

**MANAGEMENT AND FINANCE POLICY COMMITTEE
WEBEX**

Members Present: Council Member David Gruber – Chair, Council Member Marcano – Vice Chair, Council Member Gardner – Member

Others Present: R. Venegas, N Freed, T. Velasquez, G. Hays, T. Vaughn, N. Wishmeyer, D. Giordano, T. Sedmak, S. Newman, H. Hernandez, T. Joyce, R. Allen, D. Brotzman, P. Sylvester, B. Fillinger, A. Jamison, M. Crawford, R. Peterson, C. Dancy, M. Westerberg, D. Hudson, C. Toth, K. Skaggs, S. Franklin, J. Andrews, and T. Hoyle

INTRODUCTIONS AND MINUTES

November 17, 2020 minutes were approved.

CONSENT ITEMS

November of 2020 was 16.1 percent higher than November of 2019. G. Hays stated that it was \$2.4 million over compared to last November. This month was great for a couple reasons. An increase from a \$600,000 payment from the Marketplace Facilitator. About one-million dollars from variable top tax players such as IT companies. Also, sales tax from DoorDash and Priceline. A lot of the electronics and computers sales has picked up because of COVID. The restaurants were only down 4% from November of last year. And throughout COVID they were down around 60% to 80%. People are starting to get out there and spend more. Black Friday may have started a lot sooner than we originally thought. November was a crazy month but also a very pleasant surprise.

Committee Discussion

Council Member (CM) Gruber: November has been a very pleasant surprise.

G. Hays: I'm just glad we're not Denver. I think what's going on is that before COVID people use to live someplace else and go to Denver to work. So that's where a lot of the shopping and a lot of the sales tax would go; where they worked. Now, they're buying online and so everything is going to their home and we're continuing on with our sales tax. Therefore, what I heard through the grapevine that they're still having some revenue issues.

CM Gruber: It'll be interesting as we begin to draw long term conclusions. Having said that, any feedback from the Lead School of Business and the projections on our budget?

G. Hays: Not recently. We're working with them a little bit, but we're not going to change it. We're just going to sort of watch what the projection does and sort of track it through. I don't know necessarily that they would give us a brand new one.

CM. Gruber: So, to summarize and make sure that I got it right. So, as a result of people working at home they're buying at home through online tools. And because they are registered to an address the taxes are coming to Aurora. While before they would have gone to other jurisdictions purchased in those other jurisdictions.

G. Hays: Yes. I think that's one very possible, very reasonable assumption for why we're doing so well. The other one is the Marketplace Facilitator, which we're getting \$500,000 to \$600,000 a month as opposed to \$700,000 for the year. That's great news for the City.

CM Gruber: The Marketplace facilitator again was a recent decision Trevor brought forward and recent decision by Council to allow us to tax people that use tools like Amazon to sell their products. Where before we weren't seeing that revenue but now that we approved that Marketplace Facilitator. We're seeing the revenue. So that was staff initiated. Trevor and Terri and rest of staff brought that forward. So, thank you for that. That was a very good move and it happened right at the right times. So, thank you for that.

G. Hays: We just started that in September. We're definitely trending in a different direction than we initially anticipated for that.

CM Marcano: I just want to echo your comments CM Gruber. That this is really welcome news. I'm really heartened that we're seeing positive benefits from folks working from home. Not just in terms of quality of life. No commutes and stuff. But we're actually able to capture the sales tax revenue from folks spending their salaries here at home. That's something I didn't really expect, but I'm very happy to see. So, thank you for the update and for being the bearer of good news.

CM Gardner: Greg touched on it what I was wondering. That some of the Black Friday stuff really wasn't Black Friday this year. It was early as October and I'm guessing some of this was that. I'm sure as were able to parse some of the numbers a little bit more. We'll be able to determine that some. All around very good news.

CM Gruber: Again, thank you Trevor for bringing this forward. Terri, and the rest of staff for doing all the homework on this. This is very positive for the City. So, thank you.

T. Velasquez: I also would like to add thanks to Trevor Vaughn. He was out in advance of the other cities in Colorado with the Marketplace Facilitator item. Therefore, he really got ahead of it for us and I appreciate him and his thoughtfulness. It really has paid off, so great job Trevor.

Outcome

The Committee thanked staff.

Follow-up Action

No follow-up needed.

INTRODUCTION OF TERESA SEDMAK – NEW CITY TREASURER

Summary of Issue and Discussion

Teresa Sedmak joined the City of Aurora Finance Department on December 7th as City Treasurer, overseeing all City Treasury functions including Debt, Investments, Banking, and Treasury Operations. Teresa holds a Master of Business Administration and a Bachelor of Science in Business from the University of Colorado and brings extensive experience in public finance, investments, debt and treasury operations. Teresa comes from the City of Tacoma, Washington where she served as

City Treasurer since June 2012. Prior to working for the City of Tacoma, Teresa worked at RTD (Regional Transportation District) as their Debt and Investment Manager from October 1998 to June 2012.

Committee Discussion

The Committee welcomed Teresa Sedmak to the city.

Outcome

The Committee thanked staff. Information only.

Follow-up Action

Information Only.

PORTEOS BUSINESS IMPROVEMENT DISTRICT APPOINTMENT OF DIRECTORS

Summary of Issue and Discussion

Earlier this year, the Porteos Business Improvement District engaged new legal counsel. In reviewing the District's files, counsel was unable to confirm the underlying qualifications of the Board members to serve as such, even though the current directors were elected to the District Board at elections held in May 2018 and May 2020. To affirm the qualifications of the members of the Board, the request is being made that the City Council reappoint the District's current five-member Board, by resolution, with two reappointed Board members serving terms until the next regular election in May 2022, and three reappointed Board members serving terms until the next regular election in May 2023. Counsel for the BID has taken steps to ensure the above-named individuals are appropriately qualified to serve on the District Board pursuant to § 31-25-1203(4); specifically, that each individual is a resident of the State of Colorado who is 18 years of age or older and who is the holder of a leasehold interest in taxable real or personal property within the boundaries of the District. Accordingly, they are requesting that the above-named individuals be reappointed to the District's Board of Directors for purposes of affirming their qualifications to serve. The current five members of the Board are as follows:

Mark Adams
Melissa Shea
Seth Rollert
Kristen Adams
Yuriy Gorlov

The resolution will appoint these five members to the Porteos BID Board of Directors.

Does the Committee wish to move this item forward to Study Session?

Committee Discussion

There were no questions asked.

The Committee recommended that this item is moved forward unanimously.

Outcome

The Committee recommended that the item is forward to Study Session.

Follow-up Action

Staff will forward the item to Study Session.

2020 EMPLOYEE HANDBOOK REVISIONSSummary of Issue and Discussion

The Human Resources Department and the City Attorney's office completed a review and extensive revision of the city's Employee Handbook. City code requires the City Manager to notify Council of any policy changes which are then subject to call up by the Council for discussion. The vast majority of the revisions to the Employee Handbook are alignment with federal and state labor laws, clarity on employee expectations and alignment for a user-friendly document. Those have been captured in a Summary document that is included in the M&F Packet, which highlights significant changes or additions to the policy. The Summary document also included a section-by-section explanation of changes to the respective section of the Handbook.

Does the M&F Committee support staff in following City Code to notify the Mayor and Council of the revisions to the Employee Handbook?

Committee Discussion

CM Gardner: I just have one question on the FMLA change. Was there a reason we went from calendar year to rolling 12 months or is that just what the law says now. That just stood out to me.

D. Giordano: No, the law gave the employers the option of choosing at the onset of implementation of rolling every calendar year. Calendar year is probably the easiest to implement but it's also the one that causes or has the most misuse potential. So, as we evaluated leave that causes concerns in the operational departments. So, we just thought it would be more favorable and also more consistent for every employee if we did the rolling year. Because then it doesn't automatically restart so people don't have a benefit that might not be extended to everyone that falls in that same situation of having a health issue.

CM Gardner: My other question. There were two pretty large pieces of HR legislation of the state for the equal pay act and sick leave act. Did we have to make significant changes, or did we meet the minimum standard to begin with?

D. Giordano: We met most of the minimum standards. We did make changes to immediate family. It's more elaborate based on the new act. Then there were some job posting requirements that we currently are now implementing which are reflected in the Employee Handbook as well.

CM Marcano: No questions. Just this was a pretty thorough job and I appreciate all the work you all put into this. So, thank you.

CM Gruber: I would like to say the same thing. I've worked obviously for the Air Force but several corporations Raytheon and Nortel and so on. This book and the care your staff have applied is

impressive. I want to congratulate you on that. Is there a Deputy City Manager here that can validate that the City Manager is behind this and that he's discussed this with the Deputies?

R. Venegas: CM Gruber absolutely. We have reviewed this closely with Dianna and her team, and [her team] has briefed the City Manager and the Deputy City Managers and the Management team on it. We're all of course bringing it forward with our recommendation to adopt.

CM Gruber: Thank you Roberto. Having said that. Does the Committee approve to move this forward?

The Committee approved to move it forward unanimously.

Outcome

The Committee recommended that the item is moved forward to Study Session.

Follow-up Action

Staff will forward the item to Study Session.

CITIZENS' ADVISORY BOARD COMMISSION BYLAW CHANGES

Summary of Issue and Discussion

Michael Westberg gave a brief overview of the proposed changes. The Aurora CABC seeks to clarify ambiguous language throughout the rules and bylaws and make said clarifying language consistent throughout the document. The CABC also desires to make four substantive changes to the rules and bylaws including: (1) moving the election of officers to January of every year, instead of December, so the entirety of the new membership can select their officers for the year term; (2) choosing to define quorum as a calculation at the beginning of each meeting that shall not change until the meeting is adjourned; (3) adding a more comprehensive definition and procedures for conflicts of interests; and (4) adding language to allow all CABC functions to take place via electronic means.

Does the M&F Committee approve this to go forward to full Council? Are there any questions?

Committee Discussion

CM Gruber: I have one. I'm looking at the minutes where this was discussed. It says that you went through the CABC rules. You moved the November meeting to the second Tuesday. It says the rules and the change would be made when the officers take place in January. There was a motion to accept those two. But at the same time there are things that have been introduced here that are not in the CABC minutes and I don't know whether those have gone up to vote. CM Gardner your thoughts?

CM Gardner: Yes, I had the same question. I reached out to my appointees to get the minutes from the November meeting when this was discussed. I wanted to see what conversation there was around each of these items. The only two things that were noted that have been approved were the changes to quorum and the changes to the election of officers from December to January. I agree with both of those changes. I know the election of officers has been an issue in the past. It impacted me both when I was on CABC and when I was elected to Council. So, I do think that's a reasonable change. But the other two changes, it doesn't appear were approved by the committee. Specific to the conflict of interest one, I don't know that I necessarily agree that there should even be a conflict of interest

clause on CABC. I say that because you're not making policy. You're making recommendations to Council. Council ultimately is the one that's voting on policy language. A couple of things that were pointed out that aren't addressed still aren't addressed. So, I don't know that this even addresses those items such as what constitutes a conflict of interest. There's a somewhat of a definition in here; though I could take this to mean a lot of things. For example, it states "as someone will likely benefit monetarily or otherwise personally more than any other member of the public." Let's say there's a proposal for a rec center in my part of Aurora. Then I'm probably going to benefit more than somebody else that lives somewhere else. So, the argument could be made using the language that's in here that's a conflict of interest. So, I don't agree that there should be a conflict at all for what's basically a committee making recommendations to Council. Also, it appears and correct me if I'm wrong. But it appears like the committee as a whole didn't vote on all these changes that are proposed so based on that, I wouldn't feel comfortable moving forward on the 2 changes that weren't approved by the committee.

M. Westberg: Mind if I respond to that. First of all, it's entirely up to you. I'm always for doing things a thousand percent above board. I'm the current Vice Chair and I will be the Chair of CABC going forward through this next year. I tried to find my copy of the November minutes, but I couldn't find them. So, from my memory it's actually a bit vague. That's part of our problem. We should have cleared that up actually before we approved them. What happened is we presented them as a whole and there was discussion on a couple of them. There was one vote taken on them. So, to be honest with you. I don't think we have a choice. It just logically goes to speak that they must have been 100% approved. Now, you can always reject them, and we can always take it back to the drawing board. I'm fine with that. We look at the by-laws every year. It's not a big deal. But to be honest with you procedurally if you look at Robert Rules order, I don't think we have a choice. I think we voted on it and it was approved. I don't think we can go back. We can change it next year or not approve them.

CM Gardner: Then maybe there are two copies of minutes floating around. The copy of the minutes that I have specifically states it was eventually agreed that the following rule updates should be modified. In a bullet point, the November meeting should be moved to the second Tuesday of November. Second bullet point, in section 4 of the CABC rules and regulations. The following change would be made at the regularly scheduled meeting in January, the election of officers will take place. So, the copy of minutes that I have pretty clearly lists the two changes that were approved by the committee. If that's not what the intention of the committee was then my vote would be, we don't move forward any changes and start the process over. Therefore, it's clear for everyone what they're actually voting on.

G. Hays: That makes sense. We definitely can do that. I would agree with Michael that there were some changes but not discussions on all of them. But we absolutely can go through and say here are the four things and vote on them separately. I think we'll get back to the same place and that's complexly fine. It doesn't bother us at all.

M. Westberg: Yes, and again we look at these every year. So, it certainly won't hurt if we can hash more of these out. I'm totally fine with that. But to adhere to Robert Rules if the best way to do that, I think it's best for you to reject the changes and we'll go back to the drawing board and resubmit them.

CM Marcano: The issue is with the minutes. I did want to lend support on dealing with conflicts of interest. I think it's really important that advisory bodies to Council and granted they don't have decision making authority, but they be as free as possible to have conflicts of interest. Otherwise the information or the advisory information that we're going to get is going to come from that perspective. So, I do think that's really important. I'm hopeful that you all can get everything properly recorded. Then come back to us once you do.

CM Gruber: I guess we have two choices then at this point. The two items that were approved in the CABC minutes. We're moving the date to January and the definition of quorum. Both of those are approved and we move those two forward. The other two were not in the minutes and were not voted. Frankly, I called members as well and they have concerns. Not that there's a conflict of interest per se but the way it's defined that needs to be addressed. So, I guess our choices are to move forward with the two items that were approved and reflect in the minutes or reject all and have it go back to the committee to vote on all four items and bring that vote back to the Management and Finance Policy Committee for another vote in the next calendar year. CM Gardner your thoughts which way we should proceed?

CM Gardner: My opinion would be to reject and start over because it requires Council approval. I don't think I would go to Council twice with the changes to the CABC bylaws.

CM Gruber: CM Marcano do you support that?

CM Marcano: I would agree to that.

CM Gruber: I also agree. We won't table but we'll suspend at this point. This will allow the CABC to address and have it come back to a future agenda.

Outcome

The Committee recommended that the item comes back to the Management and Finance Policy Committee.

Follow-up Action

Staff will bring back to the Management and Finance Policy Committee.

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, AMENDING ARTICLE IV OF SECTION 130 RELATING TO THE MODIFICATION OF THE EXEMPTION FOR THE LONG-TERM LODGING

Summary of Issue and Discussion

This item was previously presented at the June 23rd Management and Finance Committee Meeting. The committee expressed concern that modifying the exemption without Denver doing so may result in a competitive disadvantage for Aurora hotels. Denver city council has passed an ordinance modifying the exemption in alignment with the state and as proposed with this ordinance. Visit Aurora does not oppose the ordinance as a result of this change. The concept of this modification was presented to City Council on March 2nd and a majority requested that it be brought forward for additional consideration.

The item was presented at the May meeting of the Business Advisory Board which supported the item with a unanimous vote of the members that were present.

This proposed item will redefine the long term stay lodger's tax exemption to apply to natural persons. Currently the exemption applies to "persons" and is broader than its original intent. Businesses may still obtain the exemption after the modification if the same person is staying in the room. This change aligns with recent changes by the City of Denver and the State of Colorado.

As a result of report from the Office of the State Auditor on State tax expenditures, an interim legislative committee recommended a modification to the State's exemption for long term lodging. This modification was adopted by the legislature through house bill 20-1020 which was signed by the governor on March 20th and will be effective January 1, 2021.

Lodger's tax or sales tax on lodging is intended to apply to short term lodging. Stays longer than 30 days with a written agreement are exempt from this tax as they are considered to be residential stays and not short-term lodging. The state and city tax codes define a person to include corporations and other non-natural persons. This has resulted in a situation for business entities that lease a room for longer than 30 days receiving the exemption as if it was a residential stay even when the people staying in the room may be different each night. The State determined this was not the original intent of the exemption. House bill 20-1020 redefines the exemption to only apply to natural persons. A business entity may still claim the exemption if it is leasing the room for a single person for longer than 30 days.

For the same reasons the state identified that the exemption is not serving its purpose when it is taken by non-natural persons, the city may consider making the same adjustment to the lodger's tax code. This will also allow for simplification with the state application of taxes. This change would result in an estimated \$240,000 in additional lodger's tax revenue each year when the travel economy returns to pre-pandemic levels.

Denver's combined lodging sales tax rate is 15.75%. Aurora's combined rate is 12.25% in Arapahoe County and 12.75% in Adams County plus an additional \$2 per room night Destination Marketing Improvement Fee charged to the hotel.

Does the committee wish to forward to ordinance modifying the exemption to City Council Study Session?

Committee Discussion

CM Gruber: Trevor, is Visit Aurora comfortable with this and do they not think this will affect hotel stays in City of Aurora?

T. Vaughn: I don't know if Bruce is online to add anything on that. But he did provide me a written response which I included in the backup. It's kind of a neutral response. He stated the important thing is the competitiveness with the other hotels in the area. Denver and Aurora are the primary hotel providers for the airport area.

CM Gruber: Would this have an effect on apartments? Specifically, if an airline would rent an apartment. The apartment isn't considered a hotel and they're just renting. So, there's no impact is that correct?

T. Vaughn: I would have to think that through but an interesting thought. So, if an airline rents an apartment and its rented for a period of time, it's probably exempt. Because the rental is not a provisional lodging by that apartment. I would have to think that through, because having somebody in there that's less than 30 days. I would think there's a question there as to whether the apartment is providing lodging or not.

CM Grubers: The apartment would pay full tax is my point. Just like any other apartment.

T. Vaughn: If it's an apartment building and it starts renting rooms for less than 30 days that's providing lodging and subject to tax. I'm not sure if I'm fully understanding your question but an apartment building could potentially provide lodging. Assuming that zoning considerations are moved aside. However, since it's lodging its subject to tax.

CM Gruber: Does the Committee approve to move this forward?

The Committee approved to move it forward unanimously.

Outcome

The Committee recommended that the item be moved forward to Study Session.

Follow-up Action

Staff will forward the item to Study Session.

CARES CORONAVIRUS RELIEF FUND SPENDING UPDATE

Summary of Issue and Discussion

Nancy Wishmeyer, Controller provided an update to the Committee and stated the spreadsheet in the packet is the same one that was discussed a few weeks ago with Council. More spending has occurred but the total spending/planned to spend allocated to the three buckets remains relatively constant.

Based on discussions it's been determined the city will not spend as much as originally planned on the AER3 small business grant. Some of those savings will provide more rental assistance and more restaurant assistance. However, the savings would still be spent on community assistance. Three expenditure buckets have been categorized: Community Assistance (CA), Infrastructure, and Service Preservation.

Spent or programmed to be spent:

- \$18.2M CA and that includes the \$1.0M of unspent/unallocated funding
 - $\$18.2M + \$5.0M + \$3.5M = \$26.7M$
- \$10.5 Infrastructure

- \$5.2M service preservation
- \$1.0 not yet programmed
- Equals \$33.9M

There are other CARES monies the CDBG-CV of ~\$2.5M (of total \$3.5M) and ESG-CV of ~\$1.0M (of total \$5.0M). The city plans to give a lot of it to the community with small businesses, restaurant assistance, rental assistance, food assistance, shelter for homeless etc.

Arapahoe county has received all the City's requests for reimbursement, including the large final request for public safety salaries, which currently is being reviewed. The public safety salaries are the mechanism to receive the money which will be spent on the items on the spreadsheet. CARES money is not to be used to relieve the GF for the salary expense.

Committee Discussion

N. Wishmeyer: CM Gruber you asked about whether additional funds were available from Arapahoe County. They questioned why more was needed than the original allocation since it was over \$30M. I mentioned the great need in our community that we could execute immediately. However, I'm still waiting to hear back.

CM Gruber: Thank you Nancy. Council will decide on how the money is spent. My main concern is first that we're able to execute every dollar that is on the table, so the money doesn't expire. Secondly, the point that you just made if the counties two days before the end of the year state that we have another \$1M and we don't have a way to execute. I want to make sure that Aurora is standing by with our hand out to say that we can take that money and we can execute that money. The fact that you did that is praiseworthy and I want to thank you for that. It doesn't hurt to ask, and we'll find out on January 1st whether not that was effective strategy or not. But again, I appreciate you going the extra mile on that. This is important work that you have been working through. Taking care of our citizens and our businesses that is critical during this phase. And the fact that you done it so well reflects honor on you folks. So, thank you very much on that.

Does the Committee have any questions or comments?

CM Marcano commented that he was looking forward to the next call with the updated figures.

Outcome

The Committee thanked staff. Information only.

Follow-up Action

Information Only.

MANAGEMENT AND FINANCE POLICY COMMITTEE 2020 RECAP

Summary of Issue and Discussion

Terri Velasquez, Director of Finance reviewed the 2020 activity of the Management and Finance Policy Committee.

Committee Discussion

CM Gruber shared with staff a January 2020 accounting report.

A new analysis of the audited financial reports found Aurora has a Taxpayer Surplus of \$2,200, earning it a “B” grade from Truth in Accounting. Aurora is one of 12 cities to receive a “B” grade for its financial condition.

Unlike most cities, Aurora’s city government has enough resources available to pay all of its bills, including public employees’ retirement benefits. This means that Aurora’s elected officials have truly balanced their budgets. When broken down, the amount available to pay future bills results in a surplus of \$2,200 for each Aurora taxpayer.

Aurora and other cities have become more transparent over the last few years, thanks to the Generally Accepted Accounting Principles (GAAP) set by the Governmental Accounting Standards Board (GASB), which now require governments to disclose pension (GASB 68) and other post-employment (GASB 75) benefits on their balance sheets.

Outcome

The Committee thanked staff. Information only

Follow-up Action

Information Only.

MISCELLANEOUS MATTERS FOR CONSIDERATION
Summary of Issue and Discussion

There was discussion to keep the next meeting as tentative for the new Chair to decide.

- The next meeting is on Tuesday, January 26, 2021 at 1:00 PM (WebEx)

THESE MINUTES WERE APPROVED AS SUBMITTED

Curtis Gardner

Curtis Gardner, Chair of the Management & Finance (M&F) Committee

01/28/2021

Date