



Finance Committee Summary

Wednesday, August 1, 2007

1:30 p.m.

3rd Floor Council Conference Room

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

Other Council Present: Garcia, Hancock, Johnson, Lopez, Madison, Montero, Nevitt

Other Council Absent: Linkhart

Agenda:

- 1) *Infrastructure Task Force – Mayoral final recommendations*
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1) **Infrastructure Task Force – final Mayoral recommendations:**

Committee Action

The Committee approved the following ordinances referring nine bond ballot questions that will go before the voters at the November 6, 2007 special municipal election and one companion ordinance that outlines all projects and level of funding to be undertaken with the proceeds if the general obligation bonds (GO) are approved by the voters:

- 1) A ballot question to establish a new dedicated property tax rate increase of 2.5 mills to generate additional annual funding for the City's capital maintenance projects. In addition, the ordinance dedicates a portion of existing General Fund mill levy (property taxes) to the Capital Projects Fund (\$21.5 million in 2008) in lieu of a portion (50%) of Occupational Privilege Taxes (OPT) currently dedicated to the Capital Projects Fund. The ordinance also adds language to further define capital maintenance.
 - A vote was taken to separate the additional policy request in this bill to dedicate a portion of property taxes to go into the Capital Projects Fund and a portion of the OPT into the General Fund.
 - Councilmembers in favor of separating both issues were: Faatz, Garcia, Johnson, Lopez.
 - Councilmembers in favor of one ordinance were: Boigon, Brown, Hancock, Lehmann, Madison, Montero, Nevitt, Robb
- 2) A ballot question to authorize the City to issue General Obligation Bonds (GO) for a repayment amount not to exceed \$22,157,315 in principal and interest for the purposes of financing costs related to deferred maintenance for public office properties, facilities, and equipment including, but not limited to: The City and County Building and the former City Permit Center.
- 3) A ballot question to authorize the City to issue General Obligation Bonds (GO) for a repayment amount not to exceed \$129,773,788 in principal and interest for the purposes of financing costs related to deferred maintenance for cultural facilities

including, but not limited to: The Denver Botanic Gardens buildings and grounds, the Conservatory and the Greenhouse; the renovation, reconstruction and/or repair of the Boettcher Concert Hall; the Champa Street side of the Quigg Newton Denver Municipal Auditorium and the Temple Hoyne Buell Theatre rehearsal space.

- 4) A ballot question to authorize the City to issue General Obligation Bonds (GO) for a repayment amount not to exceed \$104,056,320 in principal and interest for the purposes of financing costs related to Health and Human Services System Facilities, including, but not limited to: improvements and renovations to a Denver Health and Hospital building; building improvements and renovations to child care and child development centers; replacing the Denver Animal Municipal Shelter; and replacing the Eastside Human Services Facility.
- 5) A ballot question to authorize the City to issue General Obligation Bonds (GO) for a repayment amount not to exceed \$200,128,692 in principal and interest for the purposes of financing costs related to park system facilities, including, but not limited to: maintenance rehabilitation, restoration repair and/or replacement of drainage and irrigation systems, pools, historic structures and features, playgrounds, and building systems; landscapes; trails, roads and parking lots; and the acquisition, design and development of land, and Park and Recreation Centers.
- 6) A ballot question to authorize the City to issue General Obligation Bonds (GO) for a repayment amount not to exceed \$139,668,773 in principal and interest for the purposes of financing costs related to Public Safety System Facilities, including, but not limited to: construction, renovation or replacement of the police crime lab, firing range, fire stations, and a police traffic operations facility.
- 7) A ballot question to authorize the City to issue General Obligation Bonds (GO) for a repayment amount not to exceed \$320,819,497 in principal and interest for the purposes of financing costs related to streets, transportation and Public Works System Facilities including, but not limited to: repairing streets, structures, and/or increasing road capacity; improving multimodal accessibility and connections; replacing and/or repairing sound walls; repairing and/or installing new curb and gutter; improving transit stop connections, streetscapes and upgrading street medians; and, constructing and expanding the Cherry Creek Solid Waste Facility.
- 8) A ballot question to authorize the City to issue General Obligation Bonds (GO) for a repayment amount not to exceed \$111,154,783 in principal and interest for the purposes of financing costs related to Library System Facilities, including, but not limited to: performing deferred maintenance on existing facilities and construction of new branch facilities to be located in west Denver, Stapleton, and Green Valley Ranch.
- 9) A ballot question to authorize the City to issue General Obligation Bonds (GO) for a repayment amount not to exceed \$112,513,675 in principal and interest for the purposes of financing costs related to new construction of Cultural System Facilities, including, but not limited to: classrooms, labs, a teacher education center and other facilities for the Denver Museum of Nature and Science and, the reconstruction and expansion of Boettcher Concert Hall.
 - Councilmember Faatz stated on record she did not support this measure because of implications related to tax increases.
- 10) A companion ordinance that specifies all the projects and level of funding to be undertaken with the proceeds from the \$550 million 20-year general obligation (GO) bonds issuance. This bill would be effective upon passage of any general obligation bonds approved by voters at the November 6, 2007 election.

Committee Discussion

Councilmember Faatz outlined the meeting based on fiscal, legal, and other general questions related to the bond proposals.

Fiscal and legal questions:

- 1) How do these proposals fit into the City's Charter for appropriate financial debt limits if assessed property values decline in future years? What are the implications? The Charter stipulates that the City shall not issue GO bonds that exceed 3% of the actual value of taxable property as determined by the last final assessment. Historically, the City's property values have increased approximately 12% biennially, thus increasing the legal debt limit. 2007 is a re-appraisal year and the final values won't be known until the 4th quarter. Based on an abstract assumption using 2006-2007 the legal debt limit is \$2,009,975,000. The legal debt margin (capacity to issue additional GO bonds) as of July 27, 2007 is \$1,537,660,000. If actual property values increase by an estimation of 18% in 2007 (as a result of the re-appraisal process) the debt limit would increase by \$362,000,000. In addition, the City is retiring \$58.2 million of outstanding GO bonds. The combination of these various factors: the projected 18% increase, the 3% limit, all bonds being approved, retirement of bonds, and no consideration of new bonding; the estimated legal debt margin capacity would be \$1,407,705,000. (See attached debt service graph for 25-year projections.)
- 2) How much indebtedness is attributed to Certificates of Participation (COP)? Would any of the assets be figured into the total assessed valuation of the City? As of December 31, 2006, the City had \$423,185,000 of outstanding COP. The Webb Office Building represents 59% of this amount and the Human Services Campus represents 12%. There is no collateralization of bonds, including related lodgers and car rental taxes, GO are separate because these bonds are dedicated mills. Assets that are pledged as collateral for COP transactions are owned by the City and are not taxable property.

Questions:

- 1) Have assumptions been calculated for a 15 year bond issuance versus a 20 year issuance? Yes, it results in an additional amount of \$115 million in interest. It is important to remember that transactions are variable and these projections are dependent on various factors such as higher rates – shorter periods, or lower rates and longer periods, etc.
- 2) How soon will the City be open to additional bonding capacity? If property values continue to increase every two years by at least 12% (historical fact) within 10 years bonding capacity would be available, but variables must always be factored into the estimates. In addition, as indicated earlier, the City has an estimated legal debt margin capacity of \$1.4 billion.
- 3) Can these GO bonds be subject to refunding transactions, similar to DIA's airport bonds? Yes, GO bonds offer the best interest rates and provide less risk. Department of Revenue would also consider utilizing a commercial paper program as another form of financial opportunity in the market.
- 4) Will this bond proposal be the largest the City has ever undertaken? Yes. Although this would be the largest bond issue, prior bond issuances adjusted for inflation makes the

difference seem smaller. The total number of projects included in the 1989 and 1998 bond programs may equal this proposal.

- 5) How will the voter be assured that the proposed capital maintenance (mill increase and dedicated base) will be used for what it is intended? The 2.5 mill increase that would be collected in 2008 from 2007 property taxes would be specifically “earmarked” for capital maintenance. The tax increase is de-Bruced in all future years, and the City will be able to keep and spend all revenue from the mill increase after 2008. In addition, the proposal to take a portion of existing General Fund mill levy (property taxes) in lieu of revenues dedicated from occupational privilege taxes (OPT) would establish a base amount of \$21.5 million for the Capital Projects Fund and will grow in 2008 within TABOR limits. This money would also be used for future capital maintenance. This money as other funding sources, for example lottery and Winter Park revenues, would be identified through the budget process. Agencies such as the Auditor’s and Financial Management Office would be monitoring and auditing transactions related to capital spending. These funds are not categorized and will be allocated based on prioritization of needs.
- 6) Is switching property taxes for OPT a de-Brucing proposal? No, the proposal is taking existing revenue and dedicating the property taxes into a more reliable source of revenue for the Capital Projects Fund. The City dedicates 50% of it’s OPT revenues to the Capital Projects Fund. The swapping proposal will allow the Capital Projects Fund base amount to grow in future years within TABOR limits.
- 7) If voters approve the entire bond proposals have City staff calculated and considered how much additional operational costs will be expected from the General Fund, especially for new facilities and how these costs will be paid for? Yes, it is estimated that an additional \$8 million annually would be needed to maintain projects that are completed. City staff is currently looking at how operational and maintenance costs will be paid.
- 8) Would the swapping proposal be similar to the Winter Park transaction? Staff indicated they would have to review the language and get back to Council.¹
- 9) How do voters know about the proposals and companion ordinance? TABOR requires notices to all registered electors. The deadline for mailing TABOR notices is October 5. In addition, it is the role of the campaign to get the information out to the electorate.
- 10) Explain how and why the separation of the two cultural facilities ballot questions was accomplished. In addition to the swapping policy, the capital maintenance definition would be expanded to include restoration, refurbishment, etc. to distinguish routine maintenance from enhancement (construction) activities. Legal counsel explained that the single subject requirement (ballot question) requires that the “character of work activities” be reflective of what is being accomplished. One cultural ballot question pertains to “deferred maintenance” and another cultural ballot question pertains to “enhancement” (construction) of facilities.

Timelines and proposed ordinances:

- 1) Bill information and deadlines (see attachment):

¹ Subsequent to the meeting, Karen Aviles, City Attorney’s Office, provided the following information: The Winter Park transaction is reflective of a “maintenance of effort” agreement where it requires annual documentation that the entity is spending as much on particular types of activities as the entity was in the base year. Details regarding the bond proposal transactions differ from this type of agreement.

- Case law (Supreme Court rulings) dictates that bond issuance proposals are subject to the “single subject rule”. Historically, the City “packages” proposed bond projects into subject categories to comply with this rule.
 - The General Government Committee has purview of the ballot ordering process and anticipates holding the discussion on these matters on August 14 or August 28.
 - The ordinances to approve each ballot question must pass Council by August 27.
 - The Clerk & Recorder must certify the ballot by September 7.
 - TABOR dictates some aspects of ballot ordering – tax increases must appear first on the ballot.
 - The project management costs were distributed over all the ballot proposals.
 - City staff indicated the City would continue to pursue regional funding to pay for projects that weren’t included in these proposals. For the record, Councilmember Brown stated that nobody got all they wanted in these proposals.
- 2) Ordinance for the ballot proposal to increase the mill levy by 2.5 mills and new policy approval to dedicate a portion of the revenue from the City’s existing general fund mill levy to capital projects in lieu of revenues formerly dedicated from the Occupational Privilege Taxes (OPT). This bill does the following:
- The ordinance approves the ballot question that refers to the voters the \$2.5 mill increase for capital maintenance. If approved by Council, only the ballot language referring the \$2.5 mill increase proceeds to the Clerks Office for the final ordering of the ballot. Councilmember Faatz does not support any measures that would increase taxes.
 - The “swapping” language is being added as a new Article and Section to the Revised Municipal Code (Art. XV, Sec. 53-540). This portion of the ordinance **does not** go to the Clerk’s Office to be placed on the ballot as a question. It does not require voter approval. If approved by Council, like other approvals, becomes part of the Revised Municipal Code, whereby, Council may amend the ordinance (in this case, the new swapping policy) as it deems necessary, as Council has the power to do with all ordinances. This means that voters **will not vote** on this policy and voters **will not see** any of the changes to the Code contained in the ordinance, they will only see the ballot question pertaining to the 2.5 mill increase.
 - Specifies that within each category for any project up to 10% of the total amount specified could have money transferred to other projects with the same category, and would require City Council approval.
 - Moved out of Committee.
- 3) Public Office Buildings ballot question: moved out of Committee
- 4) Cultural Facilities Deferred Maintenance ballot question: moved out of Committee.
- 5) Health and Human Services System Facilities ballot question: moved out of Committee.
- 6) Park System Facilities ballot question: moved out of Committee.
- 7) Public Safety System Facilities ballot question: moved out of Committee. The police firing range was combined with police traffic operations facility for co-location and the costs decreased. The companion bill would outline these changes as well as the costs.
- 8) Streets, Transportation and Public Works System Facilities ballot questions: moved out of Committee.
- 9) Library System Facilities ballot question: moved out of Committee.
- 10) Cultural System Facilities and New Construction ballot question: moved out of Committee. Councilmember Faatz would not support this proposal if it has implications for tax increases. Various Councilmembers expressed that it was important that citizens know that the proposals are based on an entire package. For the record,

Councilmember Lopez asked City staff to be mindful of access to these amenities for the lower-income citizens and that a bigger outreach is warranted if the ballot proposal passes.

The Committee approved filing the proposed ordinances on Thursday, August 2 and for first reading on August 6. Legal counsel was comprised of David Broadwell, Karen Aviles, and Jennifer Weflen, from the City Attorney's Office. In addition, outside counsel included Penfield Tate, and Matt Hogan.