

FINANCIAL REVIEW BOARD - MEETING MINUTES

APRIL 20, 2010

ENVIRONMENTAL SERVICES – TRAINING ROOM
434 SOUTH SWINTON AVENUE – DELRAY BEACH - FLORIDA

Item 1. Call to Order

The Chairman of the Board, Mr. Howard Ellingsworth called the meeting to order at 8:30 A.M.

Item 2. Roll call

MEMBERS PRESENT:

Howard Ellingsworth, Chairman
Todd L'Herrou, Vice Chairman
Jack Warner
Yvonne Walker
Christina Morrison Pearce
Brenda Durden

MEMBERS ABSENT:

Robert Moore
Warren Trilling (Alternate)
Rosalie Blood (Alternate)

STAFF PRESENT:

Joseph Safford, Finance Director
Barbara Flynn, Board Liaison
Lisa Herrmann, Budget Officer
Rebecca O'Connor, Treasurer
Rich Reade, Sustainability Officer

Item 3. Approval of Agenda

Mr. Ellingsworth asked for approval of the April 20, 2010 Agenda. Ms. Pearce moved to approve the Agenda seconded by Ms. Durden. Agenda revised to add item "7-B-1"- Fill Open Member Position. Said motion passed unanimously.

Item 4. Approval of Minutes

Mr. Ellingsworth asked for approval of the Minutes of April 6, 2010. Ms. Pearce moved to approve the Minutes, seconded by Mr. L'Herrou. Motion passed unanimously.

Item 5. Public Comment

Public present: Mr. Ken MacNamee, Dr. Victor Kirson, Lt. Danielle Connor (DBFD), Lt. James Tabeek (DBFD), Ms. Lula Butler (Community Improvement Director).

Public comment from Dr. Victor Kirson, President of Board of Directors at Tierra Verde, Vice Chair of Police Advisory Committee and member of the alliance of seventy HOA associations. He brought up the Waste Management issue and noted it is a political issue, and the amount of dollars being found do not compare to the amount of dollars being spent to find those dollars. Also on the Police pension issue he stated the 401K programs do not offer disability pensions which he feels are necessary for Police. He suggested a meeting with the Commission, Finance, Auditors, and Officer Chuck Jeroloman who is very knowledgeable in this area.

Item 6. New Handout Material

Mr. Safford provided the Board with a draft submitted by Mr. Jack Warner of a quarterly report to be issued by the Board to the Commission, Ms. Walker's revised General Operating budget comparisons with other municipalities, an Evaluation Criteria Sheet from the City Manager on function necessity, the Performance Measurements Report, responses from Employees on cost savings ideas which will be reviewed by Ms. Pearce and a copy of the Waste Management Report which will be presented by Mr. Reade.

Item 7. Open Issues

a) Waste Management commercial Franchise Fee analysis report presentation:

Prior to the presentation the Board discussed their objectives once report is presented. The City Commission will want a presentation from the Board on their suggestions, but ultimately the decisions rests on the Commission and the City Manager. The Board will **not** be conducting its own audit, but rather reviewing Staff's findings and answering if they believe we are reasonably assured the Commercial Franchise fees have been received in the appropriate amount from

Waste Management - or if they believe further investigation is needed. Recommendations will also be presented to improve the process to maintain accuracy going forward.

Mr. L'Herrou motioned to allow Mr. MacNamee (citizen) be included in discussions of today's meeting, seconded by Mr. Warner. Said motion passed unanimously.

Mr. Reade discussed his report with the findings and conclusions. (The residential side of the analysis will be presented at a later date, so this review pertains to Commercial accounts only). Mr. Reade discussed the contract dates entered into in 2003 for a five year term (to 2008) with WM (Waste Management) assuming the remainder of existing contract with BFI with an extension provision. In 2008 WM was awarded and additional five year contact up to 2013 with no legal requirement for bid due to the extension provision of the original bid. The services provided were outlined, Contract Administrator assignment, rates based on the contract and the work plan processes performed during this analysis. With regards to the fee from 2002 to 2006 the analysis depicts the fees were generally accurate, so the focus became from the years 2007 to current year.

Several charts displayed trends, discussion on rates, comparison of monies billed and fees received were explained to the Board. Sample tests of 30% of all the customers showed the 2009 rates implemented exactly as the ordinance stated. Three amounts that led to Franchise Fee omissions totaling \$51,025.51 were identified and have been resolved:

- 1.) \$19,750.17 for Oct., Nov. and Dec. 2008 was paid by WM once the contract application which had changed from "exclusive" to "non-exclusive" construction and debris (C&D) services was written and approved.
- 2.) \$20,433.69 was a clerical error on WM part which they identified (permanent roll-off containers for Sept., Oct., Nov. and Dec. 2008) and immediately provided payment for.
- 3.) \$10,841.51 identified by Mr. Safford (Finance Director) for September 2008 (open top containers) has been paid by WM.

Briefly these are the preliminary recommendations from Mr. Reade's Report:

- 1.) Waste Management shall submit a full customer billing register with customer lists (in Excel format); supplying more sufficient data to reconcile Franchise Fees received. Utility Billing employees, on a monthly basis, shall review the customer register for accuracy.
- 2.) Amend the Agreement to clearly state WM is responsible for billing Multi-Family Container Maintenance Fees.
- 3.) Special pickup fees shall be fully documented.
- 4.) WM utilize exact rate to eliminate the potential for rounding errors.
- 5.) Rate Ordinance should clearly identify monthly rate structure for all Commercial Services and all Pick-Up options.
- 6.) WM shall provide written notice of any changes effecting revenues or expenditures within 72 hours.

In conclusion, the rate increases occurring in FY 2009 in billing coincided closely with the increase in Franchise Fees collected. Staff believes additional analysis may prove to be cost prohibitive for the small amount of fees that may be recovered. Therefore staff is recommending - the City closes the review of historical Franchise Fees and proceeds forward in implementing the various policies and procedures recommended. Mr. Reade concluded his presentation.

Mr. Ellingsworth checked with Mr. MacNamee to see if all of his questions had been answered. Mr. MacNamee outlined a few items where he felt there were discrepancies within the report. He felt it required an audit and he had offered to do this for the City. Mr. L'Herrou asked Mr. MacNamee if he felt the recommendations provided going forward were sufficient. Mr. MacNamee stated the City was on the right track but internal controls need to put in place.

Mr. Ellingsworth agreed that no more analysis should be performed on the past Franchise Fees. Mr. Warner noted we have some incomplete information, therefore we don't know if we have collected all the payments in the past that we should have, and we should work with WM to insure we have that information going forward. Mr. L'Herrou noted there are some errors as far as having the significant data to substantiate some statements in the report, and recommended separation of the recommendations that are currently in place from ones that need to be implemented.

The consensus of the Board was they should call a "Special Meeting" to allow time to go thru the entire report and resume discussion on this issue. The date will be posted when determined. Mr. MacNamee also stated he would like to schedule some time with Mr. Reade prior to the meeting for discussion. The Board thanked Mr. Reade for all of his work in helping to resolve this issue.

b.) Old Business Discussions

1.) Filing open Board Member position

Mr. Safford has contacted Mr. Robert Moore (Regular Member) to check on his ability to attend Board meetings and he has not yet received a response from him. Based on his response, if needed, we will go to the City Clerk and request a new Regular Member be appointed. The Board has recommended Ms. Rosalie Blood be moved up from Alternate to Regular Member to fill his position.

In the case of Mr. Warren Trilling (Alternate) we have notified him the Board requests his presence at all meetings possible, and he had not yet responded as to whether he can serve on the Board with this condition. If necessary City Clerk will be notified to assign another Alternate to the Board in his place. Mr. Safford will have an update at the next meeting.

2.) Ms. Walker's report on Comparison Budgets with other municipalities has been rearranged due to differences in what is inclusive in departments may vary from city to city. Due to time constraints, the updated report will be reviewed and discussed at the next meeting.

Item 8. New Business and Open Discussion

Ms. Pearce has distributed a Salary and Pension Survey of the Palm Beach County Police Benevolent Association, and requested for it be placed on the Agenda for discussion at a future meeting. Mr. Safford stated that a 401k is not the typical pension plan for municipalities, because it does not have provisions for disability coverage for Police and Fire employees as does a Defined Benefit Plan.

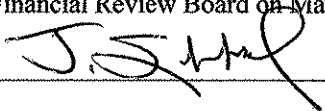
Mr. Warner has submitted a draft of the Financial Review Board Quarterly Report for discussion and revision at the next meeting. It was decided this is a report the Board will be submitting quarterly to the City Commission. They will review and add input to Mr. Warner's draft at the next meeting.

The Board requested for Ms. Herrmann to scan and make available to the Board the Budget submissions as they are received from departments.

Item 9. Adjournment

Mr. L'Herrou motioned to adjourn the meeting seconded by Mr. Warner. Said motion passed unanimously. The meeting adjourned at approximately 11:50 a.m.

The undersigned is the Finance Director of the City of Delray Beach. The information provided herein are the Minutes of the City of Delray Beach Financial Review Board of April 20, 2010. Minutes were formally approved and adopted by the Financial Review Board on May 4, 2010.



Joseph M. Safford, Director of Finance