

Sophie Hahn
Councilmember District 5

SUPPLEMENTAL AGENDA MATERIAL

Meeting Date: November 28, 2017

Item Number: 24a

Item Description: Recommendation for Audit and Legal Review of Measure GG Expenditures with Attention to Allocation of Measure GG Funds for Fire Department Overtime

Submitted by: Councilmembers Sophie Hahn and Kate Harrison

After consultation with the City Auditor, our offices are offering an alternative recommendation that the City Manager make available an analysis of Measure GG by the City Attorney and, when the new FUND\$\$ payroll system is in place, audit all use of overtime at the Berkeley Fire Department from both fiscal and Human Resources perspectives.



Disaster and Fire Safety Commission

ACTION CALENDAR

November 28, 2017

To: Honorable Mayor and Members of the City Council
From: Disaster and Fire Safety Commission
Submitted by: Paul Degenkolb, Chairperson, Disaster and Fire Safety Commission
Subject: Recommendation for Audit and Legal Review of Measure GG Expenditures with Attention to Allocation of Measure GG Funds for Fire Department Overtime

RECOMMENDATION

We recommend that [the City Manager make available an analysis of Measure GG by the City Attorney and, when the new FUND\\$\\$ payroll system is in place, audit all use of overtime at the Berkeley Fire Department from both fiscal and Human Resources perspectives. City Council request from the City Auditor an audit of Measure GG expenditures specifically regarding the allocation of Measure GG funds for Fire Department overtime pay.](#)

~~We additionally suggest a legal review by the City Attorney to determine if the decreasing budget for Fire Department overtime in the General Fund and the coordinated increase of Measure GG funds allocated to overtime pay is in compliance with Measure GG and State and Federal laws, and to provide corrective guidance if it is not.~~

FISCAL IMPACTS OF RECOMMENDATION

If the audit and legal review find that excessive Measure GG funds are being spent on Fire Department overtime, then correction of this situation may require an increased allocation from the General Fund toward Fire Department overtime. The Commission's preliminary review estimates this amount at approximately \$500,000 - \$1,000,000 per year.

This identical amount of Measure GG funds will correspondingly be freed up to be allocated to other programs within Measure GG's mandate.

CURRENT SITUATION AND ITS EFFECTS

Total Measure GG tax revenue is currently \$4.7 Million per year. Roughly half of these funds (\$2.4 Million) is currently allocated to Fire Department overtime costs. The remaining half of Measure GG funds are split between other programs within the Measure GG mandate, including disaster preparedness, radio interoperability, and paramedic staffing (First Responder Advance Life Support – FRALS).

Currently, funds from Measure GG are used to pay for the majority of Fire Department overtime costs. Due to the amount of Measure GG funds allocated for Fire Department overtime costs, available Measure GG funding for other programs is limited.

BACKGROUND

In 2004, the City of Berkeley started a process of rotating fire station closures as a cost cutting measure. Under this program, the Fire Department would close a fire station if too many firefighters were absent, rather than calling in other firefighters to staff the station. This was a way to avoid paying firefighter overtime; the goal was “to rein in the overtime to roughly \$1 million [down from \$2 million]” as reported in local news.¹

In 2008 the population of Berkeley passed Measure GG. Based on the publicly disclosed arguments in favor, Measure GG was intended to enable the City to keep fire stations open and improve emergency medical response and disaster preparedness. Arguments in opposition to Measure GG noted there was: “No protection against the City **reducing non-Measure GG support** for fire, paramedic and related services” [bolding added].

Based on the Commission’s review of Measure GG spending, it appears that this opposition argument has come to pass, with Measure GG tax revenue serving to replace, rather than supplement, some General Fund support of fire services.

In the years since Measure GG was passed, the Fire Department’s overtime costs have trended upward. In contrast, since 2009, the General Fund spending on overtime has never again matched the value it was in FY09.

¹ <http://www.eastbaytimes.com/2006/12/19/berkeley-rotates-station-closures/>

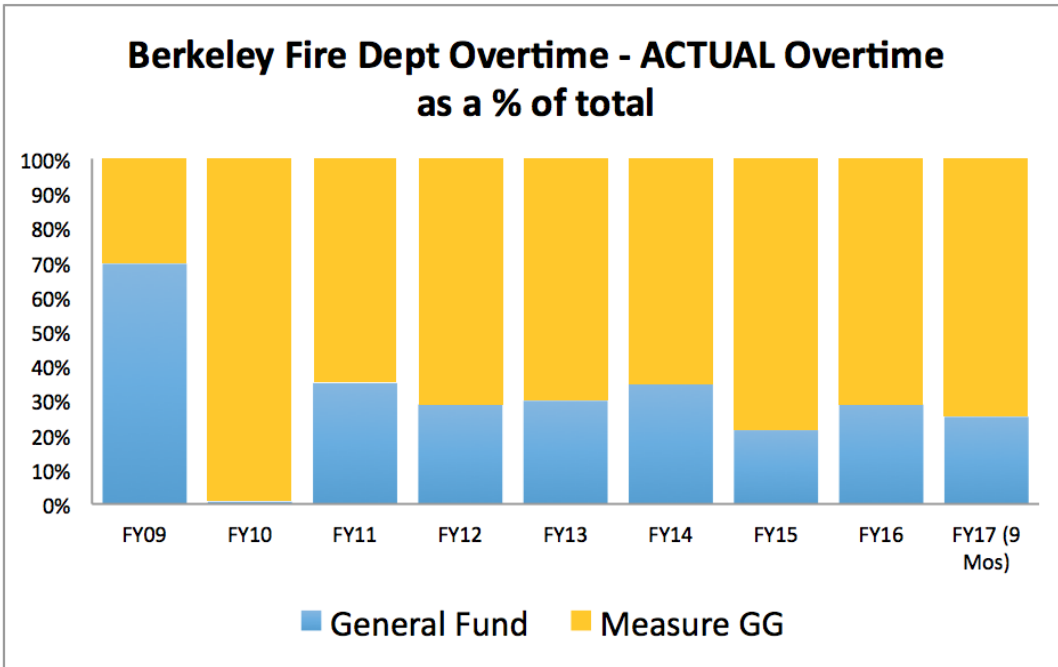


Chart: Berkeley Fire Department Overtime – Actual Overtime. Data from City of Berkeley’s FUNDS\$ system

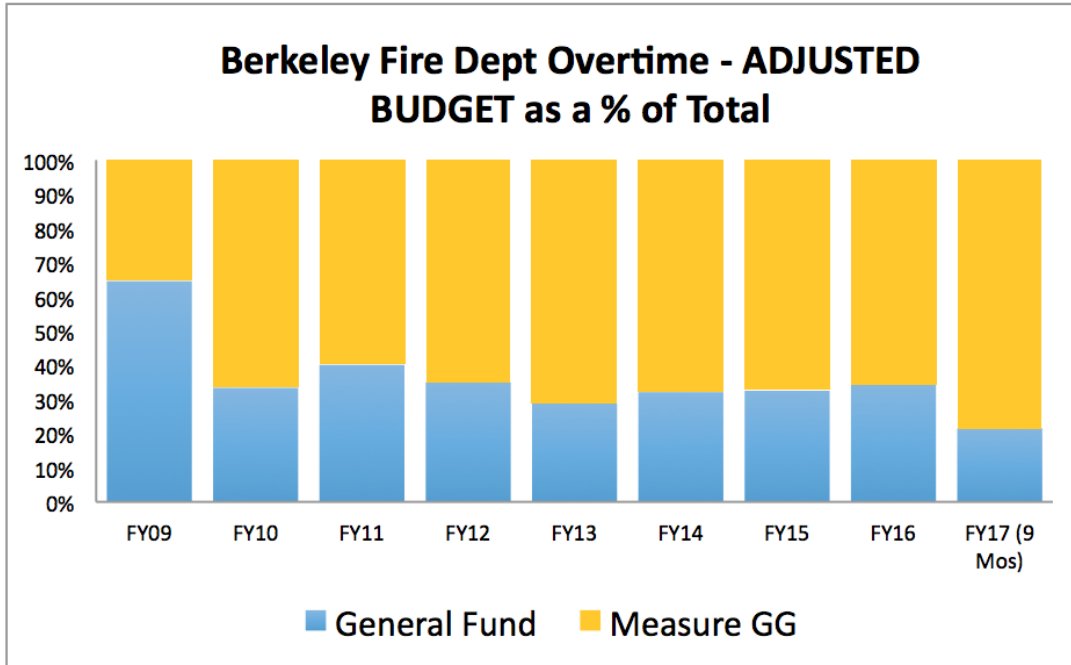


Chart: Berkeley Fire Department Overtime – Adjusted Budget. Data from City of Berkeley’s FUNDS\$ system

Measure GG allocation to Fire Department overtime has increased over these years to cover the disparity caused by the General Funding decrease, as is seen in the above charts.

ENVIRONMENTAL SUSTAINABILITY

There is no environmental impact of this recommendation.

RATIONALE FOR RECOMMENDATION

The Commission believes Measure GG taxes should provide a supplement to Berkeley Fire Department funding, rather than providing an opportunity for the General Fund allocation to BFD to be reduced.

The Commission therefore believes that the General Fund allocation toward Fire Department overtime should either increase consistent with the increasing costs over the years, or at least be maintained at the pre-Measure GG level, with dollar amounts adjusted for inflation.

If Measure GG funds are currently being misallocated, this could cause several negative outcomes:

- It can reduce the public trust in future similar tax measures, because the public needs to know that taxes they are voting on will be spent in the manner that the Measure states, rather than serving to increase the General Fund.
- It can reduce the availability of funds toward other essential programs that Measure GG is meant to fund, including community disaster preparedness.
- It can allow overtime spending to increase without any checks, because there is little incentive to limit this spending due to it coming from Measure GG funds rather than the General Fund.

Measure GG provided the responsibility for budget oversight to the Disaster and Fire Safety Commission. For this reason we are seeking a clear answer on whether the current funding allocation is improper. We believe that the most appropriate parties to examine the current financial and legal situation and determine if a correction is needed are the City Auditor and the City Attorney.

ALTERNATIVE ACTIONS CONSIDERED

The Commission considered making a specific funding recommendation; for example:

- That Measure GG funds for Fire Department overtime be limited to a certain percent, such as 30% of the total cost of overtime.
- That the General Fund budget for Fire Department overtime match the \$1 million (\$1.2 million in 2016 dollars) which was the “reined in” goal level that station closures were trying to reach in 2006 based on then-Councilmember Wozniak’s statement to the press.

- That Measure GG funds only be used for overtime due to illnesses, vacation, family leave, bereavement leave and jury leave and not for overtime due to understaffing, special projects, or other anticipatable reasons.

After considering these options, we think it is more appropriate for an adaptable long- term budgeting guideline to be developed by the City Attorney based on the legal text of Measure GG.

CITY MANAGER

See companion report.

CONTACT PERSON

Keith May, Assistant Fire Chief, Berkeley Fire Department, 510-981-558