

CITY OF NEWPORT BEACH
CITY COUNCIL FINANCE COMMITTEE
MINUTES

The Finance Committee met at 2:00 p.m. on Monday, May 10, 2010, in the Council Chambers, 3300 Newport Blvd., Newport Beach, California 92663.

1. ROLL CALL

Present: Mayor Keith Curry and Council Member Leslie Daigle

Absent: Mayor Pro Tem Mike Henn (excused)

Staff present: City Manager Dave Kiff, Administrative Services Director Tracy McCraner, Interim Deputy Administrative Services Director Dan Matusiewicz, Acting City Attorney Leonie Mulvihill, Deputy City Attorney Kyle Rowen, Risk Manager Lauren Farley and Administrative Coordinator Tammie Frederickson

Outside entities: Paul Singarella and Brook Roberts with Latham & Watkins; Danielle Wood with Ron Rakich & Associates, Inc.

2. APPROVAL OF MINUTES

The minutes for the Finance Committee meeting of April 12, 2010, were approved as submitted. Mayor Curry abstained.

3. PUBLIC COMMENTS

There were no public comments at this time.

4. DISCUSSION/ACTION ITEMS

A. MONTHLY FINANCE COMMITTEE UPDATE

1. Fiscal Sustainability Planning

a. 2010-11 Budget Update

Administrative Services Director McCraner previewed the May 11, 2010, Study Session budget update presentation. She stated the FY 2010-11 revenues are in line with expectations and she reviewed the various categories of revenues. Sales tax projections were increased by 1.5% based on upward trending; licenses and permits show a 5% growth because building permits are expected to increase as well as Planning Department fees; and a reduction in intergovernmental revenue is due to a public safety grant and an OES grant received in 2010 that will not be received in 2011. In response to a question raised by Council Member Daigle, City Manager Kiff said he reviews grants to

see if a long-term staff cost or matching fee will be added. He noted the grants on recent Council agendas have been per capita grants or grants received from the Federal government for emergency safety.

Ms. McCraner noted the increase in income property is due to parking meter and lot increases recently approved by Council. She also pointed out that Marina Park rental income is shown for six month and Mr. Kiff added that the term would extend if the Coastal Commission doesn't approval the Marina Park plan.

Mr. Kiff asked that the bond issue for the Civic Center and OASIS be presented differently and Mayor Curry concurred noting it is an asset not revenue. In response to a question raised by Council Member Daigle, Ms. McCraner explained that with the bond issue a reimbursement agreement will be included for the costs already accrued on the Civic Center project. She said OASIS out-of-pocket costs of approximately \$4.5 million will be paid from the facilities financing plan reserves.

Discussion continued on line items on the expenditure side. Ms. McCraner pointed out the general government departments which had early retirement incentive program (ERIP) savings. Mr. Kiff asked that the chart be revised to include a column showing the ERIP savings variance from the original 2009-10 budget. Ms. McCraner noted an additional \$450,000 above and beyond ERIP savings was cut from the budget in general government departments. Public safety departments (sworn officers) which were not impacted by ERIP were able to cut an additional \$2.0 million. Mr. Kiff said that was achieved by eliminating some positions through attrition with most of the positions in the police chief and fire chief's offices. He added that an analysis underway in the Fire Department may result in further savings. Mayor Curry requested the addition of a slide for the Study Session presentation that details the public safety cuts.

Ms. McCraner addressed the savings made in the community development departments which amounted to \$450,000 cut from the budget by restructuring and not replacing some vacant administrative positions. Council Member Daigle asked that the presentation address how the current workload and staffing in Building and Planning contrasts to peak activity in 2005-06.

Savings in the public works function were achieved mostly in the General Services Department by contracting for street sweeping and reviewing other landscaping and tree maintenance contracts. Within the community services function expenditures went up overall due to

new OASIS staffing however savings were achieved in library administrative costs.

Ms. McCraner spoke about the decrease in the General Fund capital improvement program (CIP) budget. Mr. Kiff commented that this is the year to focus on the CIP projects backlogged from previous years which will result in less getting carried over as rebudgets to future years. Mr. Kiff said the presentation should include examples of the CIP projects being done in each category.

Ms. McCraner said the final slide in the presentation shows how addressing the projected \$12.0 million deficit through department expenditure reductions and revenue enhancements will result in using \$2.5 million from reserves to balance the budget. Mayor Curry said the slide should depict an allocation of capital reserves to capital projects.

b. Revenue Enhancement Update

Ms. McCraner provided an update on revenue enhancement which includes parking lot and meter increases of \$2.0 million already approved by Council, the almost completed Visit Newport Beach audit results which will be reported on at the next meeting and negotiations the City is currently in with Hoag on a sales tax agreement.

c. Treasury Initiatives

Interim Deputy Administrative Services Director Matusiewicz said to better manage the investment portfolio with improved overall visibility, staff is looking to reduce the number of investment custodians from five. He said this reduction will result in added functionality with cash forecasting, compliance and concentration risk, as well as potential savings. He added the next step will be to look into reducing the number of investment advisors.

d. Performance-Based Budget Status

Ms. McCraner reported on the progress to move towards performance-based budgeting for implementation with the FY 2012 budget. She said she hopes to update the Committee on the direction of the workplan at the July meeting. She added that staff is researching new software because the current accounting system doesn't have the capability to track the cost of a program based budget.

e. Community Events Policy

City Manager Kiff said the report compiled of Community Events was further refined based on comments made at the April 12, 2010, Finance Committee meeting. He stated the policy concept is to identify categories of events that include those which are purely competitive like the OC Marathon, competitive events that have a charity attached, non-competitive athletic events primarily for raising funds like Race for the Cure, City events like the CdM 5k and private special events at a City facility like a wedding. The full cost of each event will be communicated to the applicant and the City Council in advance allowing the Council to decide on a percentage basis how much of the cost will be waived for each category of event. Mr. Kiff noted this policy change will be implemented beginning in 2011 based on Mayor Pro Tem Henn's concern expressed at the April 12th meeting that it is too late in this calendar year to propose these changes to the applicants. Council Member Daigle suggested that the policy include a provision that exceptions must only be approved by the City Council. Mayor Curry agreed that a better process for special event fee waivers is needed but he is concerned that a fair amount of bureaucracy is being created for the smaller event organizers. He said communicating the costs to the organizers will be helpful and may help them find lower cost alternatives for the services being provided. Mr. Kiff said this proposed policy will be presented to the full Council for discussion at the May 11, 2010, Study Session.

2. Facilities Financing Team Update

a. Contracts and RFP's

Interim Deputy Administrative Services Director Matusiewicz commented that following the analysis of responses from six different disclosure counsels that responded to the RFP, Hawkins Delafield was selected to join the financing team. He noted the appraisal RFP should be going out within two weeks with the appraisal work scheduled to begin in June.

B. OCIP Feasibility Study Results

Risk Manager Lauren Farley reported the two key components of the OCIP are that it will be cost neutral and it will give protection to the project for the maximum term of 10 years. Mr. Kiff said the next step is to hold a meeting with Public Works Director Steve Badum and C.W. Driver to come up with a formal recommendation that will be made to Council.

C. Collecting Insurance from Polluters of Rhine Channel

City Manager Kiff stated the discussion is to determine if we are able to go back into the past and see if there are any companies or companies' insurance that may have a potential liability associated with the pollution in the Rhine Channel.

Mr. Roberts and Mr. Singarella introduced themselves and said Latham & Watkins has a pre-existing attorney client relationship through a representation of the City on previous eel grass issues. Mr. Singarella said they were here for the purpose of having a general discussion and not providing legal advice.

Mr. Singarella said the State of California has identified the Rhine Channel as a contaminated sediment toxic hot spot. This is because of ship building activities that began in the 1920s and continued through the 1950s. He commented on natural attenuation noted at a variety of sites with contaminated sediments and the importance of understanding the underlying mud which is at the top of the Channel. He said to accomplish remediation it will be necessary first to determine what the technical issues are and match them up to the legal requirements and then chart a prudent path forward that is protective of the community and the environment.

City Manager Kiff said the City is assuming approximately \$4.0 million will be spent in the coming budget year to remove the contaminated material. In response to Mr. Kiff's question on the potential of filing a claim against some previous entity or entity's insurance company to recoup the costs, Mr. Singarella spoke about determining liability and researching the City's historical insurance policy carriers.

City Manager Kiff noted the City is under an order by a regulatory agency to clean up the Channel, however a timeline has not been established. Mr. Singarella said it would be reasonable and relevant for the Council to consider whether this is something that should be tendered to a carrier because of the City's innocence and the City's defenses. Mr. Roberts explained the historic policy covers a triggering event, i.e., the release of the pollutant at the site, which would make the policy on the line for the full extent, up to its limits, of any potential liability for the City. He laid out a three-pronged approach that includes identifying any potential responsible parties who have liability for the contaminants, determining what is the City's potential liability and discovering what types of insurance assets the City has that may mitigate the liability. Mr. Singarella added that historic insurance policies that predate 1975 and the hazardous environmental inclusion are a proven vehicle for exposure and risk management.

City Manager Kiff said the next step should be for the City to have an internal investigation to find out what insurance policies can be tracked down and

then bring them back to the Finance Committee with a suggestion that the policies be examined further by a firm like Latham & Watkins. Mr. Singarella and Mr. Roberts said it is a very forensic process to track down the policies and Mayor Curry asked that they follow up with Acting City Attorney Mulvihill on steps they recommend to assist in the process.

5. MATTERS WHICH A COMMITTEE MEMBER MAY WISH TO PLACE ON A FUTURE AGENDA

No matters were discussed at this time.

6. ADJOURNMENT

The Finance Committee adjourned at 3:27 p.m.

Filed with these minutes are copies of all material distributed at the meeting.

Attest:

Tracy M. McCraner
Administrative Services Director

Date