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## Finance Committee Summary

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Wednesday, October 17, 2007 1:30 p.m.

3<sup>rd</sup> Floor Council Conference Room

**Committee Members Present:** Faatz, Chair; Boigon, Vice-Chair; Brown, Robb

**Committee Members Absent:** Lehmann

**Other Council Present:** Nevitt

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Agenda:

- 1) District Attorney's Office – supplemental funding
  - 2) Reserve and Special Revenue Fund briefing
  - 3) Comcast Effective Competition policies/legislation (Executive Session)
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**1) District Attorney's Office supplemental:**

Committee Action

The Committee approved an \$820,000 supplemental for the District Attorney's Office for unbudgeted expenses related to pay bumps for attorneys and victim advocates (\$310,000), Metro Gang Taskforce (\$180,000), sick and vacation payouts (\$156,100), and other personnel and merit costs.

Committee Discussion

Ed Scholz, Budget & Management, reported that this supplemental will bring the contingency reserve balance to \$6.5 million (see attachment). He noted that it is the goal of Budget & Management to manage the 2007 budget and to absorb as much cost as possible and to incur any savings it can to avoid anymore budget reductions for 2008. He reiterated that budgetary problems now impact the 2009 budget. Alyson Gawlikowski, Budget & Management, noted that the leave payments for the DA's Office are attributable to retirements and resignations.

**2) Reserve and Special Revenue Fund briefing:**

Committee Discussion

Claude Pumilia, Department of Finance, explained that reserves are established to respond to economic downturns, unexpected or unavoidable shifts in revenues or expenditures, or to respond to major emergencies. Two years ago, the Mayor established a Financial Management Task Force with experts in the field of finance. The Task Force recommended that Denver maintain a General Fund reserve of 15% to help with those factors mentioned above. Reserves are invested by the City's Treasury Division in accordance with the

Charter, Code, and investment policies. The average return over the past three years was 3.3%. In 2007, the earnings rate of return is 4.5%. The City reports and budgets the interest earned on the revenue side. Ed Scholz, Budget & Management, noted that their office attempts to forecast revenue as close as possible to actual collections from sales and use taxes (see attachment). Historically, the City has forecasted lower collections resulting in higher fund balance reporting than projected. Mr. Pumilia indicated it is better to forecast lower than higher avoiding risks that could cause lay-offs and reduction of City services. Fund accounts include the following: General Fund, Human Services Special Revenue Fund, Enterprise Funds (Golf, Wastewater, DIA, Environmental Services), Internal Service Funds (Fleet, Central Services, Asphalt Plant, Worker's Compensation), General Obligation Debt Service Fund, and Capital Improvement Funds (Winter Park, Lottery, CIF, ECCPF). Other funds are created when necessary to segregate funding sources.

The City maintains the following reserves: General Fund Contingency Reserve, General Fund Designated Reserves, General Fund Undesignated Fund Balance, Enterprise Funds Unrestricted Net Assets, Debt Service Fund Reserve, and Capital Improvement Fund Contingency. The following describes each reserve and guidelines:

- 1) TABOR Reserve: State requirement that the City establish an emergency reserve fund of three percent of all covered funds. Funds cannot be used for economic conditions, revenue shortfalls, or pay/benefit increases. The estimated reserve for 2008 is \$31.6 million.
- 2) Encumbrance Reserve: Designates funds for encumbrances that are unspent from prior year's budgets. The estimated encumbrance reserve is estimated at \$7 million for 2008. Budget & Management will be proposing an amendment in 2008 to roll any unspent encumbrances into operating budgets for the next year; removing the "floating" of monies from one year to the next.
- 3) General Fund Contingency Reserve: City Charter requires that the budget for the General Fund include an amount not less than 2% of the total estimated expenditures for the payment of any expense caused by unforeseen circumstances. In 2008, this reserve is estimated at \$17,269,000. Typically, the City only spends half of this contingency reserve, but City staff is anticipating that the entire 2007 reserve will be spent. Mr. Scholz explained that a budget year is generally closed out in the spring of the following year; so the City is managing budgets for two years collectively. He noted that any budgetary impacts/problems from 2007 would be experienced in budget years 2008 and 2009.
- 4) General Fund Undesignated Fund Balance: The undesignated fund balance is restricted to respond to economic downturns or unforeseen emergencies in order to maintain essential City services. Use of the fund balance below 15% should include a replenishment plan. For 2008, the projected ending undesignated fund balance is \$130,135,000. Remaining monies from the reserve are used to help build the next years fund balance. Based on historical growth patterns the actual fund balance as a percent of expenditures is 16% (see attachment).
- 5) Human Services Fund Balance: Similar to General Fund Undesignated Fund Balance for emergency situations. In 2008, the fund is estimated to be \$13,300,000 or 14% of expenditures.
- 6) Enterprise Funds: These funds do not have fund balance similar to the General Fund but maintain three months of operating costs and one year's of debt service in unrestricted net assets. Unlike Wastewater Management, DIA, and Golf Enterprises, the Environmental Services Fund is not accumulating a large fund. The Wastewater

Fund is based on revenue established by storm/sewer rates. Mr. Scholz said he did not know when the next recommendations for rates are scheduled, but would find out.

- 7) The General Obligation Debt Service Fund policy is to end a year with a fund balance of approximately half of the next year's expected debt payments.
- 8) Capital Improvement Fund (CIF) Contingency Reserve: This fund reserve maintains a contingency reserve for unanticipated capital expenditures. The contingency reserve for 2008 is \$1,366,000. The CIF contingency is in addition to project contingencies (CIP), but are separate. Project contingencies are generally estimated at \$1 million and expend project contingencies first before requesting from the CIF reserve. Mr. Scholz said they would be willing to evaluate and establish new policies related to this reserve if the ballot questions scheduled for the November 6 election are passed (2.5 mill increase and dedication of a portion of existing General Fund to the Capital Projects Fund).

### **3) Comcast Effective Competition policies/legislation (Partial Executive Session):**

#### Committee Action

The question proposed to Councilmembers was: Should City Council file a legal protest against Comcast's Effective Competition Filing? When Councilmembers reconvened from Executive Session those in attendance voted as follows:

Boigon = No	Nevitt = No
Brown = No	Robb = No
Faatz = No	

#### Committee Discussion

David Broadwell, City Attorney's Office, explained he was filling in for Darryn Zuehlke, Director of Telecommunications, who is meeting with state representatives on this issue. City Council is involved with these issues because the telecommunications authority is vested with Council. Currently, the City can regulate basic level service rates. Mr. Broadwell indicated that prior to 1992 local jurisdictions had the authority to regulate cable rates until the authority was taken away by the federal government (FCC). Effective Competition requests - legislative petitions to the FCC - are requests from an organization to be free from any regulations. A cable provider/system can be deemed subject to Effective Competition if a franchise area meets the "competing provider" test. The test criteria are:

- 1) Franchise area is served by at least two unaffiliated multichannel video programming distributors, each of which offers comparable programming to at least 50% of the households in the franchise area; and
- 2) The number of households subscribing to multichannel video programming other than the largest multichannel video programming distributor exceeds 15% of the households in the franchise area.

Comcast reported that it has met the required tests and has requested exemption from uniform pricing/rate regulation in a pre-emptive move to compete against other providers. Twenty-five municipalities in Colorado have experienced Effective Competition approvals by the FCC.

John Aragon, Comcast, said the process utilized by the industry to arrive at the figures is done by an organization called Media Corporation. The percentages are determined by the number of households and the penetration of any provider capable of providing services. The Media Corporation – a separate entity from this industry - analyzes the information from franchised areas which are allocated by zip code and applies a formula to arrive at the percentage of penetration that a provider has in a franchise area. Household information is obtained from the 2000 census. Mr. Aragon stressed that Comcast does not participate in any form to assist with or to arrive at the percentages of penetration. He noted that internet services are not part of the filing and does not impact bundling of services.

If the filing is approved, only the regulatory enforcement is lost and there would be no uniformity of pricing. Councilmember Boigon asked how this would impact low-income customers. Currently, Denver and Comcast have agreed to a B-1 Tier rate which permits a maximum rate of \$13.69 for basic services. Mr. Broadwell noted that if any pricing impacts any of its customers there is no reporting body to make a complaint. The FCC does not regulate pricing transactions related to Effective Competition approvals. Mr. Aragon stated that basic rates could be increased by \$1. Councilmember Boigon said she has always supported competition and affordable pricing and she asked that Comcast remember that the City has diverse needs for its communities. Mr. Aragon said it is good policy for Comcast to provide affordable products.

Legally, there has been 20 years of de-regulation occurring in this industry and at this point, no one knows what is going to happen in the future, stated Mr. Broadwell. Councilmember Faatz motioned for an Executive Session to discuss client-attorney matters regarding the City's position to file a legal protest against Comcast's Effective Competition filing. Councilmember Brown seconded the motion.

Councilmembers reconvened from Executive Session to Committee at 3:07 p.m. to take a formal vote on the matter.