

Minutes
FINANCE COMMITTEE
Tuesday, June 11, 2013
City Hall, Room 207
5:30 p.m.

MEMBERS: Alders Amy Kocha, Tom De Wane, Andy Nicholson, and Tom Sladek

OTHERS PRESENT: Mayor Jim Schmitt, Dawn Foeller, Lynn Boland, Ald. David Boyce, Ald. Mark Steuer, Bill Kloiber, Mike Hronek, Attn. Tony Wachowitz, and others.

1. Roll Call. Opened at 8:20 p.m. All were present.

2. Approval of the Agenda.

A motion to approve the agenda made by Ald. Andy Nicholson, seconded by Ald. Tom Sladek, and carried to approve.

A motion to take item number eight after item number four made by Ald. Andy Nicholson, seconded by Ald. Tom Sladek, and carried to approve.

3. Approval of the minutes of the Finance Committee meeting of May 14, 2013.

A motion to approve made by Ald. Tom Sladek, seconded by Ald. Andy Nicholson, and carried to approve.

4. Request by the Finance Committee to review potential retirements that could occur in 2013.

Finance Director Foeller discussed the enclosed memo regarding the estimate of retirements for the year of 2013. The estimate is based on employee inquiries of their retirement value with no firm commitment to retire. The estimated value of those retirements, based on inquiries, was \$1 million. \$700,000 was been budgeted for the escrow account. Finance Director Foeller recommended that we continue to track the activities over the next months to see if the potential retirements come to fruition before moving any funds.

Ald. Tom DeWane questioned on where the budget is held for future retirements. Finance Director Foeller explained that the funds are separately budgeted in a separate fund for retirements. All retirements that are related to an escrow payment will be charged to the separate 704 fund; the sick-pay escrow fund.

A motion to receive and place on file the review of potential retirements for 2013 with a follow up to this report to come back to the committee in August made by Ald. Tom Sladek, seconded by Ald. Andy Nicholson, and carried to approve.

8. Report of the Purchasing Agent:

- a. Award the purchase of an Information Backup System to Unitrends for \$139,798.

A motion to approve made by Ald. Andy Nicholson, seconded by Ald. Tom Sladek, and carried to approve.

- b. Report purchase of six (6) SCBA's to Oshkosh Fire & Police Equipment, Inc. for \$22,886.

A motion to approve made by Ald. Andy Nicholson, seconded by Ald. Amy Kocha, and carried to approve.

- c. Award the purchase of Artistic Painting services for the Bay Beach Sea Dragon Ride & Sign to Joseph Ott for \$12,500.

A motion to approve made by Ald. Andy Nicholson, seconded by Ald. Tom Sladek, and carried to approve.

5. Request by the Finance Director, on behalf of the City Assessor, to cancel certain real and personal property taxes.

Three returns were enclosed in the Finance Agenda packet.

A motion to approve made by Ald. Andy Nicholson, seconded by Ald. Tom Sladek, and carried to approve.

6. Report by the Finance Director of the State Board of Assessors determination to reduce Aurora Baycare's personal property assessed value from \$4,064,077 to \$6,411. A payment of \$101,911.80 was made to the organization to stop the accrual of interest and penalties.

Finance Director Foeller explained that this was related to MRI equipment that was recorded as exempt computer equipment on their 2008 personal property tax return. In prior years, MRI equipment was considered taxable and thus, its value was moved to taxable personal property and billed accordingly. At the same time the City was deciding on the taxability of the MRI equipment, the City of La Crosse was entering into litigation under similar circumstances with Gunderson Clinic.

In March of 2009, Baycare filed an objection to the City's placement of the equipment on the taxable roll with the State Board of Assessors. The State Board of Assessor's ruled in favor of Baycare and ruled the MRI equipment as exempt computer. An agreement was made between Baycare and the City to place this decision on hold until a determination was made regarding the La Crosse case.

In 2012, the litigation in La Crosse was finally resolved after the City lost its Circuit Court challenge of the Tax Appeals Commission ruling. The Circuit Court upheld the Wisconsin Tax Appeals Commission ruling and State Board of Assessors determination that MRI equipment was to be categorized as exempt computer equipment for Gunderson Clinic. Since the La Crosse litigation went in favor of the Clinic, Aurora Baycare requested that the City follow suit and accept the State Board of Assessor's

decision made in March 2009 to reduce its personal property assessed value from \$4,064,077 to \$6,411. Since the two cases were very similar in nature, the City of Green Bay did not feel we would be successful in overturning the State Board of Assessor's decision and agreed that we would accept the determination set forth.

Attorney Tony Wachowitz believes that there is no merit to appeal the notice of determination. Baycare Aurora appealed the determination in front of the State Board of Assessors and they upheld Baycare Aurora's claim in 2009. In the La Crosse case, a similar action happened and La Crosse took their argument all the way to the Circuit Court and lost its appeal.

Attorney Wachowitz was then asked if we have more facilities that will be coming forward requesting refunds. The attorney's office is not aware of any at this time and does not believe more will be coming forward. Finance Director Foeller spoke to the City Assessor after the meeting and he stated that there are no other claims that will be forthcoming.

Ald. Amy Kocha questioned when the \$101,911.88 was paid to stop the accrual of interest and penalties. Director Foeller stated that since the State Board of Assessor is the final authority to place a value on property, unless it is contested before the Wisconsin Tax Appeals Commission, the City is required to accept their determination and refund the excess taxes paid, thus the payment was made on May 30, 2013. This item is being reported to the committee members due to the extraordinary circumstances and the dollar value.

The City will report this refund of taxes to the State of Wisconsin with our October 1 report. The State will notify the City in November of their determination as to whether or not the City can charge this cost back to other taxing jurisdictions.

A motion to approve made by Ald. Tom Sladek, seconded by Ald. Amy Kocha, opposed by Ald. Andy Nicholson. Motion passes.

7. Discussion and possible action on Oneida Tribe's request to designate certain properties as tax exempt.

With respect to Item #7, the committee may convene in closed session, pursuant to section 19.85(1) (g), Wis. Stats., for the purpose of conferring with legal counsel concerning strategy to be adopted by the city with respect to litigation in which it is or is likely to become involved. The committee may thereafter reconvene in open session pursuant to section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

A motion to hold for one month made by Ald. Andy Nicholson, seconded by Ald. Tom Sladek, and carried to approve.

Ald. Tom De Wane announced the topic open for discussion.

Attorney Tony Wachowitz stated that we received a request from the Tribe claiming that they will be overpaying taxes in the amount of \$173,000 for properties that are not part of the service agreement, but for properties that were part of the pilot agreement that was entered into in 1998 between the City of Green Bay and the Tribe. This issue is

related to low income housing and money that was received from HUD to do this type of program. The tribe has been making payments under the pilot agreement. The Tribe is claiming that they are over paying taxes for land that is in the trust but should be subject to just the payment paid through the pilot agreement, which is a much reduced amount. Discussions have occurred between the Attorney's office, the tribe's attorney, and a HUD attorney on whether the pilot agreement is legal and was properly entered into as far as contracting around tax exempt status. The attorney's office wanted to bring the information before the committee members before taking any action. Attorney Wachowitz asked the Committee if they wanted to discuss legal strategies, he would suggest going into closed session, otherwise the item could be held for one month and the Law department would put a memo together for the committee members that would discuss our options.

Ald. Tom De Wane questioned the goal of the Tribe and what would actually be paid in lieu of the tax exempt status. Attorney Tony Wachowitz believes that they would like to pay under the pilot agreement.

Ald. Amy Kocha asked if there were any consequences if held for a month. Attorney Tony Wachowitz stated that there should not be any consequences and would inform the Tribe that it is under discussion.

Ald. Tom Sladek was not aware of this agreement until tonight and believes he will have questions and requested that the attorney be descriptive in the memo to better explain the pilot agreement. Ald. Andy Nicholson requested a listing of the properties involved. Ald. David Boyce is in disagreement in holding off for a month regarding prorating any amounts that may be due. Attorney Tony Wachowitz explained that it regards taxes that were paid in 2012.

The previous motion to hold for a month passed.

9. Report of the Finance Director.

Finance Director Foeller announced the arrival of the two new employees assigned to the Welcome Center, Marissa Verchart and Trevor Martin, and are enjoying their new position.

Finance Director Foeller brought forward a summary of non-fiscal items in the Governor's budget that impacts local government as listed by the League of Municipalities.

- a. **Extending levy limits to cover certain fees.** The amendment requires a community to reduce its allowable property tax levy by the amount of any new fee revenue collected to fund certain services previously funded by the tax levy.
- b. **Review of municipal fees.** The amendment specifies that any challenge or appeal of a municipal fee that relates to the fee's reasonableness is to be made to the state's Tax Appeals Commission and the municipality bears the burden of proof.

- c. **Banning municipal employee residency requirements except that communities may require police and fire employees to live within 15 mile of municipal borders.**
- d. **Prohibiting municipalities from enacting ordinances that are more stringent than the state's uniform storm water management standards.**
- e. **Limiting municipal zoning authority over the location of cell phone towers.**
- f. **Expanding ability of public utilities, telecommunication companies, and video service providers to seek PSC review of municipal public works projects.**
- g. **Relocation of Nonconforming Outdoor Advertising Signs.**

Finance Director Foeller explained that the items are going to the Assembly, so if there are any disagreements or wishes to make changes, to contact their representatives.

A motion to receive and place on file made by Ald. Tom Sladek, seconded by Ald. Amy Kocha, and carried to approve.

Ald. Tom De Wane asked Finance Director Foeller if all of the Alderpersons could receive an electronic copy of the Finance Agenda including the hard copy that is mailed. Finance Director Foeller stated that this could be done for Finance.

A motion to adjourn at 8:45 p.m. made by Ald. Andy Nicholson, seconded by Ald. Amy Kocha, and carried to approve.

2013 Contingency Fund
\$92,000

- 1) **THIS MEETING IS AUDIO TAPED:** THE AUDIO OF THIS MEETING & MINUTES ARE AVAILABLE ON LINE AT WWW.CI.GREEN-BAY.WI.US.
- 2). **ACCESSIBILITY:** Any person wishing to attend who, because of a disability, requires special accommodation should contact the City Safety Manager at 448-3125 at least 48 hours before the scheduled meeting time so that arrangements can be made.
- 3). **QUORUM:** Please take notice that it is possible that additional members of the Council may attend this committee meeting resulting in a majority or quorum of the Common Council. This may constitute a meeting of the Common Council for purposes of discussion and information gathering relative to this agenda.
- 4). **REPRESENTATION:** The party requesting the communication, or their representative, should be present at this meeting.