

**CITY OF NEWPORT BEACH
CITY COUNCIL FINANCE COMMITTEE
MINUTES**

The Finance Committee met at 2:00 p.m. on Tuesday, December 16, 2008, in the Council Chambers, 3300 Newport Blvd., Newport Beach, CA 92663.

1. ROLL CALL

Present: Mayor Pro Tem Keith Curry (Chair), and Council Members Leslie Daigle and Mike Henn

Staff Present: City Manager Homer Bludau, Assistant City Manager Dave Kiff, Administrative Services Director Dennis Danner, Deputy Administrative Services Director Dick Kurth, Finance Officer Dan Matusiewicz, Revenue Manager Glen Everroad, Income Contract Administrator Evelyn Tseng and Administrative Assistant Cathy Malkemus

2. APPROVAL OF MINUTES

The minutes for the Finance Committee meeting of November 6, 2008, were approved as submitted.

3. PUBLIC COMMENTS

There were no public comments at this time.

4. DISCUSSION/ACTION ITEMS

A. Review of Tidelands Economic Analysis

Using a PowerPoint presentation, Assistant City Manager Kiff noted the three reports that are the topic of the discussion at the current meeting. These included the appraisal, the cost of service study and the economics analysis. All were provided to the Committee members and those in attendance. He stated that the laws that apply to the issue include the Beacon Bay Bill, which is Chapter 74 of the Statutes of 1978, and Newport Beach Municipal Code 17.60, Harbor Permits and Leases. Assistant City Manager Kiff displayed a map showing the location of the tidelands in Newport Bay, and explained that fees are updated in a variety of ways. He additionally noted that some fees have not been updated recently and some have never been valued. He listed the fiscal challenges facing the tidelands, highlighted by dredging and also including pollutant requirements, seawall rehabilitation, harbor patrol, eelgrass matters, maintaining the City's regional general permit and providing basic amenities. He also displayed the tidelands

fund for fiscal year 2006-07, which showed a \$13.6 million deficit, and stated that the expenditures that should be included in the fund is a topic for discussion.

Assistant City Manager Kiff briefly summarized the three reports by stating that the appraisal done by James B. Netzer, September 30, 2006, examined the fair market value of a number of commercial activities. He displayed a selection of Newport Harbor fees, and a comparison of the current amount being charged to the appraised amount. He also displayed the value of mooring transfers, as appraised, and as currently listed. Assistant City Manager Kiff stated that the cost of service study conducted by Maximus, Inc., July 11, 2007, compared the current harbor service costs, both direct and overhead, to the harbor fees. The conclusion was that if fees were charged that were equal to the costs of providing the services, an additional \$1.68 million could be added to the tidelands fund. He displayed the summary report. The economists' report was conducted by Professors J. R. De Shazo and Michael Hanemann, October 15, 2008. Assistant City Manager Kiff briefly displayed and summarized their findings and recommendations.

In conclusion, Assistant City Manager Kiff stated that the staff recommendations are to not change the way the City calculates tidelands expenses or revenues, to always have the general fund subsidize the tidelands fund, to apply any increase in fees solely to the needs of the harbor that are currently not being addressed, to work with the Harbor Commission to prioritize the harbor's capital and maintenance needs, and to determine a funding plan.

In response to Council Member Daigle's question, City Manager Bludau stated that it's still open to discussion as to which of the Harbor Patrol services the City may choose to provide, what they will cost and how they will be funded.

Council Member Henn stated that the cost of service study is fairly clear, but that the impact of the appraisal still needs to be determined. He asked what the potential accumulated revenue would be if the City moved forward with the appraisal-based fee changes. He stated that it would be important to have an estimate when discussing the funding needs of the harbor.

In response to Council Member Daigle's question, Revenue Manager Everroad referred to Appendix G of the cost of service study and noted that advanced planning costs account for the majority of the Planning Department's unrecovered tidelands-related costs.

Mayor Pro Tem Curry complimented the staff recommendations, and stated that equity also needs to be taken into consideration when discussing fees and agreed that any increase in fees should be linked to improvements in services.

Council Member Henn added that all property owners in the City benefit from the harbor, bay and beach, and that a deficit in the tidelands fund is acceptable. He also agreed that the fees should be tied to improvements and that there should be an assurance that this will continue in the future.

Mark Sites, former Harbor Committee member, stated that the tidelands are State land, granted to the City with the condition that all the money raised in the tidelands is to be used for the upkeep and maintenance of the tidelands for the public benefit, or returned to the State. He stated that to avoid this, over the years, the City has charged more and more expenses to the tidelands fund. He expressed his lack of support for the conclusions in the reports and their erroneous justifications for the City's practices.

Bill Moses, representing the Tidelands Users Group (TUG), stated that TUG has several concerns, which include the lack of an independent analysis by the professors, an overstatement of expenses attributed to the tidelands and an understatement of revenues, errors, omissions and inconsistencies in the reports, ignoring the general public's use and enjoyment of the tidelands, and invalid comparisons to other harbors and mooring rates. In conclusion, he stated that the harbor fee study is not accurate, not reasonable and not fair.

In response to Council Member Henn's question, Mr. Moses stated that the members of TUG include homeowners, commercial entities and mooring owners.

Marcia Dossey stated that the costs of the Planning and General Services departments seem to be designated inappropriately.

Maggie Delaney, mooring permit holder, stated that she's concerned for how long the studies have taken, noting that they need to be predicated on current data. She also felt that the overhead rates applied to the tidelands are too high. Ms. Delaney confirmed that the tidelands fund is categorized as a special revenue fund, and stated that it should be an enterprise fund.

Bill Allen asked how the footage for residential pier fees is measured.

Dan Gilliland expressed his support for having the studies done, but stated that he has some concerns, which include the lack of a cost to waterfront owners for dredging and the differences in the waterfront property lines for tax calculation purposes. He stated that these are only examples showing that the studies did not look at all of the issues carefully enough.

Pete Swift, owner of Swift Slip Dock & Pier Builders, stated that he has always paid his fees to the City, which amounted to over \$70,000 in permits in 2007. He stated that he's already had to comply with fee increases and expressed his dissatisfaction that his business should again have to endure additional fee

increases. Mr. Swift stated that the number one problem in the harbor is the eel grass and that the issue must be addressed and funded.

John Corrough, Harbor Commission member, expressed his agreement with the Harbor Commission being involved in the review process, and stated that the reports have inaccuracies and omissions, and can only be described as unprofessional. He stated that the general public should be included as a group that benefits from the harbor and should also be considered as a source of potential revenue. In conclusion, he stated that the reports have an adversarial tone and are flawed in many ways.

Gary Hill disagreed with the conclusions of the appraisal regarding fuel docks, stating that their comparisons were inaccurate because they were comparing privately-owned properties in Newport to publicly-owned properties in other cities. Additionally, he disagreed with the conclusion that the leases should be based on a percentage of gross sales.

Charles South, owner of South Mooring Company, stated that the study does not reflect the equipment owned by the mooring renters. Additionally, he stated that it is inaccurate to base mooring rents on those charged by yacht clubs because of the services that the yacht clubs provide.

In response to the comments, Assistant City Manager Kiff stated that staff would research the issue of fuel dock ownership. He clarified that staff is recommending that the Harbor Commission provide input on the priority for projects in the harbor only, although individual members can provide input on the fees, at any time. He further clarified that the measurement for residential piers is lineal feet, or the length of the pier, and he noted that a summary of the Planning Department fees is contained in Appendix G and in Appendix J for General Services. He provided additional information on the property taxes charged for underwater lots, as discussed by Mr. Gilliland.

Finance Officer Matusiewicz explained that the tidelands fund is classified as a special revenue fund because these funds provide a means to account for restricted revenue sources, which are used only for allowed purposes. He added that enterprise funds usually do not receive a subsidy, which the tidelands fund does from the general fund. Mayor Pro Tem Curry requested that staff research the issue further. A brief discussion followed regarding how to accurately determine which revenue sources are applied to the tidelands fund and the level of importance to do so, given the subsidy.

Council Member Henn requested that a broad review be done on how the cost and revenue allocations are done for the tidelands expenses. He stated that the more important issue for him, however, is to determine the total amount of the fee increases and how those increases will be spent. Revenue Manager Everroad

confirmed that staff will update the cost of service study with the figures from the recently completed City-wide cost of services study.

Mayor Pro Tem Curry thanked the members of the audience for their comments and stated that the Finance Committee shares some of their concerns regarding the conclusions in the reports. He emphasized that a common sense approach needs to be taken, and that an equitable and fair way to allocate costs needs to be determined. He also expressed support for continued public and stakeholder input on the fee proposal, and input from the Harbor Commission on the capital projects that should receive priority.

Council Member Daigle also expressed support for continued public outreach, the development of a mechanism to make sure that revenues are dedicated to harbor improvements as suggested by Council Member Henn, and the Harbor Commission's preparation of a comprehensive list of improvements for the harbor. She stated that she would also like to receive a clearer understanding of the costs associated with the recommended fee increases.

Council Member Henn concluded by emphasizing that he wants to understand the magnitude of the fee increases and the amount of work that needs to be done in the harbor.

B. Discussion of OASIS Senior Center Funding

Administrative Services Director Danner stated that this item was placed on the agenda as a result of the comments by Council Member Rosansky at the December 9th City Council meeting. He noted that the City's facilities financing team was present at the Finance Committee meeting held on November 6th, and at that time, did not feel that it was the proper time to be issuing debt. He stated that staff was looking for Finance Committee direction in preparation of placing the matter on an upcoming City Council meeting agenda. He noted that the OASIS Senior Center project is expected to cost approximately \$20 million with \$10 million of this to be funded by the City. Lastly, he noted the Reimbursement Resolution for the project that was approved by the City Council on November 12th.

Mayor Pro Tem Curry stated that it would be ideal to have the financing of the City's portion of the project close at the same time that the construction bid is awarded, so that the City is confident that it has the money in hand. He added that the City is fortunate that it has the reserves to advance the money, allowing the City to wait for the market to stabilize and a more opportune time to finance, while also keeping other projects moving forward. He stated that it would be prudent to be ready to finance.

Council Member Henn suggested that a cash flow estimate be looked at for the near-term projects that would identify the drawdown of the facilities fund for the next two or three years. Mayor Pro Tem Curry added that it would be important to proceed with the paperwork for the bond financing, so that the City is ready to go when the market conditions improve.

In response to Council Member Daigle's question, City Manager Bludau confirmed that the money that is raised by the public for OASIS will go towards OASIS. Council Member Daigle stated that she would like to have a discussion at the City Council meeting on how the project will be financed and how much will be borrowed.

After a brief discussion, the Committee agreed that the cash flow analysis, as recommended by Council Member Henn, should be presented to the City Council with a recommendation from the Finance Committee to delay financing, by the City advancing the cash until the market improves. At that time, the City Council would have a full discussion on the allocation of the bond and COP proceeds.

Dolores Otting agreed with Council Member Daigle that the financing discussion should be a public discussion.

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

A general discussion took place regarding the City Council goal setting session scheduled for January 10, 2009, and the budget update that would be provided by Administrative Services Director Danner at that meeting.

6. ADJOURNMENT

The Finance Committee adjourned at 4:00 p.m.

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

Attest:

Dennis C. Danner
Administrative Services Director

Date