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## Finance Committee Summary

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Wednesday, Oct. 15, 2008

1:30 p.m.

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

**Committee Members Present:** Faatz, Chair; Boigon, Vice-Chair; Brown, Hancock, Lehmann  
**Other Council Present:** Montero, Robb

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*Agenda:*

- 1) *TABOR Reserve policies*
- 2) *Foreclosures – financial/mill levy impacts*
- 3) *Denver Museum of Nature & Science (DMNS) parking structure*
- 4) *Special Revenue Fund policies – **rescheduled to the November 5 meeting***
- 5) *Sheriff's Department budget supplemental*

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### 1) **TABOR Reserve policies:**

#### Committee Action

The Committee approved consolidating the TABOR emergency reserve monies into two special revenue funds; the TABOR Special Revenue Fund (\$18,650,000) and the TABOR Real Estate Special Revenue Fund (\$11,400,000) in which the real estate fund would be dedicated to strategic real estate purchases.

Councilmembers Robb, Boigon, Montero, Hancock, and Lehmann approved the TABOR fund consolidation. Councilmember Faatz does not support the legislation and Councilmember Brown abstained on the issue.

#### Committee Discussion

Ed Scholz, Budget & Management, stated that 3% of Denver's TABOR emergency reserve is restricted and can only be used in the event of a declared emergency. The City complies with TABOR through a combination of three budget parts: allocations are made into the restricted fund balance in the General Fund, a TABOR Special Revenue Fund, and the Human Services Designated Fund Balance. He explained the TABOR fund changes as follows (see attachment):

- Transfer \$9 million of the General Fund portion of TABOR emergency reserve to the existing TABOR emergency reserve special revenue fund. This will consolidate all General Fund TABOR emergency reserve cash into a single special revenue fund.

- Create a new TABOR special revenue fund dedicated to strategic purchases of real estate and transfer the remaining \$11.4 million of the General Fund into this special revenue fund.
- Adopt conforming amendments to the Denver Revised Municipal Code, Sections 20-22 acknowledging the use of designated real property and cash, to meet TABOR emergency reserve requirements.

Mr. Scholz stressed that they are not asking to spend the money and any transactions from the fund reserve accounts must be approved by Council. He added that the proposal is similar to the state's processes. Councilmember Faatz noted that the state process has not set aside a fund to purchase real estate. Mr. Scholz pointed out that Denver's process is more conservatively prudent.

How are the funds impacted if the revenue goes down, asked Councilmember Lehmann. Every year the fund is adjusted up or down based on revenue collected, so it is not a problem, said Mr. Scholz. Councilmember Robb noted that the ordinance does not specify what type of real estate could be purchased, so does that mean a building could be purchased for elections? Karen Aviles, City Attorney's Office, said yes. Councilmember Robb suggested that additional language be inserted into the ordinance to better describe and define what strategic investments are. Ms. Aviles suggested adding the words, "deemed to be nonessential to the City". Councilmember Boigon said she would rather have language that requires a report and give the Mayor's Office more flexibility in spending the money on investments.

Claude Pumilia, Dept. of Finance, said the City is planning to use some of the TABOR revenue to purchase Market Street property near Denver Union Station. Councilmember Faatz does not agree with underwriting RTD's cash need for the redevelopment of Denver Union Station and giving them the City's TABOR money; which would close their financial gap for paying for the redevelopment. The City's intent is to provide RTD with resources that would benefit the entire region, stated Mr. Pumilia. Councilmember Boigon reminded the Committee that RTD and the City are fighting for multi-modal options, maintaining architectural quality, and preserving the build-out vision. Councilmember Hancock commented that current financial circumstances should be considered in these proposals and that questions involving timeliness, financial prudence, and creating jobs should also be asked. Councilmember Faatz agreed. She said that the City needed to determine what the role of TABOR Reserve is and said she supports repealing some elements of TABOR law, but she is not convinced about the appropriateness of using TABOR for real estate. Mr. Pumilia pointed out that Denver Union Station will be built out in phases and this proposal helps to validate and prepare for the first phase until such time when the economy is different and construction could begin. Councilmember Montero stated that Denver Union Station discussions have been occurring over five years now and much work has gone into that project. Councilmember Faatz noted the issue is related to policy and she would rather have cash for emergencies rather than trying to sell property to get to the cash. Councilmember Boigon suggested that Council approve a reporting function and not specify how the money would be spent and approve transactions annually with the budget process. She said she would be willing to work on an amendment that would encompass those ideas and that would designate any type of City asset.

Councilmember Faatz asked the Committee how they wanted to proceed. Councilmembers Lehmann, Hancock, Brown, and Robb agreed with proceeding with the “non-essential” language suggestion from Councilmember Robb. Mayoral staff did not object to this proposal, and was not sure about any impacts from Councilmember Boigon’s suggestions. Councilmember Faatz said she would be glad to work with Councilmember Boigon to pursue changes to TABOR legislation. Councilmember Boigon added that it wasn’t illegal to pursue other uses of TABOR reserve. Councilmember Robb questioned when the City plans on entering the market for purchasing the land. Mr. Pumilia said it could be end of first quarter of 2009. Mr. Scholz added that TABOR reserve is earning interest.

## **2) Foreclosures - financial/mill levy impacts:**

### Committee Discussion

Bob Gibson, Dept. of Finance-Treasury, indicated there was a lot going on in financial markets and most of it is negative. Denver like other cities nationally is having challenges in managing its financial portfolios, and reported that Denver has maintained its AAA credit rating. He informed the Committee that the Certificates of participation (COPs) refunding transaction for the Webb building were finalized on October 1 at a 1.75% rate. Mr. Gibson stated that unpaid property taxes are collected through the tax lien process and that Denver collects 99% of all property taxes levied.

### Questions of Councilmembers:

- 1) How will foreclosures affect the mills required for the Justice System and the Better Denver Bond Program? (Faatz) The current foreclosure situation should have “NO” affect on the mills required to retire outstanding or yet to be issued General Obligation bonds. Each year uncollected property taxes are received through the tax lien sale process and conservative estimates were used to project debt service requirements when the ballot questions were developed. The Better Denver Bond Program has been funded through the Commercial Paper Program. The interest rates paid to date range from 1.5% to 1.75%, significantly lower that the projected rates assumed in 2007 – 6 to 8%. Treasury will evaluate the debt service at the end of the year to determine whether or not other measures are needed. (Gibson)
- 2) How can the City be assured that we are getting a solid rate of return? (Hancock) Charter allows the City to make low risk purchases (bonds), if necessary. It would take significant decreases in the City’s tax base to force the Bond Program debt service levy rate above 8.433 mills. (Gibson)
- 3) What is the “tipping point” when foreclosures impact home values, taxes are lost, and mills need to increase? (Faatz) It is important to clarify that home valuations are conducted in even-numbered years and the findings are released in odd-numbered years – an 18-month market analysis period. 2008 is the “base year” for taxes to be collected in 2010 and 2011. The last valuation date was conducted before the foreclosure situation accelerated and the 2008 tax bills, collected in 2009, will not be impacted by foreclosures. (Paul Jacobs, Assessors Office)
- 4) What does the foreclosure yearly comparison look like? (Faatz) In 2008, Denver has reported 4,759 foreclosures, a decrease of 11.5% from 2007 and an increase of 25% over 2006. The highest number of foreclosures is in zip code 80219 (District 3). Comparing

October 2008 to October 2007 the Public Trustee Office is estimating that 250 less foreclosures will be reported than last year. Denver's foreclosure rates are trending downward. (Sindee Wagner, Public Trustee Office, see attachments) Councilmember Boigon requested a foreclosure analysis over a longer period of time to get an accurate base line for foreclosures.<sup>1</sup> Councilmember Montero requested maps reflecting zip codes impacted by foreclosures by Council District.<sup>2</sup>

- 5) How do you explain the decrease in the 2008 foreclosure rate? (Boigon) 2008 House Bill 1402 - related to foreclosure homeowner protections and signed by the Governor in June – has helped substantially and may be the reason for some of the decrease in foreclosure rates. This legislation requires at least 30 days prior to filing a notice of election and demand with a public trustee that a lender mail a notice to the debtor containing resource information that would help the debtor find options to their foreclosure situation. (Wagner)
- 6) When is a property recorded as a foreclosure? (Hancock) As soon as the election and demand is recorded. Homeowners/debtors have an estimated four months to cure their property. (Wagner)
- 7) When does an area's whole market get reflected in an individual's assessed value? In the City's total assessed value? (Faatz) Property transfers, due to foreclosures, are generally invalidated (set aside) by City appraisers, because foreclosures don't represent the total market. Market conditions and neighborhood stability impact sales ratios. In some cases, foreclosed properties reintroduced to the market can become an area's major supply. Homeowners have the ability to protest/appeal the City's assessments. (Jacobs)
- 8) Will rising home values in some parts of the City shift tax burden from one part of the City to another? (Faatz) This type of situation is called Tax Equalization (TE). TE redistributes existing taxes based on current market values. Every assessment shifts taxes from one area and/or property type to another. It is expected that the 2009 reassessment will do the following: The greatest tax burden shift will be toward property classes - apartment and commercial/industrial (non-residential) and the residential tax burden will shift away from high foreclosure areas. Basically, single family properties are expected to decrease in value in 2009 whereas non-residential properties are expected to increase in value in 2009. (Jacobs)
- 9) Will down-zoning impact home values? (Faatz) Depends, but Denver is fairing better than most national cities. The good news is that these market fluctuations attract investors. (Jacobs)

### **3) Denver Museum of Nature & Science (DMNS) parking structure:**

#### Committee Discussion

George Sparks, President and CEO of DMNS, reported that two hours ago he handed Claude Pumilia, Dept. of Finance, a payment to the City in the amount of \$32,000. He explained that in 2003 the City and DMNS entered into an agreement for construction and payment for a new parking structure. The project was estimated at \$14 million and the funds to pay for the project would come from:

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<sup>1</sup> Subsequent to the meeting the Public Trustee Office provided a foreclosure analysis from 1998 through 2008. (See attachment)

<sup>2</sup> Subsequent to the meeting the Public Trustee Office provided a Council District map with foreclosure information. (See attachment)

- \$2.5 million contribution from DMNS;
- \$1.5 million from the City from 1998 GO Bonds;
- \$10 million from sales proceeds from the sales of the Wastewater building and 5440 Roslyn building and a lease-back agreement (15-years) was established for the City to lease back the buildings.

Mr. Sparks explained that the DMNS payments to the City would be used to off-set the City rent payments on the two buildings. Payments of \$725,000 annually divided into two payments due in October and April on the 15<sup>th</sup> day from 2002 through 2022 was agreed to contractually. Unfortunately, stated Mr. Sparks, starting in 2004 a shortfall of \$860,000 was estimated in payments due to the City and DMNS entered into good faith negotiations in 2007 to ensure repayment to the City. The City amended the DMNS agreement and increased the DMNS pledge by 29%. The increase would come from ticket sales. In addition, the payment schedule was extended by six years.

Councilmember Faatz questioned who gave the authority to amend this agreement and asked why City Council was not involved in these transactions. Karen Aviles, City Attorney's Office, said she did not know why, but that it was the prerogative of the Mayor's Administration as to how they inform Councilmembers on these matters. The Councilwoman asked for additional information regarding the original contract, how the money was spent, and why the re-negotiations were not brought back to City Council. Ed Scholz, Dept. of Finance, said he would provide those details.<sup>3</sup>

Councilmember Robb said the information being presented is confusing as well as a recent newspaper article reporting on the issue and she wants confirmation on how much money is in arrears to the City. Sandi Garcia, DMNS CFO, said the total amount to be paid to the City from the Museum is \$15,107,448. The cumulative shortfall under the 2007 amendment is estimated at \$38,000. Councilmember Robb asked if the Museum would consider charging parking fees to pay for the shortages. Mr. Sparks said no because he would fear that patrons would begin to park in neighborhoods and that it could become a problem. He commented that he would look into other options such as raising fees or re-negotiating the contract again. Councilmember Faatz stated that she hopes they are able to make their payments.

#### **4) Special Revenue Fund policies:**

##### Committee Discussion

Councilmember Faatz decided that due to time constraints this item would be rescheduled to the next meeting for a broader discussion on the topic and to consider for approval two ordinances related to this issue (Parks & Recreation and Technology Services fund creations).

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<sup>3</sup> On November 4, 2008 the Dept. of Finance and City Attorney's Office provided the information. (See attachment)

## **5) Supplemental for the Sheriffs' Department**

### Committee Action

The Committee approved a supplemental in the amount of \$4,200,000 for the Sheriff's Department related to the implementation of the 2008-2010 collective bargaining agreement between the City and the Fraternal Order of Police (FOP).

### Committee Discussion

Ed Scholz, Budget & Management, indicated that today's approval would bring the contingency reserve balance to \$8,657,000. He added that there will be approximately \$4 million in additional supplemental requests which would also include a supplemental for fuel costs.