

File No. 110225

Committee Item No. 5 1  
Board Item No. 5

## COMMITTEE/BOARD OF SUPERVISORS AGENDA PACKET CONTENTS LIST

Committee: Budget and Finance FULL-Committee Date: April 6, 2011

Board of Supervisors Meeting

Date 4/12/11

### Cmte Board

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| <input type="checkbox"/>            | <input type="checkbox"/>            | Introduction Form (for hearings)             |
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| <input type="checkbox"/>            | <input type="checkbox"/>            | MOU  |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Information Form                       |
| <input type="checkbox"/>            | <input type="checkbox"/>            | Grant Budget                                 |
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### OTHER

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Completed by: Victor Young  
Completed by: Victor Young

Date: April 1, 2011  
Date: 4-7-11

An asterisked item represents the cover sheet to a document that exceeds 25 pages. The complete document is in the file.

1 [Park Code - Botanical Garden Non-Resident Fees]

2  
3 **Ordinance amending the San Francisco Park Code, Article 12, by amending Section**  
4 **12.46 to: 1) extend admission fees to the Botanical Garden for non-San Francisco**  
5 **residents beyond June 30, 2011; and 2) eliminate the provision cancelling this**  
6 **admission fee if the Recreation and Park Department receives revenue from a new tax**  
7 **that can be used for Botanical Garden operating and maintenance costs, and making**  
8 **environmental findings.**

9 NOTE: Additions are *single-underline italics Times New Roman*;  
10 deletions are *strike-through italics Times New Roman*.  
11 Board amendment additions are double-underlined;  
Board amendment deletions are ~~strikethrough-normal~~.

12 Be it ordained by the People of the City and County of San Francisco:

13 Section 1. Findings.

14 (a) The Planning Department has determined that the actions in this Ordinance are in  
15 compliance with the California Environmental Quality Act (California Public Resources Code  
16 section 21000 et seq.). Said determination is on file with the Clerk of the Board of  
17 Supervisors in File No. 110225 and is incorporated herein by reference.

18 (b) For fiscal year 2010-2011, the Recreation and Park Department has had to reduce  
19 its general fund support by ~~30%~~20%.

20  
21 Section 2. The San Francisco Park Code is hereby amended by amending Section  
22 12.46, to read as follows:

23 **SEC. 12.46. COUNTY FAIR BUILDING AND BOTANICAL GARDEN FACILITY RENTAL**  
24 **FEES.**

25 (a) Definitions.

1 1. "Corporate Event" means any rental by, on behalf of, or in connection with any  
2 corporate entity, except for Garden Clubs or Nonprofit Organizations as defined below.

3 2. "Garden Club" means any garden club or flower society engaged in horticultural  
4 activities in which there are no monetary transactions (admission charge, donation, ticket  
5 sales, or product sales) during or in connection with the activity.

6 3. "Individual or Nonprofit Organization" means (a) any person renting the County Fair  
7 Building or Botanical Garden in his or her individual capacity for private use, or (b) any entity  
8 qualifying for tax-exempt status under 26 U.S.C. § 501(c)(3), engaged in community or social  
9 activities in which there are no monetary transactions (admission charge, donation, ticket  
10 sales, or product sales) during or in connection with the activity, or (c) any garden club or  
11 flower society using the County Fair Building or Botanical Garden for fundraising activities.

12 (b) County Fair Building Facility Rental Fees. All spaces must be rented for a  
13 minimum of two hours.

Rental Area	Reservation Fee	Hourly Rate
Garden Club Room		
Garden Club	\$10.00	\$5.00
Individual or Nonprofit Organization	\$25.00	\$10.00
Corporate Event	\$100.00	\$30.00
Recreation Room		
Garden Club	\$10.00	\$10.00
Individual or Nonprofit Organization	\$25.00	\$20.00
Corporate Event	\$100.00	\$60.00
Auditorium		

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Garden Club	\$25.00	\$20.00
Individual or Nonprofit Organization	\$50.00	\$40.00
Corporate Event	\$150.00	\$90.00
Gallery		
Garden Club	\$25.00	\$30.00
Individual or Nonprofit Organization	\$50.00	\$75.00
Corporate Event	\$150.00	\$180.00
Entire Facility		
Garden Club	\$35.00	\$60.00
Individual or Nonprofit Organization	\$75.00	\$140.00
Corporate Event	\$150.00	\$390.00
Commercial Kitchen*		
Garden Club	None	\$5.00
Individual or Nonprofit Organization	None	\$10.00
Corporate Event	None	\$30.00
Patio*		
Garden Club	None	\$5.00
Individual or Nonprofit Organization	None	\$15.00
Corporate Event	None	\$30.00
Courtyard*		
Garden Club	None	\$10.00

Individual or Nonprofit Organization	None	\$30.00
Corporate Event	None	\$90.00

\* May only be rented in conjunction with other space in the building.

(c) Botanical Garden Facility Rental Fees. All spaces must be rented for a minimum of two hours.

Rental Area	Reservation Fee	Hourly Rate
Demonstration Garden		
Individual or Nonprofit Organization	\$250.00	\$375.00
Corporate Event	\$500.00	\$750.00
Fragrance Garden		
Individual or Nonprofit Organization	\$250.00	\$375.00
Corporate Event	\$500.00	\$750.00
Redwood Grove		
Individual or Nonprofit Organization	\$250.00	\$375.00
Corporate Event	\$500.00	\$750.00
Rhododendron Garden		
Individual or Nonprofit Organization	\$250.00	\$375.00
Corporate Event	\$500.00	\$750.00
Fountain Plaza		
Individual or Nonprofit Organization	\$750.00	\$875.00
Corporate Event	\$1,500.00	\$1,750.00

Individual or Nonprofit Organization	None	\$30.00
Corporate Event	None	\$90.00

\* May only be rented in conjunction with other space in the building.

(c) Botanical Garden Facility Rental Fees. All spaces must be rented for a minimum of two hours.

Rental Area	Reservation Fee	Hourly Rate
Demonstration Garden		
Individual or Nonprofit Organization	\$250.00	\$375.00
Corporate Event	\$500.00	\$750.00
Fragrance Garden		
Individual or Nonprofit Organization	\$250.00	\$375.00
Corporate Event	\$500.00	\$750.00
Redwood Grove		
Individual or Nonprofit Organization	\$250.00	\$375.00
Corporate Event	\$500.00	\$750.00
Rhododendron Garden		
Individual or Nonprofit Organization	\$250.00	\$375.00
Corporate Event	\$500.00	\$750.00
Fountain Plaza		
Individual or Nonprofit Organization	\$750.00	\$875.00
Corporate Event	\$1,500.00	\$1,750.00

1	Great Meadow		
2	Individual or Nonprofit Organization	\$750.00	\$875.00
3	Corporate Event	\$1,500.00	\$1,750.00
4	Zellerbach Garden		
5	Individual or Nonprofit Organization	\$750.00	\$875.00
6	Corporate Event	\$1,500.00	\$1,750.00

8 (d) The Department shall charge the following fees for entrance to the Botanical  
9 Garden:

10	Age/Category	Non-San Francisco Residents
11	Adults	\$7.00
12	Youth 12—17 and Seniors 65 and over	\$5.00
13	Children 5—11	\$2.00
14	Children 4 and under	No charge
15	Families (2 adults and all children under 17 years residing 16 in the same household)	\$15.00

18 *If the Department receives revenue from a new tax that can be used for operating and*  
19 *maintenance costs at the Botanical Gardens, authority to collect the non-resident fee for entrance to*  
20 *the Gardens shall expire by operation of the law within 90 days after the effective date of the new tax.*

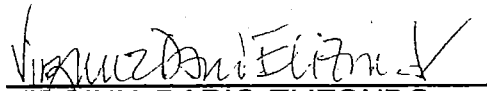
21 The Department shall provide biannual reports to the Budget and Finance Committee  
22 on the collection of the non-resident fee for entrance to the Botanical Gardens, such reports  
23 shall include the following information: 1. Attendance figures for San Francisco residents,  
24 Members of San Francisco Botanical Garden Society, and Non-San Francisco residents; 2.  
25 Capital improvements and operating costs of the Botanical Gardens; 3. Capital improvements

1 and operating costs incurred by the Department and the Botanical Garden Society associated  
2 with the collection of all fees; 4. Revenue from the new non-resident fee, separated into (a)  
3 point of sale gate tickets and (b) actual attendance from packaged sales with other Park sites,  
4 and revenue from all other fees; 5. The numbers of San Francisco Botanical Garden Society  
5 members; and 6. Gifts, donations and services-in-kind received by the Department and the  
6 Botanical Garden Society for the Botanical Garden.

7 ~~The non-resident fee for the Botanical Gardens sunset at the end of Fiscal Year 2010-11.~~

8  
9 APPROVED AS TO FORM:  
10 DENNIS J. HERRERA, City Attorney

11 By:

12   
13 VIRGINIA DARIO ELIZONDO  
14 Deputy City Attorney



**LEGISLATIVE DIGEST**

[Park Code – Botanical Garden Non-Resident Fees]

**Ordinance amending the San Francisco Park Code, Article 12, by amending Section 12.46, (1) to extend admission fees to the Botanical Garden for non-San Francisco residents beyond June 30, 2011; (2) eliminate the provision cancelling this admission fee if the Recreation and Park Department receives revenue from a new tax that can be used for Botanical Garden operating and maintenance costs, and (3) making environmental findings.**

Existing Law

In 2010, entrance fees to the San Francisco Botanical Garden were established for non San Francisco residents. These fees are to expire on June 30, 2011.

Additionally, these fees are to expire if the Recreation and Park Department receives revenue from a new tax that can be used for operating and maintenance costs at the Botanical Garden.

Amendments to Current Law

- Removes the sunset date on the non-resident fees provision and extends the provision indefinitely.
- Eliminates the provision which would suspend the non-resident fee should a new tax be approved to pay for operating and maintenance costs at the San Francisco Botanical Garden.
- Changes the submission of required reports by the Recreation and Park Department to the Budget and Finance Committee on the San Francisco Botanical Garden non-resident fee from twice a year to once a year.

Background Information

The non-resident fee was established to offset operation and maintenance costs for the San Francisco Botanical Garden because the Recreation and Park Department has to reduce its general fund support by 20%.

**Items 1 & 2****Files 11-0225 & 11-0113****Department**

Recreation and Park Department (RPD)

**EXECUTIVE SUMMARY****Legislative Objectives**

- File 11-0225 would amend San Francisco Park Code Section 12.46 to (1) extend admission fees to the Botanical Garden for non-San Francisco residents beyond June 30, 2011; (2) authorize free admission for San Francisco Botanical Society members and members of reciprocating horticultural nonprofits; (3) eliminate the provision in the Park Code that cancels the Botanical Garden admission fee if the Recreation and Park Department's (RPD) receives revenue from a new tax that can be used for Botanical Garden operating and maintenance costs, and (4) make environmental findings.
- File 11-0113 would rescind the Botanical Garden non-San Francisco resident visitor fee and appropriate \$195,176 from the General Fund Reserve to RPD's FY 2010-2011 budget.

**Key Points**

- The Botanical Garden non-San Francisco resident visitor fee was approved by the Board of Supervisors on June 22, 2010 and went into effect on August 7, 2010. The non-San Francisco resident visitor fee expires on June 30, 2011.
- The two proposed ordinances would have an opposite impact on the non-San Francisco resident visitor fee. File 11-0225 would indefinitely extend the non-San Francisco resident visitor fee. By contrast, File 11-0113 would immediately eliminate the non-San Francisco resident visitor fee.
- The San Francisco Botanical Garden Society (SFBGS) originally projected that the non-San Francisco resident visitor fee would generate \$650,000 in FY 2010-2011. Due to lower-than-expected revenues and delayed implementation, SFBGS reduced that projection to \$402,401. However, after inquiries made by the Budget and Legislative Analyst's Office, SFBGS has since further reduced the projection to \$355,992.
- An existing MOU between RPD and SFBGS does not address the non-San Francisco resident visitor fee. On July 27, 2010, RPD and SFBGS entered into a Grant Agreement specifying SFBGS's role in administering the non-San Francisco resident visitor fee. SFBGS's visitor fee administrative costs are budgeted at \$210,058 in FY 2010-2011.
- SFBGS has verbally pledged a subsidy of at least \$104,066 to help offset the cost of implementing the non-San Francisco resident visitor fee in FY 2010-2011 and to ensure RPD receives net revenues totaling \$250,000 from the non-San Francisco resident visitor fee. According to RPD, if the Board of Supervisors eliminates the non-San Francisco resident visitor fee, per File 11-0113, SFBGS would withdraw its \$104,066 verbally pledged subsidy.
- The Budget and Legislative Analyst finds that the non-San Francisco resident visitor fee is very costly to administer. Such administration is projected to cost \$0.59 for every dollar of visitor fee revenue in FY 2010-2011. If the fee were continued into FY 2011-2012, the actual cost of administering the non-San Francisco resident visitor fee and the ratio of visitor fee cost to revenue is projected to decline to \$0.38 for every dollar, although that reduced relative administrative cost

is based on SFBGS's projected increase in non-San Francisco resident visitor fee revenue of at least \$186,063, or 52.3 percent, from the FY 2010-2011 reduced revised projected amount of \$355,992 to the FY 2011-2012 projected amount of \$542,055. In the professional judgment of the Budget and Legislative Analyst, a 52.3 percent increase in revenue is highly optimistic.

- RPD is reimbursing SFBGS for SFBGS's personnel costs for 4.6 full-time equivalent (FTE) positions associated with the administration of the non-San Francisco resident visitor fee. Under the Grant Agreement between RPD and SFBGS, RPD agreed to reimburse SFBGS for personnel costs related to the visitor fee. However, the specific positions, FTE amounts, and wage rates were not specified in the Grant Agreement between RPD and SFBGS.

#### **Fiscal Impact**

- File 11-0225 would result in annual visitor fee revenue, projected by SFBGS to be \$542,055 in FY 2011-2012. These revenues would be offset by administrative costs to be reimbursed by RPD to SFBGS, estimated by SFBGS to be \$204,836 in FY 2011-2012, resulting in a total projected net revenue to RPD of \$337,219.
- File 11-0113 would appropriate \$195,176 from the General Fund Reserve to RPD for maintenance of the Botanical Garden in FY 2010-2011. If the non-San Francisco resident visitor fee was rescinded as of May 19, 2011, the estimated lost revenue, offset by avoided administrative costs, would result in an estimated net loss of revenue to RPD of \$143,445, or \$51,731 less than the requested \$195,176.

#### **Recommendations**

- If the Board of Supervisors approves the proposed ordinance (File 11-0225), request the RPD to (a) explicitly state the SFBGS FTEs and salary costs that would be reimbursed by RPD to SFBGS under any future MOU or Grant Agreement between the RPD and SFBGS, and (b) discontinue the practice of making verbal or other informal clarifications in any future MOUs or Grant Agreements between RPD and SFBGS.
- Approval of the proposed ordinance (File 11-0225) is a policy decision for the Board of Supervisors since (a) the cost of administering the non-San Francisco resident visitor fee is high, and (b) the projected 52.3 percent increase in revenue from FY 2010-2011 to FY 2011-2012 is highly optimistic in the professional judgment of the Budget and Legislative Analyst, and revenue shortfalls could potentially impact RPD's FY 2011-2012 needed General Fund Appropriation.
- Amend the other proposed ordinance (File 11-0113) to replace "As of March 17, 2011," with "As of the effective date of this ordinance."
- Amend the proposed ordinance (File 11-0113) to reduce the requested appropriation from the General Fund Reserve by \$51,731, from \$195,176 to \$143,445, the actual amount needed to keep RPD's FY 2010-2011 budget in balance.
- Approval of the proposed ordinance, as amended (File 11-0113) is a policy decision for the Board of Supervisors as this ordinance would rescind the current non-San Francisco resident visitor fees and replace the non-San Francisco resident visitor fee revenue with General Fund revenues for the balance of FY 2010-2011.

## MANDATE STATEMENT AND BACKGROUND

### Mandate Statement

Charter Section 2.109 provides that within 30 days of submission by the Mayor, the Board of Supervisors shall approve or reject any rate, fee, or similar charge to be imposed by any department, official, board or commission, by ordinance.

### Background

The Recreation and Park Department (RPD) operates and maintains the Botanical Garden located in Golden Gate Park. The RPD budget combines the Botanical Garden and the Conservatory of Flowers. Ms. Katharine Petrucione, Director of Finance and Administration for RPD, estimates that the annual budget for maintaining the Botanical Garden alone is \$1,677,951 in FY 2010-2011.

Under an existing Memorandum of Understanding (MOU), the San Francisco Botanical Garden Society (SFBGS), a nonprofit organization, provides educational programming with classes, docents, youth programming, and school tours conducted in the Botanical Garden and operates a book store and library, adjacent to the Botanical Garden, at no cost to RPD. Before 2010, RPD did not charge any fees to enter the Botanical Garden.

#### *Creation of the Non-San Francisco Resident Fee*

On June 22, 2010, the Board of Supervisors approved an ordinance to amend Section 12.46(d) of the City's Park Code to establish a new non-San Francisco resident visitor fee for non-San Francisco residents (File 10-0469). The non-San Francisco resident visitor fees are listed in Table 1 below.

**Table 1: Existing Botanical Garden Visitor Fees**

Age/Category	Visitor Fee
San Francisco Residents	Free
Non-San Francisco Resident Adults	\$7.00
Non-San Francisco Resident Youth 12-17 and Seniors 65 and over	\$5.00
Non-San Francisco Resident Children 5-11	\$2.00
Non-San Francisco Resident Children 4 and under	Free
Non-San Francisco Resident Families (2 adults and all children under 17 years residing in the same household)	\$15.00

Source: San Francisco Park Code

*Expiration of the non-San Francisco Resident Visitor Fee*

Park Code Section 12.46(d) includes two expiration clauses for the non-San Francisco resident visitor fee:

1. "If the Department receives revenue from a new tax that can be used for operating and maintenance costs at the Botanical Gardens, authority to collect the non-resident fee for entrance to the Gardens shall expire by operation of the law within 90 days after the effective date of the new tax;" and
2. "The non-resident fee for the Botanical Gardens shall sunset at the end of Fiscal Year 2010-11."

As discussed below, in November of 2010, San Francisco voters approved Proposition N, which increased the Real Property Transfer Tax rates. More than 90 days have elapsed since the passage of Proposition N. Therefore, the non-San Francisco resident visitor fee will expire if the Board of Supervisors appropriates revenues, as certified by the Controller, to RPD from the Real Property Transfer Tax. If the Board of Supervisors takes no action on the non-San Francisco resident visitor fee, the fee will expire on June 30, 2011, as specified in the second expiration clause above. Alternatively, the non-San Francisco resident visitor fee could be extended if the proposed legislation (File 11-0225) to extend the fee beyond June 30, 2011 is approved by the Board of Supervisors.

*Grant Agreement between RPD and SFBGS*

Because there was no language in the MOU between RPD and SFBGS regarding the administration of the non-San Francisco resident visitor fee, on July 27, 2010, RPD and SFBGS entered into a Grant Agreement specifying SFBGS's role in administering the non-San Francisco resident visitor fee. Under the current Grant Agreement, SFBGS agreed to staff the two Botanical Garden gates from 9 a.m. to 6 p.m. between April 1 and October 1 and from 9 a.m. to 4 p.m. between October 2 and March 31. The SFBGS began collecting the non-San Francisco resident visitor fee on August 7, 2010. The Grant Agreement between the RPD and the SFBGS did not require Board of Supervisors approval because the Agreement was projected to generate less than \$1,000,000 in revenue in FY 2010-2011.

*Visitor Fee Administration Costs*

Under the current Grant Agreement between RPD and SFBGS, SFBGS remits gross visitor fee revenues directly to RPD on a weekly basis, and RPD reimburses SFBGS for the costs of administering the visitor fee. As stated in the Grant Agreement, RPD is to reimburse SFBGS for "eligible" administrative costs. Such eligible expenses are listed in the Attachment to this report, which is Appendix A to the Grant Agreement.

However, the Grant Agreement does not specify the specific SFBGS personnel, positions, or the percentage of cost of the FTE positions that RPD is to reimburse to SFBGS. According to Ms. Petrucione, the SFBGS hired four new full-time equivalent (FTE) positions to collect the non-San Francisco resident visitor fee, including: (1) Ticket Taker Supervisor, (2) Lead Agent, (3) North Gate Agent, and (4) Main Gate Agent. Ms. Petrucione stated that RPD agreed to reimburse SFBGS for all of the four new SFBGS positions and a portion of two existing SFBGS positions

at the hourly rates shown in Table 2 below. However, according to Ms. Petrucione, the specific positions and FTE costs that are reimbursed by RPD to SFBGS are based on a verbal understanding between RPD and SFBGS, and are not specified or documented in the Grant Agreement.

**Table 2: SFBGS Positions Reimbursed by RPD**

SFBGS Admission Staff	FTE	Hourly Rate with Fringe Benefits
Finance Manager	0.20	\$40.11
Accounting Assistant	0.40	\$14.00
Ticket Taker Supervisor	1.00	\$14.00
Lead Agent	1.00	\$11.00
North Gate Agent	1.00	\$11.00
Main Gate Agent	1.00	\$11.00
<b>Total</b>	<b>4.60</b>	

Source: RPD

Table 3 below summarizes SFBGS's actual and budgeted costs of administering the non-San Francisco resident visitor fee. Actual costs are shown from August 7, 2010 through February 28, 2011, and budgeted costs are shown from August 7, 2010 through June 30, 2011. Table 3 also includes an annualized estimate of what the FY 2010-2011 budgeted costs would have been if the non-San Francisco resident visitor fee had been effective July 1, 2010, instead of August 7, 2010, as well as the projected annualized costs for FY 2011-2012.

**Table 3: SFBGS Costs Associated with Implementing the Botanical Garden Visitor Fee**

Expenses	Actual Costs, August 7, 2010 to Feb. 28, 2011	Budgeted Costs, August 7, 2010 to June 30, 2011 (Revised 3/30/11)	FY 2010-2011, Annualized Estimate, July 1, 2010 to June 30, 2011 (Revised 3/30/11)	FY 2011-2012 (Projected)
Salaries	\$108,119	\$150,325	\$165,685	\$153,352
Taxes/Benefits	17,527	23,420	25,333	28,722
<b>Payroll Expenses Subtotal</b>	<b>\$125,646</b>	<b>\$173,745</b>	<b>\$191,019</b>	<b>\$182,074</b>
Hiring/Recruitment Costs	\$1,775	\$1,775	\$1,775	\$0
Admission Prep	1,200	1,200	1,200	0
Security	15,267	15,267	15,267	0
<b>Start-Up Costs Subtotal</b>	<b>\$18,242</b>	<b>\$18,242</b>	<b>\$18,242</b>	<b>\$0</b>
Supplies	\$383	\$1,568	\$1,817	\$2,985
Printing	4,156	7,377	8,209	9,974
Telephone	1,318	2,053	2,200	1,764
Bank/Credit Card Fees	2,187	5,623	5,712	6,002
Payroll Services	822	1,450	1,606	2,037
<b>General Expenses Subtotal</b>	<b>\$8,866</b>	<b>\$18,071</b>	<b>\$19,544</b>	<b>\$22,762</b>
<b>Total</b>	<b>\$152,754</b>	<b>\$210,058</b>	<b>\$228,805</b>	<b>\$204,836</b>

Source: SFBGS through RPD.

*Visitor Fee Revenue to Date*

SFBGS originally provided RPD with an estimate of projected gross revenues from the non-San Francisco resident visitor fee totaling \$650,000 for the 12 month period from July 1, 2010 through June 30, 2011 in FY 2010-2011. However, due to both the delayed implementation as well as lower-than-expected revenues from the non-San Francisco resident visitor fee, SFBGS revised its gross revenue projection downward to \$402,401 for the period from August 7, 2010, when the non-San Francisco resident visitor fee was first charged, through June 30, 2011, including \$8,099 in revenue from annual memberships. After inquiries by the Budget and Legislative Analyst's Office, SFBGS provided further revised gross revenue projections of \$355,992 for the period from August 7, 2010 through June 30, 2011, including a reduced projection of \$5,139 in revenue from annual memberships.

As shown in Table 4 below, actual visitor fee revenue has totaled \$231,064 from August 7, 2010 through March 28, 2011. Based on an analysis conducted by the Budget and Legislative Analyst, Table 4 below includes descriptive statistics related to the projected and actual visitor fee revenue for FY 2010-2011.

**Table 4: Botanical Garden Visitor Fee Revenue and Descriptive Statistics**

Revenue Statistic	Amount
Visitor fee revenue, 8/7/10 through 3/28/11	\$231,064
Week with greatest fee revenue (August 17-23, 2010)	\$12,935
Week with least fee revenue (December 14-20, 2010)	\$2,277
Average weekly fee revenue through 3/28/11	\$6,843
Median weekly fee revenue through 3/28/11	\$7,097
Average weekly fee revenue in best two month period (8/10/10 to 10/11/10)	\$9,514
Median weekly fee revenue in best two month period (8/10/10 to 10/11/10)	\$8,640
Average fee revenue per week, from 3/29/11 through 6/30/11,* needed to reach SFBGS's revised reduced projected fee revenue of \$355,992 (including \$5,139 in membership fees)	\$8,921
Number of weeks in which fee revenue equaled or exceeded \$8,921, to date	4
* There are 13 <sup>3</sup> / <sub>7</sub> weeks between March 29 and June 30, 2011	

Figure 1 below, is a line chart illustrating the weekly visitor fee revenues from August 7, 2010 through March 28, 2011. The first plateau represents an average of actual revenue for the first four weeks of March, 2011. The second plateau at the right side of the chart reflects the \$8,921 average weekly revenue that the non-San Francisco resident visitor fee would need to generate from March 29, 2011 through June 30, 2011 to achieve SFBGS's revised reduced visitor fee projection amount of \$355,992 for FY 2010-2011.

**Figure 1: Botanical Garden Visitor Fee Revenue, 8/07/10 through 3/28/11 and Visitor Fee Revenue Level Needed to Achieve SFBGS Projection, 3/29/11 through 6/30/11**

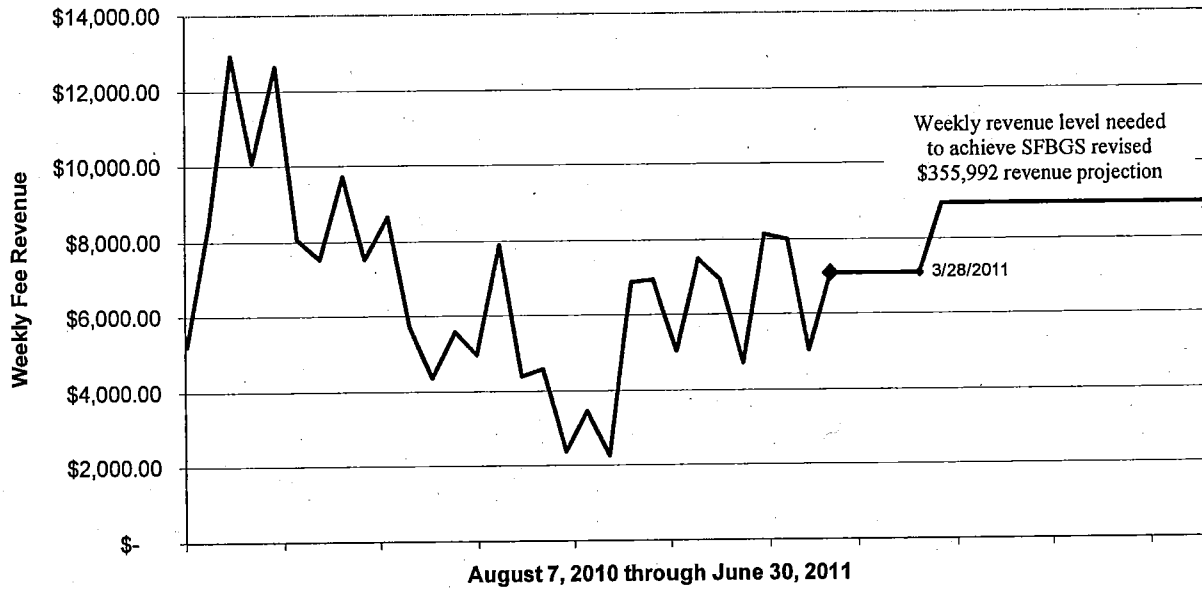
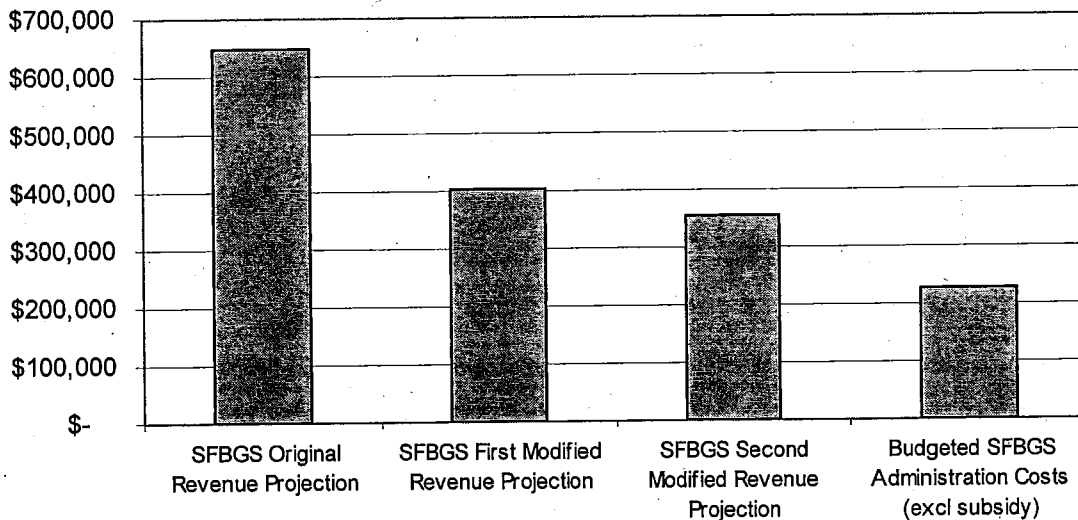


Figure 2 below, compares the different FY 2010-2011 projected amounts, including the projected SFBGS administrative costs described above.

**Figure 2: A Comparison of Botanical Garden Visitor Fee Revenue Projections and Anticipated SFBGS Administrative Costs for FY 2010-2011**



If the non-San Francisco resident visitor fee was extended through FY 2011-2012, SFBGS projects that the non-San Francisco resident visitor fee would generate \$542,055 in revenue in FY 2011-2012.



*SFBGS Made a Verbal Pledge to RPD to Absorb Some Visitor Fee Administrative Costs*

According to Ms. Petrucione, SFBGS agreed to absorb some of the first year and startup costs of the non-San Francisco resident visitor fee in FY 2010-2011, by verbally agreeing to guarantee RPD up to \$250,000 of revenue from the non-San Francisco resident visitor fee in FY 2010-2011. Based on the Budget and Legislative Analyst's analysis of SFBGS's budgeted costs and projected revenues, SFBGS would need to subsidize the RPD with approximately \$104,066 of revenue to offset SFBGS's administrative costs, as shown in Table 5 below.

**Table 5: Projected Visitor Fee Revenue, Costs, and Subsidy for FY 2010-2011**

Projected Visitor Fee Revenue	\$355,992
Net Visitor Fee Revenue to RPD	250,000
<u>Net to be Paid by RPD to SFBGS for Administration of Visitor Fee</u>	<u>\$105,992</u>
SFBGS Administration Costs Budgeted for 8/7/10 through 6/30/11	210,058
Subsidy of Administration Costs Verbally Pledged by SFBGS	(104,066)

However, according to Ms. Petrucione, SFBGS has indicated to RPD that if the City rescinds the non-San Francisco resident visitor fee in FY 2010-2011, then SFBGS would not provide any subsidy to RPD.

However, Ms. Petrucione added that SFBGS pledged that if the non-San Francisco resident visitor fee is extended into FY 2011-2012, and in the unlikely event that gross visitor fee revenue was less than SFBGS's costs of administering the fee, SFBGS would subsidize the difference between gross visitor fee revenue and administrative costs.

### **San Francisco Real Property Transfer Tax, Proposition N**

San Francisco voters approved Proposition N, pertaining to the City's Real Property Transfer Tax, on November 2, 2010. Proposition N amended the San Francisco Business and Tax Regulations Code by amending Section 1102 of Article 12-C – Real Property Transfer Tax to increase the City's Real Property Transfer Tax rate (a) from 1.5 percent to 2.0 percent for sales and long-term leases of real property valued at \$5,000,000 to \$10,000,000 and (b) from 1.5 percent to 2.5 percent for sales and long-term leases of real property valued at \$10,000,000 or more. According to the November 2, 2010 San Francisco Voters Information Pamphlet, proceeds from the tax would accrue to the City's General Fund. The Controller's statement on Proposition N noted, "Should the proposed ordinance be approved by the voters, in my opinion, it will generate additional tax revenue for the City that can be used for any public purpose."

**DETAILS OF PROPOSED LEGISLATION***File 11-0225*

File 11-0225 would amend the San Francisco Park Code, Article 12, by amending Section 12.46, to (1) remove the June 30, 2011 visitor fee sunset date, thereby extending the visitor fee; (2) authorize free admission for San Francisco Botanical Society members and for members of reciprocating horticultural non-profit organizations; (3) eliminate the provision in the City's Park Code that cancels the non-San Francisco resident visitor fee if the Recreation and Park Department receives revenue from a new tax that can be used for Botanical Garden operating and maintenance costs, and (4) make environmental findings. Under the current Park Code, RPD is required to report on the non-San Francisco resident visitor fee twice per year to the Budget and Finance Committee. File 11-0225 would reduce the frequency of these required reports to once per year.

*File 11-0113*

File 11-0113 would rescind the San Francisco Botanical Garden non-San Francisco resident visitor fee on the effective date (estimated to be May 19, 2011), subject to the approval of the proposed ordinance by the Board of Supervisors. In order to make up for the reduction in revenue to the Recreation and Park Department (RPD), the proposed ordinance would also appropriate \$195,176 from the General Fund Reserve resulting from increases to the City's Real Property Transfer Tax. The appropriation of this revenue would be credited to the RPD FY 2010-2011 budget. Such General Fund revenue would result from increased Real Property Transfer Tax revenues based on the passage of Proposition N, as described above. Such tax revenue can be used "for any public purpose," if certified by the Controller and appropriated by the Board of Supervisors.

**FISCAL IMPACTS***File 11-0225*

File 11-0225 would result in the extension of the non-San Francisco resident visitor fee and the associated revenues received by RPD beyond June 30, 2011. RPD projects that the non-San Francisco resident visitor fee would generate \$542,055 in revenues in FY 2011-2012. These additional revenues would be offset by budgeted administrative costs of \$204,836 in FY 2011-2012. Therefore, the estimated net revenue to RPD in FY 2011-2012 would be an estimated \$337,219. This net additional revenue would accrue to RPD's FY 2011-2012 General Fund budget. According to Ms. Petrucione, RPD has assumed the continuation of revenues from the non-San Francisco resident visitor fee in RPD's FY 2011-2012 annual budget submission to the Mayor's Office.

*File 11-0113*

File 11-0113 would rescind the current non-San Francisco resident visitor fees. The proposed ordinance would also appropriate \$195,176 from the City's General Fund Reserve to RPD for general maintenance of the Botanical Garden in FY 2010-2011, in order to offset the financial impacts from terminating the non-San Francisco resident visitor fees and the associated revenues currently received by RPD.

As noted above, if this proposed ordinance is approved, the estimated effective date to cease collecting the non-San Francisco resident visitor fee is May 19, 2011. The Budget and Legislative Analyst estimates that File 11-0113 would result in foregone revenues to RPD totaling \$158,863, which would be offset by not having to reimburse SFBGS for estimated administrative costs of \$15,418, resulting in total estimated net foregone revenues to RPD of \$143,445 as shown in Table 6 below.

**Table 6: Estimated Foregone Revenue and Avoided Costs to RPD, File 11-0113**

Foregone non-San Francisco Resident Fee revenues, May 19, 2011 through June 30, 2011*	\$54,797
Loss of SFBGS subsidy	104,066
<b>Subtotal: Foregone Revenue and Subsidy</b>	<b>\$158,863</b>
(Avoided SFBGS Administrative Costs)**	(15,418)
<b>Estimated Foregone Revenue less Avoided Costs</b>	<b>\$143,445</b>

\* Assumes average revenue of \$8,921 per week.

\*\* Straight-line calculation based on remaining Administrative Fee budget as of February 28, 2011.

The subject, requested \$195,176 General Fund Reserve appropriation exceeds the amount needed by \$51,731 (\$195,176 less \$143,445).

## POLICY CONSIDERATIONS

### The Visitor Fee Automatically Expires on June 30, 2011

As noted in the Background section above, if no further action is taken by the Board of Supervisors, the non-San Francisco resident visitor fees will expire on June 30, 2011. Therefore, if the Board of Supervisors takes no action on the two proposed ordinances, June 30, 2011 would be the last day that SFBGS and RPD can charge the non-San Francisco resident visitor fee, such that entry to the Botanical Garden would be free for all visitors, including non-San Francisco residents, effective July 1, 2011.

### The Non-San Francisco Resident Visitor Fee Is Relatively Expensive to Administer

As shown in Table 5 above, the SFBGS projects FY 2010-2011 non-San Francisco resident visitor fee revenue will total \$355,992. SFBGS's budgeted administrative costs to be reimbursed by RPD to SFBGS are \$210,058 in FY 2010-2011, or 59.0 percent of the fee revenue (excluding

SFBGS's subsidy). In other words, as shown in Table 7 below, in FY 2010-2011 it will cost more than \$0.59 in administrative expenditures to earn each \$1.00 of non-San Francisco resident visitor fee revenue.

**Table 7: Ratio of Visitor Fee Revenue to Cost**

Year	Projected Administration Cost	Projected Revenue	Net Revenue, Excluding SFBGS Subsidy	Cost per \$1.00 of Revenue
FY 2010-2011 (With rejection of File 11-0113)	\$210,058	\$355,992	\$145,934	\$0.590
FY 2011-2012 (With rejection of File 11-0113 and approval of File 11-0225)	\$204,836	\$542,055	\$337,219	\$0.378

If the Board of Supervisors approves File 11-0225 and extends the non-San Francisco resident visitor fees beyond June 30, 2011, this ratio of administrative costs to revenues is expected to decrease. With startup costs already having been paid in FY 2010-2011, SFBGS's administrative costs are estimated to decrease from \$210,058 in FY 2010-2011 to \$204,836 in FY 2011-2012. With a full 12 months of revenue and increased advertising, programming and attendance, RPD and SFBGS are projecting FY 2011-2012 revenue would be \$542,055. Based on these projections, the ratio of cost to revenue would decrease from 59.0 percent in FY 2010-2011 to 37.8 percent in FY 2011-2012, as shown in Table 7 above. Therefore, it will cost \$0.378 in administrative expenditures to earn each \$1.00 of non-San Francisco resident visitor fee revenue in FY 2011-2012.

The Budget and Legislative Analyst notes that the costs of administering the non-San Francisco resident visitor fee are relatively fixed, while the revenue is dependent on attendance. Therefore, if actual non-San Francisco resident visitor fee revenue falls below SFBGS's projections, the ratio of cost to revenue will increase.

In the professional judgment of the Budget and Legislative Analyst, SFBGS's FY 2011-2012 non-San Francisco resident visitor fee revenue projection of \$542,055, an increase of \$186,063 or 52.3 percent over the \$355,992 revised reduced revenue projection for FY 2010-2011 is highly optimistic. If such revenues fall short of the projection, SFBGS's administrative costs would exceed 37.8 percent of the FY 2011-2012 revenue.

**In the Professional Judgment of the Budget Analyst, SFBGS's and RPD's  
FY 2011-2012 Revenue Projection of \$542,055 is Highly Optimistic;  
A Revenue Shortfall Could Impact RPD's FY 2011-2012 General Fund Budget**

After inquiries made by the Budget and Legislative Analyst, on March 30, 2011, SFBGS through RPD provided the Budget and Legislative Analyst with a revised reduced non-San Francisco resident visitor fee projection of \$355,992 for FY 2010-2011. However, SFBGS and RPD are not revising their projection that the non-San Francisco resident visitor fee would generate \$542,055 in FY 2011-2012. This projection would be an increase of \$186,063, or 52.3 percent over SFBGS's revised reduced revenue projection of \$355,992 for FY 2010-2011. Ms. Petrucione

notes that if the non-San Francisco resident visitor fee is extended, the non-San Francisco resident visitor fee would be in place for an entire 12 months, instead of approximately 11 months in FY 2010-2011, and RPD and SFBGS would engage in a "robust marketing campaign" including work with local hotels, the San Francisco Convention and Visitors Bureau, and bolster programming to increase attendance.

In the professional judgment of the Budget and Legislative Analyst, a 52.3 percent increase in revenue is highly optimistic.

Despite this optimism, the Budget and Legislative Analyst notes that SFBGS has not pledged to subsidize the administrative costs of the non-San Francisco resident visitor fee in FY 2011-2012. If revenues increase in an amount less than the projected 52.3 percent in FY 2011-2012, RPD's FY 2011-2012 General Fund could be impacted.

### **RPD Should Discontinue the Practice of Entering Into Verbal Unwritten Agreements**

RPD and SFBGS are administering the non-San Francisco resident visitor fee under a Grant Agreement entered into by both parties on July 27, 2010. As noted in the Background section above, the Grant Agreement between RPD and SFBGS did not require Board of Supervisors approval. As discussed above, RPD and SFBGS are administering the non-San Francisco resident visitor fee based in part on verbal agreements between SFBGS and RPD, including: (1) RPD has agreed to reimburse SFBGS for the cost of 4.6 FTEs, shown in Table 2 above, and (2) SFBGS has agreed to subsidize the cost of administering the visitor fee in FY 2010-2011 in the amount of \$104,066 (see Table 5 above). Although these two verbal agreements are not included in the Grant Agreement, both of these verbal agreements impact the net revenue associated with the non-San Francisco resident visitor fee.

The Grant Agreement between RPD and SFBGS expires on June 30, 2011. According to Ms. Petrucione, if the Board of Supervisors disapproves File 11-0113 to rescind the non-San Francisco resident visitor fee and approves File 11-0225, extending the non-San Francisco resident visitor fee beyond June 30, 2011, RPD and SFBGS would amend their Grant Agreement, as described in the Background section above. Ms. Petrucione adds that RPD and SFBGS would then work to amend the current MOU between RPD and SFBGS in order to include provisions related to the administration of the non-San Francisco resident visitor fee. Ms. Petrucione anticipates that this revised MOU would be submitted to the Board of Supervisors for approval.

### **The Expiration Date for the Botanical Garden Visitor Fee in File 11-0113 Has Elapsed and Should be Revised**

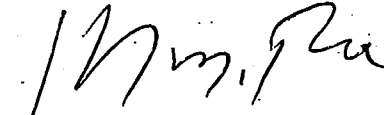
File 11-0113, Section 3 begins "As of March 17, 2011, the Botanical Garden entrance fee shall expire ..." Because March 17, 2011 has already elapsed, if the Board of Supervisors approves this proposed ordinance, Section 3 of the ordinance should be revised to begin "As of the effective date of this ordinance, the Botanical Garden entrance fee shall expire ..."

### **The General Fund Appropriation in File 11-0113 Should be Reduced**

When File 11-0113 was originally introduced, the \$195,176 General Fund appropriation request was included to offset the financial impacts from terminating the non-San Francisco resident visitor fees and the associated revenues currently received by RPD, assuming an effective date of March 17, 2011. Because March 17, 2011 has elapsed, if the Board of Supervisors approves File 11-0113, the proposed ordinance should be amended to reflect the effective date of the proposed ordinance, which is estimated to be May 19, 2011. As shown in Table 6 in the Fiscal Analysis section above, if the non-San Francisco resident visitor fee was rescinded on May 19, 2011, the Budget and Legislative Analyst estimates that RPD would forego \$143,445 in estimated net revenues. Therefore, if the Board of Supervisors approves File 11-0113, the ordinance should be amended to reduce the General Fund appropriation by \$51,731, from the \$195,176 request to the estimated needed amount of \$143,445.

### **RECOMMENDATIONS**

1. If the Board of Supervisors approves the proposed ordinance (File 11-0225), request the RPD to (a) explicitly state the SFBGS FTEs and salary costs that would be reimbursed by RPD to SFBGS under any future MOU or Grant Agreement between the RPD and SFBGS, and (b) discontinue the practice of making verbal or other informal clarifications to any future MOUs or Grant Agreements between RPD and SFBGS.
2. Approval of the proposed ordinance (File 11-0225) is a policy decision for the Board of Supervisors since (a) the cost of administering the non-San Francisco resident visitor fee is high, and (b) the projected 52.3 percent increase in revenue from FY 2010-2011 to FY 2011-2012 is highly optimistic in the professional judgment of the Budget and Legislative Analyst, and revenue shortfalls could potentially impact RPD's FY 2011-2012 General Fund Appropriation.
3. Amend the other proposed ordinance (File 11-0113) to replace "As of March 17, 2011," with "As of the effective date of this ordinance."
4. Amend the proposed ordinance (File 11-0113) to reduce the requested appropriation from the General Fund Reserve by \$51,731, from \$195,176 to \$143,445, the estimated amount needed to keep RPD's FY 2010-2011 budget in balance.
5. Approval of the proposed ordinance, as amended (File 11-0113) is a policy decision for the Board of Supervisors, as this ordinance would rescind the current non-San Francisco resident visitor fees and replace the non-San Francisco resident visitor fee revenue with General Fund revenues for the balance of FY 2010-2011.



Harvey M. Rose

cc: Supervisor Chu  
Supervisor Mirkarimi  
Supervisor Kim  
Supervisor Wiener  
President Chiu  
Supervisor Avalos  
Supervisor Campos  
Supervisor Cohen  
Supervisor Elsbernd  
Supervisor Farrell  
Supervisor Mar  
Clerk of the Board  
Cheryl Adams  
Controller  
Greg Wagner

### Appendix A--Definition of Eligible Expenses

The term "Eligible Expenses" shall mean expenses incurred and paid by Grantee during the term of this Agreement in implementing the terms of the Grant Plan.

All Eligible Expenses *must be*:

- (a) paid by Grantee prior to the submission of the applicable Funding Request (no advances of Grant Funds shall be made);
- (b) direct out-of-pocket expenses incurred by Grantee or its officers, directors and employees related to the operation or maintenance of the entrance fee collection program;
- (c) operating (as opposed to capital) expenses;
- (d) within the scope of the applicable Budget line item; and
- (e) directly related to activities performed within the physical boundaries of the City and County of San Francisco.

Eligible Expenses shall *include*:

- (1) all personnel costs, including salaries and wages, taxes and benefits;
- (2) rent or related fees for equipment, performance or meeting halls or studios;
- (3) telephone charges, stationery and office supplies; and
- (4) advertising and publicity costs.

Eligible Expenses shall specifically *exclude*:

- (1) personal or business-related costs or expenses related to meals, catering, transportation, or lodging;
- (2) capital expenses;
- (3) any costs or expenses which are prohibited under the terms and conditions of any federal or state grant supplying all or any portion of the Grant Funds;
- (4) penalties, late charges or interest on any late payments; or
- (5) taxes or other amounts withheld from wages or salaries which have not actually been paid by Grantee during the term of this Agreement or which relate to periods before or after the term of this Agreement.



BOARD of SUPERVISORS



City Hall  
Dr. Carlton B. Goodlett Place, Room 244  
San Francisco 94102-4689  
Tel. No. 554-5184  
Fax No. 554-5163  
TDD/TTY No. 554-5227

**MEMORANDUM**

TO: Planning Department  
Environmental Review Officer

FROM: Angela Calvillo, Clerk of the Board

DATE: March 8, 2011

SUBJECT: REFERRAL FROM BOARD OF SUPERVISORS  
Budget and Finance Committee

The Board of Supervisors Budget and Finance Committee has received the following, which is being referred to the Planning Department for determination as to whether the proposed fee increase will impact the environment.

**Please provide your findings within 10 days from the date of referral.**

File: 110225

Botanical Garden Non-Residence Fee

Please return this cover sheet with the Commission's response to Victor, Clerk, Budget and Finance Committee.

cc: Nannie Turrell, Major Environmental Analysis  
Brett Bollinger, Major Environmental Analysis

\*\*\*\*\*

RESPONSE FROM PLANNING DEPARTMENT - Date: March 27, 2011

No Comment  
 Recommendation Attached

*Exempt from CEQA,  
per CEQA Guidelines  
Sec 15273,*

*Nannie R. Turrell for*  
\_\_\_\_\_  
Bill Wycko, Environmental Review Officer

Referral - Fees *Rates, Tolls, Fines and Charges*

Fw: Budget and Finance SUB and FULL Agendas for 4/6/11 - DRAFT - For your information only. Please do no distribute.  
Katharine Petrucione to: Victor Young

03/29/2011 05:05 PM

Hi Victor -

Here is the budget for maintaining the Botanical Garden:

<b>Botanical Garden Staffing</b>		<b>FTE</b>
0923 C	Manager II	0.50
2708 C	Custodian	2.00
3417 C	Gardener*	10.00
3422 C	Park Section Supervisor	1.00
		13.50

\*11th Gardener funded by SFBS

**Botanical Garden '10-'11 Budget**

Salary	808,286
Fringe	392,897
Department Overhead	464,468
Materials & Supplies	12,300
	<b>1,677,951</b>

**Annual Gift From SFBS**

Funding for 11th Gardener	82,537
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Here is the budget in the current year for collecting the fee:



'10-'11 Botanical Garden Entry Fee.pdf

----- Forwarded by Katharine Petrucione/RPD/SFGOV on 03/29/2011 05:00 PM -----

From: Sarah Ballard/RPD/SFGOV  
To: Katharine Petrucione/RPD/SFGOV@SFGOV  
Date: 03/29/2011 02:46 PM  
Subject: Fw: Budget and Finance SUB and FULL Agendas for 4/6/11 - DRAFT - For your information only.  
Please do no distribute.

Can you please provide to Victor asap? Thanks.

Sarah Ballard  
Director of Policy and Public Affairs  
San Francisco Recreation and Parks  
McLaren Lodge  
Golden Gate Park  
501 Stanyan Street  
San Francisco, CA 94117

p- 415-831-2740  
f- 415-831-2096

2010 -2011

SF Botanical Gardens Admissions  
Income Statement  
Projection June 30, 2011

	Aug.-June 10 mo/3 wks	July-June 12 months
<b><u>RPD REVENUE INCOME</u></b>		
Admission Ticket Sales	\$ 394,302.00	\$ 463,689.00
Non-Resident Members	\$ 8,099.00	\$ 8,848.00
<b>Total Income</b>	<b>\$ 402,401.00</b>	<b>\$ 472,537.00</b>
<b><u>SFBG Society EXPENSE PAYROLL EXPENSE</u></b>		
Salaries	\$ 151,064.87	\$ 166,425.47
Taxes/Benefits	\$ 29,912.26	\$ 31,825.86
<b>Total Payroll Expense</b>	<b>\$ 180,977.13</b>	<b>\$ 198,251.33</b>
<b><u>START-UP COSTS</u></b>		
Hiring/Recruitment Costs	\$ 1,775.00	\$ 1,775.00
Admission Prep	\$ 1,200.00	\$ 1,200.00
<b>Total Start-up Costs</b>	<b>\$ 2,975.00</b>	<b>\$ 2,975.00</b>
<b><u>EXPENSES</u></b>		
Supplies	\$ 2,735.83	\$ 2,984.54
Printing	\$ 9,142.48	\$ 9,973.61
Telephone	\$ 9,558.00	\$ 9,705.00
Security	\$ 15,266.76	\$ 15,266.76
Bank Fees	\$ 551.93	\$ 569.73
Credit Card Fees	\$ 4,260.02	\$ 4,330.91
Payroll Services	\$ 1,449.72	\$ 1,606.44
<b>Total Expenses</b>	<b>\$ 42,964.74</b>	<b>\$ 44,436.99</b>
<b>Total SFBG Society Expenses</b>	<b>\$ 226,916.87</b>	<b>\$ 245,663.32</b>
RPD Net Revenue	\$ 250,000.00	\$ 250,000.00
Net Income/Expense	\$ (74,515.87)	\$ (23,126.32)
SFBG Society Investment	\$ 74,515.87	\$ 23,126.32

OFFICE OF THE MAYOR  
SAN FRANCISCO



EDWIN M. LEE  
MAYOR

TO: Angela Calvillo, Clerk of the Board of Supervisors  
FROM: *for* Mayor Edwin M. Lee *EE*  
RE: Park Code – Botanical Garden Non-Resident Fees  
DATE: March 1, 2011

---

Dear Madame Clerk:

Attached for introduction to the Board of Supervisors is the ordinance amending the San Francisco Park Code, Article 12, by amending Section 12.46, (1) to extend admission fees to the Botanical Garden for non-San Francisco residents beyond June 30, 2011; (2) eliminate the provision cancelling this admission fee if the Recreation and Park Department receives revenue from a new tax that can be used for Botanical Garden operating and maintenance costs, and (3) making environmental findings.

I request that this item be calendared in Budget & Finance Committee.

Should you have any questions, please contact Jason Elliott (415) 554-5105.