



TO THE HONORABLE MAYOR AND COUNCIL:

DATE: January 27, 2015

SUBJECT: AMEND TITLE 3 (REVENUE AND FINANCE), CHAPTER 3.20 (FISCAL SUSTAINABILITY), ARTICLE I (USE OF ONE-TIME AND BUDGET SURPLUS FUNDS)

Report in Brief

The Fiscal Sustainability Ordinance was first adopted May 27, 2014 to provide policy guidance on how to use one-time and budget residual funds in order to address the City's long-term post-employment liabilities and infrastructure backlog. Budget residual funds may be comprised of two components: (1) revenues that are non-reoccurring, that were unexpected or unanticipated and that were not included in the budget, and/or (2) expenditure savings. The Ordinance specifically excluded Measure Q revenues as this special (sales) tax was scheduled to sunset in March 2016.

With the passage of an extension of Measure Q for an additional nine years to March 2025, staff recommends considering an amendment to the Fiscal Sustainability Ordinance to include Measure Q revenues since these are, as approved by the voters, limited duration funds.

Staff presented a report to the City Council at their study session on January 13, 2015 recommending amendments to the Fiscal Sustainability Ordinance to incorporate Measure Q as well as provide policy guidance on how these limited duration revenues should be prioritized in the City's budget. The Council provided feedback to staff and the revisions are presented in the attached document for City Council for consideration and approval (see Attachment 1).

Background

On January 28, 2014 staff presented a report to the City Council which provided an *Update on the City's Long-Term Post Employment Liabilities and Infrastructure Backlog*. The report identified the magnitude of the City's unfunded post-employment liabilities and infrastructure backlog. At that meeting the Council directed staff to work with the Policy Development & Internal Operations (PD&IO) Committee (Councilmembers Grayson and Leone) to develop a policy on the use of one-time and budget residual funds in a manner that supported addressing these city liabilities.

At its April 14, 2014, the PD&IO Committee accepted the draft Ordinance prepared by staff and requested staff bring it forward to the City Council for consideration and approval. The City Council approved the Fiscal Sustainability Ordinance on May 27, 2014. The Ordinance specifically excluded Measure Q revenues as this special (sales) tax was scheduled to sunset in March 2016.

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Discussion

Staff presented a report to the City Council at their study session on January 13, 2015 recommending amendments to the Fiscal Sustainability Ordinance to incorporate Measure Q revenues as well as provide policy guidance on how these limited duration revenues should be prioritized in the City's budget.

Measure Q revenues are non-reoccurring and not on-going (Measure Q is a temporary tax measure scheduled to sunset in March 2025). The use of Measure Q funds should be consistent with the intent of the ballot measure to protect and maintain City core services and to stabilize the City's reserves. Since Measure Q was approved by the voters, the City has used a portion of the annual Measure Q revenues to fund operating expenses to preserve core services provided by the City to the community and has allocated the balance of the annual Measure Q revenues to rebuild financial reserves.

With the passage of an extension of Measure Q for an additional nine years to March 2025, staff recommends considering an amendment to the Fiscal Sustainability Ordinance to include Measure Q revenues. In addition to the inclusion of limited duration Measure Q revenues into the Fiscal Sustainability Ordinance, the most significant amendments proposed are summarized below and incorporated in Attachment 1:

- Limits the use of annual Measure Q revenues to cover the operating shortfall to the level currently budgeted in FY 2014-15 (\$8.0 million) with the intention of decreasing the amount over time, reducing the City's reliance on this temporary revenue stream.
- Limits the use of the limited duration Measure Q revenues received above the \$8.0 million level (currently \$3.6 million) to certain activities as described below (not in any priority):
 - Unfunded long-term financial liabilities
 - Capital projects that do not create ongoing expenditure requirements, such as implementing new technology that improves the efficiency of City operations
 - Infrastructure maintenance backlog, such as streets and roads or City facilities projects
 - Debt service for infrastructure improvements
 - Maintaining the City's general fund reserves
 - One-time expenditures that advance a City Council Priority Focus Area
- Incorporates a definition of Residual Measure Q revenues as those funds that are received in a fiscal year that exceed the amount budgeted for that year.
- Restricts the use of Residual Measure Q revenues to one-time expenditures that do not create new, on-going expenditure requirements or to reserves.

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The Council provided feedback to staff on the proposed amendment concepts at their recent study session and supported moving the draft revisions forward.

Fiscal Impact

Implementation of the Ordinance will strengthen the City's long-term fiscal strength and financial sustainability as one-time and budget residual funds become available to pay down (reduce) the City's long-term liabilities, to fund infrastructure and other one-time or special needs.

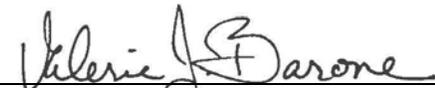
Public Contact

The agenda has been posted in accordance with the legal requirements and Notice of the public hearing was published in the Contra Costa Times newspaper.

Recommendation for Action

Staff is recommending that the City Council adopt an Ordinance No. 15-1 amending Concord Municipal Code Title 3 (Revenue and Finance) amending Chapter 3.20 (Fiscal Sustainability), Article I (Use of One-Time and Budget Surplus Funds).

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Attachment No. 1: Redlined Municipal Code Chapter 3.20, Fiscal Sustainability

Attachment No. 2: Proposed Ordinance No. 15-1

Chapter 3.20

FISCAL SUSTAINABILITY

Sections:

Article I. Use of One-Time and Budget ~~Surplus~~Residual Funds and Limited Duration Measure Q Revenues

- 3.20.010 Purpose and definitions.
- 3.20.020 Use of one-time and budget ~~surplus~~residual funds.
- ~~3.20.030 Supermajority Council action required to vary from this chapter.~~
- 3.20.030 Use of Limited Duration Measure Q Revenues
- 3.20.040 Supermajority Council action required to vary from this chapter

Article I. Use of One-Time, ~~and Budget~~ ~~Surplus~~Residual Funds and Limited Duration Measure Q Revenues

3.20.010 Purpose and definitions.

- (a) The purpose of this chapter is twofold:
 - (1) First, to assure that one-time funds, ~~and budget~~ surplusresidual funds and limited duration Measure Q revenues are used for nonrecurring rather than ongoing expenditures, thereby ensuring that the City continues to employ sound fiscal strategies; and
 - (2) Second, to define the uses for which the City shall employ such funds.

(b) For purposes of this chapter, the following terms shall have the following meanings:

(1) "One-time funds" shall mean funds and/or revenues that the City receives on a nonrecurring basis (usually only received in one annual budget) and/or that are unexpected, unanticipated and not included in the baseline revenue projections in the budget or amended budget. For example, these may include, but are not limited to: unbudgeted, unanticipated proceeds from the sale of surplus land; unanticipated, unbudgeted one-time sales tax allocations associated with capital improvements from local businesses that were not included in the budget; or the receipt of funds for unbudgeted, unanticipated retroactive (prior-year payments) taxes or fees, etc.

(2) "Budget ~~surplus~~residual funds" are those funds that result after closing the City's accounting records for the fiscal year and completion of the annual audit, when total general fund annual revenues recognized during the fiscal year exceed total actual expenditures for that year, thus adding to the City's general fund balance at the end of the fiscal year. The net budget residual may be comprised of two components: (1) revenues received in excess of the budget and/or (2) expenditure savings.

(3) "Limited duration Measure Q revenues" shall mean the total proceeds that are received from the City of Concord's district use and transactions tax under Ordinance No. 14-8.

~~Measure Q funds received above the amount allocated to fund the General Fund operating shortfall. The amount of Measure Q revenues allocated to fund the operating shortfall shall be limited to no more than \$8.0 million per fiscal year and is intended to decrease over time reducing reliance on this limited term revenue.~~

~~(3)~~(4) "Infrastructure backlog" shall mean the cost of capital and maintenance expenditures required to bring the City's public assets (including, but not limited to, parks, buildings, roads, signs, etc.) up to an acceptable standard, where such expenditures have not been funded or programmed by the City into the City's capital improvement program and/or the City's annual operating budget.

~~(4)~~(5) “Post-employment benefits” shall mean: (a) the City’s retiree medical program, (b) the City of Concord Retirement System (CCRS), and (c) CalPERS or the City’s then-current pension program should the City withdraw from CalPERS participation.

~~(5)~~(6) “Unfunded post-employment benefit liabilities” shall mean that portion of the City’s post-employment benefits that have not been fully funded.

~~(6)~~(7) “Annual recommended contributions” shall mean the annual amount of funds that an actuarial study recommends the City deposit and set aside in a post-employment benefit plan to fully fund post-employment benefits over time.

~~(7)~~(8) “General fund” shall mean the fund that is established by the City into which all sums of money collected by the City are deposited and expended for general government purposes, unless otherwise provided by ordinance, resolution or legal mandate directing the deposit(s) into a specific fund other than the general fund.

~~(8)~~(9) “General fund reserves” shall mean the reserves established pursuant to current City Council adopted Policy and Procedure Number 129 (PP129) (as may be amended from time to time), which establishes thresholds on levels of general fund reserves.

(10) “Measure Q residual funds” are those funds that result after closing the City’s accounting records for the fiscal year and completion of the annual audit, when total Measure Q annual revenues recognized during the fiscal year exceed the amount budgeted for that year, thus adding to the City’s general fund balance at the end of the fiscal year.

(11) “City Council Priority Focus Area” is defined as those Council priorities as set forth in the City’s annual General Fund budget.

(Ord. No. 14-4, § 2)

3.20.020 Use of one-time and budget ~~surplus~~residual funds.

(a) From time to time, the City Manager shall recommend allocations to the City Council on the use of one-time and budget ~~surplus~~residual funds consistent with the uses identified in this chapter.

(b) One-time funds and budget ~~surplus~~residual funds ~~shall be allocated to reserves or used~~are for one-time expenditures; therefore, the City shall not use one-time funds or budget ~~surplus~~residual funds in a way that creates new ongoing expenditure requirements unless it can be demonstrated that adequate alternative resources exist to support the new ongoing expenditure requirements.

(c) One-time funds and budget ~~surplus~~residual funds identified throughout each budget cycle shall only be used to fund the following City needs, as directed by the City Council at a public meeting. The City Council retains the discretion of how to allocate these funds between the categories listed below:

- (1) Annual recommended contributions.
- (2) Infrastructure backlog.
- (3) Unfunded post-employment benefits.
- (4) Special or one-time, nonrecurring expenditure needs of the City.
- (5) Strengthening the City’s general fund reserves.

(Ord. No. 14-4, § 3)

~~3.20.030 Supermajority Council action required to vary from this chapter.~~

Any use of one-time funds, or budget ~~surplus~~residual funds or limited duration Measure Q revenues that varies from the direction provided in this chapter shall require adoption of a City Council resolution by at least four members of

~~the City Council. The City Council resolution shall include a statement of findings supporting the appropriation of one-time funds, or budget surplus/residual funds or limited duration Measure Q revenues in a manner that departs from the requirements of this chapter.~~

~~(Ord. No. 14-4, § 4)~~

3.20.030 Use of limited duration of Measure Q revenues

~~(a) From time to time, the City Manager shall recommend allocations to the City Council on the use of limited duration Measure Q revenues consistent with the uses identified in this chapter and Ordinance [XXX14-8].~~

~~(b) Limited duration Measure Q revenues allocated to fund the operating shortfall shall be limited to no more than \$8.0 million per fiscal year and this amount is intended to decrease over time reducing reliance on this limited term revenue.~~

~~(c) Use of limited duration Measure Q revenues that are in excess of the amount that is used to cover the operating shortfall shall be identified each budget cycle and shall only be used to fund the following city needs, as directed by the City Council at a public meeting. The City Council retains the discretion of how to allocate these funds between the categories listed below:~~

~~(1) Annual recommended contributions for long-term financial liabilities.~~

~~(2) Capital projects that do not create new, ongoing expenditure requirements unless it can be demonstrated that adequate alternative resources exist to support the new, ongoing expenditure requirements.~~

~~(3) Infrastructure maintenance backlog.~~

~~(4) Debt service for infrastructure improvements~~

~~(5) Maintaining the City's general fund reserves pursuant to Policy and Procedure Number 129 (PP129).~~

~~(6) One-time expenditures that advance a City Council Priority Focus Area or area of constant focus.~~

~~(d) Use of One-time Measure Q Residual Funds:~~

~~(d) One-time Measure Q residual funds shall be allocated to reserves or used for one-time expenditures; therefore, the City shall not use these one-time funds residual in a way that creates new ongoing expenditure requirements unless it can be demonstrated that adequate alternative resources exist to support the new ongoing expenditure requirements.~~

3.20.04F0 Supermajority Council action required to vary from this chapter.

~~Any use of one-time funds, budget residual funds or limited duration Measure Q revenues that varies from the direction provided in this chapter shall require adoption of a City Council resolution by at least four members of the City Council. The City Council resolution shall include a statement of findings supporting the appropriation of one-time funds, budget residual funds or limited duration Measure Q revenues in a manner that departs from the requirements of this chapter.~~

~~(Ord. No. 14-4, § 4)~~

ORDINANCE NO. 15-1

AN ORDINANCE AMENDING CONCORD MUNICIPAL CODE TITLE 3 (REVENUE AND FINANCE) AMENDING CHAPTER 3.20 (FISCAL SUSTAINABILITY), ARTICLE I (USE OF ONE-TIME AND BUDGET SURPLUS FUNDS)

THE CITY COUNCIL OF THE CITY OF CONCORD DOES ORDAIN AS FOLLOWS:

Section 1. Concord Municipal Code Title 3 (Revenue and Finance) is hereby amended by amending Chapter 3.20, entitled *Fiscal Sustainability*, Article I, entitled *Use of One-Time and Budget Surplus Funds*, as follows:

Section 2. Amending Chapter 3.20 entitled *Fiscal Sustainability*, Article I, re-titled as *Use of One-Time and Budget Residual Funds and Limited Duration Measure Q Revenues*.

Section 3. Amending Section 3.20.010, entitled *Purpose and Definitions*, to read:

A. The purpose of this chapter is twofold:

1. First, to assure that one-time funds, budget residual funds and limited duration Measure Q revenues are used for non-recurring rather than ongoing expenditures, thereby ensuring that the City continues to employ sound fiscal strategies; and

2. Second, to define the uses for which the City shall employ such funds.

B. For purposes of this Chapter, the following terms shall have the following meanings:

1. “One-Time Funds” shall mean funds and/or revenues that the City receives on a non-recurring basis (usually only received in one annual budget) and/or that are unexpected, unanticipated and not included in the baseline revenue projections in the budget or amended budget. For example, these may include, but are not limited to: unbudgeted, unanticipated proceeds from the sale of surplus land; unanticipated, unbudgeted one-time sales tax allocations associated with capital improvements from local businesses that were not included in the budget; or the receipt of funds for unbudgeted, unanticipated retroactive (prior-year payments) taxes or fees, etc.

2. “Budget residual funds” are those funds that result after closing the City’s accounting records for the fiscal year and completion of the annual audit, when total general fund annual revenues recognized during the fiscal year exceed total actual expenditures for that year, thus adding to the City’s General Fund balance at the end of the fiscal year. The net budget residual may

1 be comprised of two components: (1) revenues received in excess of the budget and/or (2)
2 expenditure savings.

3 3. "Limited Duration Measure Q Revenues" shall mean the total proceeds that are
4 received from the City of Concord's district use and transactions tax under Ordinance No. 14-8.

5 4. "Infrastructure Backlog" shall mean the cost of capital and maintenance
6 expenditures required to bring the City's public assets (including, but not limited to, parks, buildings,
7 roads, signs, etc.) up to an acceptable standard, where such expenditures have not been funded or
8 programmed by the City into the City's Capital Improvement Program and/or the City's Annual
9 Operating Budget.

10 5. "Post-Employment Benefits" shall mean: (1) the City's retiree medical
11 program, (2) the City of Concord Retirement System (CCRS), and (3) CalPERS or the City's then-
12 current pension program should the City withdraw from CalPERS participation.

13 6. "Unfunded Post-Employment Benefit Liabilities" shall mean that portion of the
14 City's post-employment benefits that have not been fully funded.

15 7. "Annual Recommended Contributions" shall mean the annual amount of funds
16 that an actuarial study recommends the City deposit and set aside in a Post-Employment Benefit plan
17 to fully fund post-employment benefits over time.

18 8. "General Fund" shall mean the fund that is established by the City into which
19 all sums of money collected by the City are deposited and expended for general government purposes,
20 unless otherwise provided by ordinance, resolution or legal mandate directing the deposit(s) into a
21 specific fund other than the General Fund.

22 9. "General Fund Reserves" shall mean the reserves established pursuant to
23 current City Council adopted Policy & Procedure Number 129 (PP129) (as may be amended from
24 time-to-time), which establishes thresholds on levels of General Fund Reserves.

25 10. "Measure Q Residual Funds" are those funds that result after closing the City's
26 accounting records for the fiscal year and completion of the annual audit, when total Measure Q
27 annual revenues recognized during the fiscal year exceed the amount budgeted for that year, thus
28 adding to the City's General Fund balance at the end of the fiscal year.

1 11. “City Council Priority Focus Area” is defined as those Council priorities as set
2 forth in the City’s Annual General Fund budget.

3 **Section 4.** Amending Section 3.20.020, entitled *Use of One-Time and Budget Surplus Funds*,
4 re-titled as *Use of One-Time and Budget Residual Funds*, to read:

5 A. From time to time, the City Manager shall recommend allocations to the City Council
6 on the use of one-time and budget residual funds consistent with the uses identified in this Chapter.

7 B. One-Time Funds and Budget Residual Funds shall be allocated to reserves or used for
8 one-time expenditures; therefore, the City shall not use One-Time Funds or Budget Residual Funds in
9 a way that creates new ongoing expenditure requirements unless it can be demonstrated that adequate
10 alternative resources exist to support the new ongoing expenditure requirements.

11 C. One-Time Funds and Budget Residual Funds identified throughout each budget cycle
12 shall only be used to fund the following City needs, as directed by the City Council at a public
13 meeting. The City Council retains the discretion of how to allocate these funds between the categories
14 listed below:

- 15 1. Annual recommended contributions.
- 16 2. Infrastructure backlog.
- 17 3. Unfunded post-employment benefits.
- 18 4. Special or one-time, non-recurring expenditure needs of the City.
- 19 5. Strengthening the City’s General Fund Reserves.

20 **Section 5.** Amending Section 3.20.030, entitled *Super Majority Council Action Required to*
21 *Vary From This Chapter*, re-titled as *Use of Limited Duration of Measure Q Revenues*, to read:

22 A. From time to time, the City Manager shall recommend allocations to the City Council
23 on the use of limited duration Measure Q revenues consistent with the uses identified in this Chapter
24 and Ordinance No. 14-8.

25 B. Limited duration Measure Q revenues allocated to fund the operating shortfall shall be
26 limited to no more than \$8 million per fiscal year, and this amount is intended to decrease over time,
27 reducing reliance on this limited term revenue.

1 C. Use of limited duration Measure Q revenues that are in excess of the amount that is
2 used to cover the operating shortfall shall be identified each budget cycle and shall only be used to
3 fund the following City needs, as directed by the City Council at a public meeting. The City Council
4 retains the discretion of how to allocate these funds between the categories listed below:

- 5 1. Annual recommended contributions for long-term financial liabilities.
- 6 2. Capital projects that do not create new, ongoing expenditure requirements
7 unless it can be demonstrated that adequate alternative resources exist to support the new, ongoing
8 expenditure requirements.
- 9 3. Infrastructure maintenance backlog.
- 10 4. Debt service for infrastructure improvements.
- 11 5. Maintaining the City's General Fund Reserves pursuant to Policy and
12 Procedure Number 129 (PP129).
- 13 6. One-time expenditures that advance a City Council Priority Focus Area.

14 D. Measure Q residual funds shall be allocated to reserves or used for one-time
15 expenditures; therefore, the City shall not use these funds in a way that creates new ongoing
16 expenditure requirements unless it can be demonstrated that adequate alternative resources exist to
17 support the new ongoing expenditure requirements.

18 **Section 6.** Adding Section 3.20.040, entitled *Supermajority Council Action Required to Vary*
19 *from this Chapter*, to read:

20 Any use of one-time funds, budget residual funds or limited duration Measure Q revenues that
21 vary from the direction provided in this chapter shall require adoption of a City Council resolution by
22 at least four members of the City Council. The City Council resolution shall include a statement of
23 findings supporting the appropriation of one-time funds, budget residual funds or limited duration
24 Measure Q revenues in a manner that departs from the requirements of this chapter.

25 **Section 7.** This Ordinance No. 15-1 shall become effective thirty (30) days following its
26 passage and adoption. In the event a summary of said Ordinance is published in lieu of the entire
27 Ordinance, a certified copy of the full text of this Ordinance shall be posted in the office of the City
28 Clerk at least five (5) days prior to its adoption and within fifteen (15) days after its adoption,

1 including the vote of the Councilmembers. Additionally, a summary prepared by the City Attorney's
2 Office shall be published once at least five (5) days prior to the date of adoption of this Ordinance and
3 once within fifteen (15) days after its passage and adoption, including the vote of the
4 Councilmembers, in the Contra Costa Times, a newspaper of general circulation in the City of
5 Concord.

6
7
8 Timothy S. Grayson
Mayor

9
10 ATTEST:

11 Joelle Fockler, CMC
12 City Clerk

13
14 (Seal)

15
16 Ordinance No. 15-1 was duly and regularly introduced at a regular meeting of the City Council
17 of the City of Concord held on January 27, 2015, and was thereafter duly and regularly passed and
18 adopted at a regular meeting of the City Council of the City of Concord on February 10, 2015 by the
19 following vote:

20 **AYES:** Councilmembers -

21 **NOES:** Councilmembers -

22 **ABSTAIN:** Councilmembers -

23 **ABSENT:** Councilmembers -

24 **I HEREBY CERTIFY** that the foregoing is a true and correct copy of an ordinance duly and
25 regularly introduced, passed, and adopted by the City Council of the City of Concord, California.

26
27 Joelle Fockler, CMC
28 City Clerk