




Office of the City Manager

INFORMATION CALENDAR

November 28, 2006

To: Honorable Mayor and
Members of the City Council

From:  Phil Kamlarz, City Manager

Submitted by: Robert Hicks, Acting Director, Finance Department

Subject: Parcel-Based Special Taxes, Fees and Assessments Audit – Status Report

SUMMARY

The City Auditor's Office performed an audit in 2004 related to preparation of the City's parcel-based special taxes, fees, and assessments. The audit involved the Finance Department – Revenue Collection Division, Information Technology, and the Planning Department. In addition, some recommendations also involve the City Manager's Office for implementation. The purpose of the audit was to evaluate internal controls and identify risk for the parcel-based assessment processes, and to determine whether the

- Parcel/property data used for assessments is materially accurate and complete.
- Assessments are computed correctly.

The Audit Report was submitted to Council on March 15, 2005. The complete Parcel-based Special Taxes, Fees, and Assessment Audit can be found on the City's website at: <http://www.cityofberkeley.info/auditor/currentaudits.htm>. The Finance Department provided a status report on January 24, 2006, which can be found at: <http://www.ci.berkeley.ca.us/citycouncil/2006citycouncil/packet/012406/2006-01-24%20Item%2018%20Parcel%20Based%20Special%20Taxes.pdf>. This current report provides an update on those recommendations that were not implemented as of the report in January. The next status report on this audit will come to Council on July 17, 2007.

CURRENT SITUATION AND ITS EFFECTS

Of the 17 recommendations outstanding from the original audit, 7 are fully implemented, another 4 partially implemented, and 4 are expected to be complete by July 2007 and one is expected to be started in 2009. After further review, one recommendation (4.2) cannot or will not be implemented as far as we know now, since it is contingent upon placing multiple measures on the 2008 ballot. Outstanding or partially implemented recommendations are largely due to additional evaluation and procedures needed for the new tax billing system. Information Technology and Finance completed the initial phase of the process in July 2005, and final implementation of this new system was scheduled for July 2006. However, continued demands on Information Technology staff have delayed the implementation of an updated tax system until

July 2007, and the July 2007 deadline is contingent upon a new IT staff member being hired by the end of 2006. Funding for this position has been secured and the hiring process has been underway since August 2006.

Finding 3: There is likelihood that the taxable BSFT¹ for some parcels might have been understated or overstated, resulting in improper assessments.

Recommendation for Finance (3): Allocate some resources to start a limited scope project to explore the opportunities for identifying under assessed properties. Based on results from the project, evaluate the costs and benefits and determine whether the project should be continued. We further recommend involving staff other than the Land Management Analyst so that they can be cross-trained to backup the Land Management Analyst in his absence.

City Manager's Response: Partially Implemented July 2005. To be completed by July 2007, contingent upon a new IT staff member being hired by the end of 2006. A formalized process for systematically identifying potentially under and over assessed properties has been developed. This process is initiated by generating reports that rank an individual property's likelihood of over and under assessment based on varying criteria. Properties are investigated, and if necessary, adjustments are made to building square footage. Properties that undergo reviews are marked as validated for future reference. The tax/assessment system will be further evaluated to determine if the lead generation reporting can be integration in the revised tax billing system

Planning Department staff were being cross-trained to backup the Land Management Analyst but due to staffing turnover, Finance is evaluating other options to backup the Land Management Analyst.

Finding 4: \$1.2 million could be gained by the City and \$0.8 million could be gained by the Berkeley Unified School District (BUSD) if BSFT based special taxes were assessed on non-public exempt entities.

Recommendation for City Manager (4.2): Consider placing a measure on the ballot to extend legally allowable parcel-based special taxes to non-public exempt entities.

City Manager's Response: Not Implemented. While provisions of the California Constitution regarding the taxation of non-profits does allow for the imposition of voter approved special taxes on property owned by non-profits, a long-standing procedure has excluded properties owned by non-profits from taxation because the City believed that the California Constitution required the exemption. Changing this practice will require multiple ballot measures requesting voter approval to specifically exempt or impose all special taxes on properties owned by non-profits.

¹ BSFT refers to Building Square Footage used to calculate all special taxes, assessments, and fees except for the Clean Storm Water fees.

Finding 5: There are concerns over internal controls.

Recommendation for Finance (5.1): On a quarterly basis, the Revenue Collection Manager should perform, on a sample basis, a review and verify that the BSFT posted to the Land Management System is supported and accurate. This review should be documented.

City Manager's Response: Not Implemented. Since the implementation of a new assessment system has been delayed, IT will develop a report that lists changes to critical data in the land data files. This report should be available by the end of November 2006 and will be reviewed by the Revenue Collection Manager on a monthly basis.

Recommendation for Finance (5.2): Formalize and document the review procedures performed by the Land Management Analyst. Procedures should include a comparison of the BSFT and lot square footage (LSFT) to the County's assessed values. When a property of high assessed value is assigned a zero square footage or low square footage value, it should trigger a concern that the property may not be properly taxed.

City Manager's Response: Partially Implemented July 2005. Automation of this procedure will be incorporated into the new tax assessment system, scheduled to be operational by July 2007. Meanwhile, a formalized process for reviewing tax-related property information was developed, and supporting automation has been implemented. The entire process is currently being evaluated and refined. Documentation for these procedures will be completed by June 2007.

Recommendation for Auditor (5.4): A limited scope audit of the new BSFT procedures should be performed within two years to ensure that the procedures are fully implemented and the intended objectives are achieved.

City Manager's Response: Not Implemented. Finance and IT recommend that any audit be deferred until after the new assessment software has been used for two tax seasons, which would be in 2009. A limited scope audit could provide useful feedback on the new procedures; however, it would be more productive after completion of both its initial implementation and likely revisions to the new assessment software.

Finding 6: There are opportunities for inadvertent failure to assess properties.

Recommendation for IT and Planning (6): On an annual basis, we recommend IT provide Planning with a report listing all expired building permits indicating additional BSFT but lacking a final inspection. Planning should follow up on these permits through site visits on a sample basis to prevent or to discourage property owners from escaping assessments advertently or inadvertently.

City Manager's Response: Not Implemented. IT and Planning will design an Expiring Permits Report that will be operational by July 2007. This report will be integrated into the new assessment system.

Finding 7: Incorrect rates were used to compute assessments on some parcels, resulting in under assessments.

Recommendation for City Manager (7.2): The City Manager should direct departments, such as Public Works, Economic Development, the City Manager’s Office, and Finance, who are responsible for the parcel-based assessments to notify IT of any new rates, rate changes, or changes in the computation method no later than March each year so that sufficient time is allowed for appropriate software modifications to accommodate the changes.

City Manager’s Response: Alternative Implemented March 2006. In March 2006, departments were asked to notify Finance and Information Technology of anticipated changes in taxes, fees and assessments by mid-April. The notice included guidelines with data submission deadlines and rate structure limitations. This notice will be sent to departments every March.

Finding 8: The rate factors used to compute the Clean Storm Water Fee have not been changed since their adoption in 1991, ignoring the impact of inflation and leading to fund deficits.

Recommendation for City Manager (8): Consider seeking ratepayer or voter approval to increase the Clean Storm Water Fee and to amend the Ordinance to include provisions for an annual adjustment of the Clean Storm Water rates for inflation.

City Manager’s Response: Implemented. The City Manager considered this option and decided not to pursue at this time. Council could decide to place a measure on a future ballot, which would require a 67% voter approval, and would provide additional capital funds for storm water improvements, adding to the current \$2 million in the 5-Year Plan from the General Fund.

Major Findings Identified In Prior Year Audits That Remain Unresolved

Finding 9: Clean Storm Water (CSW) Assessment Audit: Public agencies and the City of Berkeley are not assessed Clean Storm Water Fees.

Recommendation for the City Manager (9): Re-consider negotiating CSW Fees with each public agency. Develop a strategy for billing these agencies. If the City Council decides not to assess parcels owned by other public agencies, amend the Ordinance to specify such intent.

City Manager’s Response: Partially Implemented. The 2020 Long Range Development Plan Litigation Settlement Agreement with the University of California, Berkeley includes a provision for an annual initial payment of \$200,000 for sewer and storm drain (CSW) infrastructure projects. This fee will increase 3% annually. Finance will bill the University annually for the negotiated fee. Finance bills the Berkeley Unified School District (BUSD) \$56,189 annually in CSW fees. Although the fees remain unpaid, the City Manager continues negotiations with BUSD for payment of collectible CSW fees, and an agreement and payment plan are anticipated by December 2006. Finance billed the City for CSW fees in January 2006, which were paid using allocated General Fund monies. Finance will bill the City approximately \$73,000 annually for Clean Storm Water fees every November. The fees will be paid from General Fund monies allocated for this expenditure during the budget process. No discussions are underway with BART, East Bay

Regional Park District, or East Bay Municipal Utility District (EBMUD) regarding the billing and payment of CSW fees.

Finding 10: Clean Storm Water (CSW) Assessment Audit: Parcel square footage used to calculate the Clean Storm Water Fees was not always correct.

Recommendation for Finance (10): Employ a systematic and documented approach to correct LSFT² inaccuracy in the Land Management database. To narrow the area of investigation, we recommend using the LSFT reflected on the parcel layer of the City’s Geographical Information System (GIS) as a tool to identify significant discrepancies. We further recommend focusing on large parcels or parcels that currently have a comparatively high land value per square footage.

City Manager’s Response: Partially Implemented July 2005. A formalized process for correcting LSFT was developed in which comparisons are made between lot square footage data in the Land Management database and the City’s GIS. Within this platform, properties found to have discrepancies outside a given threshold are reviewed and, if necessary, updated in Land Management. This data will be integrated into the new assessment system. Documentation outlining this process will be completed by July 2007.

Finding 11: Landscape and Park Maintenance Assessment Fund Review: The City does not know if all assessments data sent to the County is included on the County’s property tax bills.

Recommendation for Finance (11): We recommend the Revenue Collection division take a more proactive role in monitoring payments or collections from the County and, on a quarterly basis, compare them to the assessment amounts submitted to the County. Timely resolve significant or unexpected discrepancies with the County once they are identified.

City Manager’s Response: Not Implemented. This will be implemented by July 2007. The County Auditor is now able to provide a payment file but will only do so annually after the final tax installment is delinquent after April 10. This payment data will be integrated into the new tax system, scheduled to be operational by July 2007, so that payment data can be displayed by parcel in addition to the existing tax and assessment data already available by parcel. Additionally, the Revenue Collection Manager monitors the progressive payments received by the County and tracks that data against submitted tax roll data using a spreadsheet

Finding 12: The Administration Regulation – “Use of Bicycles on City Business” that stipulates the requirements for using bicycles on City business is not posted on iCobWEB. Some City departments may not be aware of the official existence of this Administrative Regulation and its requirements.

Recommendation for Human Resources (12): All City employees should be made aware of the City’s requirements for use of bicycles on City business and follow the requirements. We

² LSFT refers to the Lot Square Footage used to calculate Clean Storm Water fees

recommend the approved A.R.-“Use of Bicycles on City Business” be updated and published on iCobWEB no later than June 30, 2005.

City Manager’s Response: Implemented April 2006. Human Resources updated this AR. It was published in Outlook Today (iCoBWeb) on April 26, 2006 as A.R.7.5.

BACKGROUND

Finance – Revenue Collection is responsible for preparing the annual parcel-based special taxes, assessments, and fees, in coordination with Information Technology, and submits this data to the Alameda County Auditor to be included with Property Tax Statements. Steps in this process include:

1. Receive parcel data from the County Assessor's Office in early July.
2. Reconcile the County parcel data with the City's parcel data; combine parcels, split parcels, retire parcels, lot line adjustments, and land use changes.
3. Update tax rates in the tax/assessment system.
4. Run reports and queries to: correct any land data/parcel errors that affect tax calculations, and; validate rates are entered into the tax system correctly
5. Prepare preliminary tax reports for approval by fund managers.
6. Reconcile changes in taxable building and lot square footage from prior to current tax year; reconcile number of parcels from prior year to current year.
7. Reconcile the number of parcels exempted from taxation due to non-profit tax status and/or exempt agency tax status; validate taxation of partially exempt non-profits.
8. Create tax files.
9. Transmit tax files to the County Auditor by August 10th.

In FY 2007 the parcel-based taxes and assessments account for \$35,839,000 in annual special fund revenue to the City of Berkeley, and \$24,526,000 in annual special fund revenue for the Berkeley Unified School District.

POSSIBLE FUTURE ACTION

As part of an on-going effort, Finance and Information Technology will continue to redesign the tax/assessment system to incorporate recommendations from this audit, including those to reconcile tax payments to billings to ensure the County is billing taxpayers correctly; formalize and document building and lot square footage reviews; and improve the flow of permit information from Planning to Finance and IT. Finance and Information Technology expect the redesign of the tax/assessment system to be complete by July 2007.

FISCAL IMPACTS OF POSSIBLE FUTURE ACTION

The estimated annual increase in revenue to all special funds, including those for BUSD, based on the un-assessed and under-assessed parcels identified in Finding 1, 2, and 10 of the Audit, is

approximately \$17,000. The increase in revenue will be offset by an annual General Fund expenditure of approximately \$800 to procure the tax payment file from Alameda County.

Additionally, there will be a 1-time cost to the General Fund to redesign and implement an updated tax/assessment system. The estimated cost of this effort is approximately \$120,000 in combined personnel expenses. The new system will be a more adaptable, efficient and effective system that will require less staff time to maintain and update.

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