

MANAGEMENT AND FINANCE POLICY COMMITTEE
WEBEX

Members Present: Council Member Gardner – Chair, Council Member Johnston – Vice Chair,
Council Member Gruber – Member

Others Present: CM Marcano, CM Hiltz, R. Venegas, T. Velasquez, G. Hays, T. Vaughn, W.
Sommer, T. Sedmak, S. Newman, H. Hernandez, D. Giordano, D. Brotzman, B.
Fillinger, A. Jamison, D. Hudson, C. Toth, K. Claspell, M. Franks and T. Hoyle

INTRODUCTIONS AND MINUTES

December 15, 2020 minutes were approved.

CONSENT ITEMS

December of 2020 was 15.8 percent higher than December of 2019. G. Hays said year-end revenues were up \$2.4M for a couple reasons. Payment of \$750,000 received from Market Place Facilitator. Other payments received were EBAY, DoorDash and GrubHub payments. A one-time payment of \$500,000 from a single IT company Mission Critical Systems. G. Hays shared a link in the chat from Common Sense Institute about sales tax revenues across Colorado cities after the start of the pandemic.

Committee Discussion

Council Member Gruber: Greg, when we were negotiating the benefits for the data centers that were being created. One of the things we mandated or redirected with the Aurora Economic Development council (AEDC) is to make sure that the purchase of the IT equipment going inside those data centers would be registered as an Aurora purchase. Even though these data centers may be controlled by a company somewhere else the IT sale shows up as an Aurora sale. The reason that it's important from the City's perspective. A data center takes up a huge amount of space and it really doesn't provide value for the space that it takes up. It also only has around 5 to 10 people not including landscapers and things like that that supports the facility itself. So, it's very important the millions of dollars of equipment that was purchased inside shows up as an Aurora purchase. So that may explain the one that you talked about. But I'm wondering about the other data centers and if those data centers are paying the IT sales tax even though it's a commercial purchase. Are we seeing that in our tax revenues?

T. Vaughn: Short answer is yes. I can tell you that we have a big audit coming in for one of them and where they didn't pay up front. They're a fairly common audit target for us. Because that software is taxable for the City, of course the equipment in there making sure that they paid use tax on that and it's taxable. So yes, it is. We do try to make sure that happens and those taxes get paid. One thing AEDC did follow up with me regards to how the taxes work on that equipment. So, to make sure that those data centers have that equipment shipped to their location in Aurora and not take possession of it in another jurisdiction that would trigger a taxable event. So, I would say in general yes were trying to make sure all that tax is getting paid to Aurora.

CM Gruber: Okay that's important. Because the incentives that we're giving are rather generous and it's important that we track that. Again, some of that might be incentivized as well, but it's still important to track it.

<https://commonsenseinstitute.org/sales-and-use-tax-revenue-in-colorado-cities-since-start-of-the-pandemic/>

Outcome

The Committee thanked staff.

Follow-up Action

No follow-up needed.

FOR AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF AURORA, COLORADO, AMENDING ARTICLE II OF SECTION 130 OF THE CITY CODE RELATING TO EXEMPTING FEMININE HYGIENE PRODUCES FROM SALES AND USE TAX

Summary of Issue and Discussion

Council Member Hiltz introduced the ordinance. This ordinance would exempt menstruation products from the City's sales and use tax. The reduction in revenue is estimated to be \$230,000 annually. This exemption was adopted by the City and County of Denver in 2019. A similar measure at the state failed in committee in 2017. Below is a summary of sales and use tax exemptions that the city has and the year it was adopted if known.

Summary of Sales and Use Tax Exemptions – December 2020

- Health and Athletic Club Memberships – 1994
- Precious metal bullion and collector coins - 2012
- Short term on premises rental of tangible personal property (laundromat, carwash) – 2015 *
- Admissions to a school event - 2013
- Sales benefitting a school - 2009
- Food for Home Consumption (except candy and soda) – 1974
- Food purchased with funds provided by a federal nutritional assistance program
- Manufacturing Equipment – 1963
- Commercial Packaging Material - 1971
- Recreation services by tax exempt organizations - 1987
- Seeds, feed, livestock and farm equipment purchased by agricultural producers - 1963
- Prescription drugs for humans - 1965
- Prescription drugs for animals - 1965
- Prosthetic devices - 1965
- Insulin – 1989
- Sales to governments and charities for use in their functions
- Used factory-built housing
- 48% of the purchase price of new factory-built housing
- Telecommunications and public utility equipment by a service provider for use outside the city
- Admissions to city owned facilities
- Newspapers
- Internet access - 2000
- Motor Vehicles registered outside of the city
- Gasoline and fuels subject to special fuel tax

- Items purchased for resale

*Policy exclusion rather than an exemption. Allows businesses to pay use tax on purchase rather than collect sales tax on subsequent rentals.

Does the Committee wish to forward this for full Council consideration?

Committee Discussion

CM Gardner: The only thing that I would like to mention, and it was provided in the backup. But last year IRS changed the designation for menstrual care products. To give them as a tax benefit as it pertains to flex benefit accounts. Essentially treating them as a medical device. So, I just wanted to mention that as well. One other thing I'll share, and I'll put the link in the chat. But it's interesting that Greg shared the link from the Common Sense Institute because they also released an article just a couple weeks ago. And essentially referred to what happened with COVID, and women as a 'shesession' and talking about how the significant amount of job losses impacted women more so than men. So, I thought that was interesting and I'll place that link in the chat as well. Trevor do you have anything that you would like to add.

T. Vaughn: Yes, just on the definition. This is the same definition that was adopted in Denver and this came up yesterday. What I was trying to do, is so that retailers would have consistency between jurisdictions in regard to at least what something means, so considered adopting the same definition. I know the staff in Denver weren't big fans of the definition that got adopted. It actually got changed at Council. They had originally proposed the narrower definition and instead now are narrowing it by regulations. I don't know that changing the definition would make us that much different. In some ways it probably makes sense. So, at some point there'll probably be some standardization to this definition especially if the state adopts it. But we don't have to adopt what Denver did, but that might make in some ways a little bit simpler as far as the administration by the retailers. Along those lines the state doesn't have this exemption, so this does make the overall tax code a little bit more complicated to administer. The retail council didn't seem to show too much concern about that. Just in general the more exemptions you have especially if they're not adopted across jurisdictions in a uniformed matter does make the code a little bit more difficult to administer. The revenue impact is about \$230,000 decrease in ongoing revenue. This is an item that's a particularly stable source of revenue. Which I'll just mention in regard to your overall structure when depending upon sales and use tax just as a consideration. To make sure you have a stable revenue structure there. This exemption is not completely out of line with some of the existing exemptions that are in the City code with regard to certain medical exemptions. That's all I have.

CM Gardner: Few other things that I like to mention when Trevor was talking, and it reminded me. One, was on the ease of reprogramming point of sale (POS) system. I talked to a couple of retailers. Because these products are coded separately for flex spending account purposes. They're already coded separately so it's relatively easy transition for them to do this. In addition to the Business Advisory Board (BAB) we also had Kevin Hogan from the Aurora Chambers of Commerce on yesterday. He did not have any concerns for many of his business members either. So, I just wanted to mention both of those.

T. Vaughn: CM Gardner, I just have one follow up on that. Probably the retailers that will have the most challenges with this will be the small ones. You know your local convenience stores and small

shops. We still find them having a lot of issues with regards to grocery store exemptions in general which are pretty complicated. For example, prepared salads are taxable but lettuce in a bag is not taxable. There are some of them that still struggle with getting candy and soda taxable. That's probably where you will see some challenges with regards to this rather than perhaps those that interact with the retail council.

CM Gardner: Council Members any questions or comments?

CM Johnston: I will definitely be supporting this. Thank you for the different reasons that you and CM Hiltz outlined. This is medical as you said about the IRS exemptions. Also, as CM Hiltz said some equity issues. I know that this will benefit women but also girls. I know personally in schools there's been an issue of trying to get menstrual products donated. Because some of the girls that go to school aren't able to afford that. And that makes me sad on many levels for those girls and the emotional and physical effects of that, so if we can make that easier. Again, I don't think that this is a stretch, it's consistent with IRS, it's medical. It just makes sense a majority of states are having these exemptions or even looking at that. So, we're just catching up with some of those movements as well so I definitely will be supporting.

CM Gruber: I like to go a little bit deeper into the POS programming of this. I've been searching on the side as to how the products are characterized. In other words, the idea is the definition in the ordinance is pretty tight. What I wanted to find out is that tight definition coupled with the UPR code or some other code on the product so that the POS would recognize that or is that something that would require programming. Trevor, how will that work and could you explain that?

T. Vaughn: So, yes for the big retailers it is. They have the codes on them that says what the product is. Chances are especially if they are operating in multiple jurisdictions and in other states and in Denver, they've already key coded what this is, so in some ways fairly an easy adoption for those large retailers to do this. The smaller grocery stores they're a bit different. For example, perhaps the Pacific Ocean Marketplace. Where they just have a couple stores, they don't have any in Denver. This will be more of a lift for them and its possible they even have this stuff keyed in as general merchandise into their systems. I don't know that's the right example or another store. But I have seen that particularly with some of these single store grocery retailers where they'll have a general merchandise code. They're going to have to go in and try to figure out what these items are. Where they're not or may not be using bar codes in the same way if they are a small convenience store. They may just have price tags and they just outfit it and so they'll have to kind of track that differently.

CM Gruber: Okay so what I want to make sure of and I'm good with making this happen. But at the same time, I don't want to punish any store any mom and pop or smaller store that's implementing it and so the recommendation of bringing it in. How do we hold the hands of the small stores, so they implement it as fast as possible but by the same token we don't fine them right away and could you explain that?

CM Hiltz: Can I jump in on that one really quick. Thank you. So, I intend to if this passes to work with the Business Advisory Board (BAB) on making sure that we have kind of that proper roll out. Because we certainly don't want too so make a big burden on the coding and what not within the stores and as someone who's not a retail store owner. I think they've been really great at doing some of that outreach and also providing feedback in the retailer's association, etc. on looking at what that is. Therefore, I

don't want to put an arbitrary this would be the timeline. Because I do think you raised a good point and we need to make sure that we're very thoughtful and mindful about how we go about and do that. My idea or my plan was to do if Council agrees, is to work with those associations to make sure that we are dealing this properly. Just for context that I'm not trying to make this an overnight change. I mean I would love to see an overnight change if that's possible that's great. But recognizing the smaller mom and pop shops may have some of these limitations.

CM Gruber: To follow up. Therefore, Trevor again the concerns that I have. That many of these stores aren't members of the Chambers of Commerce or members of the BAB especially the very small stores. So, could you explain how it will work from the city's Licensing point of view.

T. Vaughn: We would send out a notice to all our registered businesses that this was occurring. Experience does tell me that a lot of them still won't make the adjustment right away for whatever reason. What will happen and the good news here for those retailers is that there's not necessarily a penalty to the retailer for collecting tax when they shouldn't, as long as they remit that tax. The issue I think is that some people not implementing reduce the full effect of the exemption. I think we do our best to try to get the outreach out there. We know the big retailers and trying to target those retailers specifically that would sell these types of products. These products are probably sold in a lot of places but doing our best trying to get that outreach. But I'll tell you when the City removed the exemption for candy and soda, we had a large retailer that had missed that for a long period of time despite multiple outreach. So, it's a little bit of a concern as you have a change in tax rules and trying to get that outreach done. But as far as the penalties, as long as they remit the tax their pretty much held-harmless.

CM Johnston: Trevor, I just have a follow up. I don't know if I heard that right and I know there was an effort a few years ago to increase a soda tax but did I hear you correctly? That currently there is no tax on soda and candy?

T. Vaughn: No there is. I'm saying when the City removed the exemption. We still see a lot of retailers struggle with that one.

CM Johnston: Okay, thanks for clarifying that.

The Committee recommended that this item is moved forward unanimously.

https://gazette.com/opinion/columnists/compounding-covid-s-travails-ashecession/article_d12c6614-5ce8-11eb-b8a0-539d741035aa.html.

Outcome

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

Follow-up Action

Staff will forward the item to Study Session.

REVIEW OF AURORA 2021 DEBT PORTFOLIO

Summary of Issue and Discussion

Andrew Jamison, Debt & Treasury Senior Analyst stated each year the Management & Finance Policy Committee (M&F) is provided an overview of the City's outstanding debt. As part of the overview,

the Debt Manual is provided to members of M&F. This Manual is updated yearly to reflect the actual outstanding debt as of the end of the prior calendar year. The attached debt book illustrates the City's outstanding debt instruments as of December 31st, 2020.

2020 Financing Activity

In August 2020, the Wastewater Enterprise converted the \$13 million outstanding floating rate Series 2018B revenue bonds to a fixed-rate obligation (Series 2018B-2). The bonds mature in 2030 at a fixed interest rate of 1.231%. The Series 2018B has an authorized but not issued amount of \$15 million in variable rate bonds remaining to be issued in 2021. The bonds finance a large stormwater outfall project on the Fitzsimons campus.

In October 2020, the City, through ACLC, issued Certificates of Participation in the amount of \$33.77 million to fund construction of the Southeast Recreation Center. The bonds were sold by RBC and structured on twenty-five-year term at a fixed rate of 2.39 percent. A portion of the AMC was pledged as collateral and the new recreation center is scheduled to open in 2023. The COPs, subject to appropriation, are rated AA by S&P. Appropriations ratings are one notch below the City's AA+ General Obligation rating. In the rating report, S&P highlighted Aurora's strong economy, excellent financial management, and very strong budgetary flexibility.

Also in October 2020, Fitch ratings affirmed the AA+ rating on Aurora Water's Series 2016 \$392 million first-lien water refunding revenue bonds and revised the Rating Outlook to Positive from Stable. In the report Fitch highlighted Aurora Water's strong service area, low operating cost burden, and very strong financial profile.

Committee Discussion

CM Gardner: I want to ask so it could be explained a little bit in the minutes in case there's anyone from public looking at them. But could you talk about the General Improvement Districts that we have and what those are for and how that works. I'm asking because there's obviously some specific neighborhoods identified. So, there might be some curiosity from the public what those are.

A. Jamison: Sure. So, the districts are subdivisions often in areas that were built before the concept that a Metro District really existed in Colorado. In many ways they serve in a similar function as a metro district does to fund neighborhood improvements. One example that we could use is Peoria Park, which is somewhat close to Overland High School in Aurora. Generally, what happens is the residents of the neighborhood undergo a meeting process with the HOA. They decide to hold an election in order to assess a property tax levy for a certain project. Peoria Park decided to levy themselves to build a masonry fence on the perimeter of the neighborhood. Obviously, it's in everyone's best interest and it improves the value of their homes and et cetera. So, if the election is successful, the City would step in to help obtain financing to build the fence. Public Works then steps in to help coordinate on the construction side. They have some free legal services so we kind of help them along. The City really doesn't have much of a stake in the game. Other than to help administer it. If a neighborhood wants to improve itself, it's in our better interest as well. Besides fencing there's also sewer, street, and other improvements the neighborhood might need to get done and also finance. We then issue the debt and also handle the administration, i.e. coordinate with the county as to the property tax collections, make the debt service payments, manage maintenance and things like that.

CM Gardner: Thanks for going over that. I just have a comment or observation. I just want to point out for the sake of the minutes. If you look over both what S&P, Moody, and Fitch all said. They were very complimentary of the financial strength of our city. Which talked about things like strong financial policies and strong budgeting philosophy going back several years maintaining general fund reserves. I want to point out that at the beginning of the presentation there was talk about refinance transactions. Because of the strength of our financial position we were allowed to do those things and really take advantage of better rates and save our residents money. I think it's really important to point out these rating agencies and how complimentary they're with the financial management of the City, and obviously that reflects just a really good job that Terri and her team do.

CM Gruber: First off, I want to thank you for this and second what everything CM Gardner said. I shared in the comments a review by Government Accounting Standing Board (GASB) which looks at cities across the nation. It shows that Aurora ranked 6th in an annotation which is outstanding. The way the City runs itself it's a real tribute to Terri and the entire team, as well as Jim Twombly and all the way down. So, congratulations for that. Also, I was very impressed with the rate we have for the Southeast Rec Center. CM Johnston and I sit on the Aerotropolis Regional Transportation Authority and we sold bonds through that organization before. And what the City has done and the rates we received. It really shown as a result of the City's ability to manage funds we pay less for these major projects than other cities. So even though you're talking a \$35M dollar project and after you add the paying the debt on that. The project is actually much more expensive. However, because our debt and our ability to bring in credit is so much better than some of the other cities. We're buying that \$35M dollar building for far less than comparable cities would that aren't managed as well as we are, so that's a very important point. I do want to point out though that last night we had a presentation by the risk manager. Our insurance payments have gone up significantly from around a million and a half to two and then we added \$800,000 last night in insurance payments. I'm concern that the cloud and horizon could be this risk that we're seeing to build and the liability. I'm glad we're covered now. But I think it's very important for the Committee and for the City for the finance part of the city to keep a close track on what the Risk Manager is bringing forward on any impact that could have on our future bond ratings and future ratings by stand support and the other organization.

CM Johnston: I don't have any more to say. You both articulate those points well. Thank you again for Terri and her team. It makes our jobs a lot easier and more effective with you having such a great team so thanks.

Outcome

Information-only item

Follow-up Action

No follow-up needed.

2021 PROPOSED WORKPLAN

Summary of Issue and Discussion

Review of the 2021 proposed work plan for the Management and Finance Policy Committee.

Committee Discussion

Committee recommended:

- COVID Revenue Lost Update – May/June
- Settlements & Lawsuits Payouts Report
- City Council Purchase Card Audit

Outcome

The Committee thanked staff. Information only.

Follow-up Action

No follow-up needed.

INTERNAL AUDIT 2020 ANNUAL REPORT

Summary of Issue and Discussion

Wayne Sommer, Internal Audit Manager presented an overview of the Office's progress against the 2020 audit plan as part of their regular communications with the Audit Committee. Total output for 2020 was down (compared to previous years) as the Internal Audit Manager was reassigned for most of the year to fill the role of Recovery Manager under the City's Disaster Recovery Plan in response to the COVID-19 pandemic. As a result, the two remaining Internal Auditors had to both conduct audit engagements and perform workpaper reviews on each other's work. The Internal Audit Manager did review all final reports before they were issued. The staffing shortage impacted our productivity; however, staff were able to complete nine engagements in 2020. With nine engagements completed and three active the Office achieved a 68% combined rate for active and completed engagements.

Committee Discussion

CM Gardner: I have two questions. On the purchase card transaction review. I'm curious why it says it excludes City Council purchases. Is there a reason why we're excluded from those?

W. Sommer: It's been a sort of a long-standing position since I've been here, that we do not audit City Council. It's kind of strange to be auditing your boss's boss. Obviously, Council can change that. We have audited some Council activities at Council's request but otherwise we exclude City Council from our audit scope.

CM Gardner: The Committee can think about it and we can reconvene next month. But my initial reaction is I think those transactions should be audited. CM Gruber and CM Johnston, do you have any thoughts on that?

CM Gruber: Actually, I don't remember that was a rule. I may have heard that Wayne. But I'm kind of questioning why we would exclude Council period. Why wouldn't we audit Council just like any other part of the City?

W. Sommer: It goes back to the days when Skip was here. Prior to my arrival the Audit department had started to conduct an audit on Council travel which did not go over well at the time. We were instructed that Council was off limits in terms of our audit scope. We did however speak with the Committee at the end of last year at our last quarterly meeting and talked about looking at what that scope would be for Internal Audit's responsibilities in the City. We will be working with the City Attorney's office on the

current situation and bringing a proposal back to the Committee for them to consider an action in terms of clearly establishing those areas that internal audit has some authority over.

CM Gruber: Well, just in terms of transparency. I don't see why we would not audit ourselves.

CM Johnston: Agreed. Thank you for bringing something back to us.

W. Sommer: Sure. Going forward we'll be happy to include those transactions in our samples.

CM Gardner: I get the awkwardness of it. Obviously maybe more of a political consideration, unfortunately, that staff has to be put in that position. But I think we should be reviewing what Council does. I think that's good management practice and good finance practice. My other question is that we talked a couple times last year about an audit for our sales tax incentives. I don't think I saw that in there because I don't think it was finalized. But can you just let us know where you're at on that?

W. Sommer: If you're talking about the AEDC financial incentives that audit is coming to completion. Michelle Crawford is wrapping up as one of her last audits before she slips fully into the police auditor role. We should have something on that very soon. It needs to go through my final review and then the report will go through the various levels of management up to the City Manager before we actually issue it, but that's coming to a conclusion.

CM Gruber: The list of things you will be auditing in 2021 that's obviously not included in the 2020.

W. Sommer: Correct. Looking at the 2021 schedule. We will come back in April, July, and October. The schedule shows us bringing the annual Internal Audit plan for 2022 in December. Typically, we try to shoot for November on that, but we will be back on a quarterly basis.

Outcome

The Committee thanked staff. Information only.

Follow-up Action

No follow-up needed.

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, February 23, 2021 at 1:00 PM (WebEx)

THESE MINUTES WERE APPROVED AS SUBMITTED

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

3/1/2021
Date