

## March 25, 2013 Finance Committee Agenda Item Comments

The following comments on items on the March 25, 2013 Newport Beach City Council Finance Committee agenda are submitted by: Jim Mosher ( [jimmosher@yahoo.com](mailto:jimmosher@yahoo.com) ), 2210 Private Road, Newport Beach 92660 (949-548-6229)

### ***Non-agenda Comments***

- Page 3 of the draft February 28, 2013, Minutes indicates that the Fire Department related portion of the Master Fee Schedule was going to be reviewed by the Committee at the present meeting. I am particularly interested in fire fees, since fire protection seems to me like a very basic municipal function, and not a value added service. Will this be on a future agenda?
- Page 2 of those minutes includes a question about the dollar amount of receivables over one year old. Has that question been answered?
- Page 2 also contains a recommendation to delete the June entrance interview with the auditor and replace it with a requirement that the auditor contact the Finance Committee member individually to obtain their views. Since the Brown Act prohibits the Committee members from coordinating their advice outside of a public meeting, this does not seem a very good idea to me, and is likely to lead to a prohibited hub-and-spoke serial meeting if the auditor needs to obtain concurrence regarding conflicting input received.

This also got me thinking about what happens when the auditors *finish* their work, and the rather cursory exit interview mentioned by Committee Chair Henn in an oral announcement at the last City Council meeting. Since much is made of the budget in May and June per City Charter sections 1101-1105, and City Charter section 1116 continues to make an equally big deal of the requirement for an audit and the various year end reports to be made available to all Council members, in the Clerk's office, and posted on the internet, doesn't this imply the audited financial state of the City at each year's end, when it is available, should be a topic for presentation and discussion at a full Council Meeting? At present, I'm not sure it's even on the Consent Calendar.

### ***Item 4. Approval of Minutes***

I hope the Committee will consider the following changes shown in **strike-out** and **underline**.

#### **June 11, 2012, Minutes**

Page 1, paragraph 1 under "3": "He noted the City Council, not the BIDs, ***actually spends should spend*** the BID levy through normal City mechanisms. He also questioned what a cash basis fund is ***(Charter section 1112), as and*** referred to ***in*** a section of the Charter that puts ***certain*** limits on what can be done with capital improvement funds ***(section 1113).***"

#### **February 28, 2013, Minutes**

Page 2:

- paragraph 2 under “B”: “Council Member Henn discussed identifying an additional responsibility for review and recommendations associated **with** the City’s Facilities Financing Plan (FFP).”
- final paragraph under “B”: “Council Member Petros **mentioned moved**, Mayor Curry seconded to direct staff to bring the revised Finance Committee Charter as amended to the full City Council for approval.”

Page 3:

- paragraph 3: “Council Member Henn recognized that this may not have much **have** impact on the upcoming budget year deliberations ...”

Related comment: What happens to approved minutes? They don’t seem to be posted to the Committee’s “Agendas and Minutes” page.

### **Item 5.A. Reserve Level Funding Status**

On pages 3 and 4 of the staff report, is the year correct in the references to “the June 30, **2011**, valuation report,” or is it **2012**?

Regarding specific reserves:

- What is the current status of the dedicated Capital Improvement Fund created by City Charter section 1113, and do we have any other reserves created by prior Councils pursuant to that section?
- Is the current overfunding of the Equipment Replacement Fund related to the deferral of equipment replacement at the old City Hall site? Was the replacement equipment acquired for the new City Hall charged to this fund? How does renewal and upgrading of the City’s trash collection fleet play into this? If the City chooses not to outsource, would those costs be charged to this fund, or some other one?
- The tables accompanying the report make it appear the City’s expected liability for Workers’ Compensation (which I take to be expected annual payments related to city employee injuries) are 3 to 4 times the anticipated “General liability” (which I take to be expected annual payments related to claims of harm caused by the City from all outside entities). Is this correct? Or are there additional outside claims paid by insurance? Why is a list of the claims not publicly presented to the Council as a consent calendar item as in most other cities? Are the Workers’ Compensation payments confined to City employees, or does the City make any payments related to contractors?

### **Item 5.B. Council Policy B-1, Park Fee Policy Revisions**

The existing Policy B-1 contains some minor typos, and it would seem reasonable to correct them as part of this revision.

For example, Policy B-1 refers in several places to the “**Recreation and Open Space Element of the General Plan**” but Chapter 8 of the current General Plan is called simply “**Recreation Element**” and as explained in the introduction to that chapter, the former *Recreation and Open Space Element* no longer exists. Open Space (which includes such things as the water surface of the Harbor) is now treated very briefly in the *Natural Resources Element*, and park dedication is also touched on in the

*Land Use Element.* In addition to this confusion, Policy B-1 refers inconsistently to “**Service** Areas” and “**Services** Areas.” The terminology in the current General Plan is “**Service** Areas” and they are defined in the **Recreation Element**.

As another example, the sentence that straddles pages 1 and 2 contains an obvious typo that could be corrected: “*Accordingly, park fees generated by a subdivision within any services **are area** may be used to create new, or rehabilitate, existing park or recreational facilities within that services area and as provided in the Recreation and Open Space Element,*” but more generally, the commas and *ands* and *ors* that follow the correction make the intended meaning of the policy a bit uncertain. My guess is the sentence was intended to read something like:

*“Accordingly, park fees generated by a subdivision within any **services are service area** may be used **only** to create new or rehabilitate existing park or recreational facilities within that **services service** area **and** as provided **defined** in the Recreation **and Open Space** Element.”*

Even with that clarification, I find the policy restriction to Service Areas a bit artificial, since a development near the border of a service area might well be more logically served by new or existing facilities in an adjacent area. Beyond that, the remainder of the policy makes it unclear if the Council is declaring that *all* facilities in Newport Beach serve *all* residents, thus circumventing the intention of the Quimby Act that the fees exacted be spent very locally. The language from California Government Code section 66477(a)(3) that we are presumably trying to implement is: “*The land, fees, or combination thereof are to be used only for the purpose of developing new or rehabilitating existing neighborhood or community park or recreational facilities to serve the subdivision.*” Do we regard Begonia Park as “serving” the future residents of Banning Ranch?

Additional comments:

1. It would seem helpful to include in the Policy a clearer reference to the “Quimby Act,” which Policy B-1 echoes (California Government Code section 66477, which is itself within that division of the Government Code known as the “Subdivision Map Act”), and the Council’s intention to adhere to that, if that is its intention.
2. It would also seem helpful to mention the requirement that any developer fees not committed within five years be returned to the property owners per section 66477(a)(6).
3. The policy as written is also confusing in its references to open space. I suspect the Quimby fees can be used only for development of recreational opportunities, not for acquisition of open space with no plan to develop it or make it accessible, nor for operation or maintenance of existing facilities (although the distinction between “rehabilitation” and “maintenance” may be less than clear).

### ***Item 5.C. Facilities Finance Plan Update***

It is good to see the City is planning for the future. It would be even better if it was planning to finance future facilities needs through savings rather than through new cycles of borrowing.

I look forward to an explanation of the new *Facilities Financing Plan Dashboard*, some elements of which are not totally clear to me, and hope the Committee and Council will see fit to make this a

more publicly accessible document. At present, the Facilities Finance Plan is much talked about, but not, as far as I know, accessible from the City website.

I also find somewhat troublesome the scenarios in which future residents will be left with FFP debt service of more than 5% of General Fund revenues, which I thought had been the previously assumed reasonable limit. How much other debt service do we anticipate beyond the FFP component?

### ***Item 5.D. Draft Debt Management Policy***

I find the discussion of “debt management” rather alien because it seems to me a well run City should not need to incur debt.

I am particularly troubled by the recommendation for continued reliance on “Certificates of Participation” (page 7 of Draft-6) in which, as I vaguely understand it, bondholders share in the lease revenue that the City has pledged to pay to (what I view as) a sham “City of Newport Beach Public Facilities Corporation.” Even though the COP payments may not be formally *added* to property tax bills, the debt service diverts that revenue stream from other more basic municipal uses, so it is ultimately a portion of our property taxes that is pledged to pay these. It is, therefore, difficult for me to see COPs as anything other than a scheme to masquerade general obligation bonds as revenue bonds, thereby improperly evading the City Charter section 1109 requirement for voters to approve general obligation debt before we incur it.

As to the text of the proposed policy, I have trouble understanding both the meaning and the intent of the sentence at the top of the final page: “*In no case shall bond repayments increase on an annual basis in excess of 2%.*” I think this means that in a planned payment schedule, each year’s dollar payment can be no more than 2% larger than the previous year’s dollar payment. But does this apply only to planned schedules, or to actual payments? If the latter, does this prohibit early repayment of debt? And why would that be a good policy?

### ***Item 5.E. Review of the RFP Outline for the Residential Solid Waste Program***

In the staff report, I think the anticipated cost of fleet replacement may be unfairly held up as a specter driving outsourcing. My understanding from the earlier HF&H report is that the City continuously replaces its fleet, with a 10 year maximum lifetime per vehicle, that we are already well into the process of converting from diesel to CNG, and that we are actually facing only the incremental difference in cost of CNG versus diesel when replacements are purchased. What is that incremental cost? And shouldn’t it be tempered by a comment I heard last week from the Costa Mesa Sanitary District’s contractor, CR&R, that they were saving *large* amounts of money by converting because CNG costs so much less than diesel? If we choose not to outsource, do we know what our savings would be? And should we accelerate the conversion schedule?

In the RFP, a number of the requested services do not seem viable via automated collection (Option 2), but I guess that will be up to the respondents to figure out how to provide them.