

SULTAN CITY COUNCIL AGENDA ITEM COVER SHEET

ITEM NO: Action 2

DATE: December 16, 2010

SUBJECT: Ordinance 1102-10 General Fund Contingency

CONTACT PERSON: Laura Koenig, City Clerk/Deputy Finance Director

ISSUE:

The issue before the Council is the introduction of Ordinance 1102-10 to amend SMC 3.48.080 and SMC 3.48.090 that establish General Fund contingencies and reserve funds.

STAFF RECOMMENDATION:

Staff recommends the Council adopt Ordinance 1102-10 to amend SMC 3.48.080 and SMC 3.48.090 to remove the specific dollar amounts from the code and provide language consistent with state law (RCW 35A.33.145).

SUMMARY:

At the November 18, 2010 Public Hearing on the 2011 Budget, the Council discussed amending the General Fund contingency and reserve fund code provisions to be consistent with budget practice and to bring the code into compliance with state law.

In 2006 the City established a General Fund Contingency and General Fund Reserve Fund with the intent of providing for reserves and an emergency fund. The SMC reads:

3.48.080 Contingency Fund. There is hereby established in the General Fund a sub-fund entitled the Contingency Fund. For audit purposes the fund shall be numbered Fund 100. Until a total amount equal to the greater of 10% of annual General Fund revenues or \$200,000 is accumulated in the fund, monies shall be deposited to the fund on a periodic basis from the City's retail sales tax revenues when annual proceeds from that tax exceed \$250,000. The previous year's balance in the fund shall become the beginning fund balance in the next annual budget for this sub-fund. Subject to any hearing required by law, amendment of the City's budget as required by law, and compliance with RCW 35A.44.146, monies in the contingency fund shall be used by the City to meet unanticipated revenue short falls or unanticipated expenditures during the City's fiscal year. At no time shall the fund balance exceed the legal limit set forth in RCW 35A.33.145.

3.48.090 Reserve General Fund. There is hereby established in the General Fund a sub-fund entitled the Reserve General Fund. For audit purposes the fund shall be numbered Fund 150. After annual revenues from the City's retail sales tax exceed \$250,000, and after the City's Contingency fund has been fully funded, remaining excess revenues from the City's retail sales tax shall be accumulated in this sub-fund until an amount equal to the greater of 25% of annual General Fund revenues or \$500,000 is in the fund. The previous year's balance in the fund shall become the beginning fund balance in the next annual budget for this sub-fund.

Subject to any hearing required by law, and amendment of the City's budget as required by law, and any required compliance with RCW 35A.33.145, monies in the Reserve General Fund shall be used to meet costs associated with emergent and cataclysmic events after a declaration of emergency promulgated by the Mayor. The sum of the monies in this fund and in the Contingency Fund shall not exceed the legal limit set in RCW 35 A.33.145.

ANALYSIS

There are two issues with the current ordinance:

- 1) The specific dollar amount allowed to accumulate in the contingency and reserve funds exceeds state law because assessed values have decreased.
RCW 35A.33.145 provides that "the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city at such time". The current assessed value of the property for 2011 is \$384,908,068. This currently limits the amount allowed to be accumulated in the fund to \$144,341. The current code provision exceeds this amount.
- 2) The \$250,000 identified as the trigger point for transfers to the contingency fund limits the Council's flexibility. Under the existing ordinance, transfers to the contingency fund are tied to excess sales tax revenues. RCW 35A.33.145 doesn't tie transfer to the contingency fund to any specific funding source. Staff recommends the city's ordinance retain the flexibility allowed by state law.

RECOMMENDATION:

Move to Introduce Ordinance 1102-10 to amend SMC 3.48.080 and SMC 3.48.090 to remove the specific dollar amounts from the code and provide language in the code consistent with state law (RCW 35A.33.145).

- Attachments:
- A. Ordinance 1102-10 Amending SMC 3.48.080 and SMC 3.48.090
 - B. SMC 3.48.080 and SMC 3.48.090
 - C. RCW 35A.33.145 and referenced RCW's

**CITY OF SULTAN
SULTAN, WASHINGTON
ORDINANCE NO. 1102-10**

**AN ORDINANCE ADOPTING AMENDING SMC 3.48.080 AND
SMC 3.48.090 ESTABLISHING A GENERAL FUND CONTINGENCY
AND RESERVE FUND ; PROVIDING FOR SEVERABILITY; AND
ESTABLISHING AN EFFECTIVE DATE**

WHEREAS, the City is allowed to establish and fund contingency and reserve funds in accordance with RCW 35A.33.145; and

WHEREAS, the City established a General Fund contingency and reserve funds under Ordinance 940-06; and

WHEREAS, the amounts specified in the SMC 3.48.080 and SMC 3.48.090 exceed the amounts allowed under RCW 35A.33.145; and

WHEREAS, the Council has determined that the specific dollar amount for transfer of excess sales tax revenues limits the flexibility necessary to balance the General Fund;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF SULTAN, WASHINGTON, DO ORDAIN AS FOLLOWS:

Section 1. Sultan Municipal Code 3.48.080 is hereby amended to read as follows:

3.48.080 Contingency Fund:

A. There is hereby established in the general fund a sub-fund entitled the contingency fund. For audit purposes, the fund shall be numbered Fund 100. ~~Until a total amount equal to the greater of 10 percent of annual general fund revenues or \$200,000 is accumulated in the fund, monies shall be deposited to the fund on a periodic basis from the city's retail sales tax revenues when annual proceeds from that tax exceed \$250,000.~~

~~B. The fund may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance.~~

C. The previous year's balance in the fund shall become the beginning fund balance in the next annual budget for this sub-fund. Subject to any hearing required by law, amendment of the city's budget as required by law, and compliance with RCW 35A.44.146, monies in the contingency fund shall be used by the city to meet unanticipated revenue short falls or unanticipated expenditures during the city's fiscal year. The sum of the monies in this fund and in the reserve fund shall not exceed the legal limit set in RCW 35A.33.145.

Section 2. Sultan Municipal Code 3.48.090 is hereby amended to read as follows

3.48.090 Reserve general fund

A. There is hereby established in the general fund a sub-fund entitled the reserve general fund. For audit purposes, the fund shall be numbered Fund 150. ~~After annual revenues from the city's retail sales tax exceed \$250,000, and after the city's contingency fund has been fully funded, remaining excess revenues from the city's retail sales tax shall be~~

~~accumulated in this sub-fund until an amount equal to the greater of 25 percent of annual general fund revenues or \$500,000 is in the fund.~~

B. After the city's contingency fund has been fully funded, the fund may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance.

C. The previous year's balance in the fund shall become the beginning fund balance in the next annual budget for this sub-fund. Subject to any hearing required by law, and amendment of the city's budget as required by law, and any required compliance with RCW 35A.33.145, monies in the reserve general fund shall be used to meet costs associated with emergent and cataclysmic events after a declaration of emergency promulgated by the mayor. The sum of the monies in this fund and in the contingency fund shall not exceed the legal limit set in RCW 35A.33.145.

Section 32. Severability. Should any section, paragraph, sentence, clause or phrase of this Ordinance, or its application to any person or circumstance, be declared unconstitutional or otherwise invalid for any reason, or should any portion of this Ordinance be pre-empted by state or federal law or regulation, such decision or pre-emption shall not affect the validity of the remaining portions of this Ordinance or its application to other persons or circumstances.

Section 43. Effective Date. This Ordinance shall be published in the official newspaper of the City, and shall take effect and be in full force five (5) days after the date of publication.

**ADOPTED BY THE CITY COUNCIL AT A REGULAR MEETING THEREOF ON
THE _____ DAY OF _____, 2008.**

CITY OF SULTAN

Carolyn Eslick, Mayor

ATTEST/AUTHENTICATED:

Laura Koenig, City Clerk
Approved as to form:

Margaret J. King, City Attorney
Date of Publication:
Effective Date:

Article III. General Fund – Contingency Fund – Reserve General Fund

3.48.070 General fund.

There is hereby established the general fund of the city. Except where otherwise designated, or otherwise required by the provisions of law, all funds of the city shall be deposited into the general fund of the city. (Ord. 940-06 § 1)

3.48.080 Contingency fund.

There is hereby established in the general fund a sub-fund entitled the contingency fund. For audit purposes, the fund shall be numbered Fund 100. Until a total amount equal to the greater of 10 percent of annual general fund revenues or \$200,000 is accumulated in the fund, monies shall be deposited to the fund on a periodic basis from the city's retail sales tax revenues when annual proceeds from that tax exceed \$250,000. The previous year's balance in the fund shall become the beginning fund balance in the next annual budget for this sub-fund. Subject to any hearing required by law, amendment of the city's budget as required by law, and compliance with RCW 35A.44.146, monies in the contingency fund shall be used by the city to meet unanticipated revenue short falls or unanticipated expenditures during the city's fiscal year. At no time shall the fund balance exceed the legal limit set forth in RCW 35A.33.145. (Ord. 940-06 § 1)

3.48.090 Reserve general fund.

There is hereby established in the general fund a sub-fund entitled the reserve general fund. For audit purposes, the fund shall be numbered Fund 150. After annual revenues from the city's retail sales tax exceed \$250,000, and after the city's contingency fund has been fully funded, remaining excess revenues from the city's retail sales tax shall be accumulated in this sub-fund until an amount equal to the greater of 25 percent of annual general fund revenues or \$500,000 is in the fund. The previous year's balance in the fund shall become the beginning fund balance in the next annual budget for this sub-fund. Subject to any hearing required by law, and amendment of the city's budget as required by law, and any required compliance with RCW 35A.33.145, monies in the reserve general fund shall be used to meet costs associated with emergent and cataclysmic events after a declaration of emergency promulgated by the mayor. The sum of the monies in this fund and in the contingency fund shall not exceed the legal limit set in RCW 35A.33.145. (Ord. 940-06 § 1)

RCW 35A.33.145

Contingency fund -- Creation.

Every code city may create and maintain a contingency fund to provide moneys with which to meet any municipal expense, the necessity or extent of which could not have been foreseen or reasonably evaluated at the time of adopting the annual budget, or from which to provide moneys for those emergencies described in RCW [35A.33.080](#) and [35A.33.090](#). Such fund may be supported by a budget appropriation from any tax or other revenue source not restricted in use by law, or also may be supported by a transfer from other unexpended or decreased funds made available by ordinance as set forth in RCW [35A.33.120](#): PROVIDED, That the total amount accumulated in such fund at any time shall not exceed the equivalent of thirty-seven and one-half cents per thousand dollars of assessed valuation of property within the city at such time. Any moneys in the contingency fund at the end of the fiscal year shall not lapse except upon reappropriation by the council to another fund in the adoption of a subsequent budget.

RCW 35A.33.080

Emergency expenditures -- Nondebatable emergencies. Upon the happening of any emergency caused by violence of nature, casualty, riot, insurrection, war, or other unanticipated occurrence requiring the immediate preservation of order or public health, or for the restoration to a condition of usefulness of any public property which has been damaged or destroyed by accident, or for public relief from calamity, or in settlement of approved claims for personal injuries or property damage, or to meet mandatory expenditures required by laws enacted since the last annual budget was adopted, or to cover expenses incident to preparing for or establishing a new form of government authorized or assumed after adoption of the current budget, including any expenses incident to selection of additional or new officials required thereby, or incident to employee recruitment at any time, the city council, upon the adoption of an ordinance, by the vote of one more than the majority of all members of the legislative body, stating the facts constituting the emergency and the estimated amount required to meet it, may make the expenditures therefor without notice or hearing.

RCW 35A.33.090

Emergency expenditures -- Other emergencies -- Hearing. If a public emergency which could not reasonably have been foreseen at the time of filing the preliminary budget requires the expenditure of money not provided for in the annual budget, and if it is not one of the emergencies specifically enumerated in RCW [35A.33.080](#), the city council before allowing any expenditure therefor shall adopt an ordinance stating the facts constituting the emergency and the estimated amount required to meet it and declaring that an emergency exists.

Such ordinance shall not be voted on until five days have elapsed after its introduction, and for passage shall require the vote of one more than the majority of all members of the legislative body of the code city.

Any taxpayer may appear at the meeting at which the emergency ordinance is to be voted on and be heard for or against the adoption thereof.

RCW 35A.33.120

Funds -- Limitations on expenditures -- Transfers and adjustments.

The expenditures as classified and itemized in the final budget shall constitute the city's appropriations for the ensuing fiscal year. Unless otherwise ordered by a court of competent jurisdiction, and subject to further limitations imposed by ordinance of the code city, the expenditure of city funds or the incurring of current liabilities on behalf of the city shall be limited to the following:

- (1) The total amount appropriated for each fund in the budget for the current fiscal year, without

regard to the individual items contained therein, except that this limitation shall not apply to wage adjustments authorized by RCW [35A.33.105](#); and

(2) The unexpended appropriation balances of a preceding budget which may be carried forward from prior fiscal years pursuant to RCW [35A.33.150](#); and

(3) Funds received from the sale of bonds or warrants which have been duly authorized according to law; and

(4) Funds received in excess of estimated revenues during the current fiscal year, when authorized by an ordinance amending the original budget; and

(5) Expenditures required for emergencies, as authorized in RCW [35A.33.080](#) and [35A.33.090](#).

Transfers between individual appropriations within any one fund may be made during the current fiscal year by order of the city's chief administrative officer subject to such regulations, if any, as may be imposed by the city council. Notwithstanding the provisions of RCW [43.09.210](#) or of any statute to the contrary, transfers, as herein authorized, may be made within the same fund regardless of the various offices, departments or divisions of the city which may be affected.

The city council, upon a finding that it is to the best interests of the code city to decrease, revoke or recall all or any portion of the total appropriations provided for any one fund, may, by ordinance, approved by the vote of one more than the majority of all members thereof, stating the facts and findings for doing so, decrease, revoke or recall all or any portion of an unexpended fund balance, and by said ordinance, or a subsequent ordinance adopted by a like majority, the moneys thus released may be reappropriated for another purpose or purposes, without limitation to department, division or fund, unless the use of such moneys is otherwise restricted by law, charter, or ordinance.