. So I would like to understand what mechanism or policy we could put in place that just makes that automatic as opposed to needing to have a red-line for each item in the fee schedule when we know that across the board that our labor costs are going up by 2%, 3% what have you. So I wanted to lift that up for staff to come back with and then maybe City Attorney as well.”*

Response:

The MFS is updated on an annual basis. The basis for updating the MFS is to update each fee in order to reflect the additional costs required to deliver the service that the fee reflects. Each fee has a different level of analysis to update its fully-loaded costs. An across the board inflator, may not be appropriate for each fee as each fee is unique based on its authorizing legislation. Additionally, the MFS must be adopted by Ordinance and fees must remain compliant with Proposition 26. The annual adoption is intended to be the mechanism for recapture. Staff is working with the Office of the City Attorney regarding the legality of having a standard CPI adjustment.

An amendment to the MFS will be presented to the City Council, in the event that a labor increase is approved by the City Council for the upcoming fiscal year, to update fees impacted.

5) *How is OPW staff maximizing, to the greatest extent possible, the fees assessed in the MFS for Illegal Dumping?*

Response:

The fees reflected in MFS are different from the fines for illegal dumping. A mindful decision was made to delineate “fees” – as reflected in the Master Fee Schedule (MFS) – from “fines”, as authorized and defined by the Oakland Municipal Codes (OMCs). The fees shown in the MFS reflect only the cost recovery efforts by OPW staff to seek reimbursements of City resources and personnel costs from illegal dumping violators. To the extent possible the fees as presented in the MFS are maximized to the greatest extent to recover the cost to provide the services of monitoring illegal dumping.

Specifically, the illegal dumping MFS fees are listed as “actual costs” incurred. OPW’s work tracking system, Cityworks, enables staff to quantify the equipment, labor, and material cost elements (ELMs). These will be the fees the City will assess should OPW crews be dispatched to abate dumping incurred by illegal dumping violators. OMC Section 8.11.450 also provides for the City Attorney’s Office to recoup reasonable attorney’s fees.

In relation to maximizing Illegal dumping fines, the municipal code provides the following:

OMC Section 1.12.060 provides authority for the City Administrator’s designee to issue Administrative Citations with assessments at \$100 / \$250/ \$500 for 1st/2nd/ 3rd and 3+ offenses. Administrative Citations are generally smaller, residential, non-hazardous dumps. Similarly, OMC Section 1.08.060 provides authority for the City Administrator’s designee to issue Civil Penalties with assessments at up to \$1000 per day. Civil Penalties are typically commercial in nature and size (> 3 cubic yds) and/or contain harmful waste matter.

OPW staff does not recommend revising the OMC to increase Administrative Citation fines, when considering social/racial equitable lens, as much of the offenders cited are black and brown residents living in Oakland’s underserved communities.

However, an increase in Civil Penalties may be advisable. It should be noted that it is universally and perennially challenging getting cited offenders to pay assessed fines, regardless of fine amounts. Therefore, any increase in fines may not improve the City’s ability to recover illegal dumping costs. Typically, fines are not presented or updated in the Master Fee Schedule.

6) *Side show Fee – “What about the fees to remove a car after it’s been impounded as a result of a side show? I want to make sure that we are maximizing our cost recovery.”*

Response:

OPD will increase the vehicle release fee associated with sideshows from \$166 to \$300 and it will be introduced to Council in FY 2021-22 in conjunction with the full amendment to the MFS.

Questions (7-11) - Council Member Kaplan:

- 7) *“How much additional annual revenue is brought in by the amendments that are in this proposal? Taking this action, how much of a dollar amount difference does taking this proposed action make on an annualized basis? Are the fees cost recovery?”*

Response:

The update to MFS proposed by Animal Services, Police Department, Fire Department & OPRYD, is expected to generate approximately \$542,000 in the next fiscal year. By design of cost recovery fees, thus there is no net increase to the overall budget, as the increased expenditures are the impetus for the increased revenues.

All fees are intended to be cost recovery, subject to legal requirements, however inevitably some of the fees may not be truly reflective of cost recovery at various points in a year mainly due to the extensive analysis required to capture the updates in cost, equity adjustments, and organizational changes.

Staff will provide an updated answer to this question as the remaining departments complete and provide their analysis.

- 8) *“Was an equity analysis done of this proposal by the Department of Race & equity (or someone else)? And if so, what does it say?”*

Response:

There was not a separate equity impact analysis undertaken with respect to the Master Fee Schedule update. Generally, the update to the MFS is a reflection of increased costs to reflect cost recovery exclusive of an adjustment for racial equity. By design of cost recovery, subject to specific fee legislation, an equity adjustment would be excluded from the calculation. However, to the extent staff resources allow, it would be ideal to perform an equity impact analysis of the entire fee schedule. There may be fees that staff will recommend not increasing, based in part on equity considerations.

- 9) *“Which fees are not cost recovering? And if they are not cost recovering, why not? In some cases there is a good policy reason for choosing to not adopt full cost recovering (and certainly there are times to support that). Just so that we are clear, when is that happening and has anyone analyzed the equity of which things are paid fully and which are not. And is that analysis somewhere for us?”*

Response:

The proposed fees presented by departments for FY 2021-22 were reported to be cost recovering. Staff will provide analysis at a future date to report back more specifically if

the fees are indeed cost recovery or not, which fees deviate from full cost recovery and reasons why there is deviations or delays.

10) Scooter Fees

Response:

Department of Transportation is bringing an info item later this month that lays out staff analysis and recommendations regarding scooter fees.

11) Permit fee waiver for Affordable production

Response:

The City Council could offer fee waivers by specific policy action, however there would need to be intensive investigation on how it could be uniformly applied. The City Attorney has advised that a subsidy to or fee waiver would need to be from funds other than permit fees and the appropriate funds be from an eligible source (such as the General Purpose Fund) to cover the fees for affordable housing projects.

Question - Council Member Kalb:

12) "There are some fees in the Parks & Rec section that appear to be completely removed. I'm not sure if they are being replaced by something else in the same section or if we are totally eliminating certain fees that we have had in the past. And I would be concerned about that. It looks like a "non-resident rental" and a "corporate rental" and it looks like there is no fee at all. Maybe it's somewhere else that is being added later on. If someone can clarify that. I'm always concerned about completely removing a fee that we have had for a long time—I'm not sure it is always justified."

"I think that that's the Jack London Aquatic Center and the rationale for taking away the options and requiring people to only rent out the entire thing. I just want to have both options available to us."

Response:

The annual update to the MFS only reflects revisions to the fees affected by the update and not a comprehensive restatement of all fees. We can provide a comprehensive list of all fees with the contemplated amendment in FY21-22 that addresses the inflation increase.

In relation to the Parks and Rec fees, there are indeed some fees proposed for removals. The removal of these rates does not totally take this property off-line from rental opportunity. But as a result of the proposal, this property will still be made available for rental, merely with fewer

options. The two remaining options would be “Main Room, Conference Room, Sun Room” and “Sun Room.”

At the Aquatic Center, the result of eliminating rental options still leave renters the options to rent either “Main Room, Conference Room, Sun Room” or only the “Sun Room.”

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Rental guests renting only the “Main Room” must walk through the “Sun Room” to access the “Main Room.” Furthermore, the “Main Room” and “Conference Room” are on the same floor and adjacent and cannot be closed-off from one another; therefore, renters who have paid to only for the “Main Room” can also access the “Conference Room” and “Sun Room” on the day of the event. As a result, rental guests renting only the “Main Room” will also gain access to the “Sun Room” and “Conference Room” at the rate of only the “Main Room.”

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Exclusive rental of the “Sun Room” remains a valid option as this room can be closed off from the “Main Room” and “Conference Room.”

Respectfully submitted,



Erin Roseman (Jun 7, 2021 16:03 PDT)

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For questions, please contact Margaret O’Brien, Revenue & Tax Administrator at (510) 238-7480.

Informational Report MFS FY 2021-22

Final Audit Report

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