

## BUDGET TASK FORCE

### Minutes of January 20, 2009

#### **Item 1. Call to Order/Roll Call:**

Meeting was called to order by Chairperson Franklin Wheat at 8:30 a.m.

**Members Present:** Peter Arts, Mark Denkler, Vincent Dole, Howard Ellingsworth, Todd L'Herrou, Robert Moore, James Smith and Franklin Wheat

**Members Absent:** Alexander Simon

**Guests Present:** Shy Petrolia, Lisa Herrmann, Joseph Safford and Karen Schell

#### **Item 2. Approval of the agenda:**

Mr. Smith moved to approve the January 20, 2009 agenda, seconded by Mr. Moore. Said motion passed unanimously.

#### **Item 3. Comments from the Public:**

There were no comments from the public.

#### **Item 4. Approval of the Budget Task Force Minutes for November 18, 2008:**

Mr. Dole moved to approve the November 18, 2008 minutes as presented, seconded by Mr. Moore. Said motion passed unanimously.

#### **Item 5. Review of new handout material:**

Mr. Safford mentioned a summary budget schedule by line items for 2008/2009 was forwarded to all members.

Task Force Members received a copy of the City Manager's memo in response to the Mary McCarty indictment. Mr. Safford indicated there were disturbing newspaper articles of the City which cast a cloud over operations. In appearance before the U.S. Attorney Mr. Safford realized there were several misinformed or incorrect assumptions; one being the perception there are two ways to sell bonds; negotiated and/or competitive bids.

The reason one would choose negotiated is due to a volatile market for bonds. A Third Party Financial Advisor would normally recommend one way or the other depending on the market conditions; however, the final decision is always made by the City Commissioners. If one would choose negotiated, they would test the market; if it wasn't right you could pull out and try again in a few days. This results in savings for the citizens as one is trying to select the lowest interest rate. We hold the underwriters at the task to make sure the cost of the rates are competitive.

If one were to choose competitive versus negotiated, the bid process states a closing date. The risk factor is one enters the market that date and bonds are sold regardless of what happens in the market. By going competitive, the U.S. Attorney feels you are getting the best price.

Mr. Safford felt the second misconception the U.S. Attorney has is City Commissioners are part time, not informed, not intelligent and they don't understand bond issues or technical information. Mr. Safford commented since 1990 he has been with the City and feels the City of Delray Beach Commissioners are extremely sharp individuals. Policy and procedures dictate City Commission approval on several items.

The City Commissioners are well informed, they do research on their material by reviewing sites involved if need be and they understand the issues.

Transactions involving bonds from 2000–2007 were reviewed with a conclusion the City followed Mr. McCarty and awarded transactions to him. Back in the 90's the City used Smith Barney; at this time Kevin McCarty was not a member of Smith Barney. Eventually Smith Barney brought on a co-underwriter that included Kevin McCarty which eventually led to a switch from Smith Barney to Kevin McCarty's firm.

One issue in the indictment was the City sold a 2007 bond issue using one of Mr. McCarty's firms; going negotiated which was approved by the City Commission. Three months prior they alleged the City received \$500,000 from Mary McCarty in her discretionary funds for an Old School Square project. (At this time Mr. Safford clarified the U.S. Attorney never stated the City of Delray Beach did anything illegal. They are basically saying the City's policies and practices need to be reviewed.) In deliberations with the U.S. Attorney, neither the City Manager nor Mr. Safford could identify the \$500,000 receipt. Further research identified the \$500,000 came from a 2002 bond issue sold by the County that was received in 2007. This was an incorrect assumption by the U. S. Attorney.

A second so-called accusation following the 2007 bond issue was when a city staff member received correspondence from the underwriter thanking them for the work and enclosed a gift. Citizens read this to sound as if they enclosed a check of money. In actuality the gift was a box of ten inch teddy bears with a Bear Sterns shirt handed out to the City Commissioners, City Manager and Finance Staff Members. Perceptions and words used by the U.S. Attorney versus what actually happened were two different situations.

City Commissioners indicated with the upcoming election, individuals challenging our City Commissioners will need a platform. These articles may be used to bring out City Hall. This will not disappear until the elections are finalized even though clarification has been proven. Further comments in the newspaper by a few City Commissioners indicated the possibility to suspend the City Manager and some Staff Members pending a full investigation. Upon receipt of clarification and correct information the City Commissioners dropped the idea of any suspension. However, the Commissioners feel a need to obtain a Third Party to review the current policies and practices on bond issues.

Mr. Ellingsworth questioned if there were any short comings with the policy or procedures the Task Force should be concerned about at this time. Are there any recommendations seen to enhance the perception or the accountability issues coming from this service?

Mr. Safford responded the easy answer is to drop the negotiated basis and go competitive. The problem lies with a volatile market; timing will be the key issue. A bid process could take up to two months time before completion. If citizens feel more comfortable with going competitive, it is very easy to make that recommendation.

Mr. L'Herrou commented he sat in on the Commission Workshop referencing this discussion. The agreed process was to have outside legal counsel recommend names; City Commissioners would pick a non resident of Delray Beach or Palm Beach County. This individual would then review the events that took place and make further recommendations. Mr. L'Herrou indicated it may be premature for the Task Force to take any action at this time.

Mr. Safford commented as the Task Force Members are citizens of the City, he wanted to present clarification of these articles.

Mr. Wheat questioned if there was any reason or problem that this may create with the 2008/2009 budget currently in place; any upcoming bond issues that should be reviewed.

Mr. Safford responded there was no conflict there. The issue of conflict may come up in the area of professional services. City Attorney and/or Human Resources may have a personnel issue, union issue or pension issue. The City has certain attorneys they've used for many years who are familiar with the background knowledge of the City. These individuals are very experienced in litigation; they are in touch with the State as to what is happening. To do an RFP every time a personnel issue arises may not be the

appropriate way to move forward. Bond issues are a different scenario; you could go competitive. In most cases selection will be the same firm as if one were to go negotiated. The important area in a bond issue is to have a large firm with individuals tied to the market for the selling of bonds instantaneously; smaller firms will not have that capability. Another area would be when City Commissioners, City Manager and/or Department Heads go to a convention and receive presentation issues. If the individual likes the presentation approach, he/she would make a recommendation to City Commission to retain that speaker; again this is not an RFP but rather a professional service awarded without a competitive bid. There would be selected areas where repetitive individuals may be selected without an RFP; banking services would be a nightmare to change every year.

Mr. Ellingsworth agreed; however the point is to go through the process. It doesn't necessarily mean one would have to switch; however it would challenge the City to evaluate whether they are receiving the best service and price.

**Item 6. Review of previous handout material:**

With reference to the financial spreadsheet that was distributed, Mr. Smith commented last year the Task Force made a decision to leave the salary/wages to individuals who understood the job descriptions. However in reviewing this item, over a two year period there was a gain of 13.8%. We are carrying forward vacant positions from year to year, it's like a savings; additional staffing requirements are needed due to the expansion and addition of more parks. Mr. Smith suggested focusing more time on this area. Other areas suggested for further review would be retirement pensions and health insurance. Mr. Smith questioned if the additional expense for the pension investment losses were included in these figures.

Mr. Safford indicated this was a projection of the prior year's calculations made by actuaries due December 31, 2008. Going forward the next actuary study will have significant changes as far as investments are concerned. Pension plan investments are smoothed over a four year period for Police and Fire and five year period for General Employees. There will be significant increases in pension costs for the next three to four years. The total assets and total liabilities are taken into consideration when calculating the City's contribution. One will only recognize 20 or 25% of that loss in the current year; the rest will be smoothed over the remaining three to four years. The City is at risk as these are defined benefit plans.

Mr. Ellingsworth questioned what the likelihood of the City would be to dissolve the defined benefit arrangement and move towards a traditional pension plan.

Mr. Safford indicated there was a meeting with the Police Union, their Plan Actuary and Plan Performance Monitor. Several options were discussed; closing the plan, freezing the plan to new entrants, joining the Florida Retirement System and going to the Sheriff's Department. Pension plans are taking a dramatic hit due to investment returns; including the Florida Retirement System (a loss of approximately \$29 billion). We are in the business to be a City, not turn the Departments over to the County. If the plan was closed, and assets were distributed to individuals and put into their 457 Plan, these individuals would have lost 25% of their retirement due to the investment market. The loss would have been personally as opposed to being protected in a defined benefit plan. This would be a dramatic shift and hard sell with the unions to convert to a defined contribution plan.

**Item 7. Other Business:**

At this time Mr. Safford apprised the Task Force Members of what staff was currently and continuing to work on.

- Year end audit and financial report.
- Hurricane Wilma debris certifications/FEMA closeout/insurance claims (totaling approximately \$3.6 million).
- Hurricane Frances second appeal of FEMA debris (totaling approximately \$494,000).
- Police Union/Attorney meetings with reference to Budget Task Force recommendations.
- Final Budget Task Force FY 2007 report (Implementing recommendations).
- Provide documents to the U.S. Attorney to a Third Party to evaluate bond policies and procedures.

Pursuing parking meter collection policies and procedures.  
Post Employment Benefit (OPEB) actuarial study. (Accounting requirement illustrating the liability for all future health and life insurance costs for retirees.)  
Water/sewer statistics bond ratings.

Items for additional consideration from the Budget Task Force would be as follows.

**Parks & Recreation** – Expenses of busing 45-50 students/8 chaperones to different colleges for an 8 day period totaling approximately \$35,000. Expenses include the bus and driver for 200 hours (24 hours per day for 8 days) at \$72.59 per hour; 25 hotel rooms for 6 days at \$120/night; and meals for chaperones. Fees of \$15,750 are paid by the students.

**Hurricane Wilma insurance claims** - Items are paid for by the City, and then reimbursed by FEMA and/or the insurance carrier. Upon receipt of the final payment from the insurance carrier, we submitted a list of all claims we thought were eligible. In reconciling FEMA payments received, staff realized the insurance company paid for items based upon estimates. Staff then decided to convert the list to actual costs and compare to the insurance payments. This represented approximately \$800,000 to \$1 million of \$3.6 million in claims. Further research illustrated Fire Station Four received payments for doors only. An outside engineering firm completed an evaluation reaching a conclusion the cost to replace would exceed 50% of its value. Upon reaching 50%, one needs to update everything to code standards. This information led to being more cost effective to demolish the building and starting over; cost totaling approximately \$2.7 million.

At this time Mr. Arts requested the record to reflect his firm is not the current carrier as of today; the insurance switch has not been completed.

Mr. Safford continued stating A.J. Gallagher's office recommended requesting 100% of all claim damage reimbursement. Based on research time and cost, the City Manager approved this item to be moved to the Budget Task Force as a recommendation. Upon receipt of any further moneys received by the insurance company, the Task Force Members would make recommendations on what to do with these moneys. Possibilities would be to reduce debt service or pension plan costs; preferably an area in a capital item that would have continuing impact not a recurring cost increase.

At this time being 9:50 a.m., Mr. Arts left the meeting for a prior commitment.

**Take-home vehicles** – Several departmental meetings have taken place trying to adhere to IRS guidelines which prohibit personal usage. If personal usage is allowed, individuals will be taxed on the full cost of the vehicle. The Fire Department has individuals using vehicles that are clearly not marked; these must be marked to comply with the IRS guidelines. There is one more meeting to be scheduled with Environment Services.

Mr. Ellingsworth questioned if the Task Force was going to receive the Departments written policy and procedures for evaluation.

Mr. Safford responded these policies have been revised several times since and are being reviewed by the City Attorney and Police Legal Advisor. The work is in progress.

Mr. L'Herrou commented he would like to see the Capital Improvement five year plan including the capital budget for this upcoming fiscal year. It was previously discussed by the Task Force the need to formulate a policy to recommend to City Commission upon contemplation of a new capital project they undertake a staff analysis.

Mr. Smith requested an additional item be added to the list as that of examples of retirement benefits for a police officer, firefighter and general employee with 25-30 years of service along with the individual's social security benefit to evaluate how rich the City's plan is. Perhaps a mid-level employee (sergeant) for police, (lieutenant) fire and a department head for the general employee. Mr. Smith feels with the pension benefit and social security individuals would be receiving 130% of their final year's salary with the City.

Mr. Safford commented some of these individuals may retire with 20 years service at age 40 and not be eligible for social security for another 15 or 20 years down the road.

Mr. L'Herrou commented this information may not be very helpful without further research in other areas. Police officers are comparing to the Sherriff's Department and other municipalities illustrating a much larger analysis.

Mr. Safford stated the compensation study of the City of Delray Beach to other municipalities is in its final stages.

**Motion to Adjourn:**

There being no further business, Mr. Ellingsworth moved to make a motion for adjournment, seconded by Mr. Moore. Said motion passed unanimously. The meeting adjourned at approximately 10:08 a.m.

The undersigned is the Finance Director of the City of Delray Beach. The information provided herein is the minutes of the City of Delray Beach Budget Task Force of January 20, 2009, which minutes were formally approved and adopted by the Budget Task Force on February 17, 2009.

  
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Joseph M. Safford, Director of Finance

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cc: Budget Task Force Members  
Lisa Herrmann, Budget Officer  
Rebecca O'Connor, Treasurer  
Joseph Safford, Director of Finance