

**MANAGEMENT AND FINANCE POLICY COMMITTEE**

July 23, 2019

Members Present: Council Member David Gruber – Chair, Council Member Angela Lawson – Vice Chair, and Council Member Charlie Richardson - Member

Others Present: City Manager Jim Twombly, T. Velasquez, A. Jeffress, G. Hays, D. Giordano, N. Wishmeyer, M. Shannon, W. Sommer, H. Hernandez, T. Vaughn, L. Center, C. Toth, A. Jamison, C. Cox, D. Bates, K. Beck, L. Schmidt, P. Klemme, S. VanBuren, M. Crews, J. Moroney, J. Hansen, R. Lucy, M. Ardan, S. Walsh, M. Szarmach, K. Kramer, M. Proser, and T. Hoyle

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**MINUTES**

May 28, 2019 minutes and June 25, 2019 informal minutes were approved.

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**CONSENT ITEMS**

Sales Tax Chart

May of 2019 was 7.7 percent higher than April of 2018.

Council Member Richardson inquired when the City would begin supplementing the contribution rate to the Aurora Police Money Purchase Plan.

Council Member Gruber said it’s up for discussion at the September 28<sup>th</sup> Budget Workshop.

Outcome

The Committee thanked staff.

Follow-up Action

No follow-up needed.

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**2018 COMPREHENSIVE ANNUAL FINANCIAL REPORT (CAFR)**

Summary of Issue and Discussion

BKD was present and provided the overview and recommendations that resulted from the 2018 financial statement audit.

The 2018 Comprehensive Annual Financial Report (CAFR) received an unmodified, or "clean" opinion from the auditors. The 2018 Single Audit of federal grants also received a clean, unmodified opinion.

The 2017 CAFR received the GFOA Certificate of Achievement for Excellence in Financial Reporting. In the opinion of staff and the auditors, 2018 CAFR also qualifies for the national GFOA award. A link to the 2018 CAFR and the 2018 Single Audit has been placed on the city's internet page.

BKD, LLP Management Letter and required audit communication to the Management and Finance Committee (Board Report): This report is provided for an overall review of the audit and to bring attention to control issues or any reportable items encountered by the auditors during the course of the audit. Detail schedules of unrecorded audit adjustments and a copy of the representation letter provided by management to the auditors were also included in this report.

The BKD, LLP auditors identified two significant deficiencies and one other matter, and their recommendations concerning these items were shared. City Management has responded to the recommendations in the Corrective Action Plan and the 2018 Audit recommendations document. Management has begun the process of implementing the recommendations and a final implementation status will be presented to the Committee in 2020.

Council Member Gruber brought up that the City has approved oil and gas operator agreements. In some of those area's the City will be taking over ownership of those public roads. He wondered if the City would have ownership of the mineral rights that's underneath the roads as another source of revenue. T. Velasquez said she would follow-up with Legal on the ownership of mineral rights.

Council Member Lawson asked what had prompted the audit. Marcella Ardan, BKD Director, said it's a statutory requirement that all municipalities and government entities have an audit on their financial statements. Chris Telly, BKD Partner added, the scope of the audit wasn't specific to the areas of deficiency, they're just part of the overall financial statements audit and the CAFR itself.

Council Member Gruber mentioned that there's been a recent change in the reporting structure which the CIO will now report to the City Manager. Do they see that as a positive step regards to the findings of the audit? C. Telly said yes, although we didn't see the prior structure as being an issue.

Council Member Gruber noted, concerning the quantitative analysis in the Board Report, most were less than 1% but the General Fund had a negative 3% which he thought was large. M. Ardan stated that 5% is the threshold, so they didn't perceive it as a significant amount to call for attention.

Council Member Richardson mentioned that he wished that the Government Finance Officers Association (GFOA) award was more meaningful. C. Telly said he's seen CAFR's that weren't awarded the GFOA certificate. It's noteworthy that the City has received the award for 32 years in a row and that its unquestionably commendable.

As a follow up Terri Velasquez provided the following information on the GFOA CAFR and Budget award programs.

	Number of US Cities*	City GFOA Members*	Award Winners	As % of US Cities	As % of GFOA Members
Distinguished Budget Award	4,091	2,562	1,085	27%	42%
CAFR Certificate of Achievement	4,091	2,562	2,100	51%	82%

\*With population over 10,000

### Outcome

The Committee thanked staff.

### Follow-up Action

No follow up is necessary as this item was informational only.

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## **CIGARETTE TAX REMOVE SALES TAX EXEMPTION**

### Summary of Issue and Discussion

At the City Council Spring Workshop on April 27th, 2019 the City Council indicated that a majority supported the consideration of the elimination of the exemption of sales tax on cigarettes.

This item was presented at the City Council Study Session on June 27th. A majority of City Council requested that it be presented to the Management and Finance Committee.

The City of Aurora exempted cigarettes from sales and use tax on tangible personal property in 1963 as the state applied excise tax to the product and provided revenue sharing from the excise tax. The state prohibited the revenue sharing if the city were to collect sales tax on cigarettes. With the passage of house bill 19-1033, the state removed the prohibition of the collection of sales tax to receive the revenue sharing of the excise tax. Passage of house bill 19-1033 removes the prohibition on the collection of sales tax by municipalities that receive a share of the state excise tax allocated to local governments. The state allocates 27% of the 20 cents per pack cigarette tax to local governments. As a result of the law change, four cities previously excluded from the revenue sharing will now receive a sharing of the revenue. This will result in a decrease of the sharing revenue provided to Aurora. Additionally, the 20 cents per pack is not an ad valorem tax similar to sales tax, therefore this tax does not maintain pace with inflation. The estimated revenue from the state revenue sharing is \$633,713 in 2019. Demand for cigarettes has also decreased this amount, as the city received \$833,000 from the state in 1999. The removal of the cigarette tax exemption is anticipated to generate up to approximately \$2.3 million. The net revenue increase will be less than 1% of the City's sales and use tax collections of \$236.9 million, and less than .5% of total General Fund tax revenues.

The state of Colorado eliminated the cigarette sales tax exemption in 2009 and RTD and SCFD eliminated the exemption in 2013. The City's sales and use tax is levied on tangible personal property and therefore removal of the exemption is not a new tax. Additionally, removal of the exemption would further simplify the administrative burden of the tax code for retailers as the City would apply sales tax to cigarettes with all other forms of tobacco products that are currently taxed. While there will be a revenue increase of less than 1% of total sales and use tax and less than .5% of total General Fund tax revenues, this increase is more than offset by revenue losses from other simplification actions taken by City Council action over the years in exempting various items from sales tax that are also exempted from state sales tax. Notable examples of these exemptions include the following:

- Food for home consumption
- On premise short-term rentals of tangible personal property
- Sales of precious metal bullion and collector coins
- Internet access services
- Sales to charitable organizations
- Sales to governments
- Sales to agricultural producers
- Manufacturing equipment
- Prescription drugs
- Prosthetic devices
- Insulin

The effective date of the ordinance will be December 1, 2019. This will allow for a full year of collections in 2020. Retailers will be notified as soon as possible upon final approval of the ordinance. Notification will be done via mailers and web messages through the City's tax portal.

Council Member Gruber commented that during the discussion at Study Session, Council Member Hilltz had mentioned some concerns. T. Velazquez said after Study Session she reached out and asked if anyone had questions or concerns, but no one responded back to her.

Council Member Richardson responded, we have people attending that probably could voice those concerns. Sean Walsh representing Altria and Ken Kramer and Mary Zarmack representing Smoker Friendly introduced themselves.

Ken Kramer expressed that he was a part of the rule making on House Bill 19-1033. He believed that Aurora's interpretation of the law is not correct. There were some changes made to that statute this past legislative session to concede some powers back to the municipalities however, taxing was not one of them. The reason theoretically is that the state wouldn't share cigarette tax money with municipalities that receive their own tax off cigarettes. The legislative history in the drafting of the bill that was passed had three words, that specifically prohibited municipalities from imposing fees, licenses or taxes. In Section 5 of HB 19-1033, the words fees and licenses were stricken in the sentence but not the word taxes. Additionally, the section on attempting to impose taxes was struck so that a municipality could now place a tax issue on the ballot and receive the shareback if the issue failed.

H. Hernandez responded, he only agrees to the extent that the word fees and licenses were stricken from the sentence. Additionally, the entire statute needs to be read as it states taxes on any person as a condition for engaging in the business of selling cigarettes. This entire description does not describe sales taxes and alternatively describes occupation taxes. Additionally, this is not a new tax that needs to go before the voters, it is a sales and use tax that exists. Cigarettes are a tangible personal property item which is taxable, and we're removing cigarettes from the exception items list to a taxable items list.

Council Member Gruber asked if there were any other questions or thoughts.

Council Member Richardson stated he would like staff to contact the Council Municipal League, Attorney General, Department of Revenue, and the Business Advisory Board for their view on the distribution.

Mr. Walsh stated he encourages the City to reach out to the retailers, so they are not blindsided. Some folks will view this as a new tax and should be subjected to the voters.

T. Vaughn stated that he had reached out to the drafter of the fiscal note who in turn reached out to the drafter of the legislation and he also has reached out to the Colorado Municipal League and is awaiting responses that will be included with the item when it goes to Study Session.

The Committee agreed to forward the item to Study Session for full City Council review on August 19.

#### Outcome

Committee Members recommended this item be sent to Study Session. Staff will contact the Council Municipal League, Attorney General, Department of Revenue, and the Business Advisory Board for their view on the removal of the tax exemption.

#### Follow-up Action

Staff will forward this item to August 19, 2019 Study Session along with any comments from the Council Municipal League, Attorney General, Department of Revenue, Business Advisory Board and the legislative drafter.

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## **AURORA MUNICIPAL CENTER REFINANCING**

### Summary of Issue and Discussion

Mike Shannon provided an overview and stated that in the summer and fall of 2009, staff was actively looking at refinancing all of the debt associated with the AMC (Aurora Municipal Center). This outstanding variable rate debt along with an interest rate swap was at the time believed to be the most effective means of finance. However, following the financial turmoil and erratic financial markets that arose in late 2008, variable rate debt structures like this became very problematic and expensive. Consequently, a decision was made to replace all of this variable rate debt and associated interest rate swaps with a new transaction which became the Series 2009A Certificates of Participation (COPs). At closing, this outstanding debt was \$84.1 million, matured in 2030, and had an interest rate of 5%.

The City now has the opportunity to refund the Series 2009A COPs related to the original construction of the AMC. In 2009 this new debt was issued with a 10-year par call which means it can be refinanced with new debt in 2019. The current 2009A COPs have a final maturity

of 2030, annual debt service payments of \$7.7 million, \$72.785 million outstanding, and an interest rate of 5%.

By refinancing this outstanding debt now, staff believes new debt can be issued with a final maturity of 2031, annual debt service payments of \$7.1 million, and an interest rate below 3%. This will result in NPV savings of \$12.7 million or 17.5%. The reason for adding one more year to the maturity is to enable the issuance of up to \$6 million in additional debt for improvements and repairs to any of the properties located on the AMC campus. Studies are currently underway to see what types of repairs/improvements might be necessary. Expected items may include, but are not limited to, security additions to the AMC administrative building, repairs to the garage, and other items that could extend the useful life of the properties on the AMC campus.

The Ordinance outlines the parameters of a potential transaction, which staff hopes to close by late October. Key highlights of the Ordinance includes a debt issuance not to exceed \$80 million (including new money of \$6 million), a maturity not to exceed 15 years (anticipate 11 years), and a rate not to exceed 5% (actual rate expected to be below 3%).

Council Member Gruber asked if other debt was tied to the properties on the AMC campus. M. Shannon said normally when we do these transactions, for an example the Central Rec Center or the three fire stations, we know on the front end what assets will be leased as part of the COPs. But in this financing, we don't know which buildings will be used or exactly how much debt will be issued and what the interest rate will be, so we have a lot of variables. However, the goal is to use as few of the AMC campus buildings as possible. As of now, it appears we won't be using the City administration building because the value of this building is so high. Instead, we could be looking at two or three other smaller buildings, and we would have them packaged together. One final consideration is as the debt gets paid down the buildings will be released. The goal is to free up as many assets as we can to be available for other potential financings.

Council Member Gruber said this is a little different than what he was thinking. He was thinking that we would take all five buildings from the campus to refinance, and all five would be leveraged against the debt. Council Member Gruber asked, will City monies be used from any other investments to put towards the refinancing to help further pay off some of the debt up front? M. Shannon said no, but we will save over \$12 million dollars.

Council Member Lawson asked if this was a continuous thing that is done over the years to refinance and take the capital. Mike Shannon replied refinancing's are evaluated all the time for potential savings.

Council Member Richardson asked will it be a competitive transaction. M. Shannon replied that the last financing for the 3 fire stations was a competitive transaction. However, he didn't know at this time if it would be negotiated or competitive but would likely be negotiated since we still need to figure out which buildings will be included, and it might include a shorter par call of around 7 years.

#### Outcome

Committee Members recommended this item be forward to Study Session.

Follow-up Action

Staff will forward this to August 5, 2019 Study Session.

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**IT UPDATE**Summary of Issue and Discussion

A. Jeffress introduced Casey Cox, PMO Manager, and gave an overview of the IT projects and processes and an update on Smart Cities.

Council Member Gruber asked if projects are ranked and prioritized. A. Jeffress replied yes. We have an algorithm that's based on five different criteria and one criterion is based on opportunity cost and risk. Typically, when we look at what's a priority, we look at things that are the highest risk.

Council Member Richardson asked if IT can tell when someone is hacking into the system. A. Jeffress said the City has a contract with Novacoast, and they're responsible for checking the traffic that comes in and out of the network.

Council Member Gruber said with Smart Cities do you have areas that you target, or will you look at everything and bring us the best five ideas. A. Jeffress said they started with communities such as Aurora Places, and some of the departmental study plans. We're still figuring out where the gaps are and where we should focus and so, we're taking all of that into consideration.

Outcome

The Committee thanked staff.

Follow-up Action

No follow up is necessary as this item was informational only.

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**2019 CITY FACILITIES**Summary of Issue and Discussion

Council Member Gruber requested an updated overview of City owned facilities including condition and utilization status of those facilities.

L. Center presented the list which itemizes the 2,423,774 square feet of buildings currently in the inventory, of which the City maintains 2,404,009 square feet. Facilities Operations budget is currently \$5,097,131 including staff, equating to \$2.12 per square foot. In addition, the Major Building Repair fund provides for major building component replacement. The current budget for repairs is \$3,625,299 equating to \$1.51 per square foot. The combined budgets equate to \$3.63 per square foot. The city is incorporating asset management system for buildings in a new system for managing work orders. The asset management system will allow Facilities Operations to track maintenance costs by building and proactively schedule capital maintenance. The system will include and track conditions of building, building system and equipment component. Condition assessments are completed by staff every three years and are currently in progress for 2019 with a report expected by January 2020.

Outcome

The Committee thanked staff.

Follow-up Action

No follow up is necessary as this item was informational only.

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**INTERNAL AUDIT Q1 PROGRESS REPORT**Summary of Issue and Discussion

Internal Audit followed up on the detailed report that was provided at the June 26, 2019 meeting that was absent a quorum.

Internal Audit corrected the numbers in their report summary. 74% of all engagements are in process or completed. 53% of all planned engagements are completed and 21% are currently active.

They also reported that 69% of all audit recommendations have been completed or closed; 31% in the system remain incomplete, but are mostly in progress.

Internal Audit reported that all field work was completed on the House Aurora Program engagement and they expected to be able to provide a conclusion on the audit objective of ensuring funds were spent on program activities by August 2nd.

Council Member Lawson said that the previous night there was a presentation from the Homeless Program Coordinator, and she was curious if their report had more detail. M. Crawford, Staff Auditor, replied that the Internal Audit internal audit engagement focused more on the processes and information about the Housing Aurora Program while Shelly McKittrick's numbers were more about end results.

Council Member Gruber said he was interested to see what the next steps with Fleet Maintenance would be. W. Sommer stated that they sat down with the new Fleet Operations Manager and discussed their findings and recommendations. Fleet has agreed to take steps to implement the recommendations with targeted completion dates. In this specific engagement, the previous Fleet manager recently retired, and a new manager was hired. It appears that they are enthusiastic to work toward taking the steps to address the audit's findings.

Council Member Gruber asked, how will we know that the problem won't continue. W. Sommer said that Internal Audit tracks the status of all recommendations. If implementation progress is not moving forward, then Internal Audit will contact the manager to discuss the issues that are involved. If it's not dealt with effectively by management, it then will come back to the Audit Committee.

Outcome

The Committee thanked staff.

Follow-up Action

No follow up is necessary as this item was informational only.

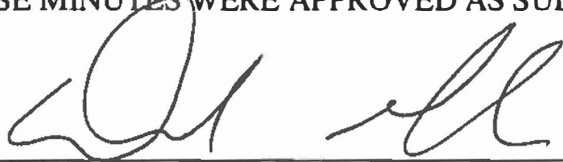


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**MISCELLANEOUS MATTERS FOR CONSIDERATION**  
Summary of Issue and Discussion

- ✓ Council Member Lawson requested information on the Peoples building.
  
- The next meeting is on Tuesday, August 27, 2019 in the Aurora Room.

THESE MINUTES WERE APPROVED AS SUBMITTED



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David Gruber, Chair of the Management and Finance (M&F) Committee

8/28/2019  
Date