



Finance Committee Summary

Wednesday, June 3, 2009

1:30 p.m.

3rd Floor Council Conference Room

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

Committee Member Absent: Hancock

Other Council Present: Garcia

Agenda:

- 1) *Use tax on donations*
- 2) *Citizen budget discussions*

1) Use tax on donations:

Committee Action

The Committee requested that the City Attorney's Office and the Division of Treasury conduct a legal and financial analysis on the issue of tax collection and asked that exemption language pertaining to tax on donations be drafted for review. The following Councilmembers were in support of the exemption: Faatz, Boigon, Brown, Lehmann, Garcia.

Committee Discussion

Councilmember Garcia explained that this discussion was provoked by a current situation where a for-profit business (Ice-O-Matic) donated a piece of equipment (ice machine) to the Friends of the Denver Fire Department organization, which then required the donating business to pay taxes on the donated item. He noted that the donating business explained that it is a time-consuming activity for businesses to donate goods to charitable organizations, governmental bodies, etc. because it requires additional inspection of the good(s), shipping, and other administrative costs to complete the transaction. To add to the many chores required for a donation the required use tax creates an additional monetary expense that businesses do not have given the current economic climate and will discourage businesses from making these types of donations in the future, stated Councilmember Garcia. He noted that non-profits would be most impacted by the loss of these types of donations.

Steve Ellington, Treasury, stated that the Dept. of Finance-Treasury is responsible for the collection of Use Tax based on law outlined in the Denver Revised Municipal Code (Chapter 53 – Imposition of Tax). The subject of how and when to collect taxes are policy questions and can be modified by elected officials. Currently, how the Use Tax is applied is as follows:

- ✚ Consumer Use Tax is imposed on purchases of tangible personal property (not including inventory) that are used, stored, consumed, or distributed within the City of Denver on which no sales tax was paid at the time of purchase.
- ✚ If any item which was originally purchased for resale is later withdrawn from inventory for use by a business or an individual, the cost of the item withdrawn from inventory is now subject to the Use Tax.
- ✚ If the item withdrawn from inventory is from more than one year after its purchase date (into inventory), the taxable amount is the item's fair market value.

David Broadwell, City Attorney's Office, concurred that City Council has the ability to change the law. He noted that Denver has litigated its Use Tax numerous times and the courts have upheld Denver's Use Tax law. He stated that language could be written into law as an exemption from paying tax on donated items. He suggested since Treasury is currently looking at many issues as a result of tax auditing that Council look at all tax questions and consider consistency and parallelism before tackling any changes. Once the tax issues are identified, Treasury and the City Attorney's Office, could work together with Council to draft a bill. Councilmember Boigon announced that she was working with the Mayor's Office on the recent issue involving tax on cooking oil. She will inform Councilmembers of what is being done on that issue when a solution is identified. The Councilwoman said she would like a legal analysis conducted on these issues and suggested that City staff look to the State for its methodology on business property tax or other correlated tax structures. Mr. Ellington said he will begin to work on the suggestions, but could not provide a timeline of when the project would be completed, and he noted that he would not want any process changes that would create a "red tape nightmare". Councilmember Faatz requested that a list of complaints and/or questions be pulled together from citizens, which includes businesses, regarding taxes to focus on what tax policies need to be evaluated. Mr. Ellington said he would work with Council staff on the timeline and issues that should be addressed.

Councilmember Boigon questioned what type of impact any of these measures would make to the larger picture of tax collection and she asked where most of the taxes come from, e.g. business to business? Ed Scholz, Budget & Management, said he was not sure where specific tax collections are generated from and will get back to the Committee. Mr. Ellington explained that taxes are not aggregately collected and at this point Treasury does not have the ability from the data to break down specific taxes and they would have to conduct a financial analysis to determine if the City is collecting 100% of all taxes. Primarily, Treasury uses education to inform businesses of tax requirements and utilizes its tax guide information to assist them. Councilmember Boigon asked what type of training is conducted. The training is usually conducted by governmental bodies and is provided to industry and trade representatives, stated Mr. Ellington. Councilmember Garcia asked if the question of fairness has been discussed. Mr. Ellington stated he could not say and reiterated that the law is applied to tax collection.

2) **Citizen budget discussions:**

Committee Discussion

Ed Scholz, Budget & Management, announced that the Mayor is planning a series of community meetings to solicit public input on the City's 2010 budget. The meetings will be

held in all quadrants of the City in the month of June. A tentative schedule has been developed but is not finalized, stated Heather Barry, Mayor's Office. The Mayor is attempting to obtain feedback from citizens regarding where the City should focus its priorities for services and programs. Ms. Barry noted that a survey will also be conducted on-line to obtain feedback and should be ready for viewing soon on the City's homepage (www.denvergov.org). The survey will be sent to Councilmembers for their review prior to its posting. Mr. Scholz stressed that the survey is not a statistically valid survey and that the City is only trying to get to public opinion.

Councilmember Brown voiced concern that the meeting tentatively scheduled in the southeast quadrant started later than other meetings. Ms. Barry said she would work with him to locate another location for the meeting.

Councilmember Boigon voiced concerns about getting the word out if many of the neighborhood associations are closed down for the summer and she asked what the Mayoral staff is doing to communicate to the public about the survey and meetings. Mr. Scholz said the primary purpose for the meetings is to conduct informal educational meetings with the public and was not sure at this point how the Mayor's Office will be coordinating with neighborhood organizations. Councilmember Garcia said he hopes that the questions in the survey will get to serious considerations such as do constituents want to pay for trash, do they want less officers, etc.

Councilmember Faatz requested that a list of all items that the City appropriates funding to be provided to constituents for these conversations. Mr. Scholz said the City has approximately 250 services in program inventory and he could not put an entire list in front of the public without explanation of all the information, which could take hours. The intent of these meetings is to garner informal feedback from the public. (See attachment for final meeting locations and dates.)