

May 13, 2013 Finance Committee Agenda Item Comments

These comments on items on the May 13, 2013 Newport Beach City Council Finance Committee agenda are submitted by: Jim Mosher (jimmosher@yahoo.com), 2210 Private Road, Newport Beach 92660 (949-548-6229)

Item 3. Public Comments on Non-agenda Items

1. What happened to the review of the Fire [Department] Fee Schedule?
 - a. Item E (“Finance Committee 2013 Work Plan”) on the April 22 agenda indicated it would be discussed at this meeting, with all Master Fee Schedule changes to be considered by the full Council on “*March 26th*” (possibly a typo for May 28?).
 - b. Is there, or does there need to be, a clearer schedule for systematic review of sections of the Master Fee Schedule?
2. In connection with the discussion at the April Finance Committee meeting about the distinction between “Restricted” and “Committed” funds, I wanted to call the attention of staff and the Committee to a section of the California Government Code I noticed in researching the proposed changes to the Development Agreement review procedures to be presented on the Consent Calendar at this Tuesday’s Council Meeting. That section is the “Mitigation Fee Act” (“MFA” : Government Code Sections 66000-66008), which imposes detailed restrictions and annual reporting requirements on fees collected as a requirement for approval of developments. Quimby and Development Agreement related fees were originally exempted by the definition of “fee” in Section 66000(b), but I would assume such things as our Fair Share Traffic Contributions (NMBC Chapter 15.38) *would* be included. In addition, Government Code Section 65865(e), inserted by AB 1347 in 2003, appears to have removed the exemption for Development Agreement related fees collected after January 1, 2004, at least with respect to the annual reporting requirements of Government Code Section 66006. I believe the consequences of this are that:
 - a. Some funds thought of by staff as merely “committed” (that is, having a possibility that Council could change their use), are actually “restricted” by the MFA.
 - b. A number of existing fee-holding funds are probably subject to the detailed public reporting requirements of the MFA, which we do not seem to have been observing.

Item 4. Approval of April 22, 2013, Minutes

It is good to see the April minutes are back to the Committee’s usual high standard. Although a few points have been left unrecorded (such as what happened to the demonstration of the “*Excel-based fiscal forecast modeling tool known as MuniCast*” announced under Item D in the previous agenda), I found them much more readable than the previous minutes, which seemed to attempt to list *every* comment, but in language such that the substance of the comment was often undecipherable.

That said, the promise to post, on the Committee pages, the final approved minutes and other materials distributed or agreed to at the meetings (such as these comments and the finalized Work Plan), does not yet seem to have been fulfilled (or at least I was unable to find them).

Some minor suggested changes to *italicized passages* from the draft minutes are shown below in **strike-out** and **underline**.

Suggested corrections:

Page 1:

- Under "1. CALL TO ORDER": "*The meeting was called to order at 4:05 p.m. in the Council Conference Room, ~~3300 Newport Blvd.~~ 100 Civic Center Drive, Newport Beach, California ~~92663~~ 92660 (?)*."
- Under "2. ROLL CALL": "*Present: Council Member Mike Henn (Chair), Mayor ~~Pro-Tem~~ Keith Curry and Council Member Tony Petros*"

Page 2, paragraph 4: "*Council Member Petros reviewed the Municipal Code and Charter, and confirmed that the City Council has authority to direct funds ~~to~~ out of the Off Street Parking fund.*" [I believe this is what was said on April 22, but I would respectfully suggest Council Member Petros read City Charter Section 1113 (under which the Off Street Parking funds in question were set up) more carefully. I believe Section 1113 gives the Council the authority to redirect the balances in those funds to another use *only* with respect to a surplus that remains after the original purpose for which the fund was created has been completely accomplished, and even then, the surplus can be redirected *only* into the Charter-created (and restricted) general capital improvements fund. Other than that, a redirection of money from a Section 1113 fund requires a vote of the people. Hence I continue to think these funds are not merely "committed," but "restricted."]

Page 3:

- Paragraph 3: "*The formerly named Facilities Replacement Plan shall be named the Facilities Financial Planning Reserve fund.*"
- Under Item D: "*~~Council Member~~ ??? reviewed the outline proposed for the Quarterly Financial Report (QFR) for the quarter ended March 30, 2013, which will be going to the Council with the Quarterly Business Report on May 28, 2013.*" [I believe either **Director Matusiewicz** or **Deputy Director Montano** (or both?) presented the review of the QFR]
- Last line: "*...they will request the Finance Director to convene a meeting of the Committee.*"

Item 5.A. Budget Review

- To check just one number in detail, in the table of revenues on page 4, I am puzzled by how the amended General Fund "*Other Revenue*" for 2012-13 could be as low as the reported \$2,414,969 if it indeed includes "*the one-time receipt of \$2.5 million in FY 2012-13 from the sale of helicopter equipment following the dissolution of the Joint Powers Airborne Law Enforcement program*" as it says it does at the top of the page. ABLE's own audited financial report lists \$5,103,630 as the final amount payable to the joint

powers members upon dissolution. Half of that item alone would be \$2,551,815, or \$137k more than the total "*Other Revenue*" reported. Did Newport Beach receive less than half the ABLE payout?

- Further down in the same table, I suspect "*All Other Revenue*" is supposed to include Tidelands, Water and Wastewater revenues (corresponding to the non-General Fund expenses highlighted in the paragraph following the table), but I'm not sure.
- In the table on page 5, I suspect "*Debt service/Non Departmental*" does *not* include debt service on the City's Certificates of Participation, but if not, it is unclear to me where in the overall budget (as presented) the money to pay them is shown.
- The explanation of "*internal service charges*" at the bottom of page 5 makes them sound like they are used to pay charges for real outside expenses, but I think they are actually internal transfers between the listed departments (and to the department actually paying the expense?), making them not part of the City's interaction with the outside world, and hence subtracted from both tables.
- The "explanation" of changes to the City Workforce, and their significance, on pages 6-7 leaves me completely in the dark as to whether this is a report on changes that took place in the fiscal year currently ending, that are planned for the upcoming year, or a combination of the two. Have all these changes been reviewed and approved by the City Council as required by the last sentence of City Charter Section 601?