

Finance Committee

Meeting Information

Date: February 8, 2022

Time: 6:30 P.M.

Location: 31 Wakefield Street

**Committee members present:** Mayor Callaghan, Deputy Mayor Lachapelle, Councilor Beaudoin, Councilor Gray, Councilor Hainey, and Councilor Hamann.

**Committee Members Excused:** Councilor Larochelle.

**City staff present:** Deputy City Manager Katie Ambrose, Deputy Finance Director Mark Sullivan, Michael Scala, Director of Economic Development, and Assistant Director of Economic Development Jenn Marsh.

**Others present:** David Walker, Riverwalk Committee.

Agenda & Minutes

**1. Call to Order**

Mayor Callaghan called the Finance Committee meeting to order at 6:30 PM.

**2. Roll Call**

Ashley Greene, Administrative Assistant II/Planning Department, took the roll call attendance. All Councilors were present, except for Councilor Larochelle who had been excused.

**3. Acceptance of Minutes:** January 11, 2022

Councilor Lachapelle **MOVED** to **ACCEPT** the minutes of the January 11, 2022, Finance Committee meeting. Councilor Beaudoin seconded the motion. The **MOTION CARRIED** by a unanimous voice vote.

**4. Public Input**

Dave Walker, resident, addressed the Committee regarding Agenda Item 6.1.2, the Economic Development Special Reserve Fund.

Deputy City Manager Katie Ambrose read an email from Ray Varney, resident and Trustee of the Trust Fund, regarding several Agenda items: Agenda Item 5 Riverwalk Fundraising, 6.1.1 Utilization of General Fund Unassigned Fund Balance, and lastly 6.1.2 the Economic Development Special Reserve Fund. *(This email is included as an addendum to the packet online)*

*Mayor Callaghan told the Committee that he reached out to Mr. Varney after he received this email. He conveyed that some of the funding for the water and sewer budget (6.1.1) was, in fact, being used to pay for the City's legal fees. He stated that Mr. Varney seemed okay with that fact.*

## **5. Unfinished Business**

### **Riverwalk Fundraising**

Finance Director Ambrose stated that this item is returning to Committee not necessarily for further action, but as an opportunity to provide additional information as the process moves forward. She clarified that the Riverwalk Fund has enough money to move forward with the planned activities for this current fiscal year.

Ms. Ambrose clarified what is meant by the fundraising "cap" of \$5,000. She explained that the Riverwalk Fundraising Committee would have a threshold of \$5,000 for donations that could be accepted without Council approval; however, the Committee would be required to come back to the City Council for acceptance of donations once they have reached the \$5,000 threshold. She said it is not a limitation on how much can be received in total; rather, it provides for a Council review prior to accepting funds in excess of \$5,000.

Ms. Ambrose confirmed that the City will eliminate any solicitation activities for the Riverwalk. She said the Riverwalk Fundraising Committee will seek alternate funding sources, such as grant opportunities and by continuing to accept unsolicited donations. Ms. Ambrose said the City Manager's proposed budget for FY 23 includes an annual operating budget (\$2,500) for the Riverwalk.

Councilor Lachapelle asked for clarification that no vote would be taken this evening because the \$2,500 on which the Committee has previously voted would be included in the budget adoption process. Ms. Ambrose replied that is correct.

Councilor Beaudoin asked to clarify if the Riverwalk Committee receives a donation for \$10,000 if it would be required to be approved through the City Council prior to acceptance. Mayor Callaghan said that is correct. Councilor Beaudoin said he agreed with Councilor Hamann's comments that the cap is not necessary and he suggested the City Council could revisit this decision at some point.

## **6. New Business**

### **6.1.1. Utilization of General Fund Unassigned Fund Balance**

Finance Director Ambrose said there is a status update and recommendation, which can be found in this evening's packet materials. She gave a brief overview of the City's approach of utilizing the City's Unassigned Fund Balance, the City's ordinances relative to expending funds, and how

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much money needed to be retained. Ms. Ambrose outlined the reasons it is important to support a healthy Unassigned Fund Balance. The current Unassigned Fund Balance is at 26.63 %, whereas the City's General Ordinance Policy establishes a reserve threshold of 8% to 17%.

Ms. Ambrose said the Deputy Finance Director identified some expenditures that are in accordance with the City's policy. She listed the projects being proposed for funding through the General Fund/Unassigned Fund Balance, which cannot be appropriated without Council action. (See Exhibit A).

Councilor Lachapelle said by changing the funding source from "bond" to "cash" on these specific CIP projects that the City would save almost \$500,000 over a ten-year period. Deputy Finance Director Sullivan agreed. He said the City's Interest Rate on some projects is slightly less than 2.5 %; although, the estimate of savings is based conservatively on an interest rate of 2.5%. This is the rate which the City bases all bond projections.

Mr. Sullivan explained why some of the Water and Sewer Projects are included in this proposal. He said the Water/Sewer Funds have significant pending debt, which has been authorized but remains unissued. This includes approximately \$25,000,000 of pending debt for the Sewer Fund and approximately \$15,000,000 on the Water Fund. He said this process would relieve that pressure slightly and have a stabilization effect on the user rates. He explained that the older water/sewer projects were chosen due to them being in a taxable bond status. He said the City Council still has the option not to include those projects; however, it is his recommendation that they be included with Exhibit A. Councilor Lachapelle asked if the remaining balances listed on Exhibit A are exact amounts of the balance due. Mr. Sullivan replied yes, that is what remains that would need to be bonded.

Councilor Beaudoin asked if the funds would be held by the Trustees of the Trust Fund. Mr. Sullivan replied that this is a change in funding source. He said all the projects have already been appropriated by the City Council by bond issue and this would reverse that action by changing the funding source to Unassigned Fund Balance.

Councilor Hainey asked to confirm that these are current projects that have already been approved by the City Council. Mr. Sullivan replied that these have been already approved and some projects have been completed as well. He gave some details of the projects chosen.

#### **6.1.2. Economic Development Special Reserve Fund**

Deputy Finance Director Sullivan stated that all of the Economic Development Fund projects and initiatives have been funded through the Unassigned Fund Balance for at least the past five years and potentially longer. The problem is that the City's General Ordinance section 7.63 stipulates that the Economic Development Special Reserve Fund (SRF) provides a minimum of \$100,000 in annual funding from the Waste Management Host Agreement Fees. He said the same ordinance has a provision that allows additional transfers to the SRF from Waste Management Host Fee revenues received in excess of the total annual adopted appropriation. He said the City has been providing the minimum of \$100,000 as stipulated; however, the City has not been transferring these excess

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fees. The last time excess fees were transferred from the Waste Management Host Fee revenues to the SRF Fund was FY15. Mr. Sullivan said as a result of not transferring these excess fees, the Economic Development projects have all been funded through supplemental appropriations from Unassigned Fund Balance. Mr. Sullivan said the problem is that this is not how the Unassigned Fund Balance is intended to be used. It is meant to be utilized for unanticipated expenses and emergencies. He stated that if the Economic Development Commission and Department of Economic Development sets up projects and activities, then there should be a dedicated fund for that purpose in order for the funding to be tracked in a more efficient manner. Mr. Sullivan said this would give a clear accounting of how funds are being invested and the outcome of these investments. He said currently the City is funding projects on a case-by-case basis with limited information. Setting up such a fund would put the responsibility on the REDC and Economic Development Department to focus on more beneficial projects for the City and to perform due diligence to negotiate a return on investment. He recommended any revenue from land sales be generated back into this fund to show a clear picture of the work being done.

Mr. Sullivan shared that he has spoken to the Director of Economic Development and the Chair of the REDC about the benefit to presenting the City Council with a 3 to 5 year plan and then periodically report back to the City Council on these projects.

Councilor Beaudoin asked if this method would comply with NH State RSA 47:1 (b) Special Revenue Funds, which stipulates that Economic Development Funds must be approved specifically and individually by the City Council. Mr. Sullivan confirmed that it does comply with the referenced RSA.

Councilor Lachapelle asked if all projects, regardless of size and scope, would need to come before the City Council for approval. Mr. Sullivan explained that this is not set up for smaller projects but rather for land purchases and Economic Development Initiatives. He said there is an operating budget for regular operation expenditures and small projects. The proposed fund would be solely for large scope items.

Councilor Hainey asked if the intention is to wait to see the plan prior to transfer the money. Mr. Sullivan said his recommendation is to transfer the funding with the follow-up plan to be presented to the City Council. He reiterated that the funds cannot be expended without Council approval. Councilor Hainey asked if the intent of this fund would be solely for land purchases. Mr. Sullivan said not necessarily, it could be to fund Economic Development initiatives/activity; however, all expenditures must be approved by the City Council.

Councilor Beaudoin wished to clarify that establishing this account could make it possible to provide the City Council with a full accounting of the account on a quarterly basis. Mr. Sullivan replied yes, the information would be easily accessible to staff.

Councilor Hamann **MOVED** to move forward with this process. Councilor Beaudoin seconded the motion. Ms. Ambrose clarified the motion: **to recommend to the full City Council to transfer \$1,084,000 from the Unassigned Fund Balance to the Economic Development Special Reserve Fund.**

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Councilor Beaudoin stated his initial hesitation about approving this idea; however he stated that Deputy Finance Director Sullivan provided clear guidance of how the City Council will have a better understanding of the money being spent and will have full control over expenditures.

Councilor Lachapelle asked if this would bring the level of funding up to the \$1.5 million. Mr. Sullivan replied that is correct. He said the Special Revenue fund currently has a balance of \$316,000 and by virtue of the ordinance it is set to receive another \$100,000 from the Waste Management Host Fees in July 2022.

Mayor Callaghan called for a vote on the motion. The **MOTION CARRIED** by a unanimous voice vote.

### **6.1.3. ARPA Projects**

Finance Director Ambrose gave a brief overview and status update of the ARPA projects and the process to date.

Ms. Ambrose said up to this point, the Finance Committee had recommended expenditure of over \$3.6 million in APRA Projects, of which \$916,000 was to establish the Community Health Coordinator Position. She added that the City Council voted to move forward with the job description of the Community Health Coordinator Position; however, the funding for that position has not been adopted by Council. Ms. Ambrose said the Personnel Advisory Board is scheduled to meet soon in order to review the job description/classification. Once the job description and classification has been through the Personnel Advisory Committee it will be sent to the Finance Committee.

Ms. Ambrose said the prior City Council's approach to the APRA funds was to first review the City Manager's list of "included" proposals as the priority. Ms. Ambrose said, excluding the funding for the Community Health Coordinator position, there is an uncommitted balance of \$3,417,687 in APRA Funds available. She stated it is up to the Finance Committee now to follow the same approach as the previous City Council or to take a different approach. Ms. Ambrose clarified that the City Council must allocate any funds by the end of 2024 and expend the funds by the end of 2026.

Councilor Beaudoin inquired how the projects are funded and the funding sources. Ms. Ambrose replied that the Treasury has set up guidelines for permissible use of the funds. She said the final guidelines have been recently released and all the projects listed under the City Manager's proposal do meet those guidelines. She said it is up the Finance Committee to look at these recommendations or pursue other projects so long as they meet the Federal guidelines.

Councilor Lachapelle said the Finance Committee has time to review these projects thoroughly. He indicated that he is interested in seeing the final job description for the Community Health Coordinator. He stated that he did not have any recommendations on specific projects this evening. He suggested sending the matter to a workshop setting to include the entire City Council in the discussions.

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Councilor Lachapelle asked if this ARPA project document is available to the full City Council. Mr. Sullivan replied that it is available on the City's website or through the Finance office.

Councilor Lachapelle reiterated that it might save time to have the full discussion at a workshop setting. Councilor Gray agreed; however, he said that a lot of thought went into the City Manager's proposed items to ensure that tax cap requirements could be met further down the road if certain items, such as staff positions, were approved. He further explained that the exception to that rule would have been the Community Health Coordinator, which would have an impact on future budgets.

Mayor Callaghan stated he would discuss the ARPA funds with the Agenda Setting Committee and potentially place it on a Workshop agenda within the next few months.

Mr. Sullivan asked for clarification that the Committee had taken action on the proposed projects contained in category (C) under 6.1.1; however, the other two categories (A) and (B) were kept in Committee. Mayor Callaghan confirmed that this is correct.

#### **6.1.4. Impact Fees-Return of Fund-Review**

Mr. Sullivan said he completed a full assessment of the Impact Fees refunds with the Assessing Director. Mr. Sullivan said per the City Ordinance, any Impact Fee refunds must be returned to the property owner of record. He gave a brief overview of the discussions that took place by the planning board and a previous Finance Committee meeting at which time the initial data gathered seemed to indicate there were far fewer developers affected by the Impact Fees, and it was reported that approximately 40% of the Impact Fees collected were from individual property owners. However, a closer look at the data has shown that all but three properties charged impact fees have been sold, which indicates that the activity affected small developers. He said the new data shows that 85% of the Impact Fees collected were developer-related and only three individual homeowners retained the properties on which the impact fee was charged. After further consultation with Deputy City Manager Ambrose and Attorney O'Rourke, it was realized that any refunds sent to the property owner of record is taxable income to the homeowner, requiring the City to reach out to the property owner of record and request a tax ID number to report to the IRS. He stated that to avoid any chance of fraud or the appearance of fraud, the City should develop another approach to resolve this issue. This is why the Finance Department has not moved forward with sending notices to individuals impacted by the fees. He speculated that the City may even be required to take a certain percentage of withholdings and suggested that this information should also be forwarded to the Planning Board.

Councilor Beaudoin explained that he felt that these taxes were already paid upfront and wondered what a Tax Attorney would advise in regards to whether or not these refunds are taxable. Mr. Sullivan replied that this decision is pending further discussion with the Tax Attorney to determine how to move forward.

Councilor Hailey asked how many people would receive refunds and what the average

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refund would be. Mr. Sullivan replied that approximately 14 property owners were eligible and they would receive refunds with an average of \$4,500 each. Councilor Hainey asked what percentage of would be withheld for taxes. Mr. Sullivan said that if it turns out to be taxable income, the City would withhold 25%.

Mayor Callaghan questioned if the majority of the refunds would be given to individuals or developers. Mr. Sullivan confirmed that the majority of the Impact Fees being refunded would be sent back to the property owner of record, not the developer of the property. Councilor Gray suggested thinking outside the box and gave ideas about possibly depositing the refunds directly towards the tax bill, *or future tax bill*, of the property owner of record. Mr. Sullivan said the manner in which the refunds are returned must follow the City's General Ordinances for Impact Fees, although more discussion could take place about the method in which the refunds are returned. Councilor Gray commented that the City Council could amend its ordinances as well.

## **Reports from Finance Administration**

### **6.2.1 Monthly Financial Report Summary- January 31, 2022**

Deputy Finance Director Sullivan reported that the General Fund non-property tax revenues remain strong. Waste Management host fees remain strong as well. The only soft area of note is interest income. General Fund expenses are trending slightly above budget. Special Revenue funds are improving over the prior month, including the Arena fund which has increased revenue, although their expenses are slightly over budget. Councilor Lachapelle noted that much of the expense reported from the Arena Fund was due to the ice malfunction that occurred last year.

Councilor Hamann referenced item 6.1.1 regarding Utilization of General Fund Unassigned Fund Balance and stated that there were two items on which the Committee has not voted:

- A. List of Capital Improvement Projects
- B. List of Capital Reserve Projects

Finance Director Ambrose confirmed that the first two items discussed were remaining in Committee; however, the Committee could vote on the items referenced by Councilor Hamann.

Councilor Gray **MOVED** to recommend to the full City Council that the two Sewer Items be approved: Sewer System Master Plan (\$300,000) & NPDES Permit Tech Legal Assist (\$300,000), for a total of \$600,000. He said he felt it would have a positive impact on the sewer rates and offset expenses of the taxpayers. Councilor Lachapelle seconded the motion. Councilor Hainey asked if the proposed action would impact the sewer rate. Mr. Sullivan replied yes. He added the remaining items will have an impact on the amount of money needed to be raised by taxes when the bonds are issued.

Councilor Beaudoin asked if the items in section A had already been approved by Council. It was confirmed that they had been approved. He inquired, if the funding source was not changed to unassigned fund balance, they would be kept as bonded debt. Mr. Sullivan said that is correct. The

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Committee briefly discussed the matter. Councilor Beaudoin **MOVED to AMEND** the prior motion to include the remaining items listed on section A of the proposed list with a total of \$3,710,641 and a savings of over \$510,000. Councilor Hainey seconded the motion.

Councilor Gray explained that he had not included the two fire department items in his motion in order to continue that conversation with full Council during the upcoming budget process due to the total cost of over \$2,000,000. Mr. Sullivan clarified that the Fire Apparatus Replacement (\$345,000) has already been adopted, funded, and the department has received the truck. He said it is still in a pending/ authorized but unissued status. He added that the other item: Apparatus Replacement Program (\$1,940,000) includes a pumper truck and a ladder truck, for which some funds have already been expended. Delivery is due in May at which point the balance will be owed. He clarified that these items will have no impact on the FY 23 budget request.

Councilor Gray discussed past practice of staggering the purchase of large apparatus over multiple years. He also stated that historically, these large purchases have been temporarily funded through Unassigned Fund Balance pending collection of the bond. This would avoid the expense raised by Councilor Beaudoin earlier because the item would not be bonded. Councilor Beaudoin clarified that the City is already obligated for the \$1.9 million for the two trucks referenced. Mr. Sullivan confirmed that these purchased have already been approved and the trucks are being built currently for May delivery. **The MOTION CARRIED to AMEND by a majority voice vote. The amended MOTION CARRIED to recommend inclusion of the entirety of Exhibit A to full Council by a unanimous voice vote.**

Finance Director Ambrose summarized that the only item which had not been acted upon is the Capital Reserves. These would all be new funds not yet established and they would need a recommendation for funding as well as a recommendation to go to Council for the establishment itself.

Councilor Beaudoin asked if the referenced monies are held by the Trustees of the Trust Fund; he said he thought all reserve funds which are not labeled for appropriation are held by the Trust Fund. Finance Director Ambrose stated that unassigned fund balance is not held by the Trustees of the Trust Fund but rather is unappropriated in the General Fund. However; if the Capital Reserve Funds were established and funded by unassigned fund balance, then they would be under the custody of the Trustees as Capital Reserve Funds. Councilor Beaudoin asked, if the Council decided not approve the three projects being discussed, if the money could be used for other purposes. Ms. Ambrose stated that if not approved, this money would remain as unassigned fund balance and appropriated for other purposes. Councilor Beaudoin suggested that the Trustees be given a timeline of when funds will be needed in order to best invest the monies. Ms. Ambrose stated that this is already part of the process followed by the Trustees. Councilor Hamann suggested the Committee determine the amount of interest which will be accrued on these funds and whether this interest will be equaled or exceeded by the cost of maintaining the fund. Deputy Finance Director Sullivan stated that the City's liquid investment account is 18 basis point to maintain, which is 18/10ths of a percent; so if the money was invested by the Trustees it would likely be more beneficial as far as interest is concerned.

Councilor Hainey inquired if the Trustees of the Trust Fund have looked into other options

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besides Charter Trust, which is the company which currently facilitates the investments of the funds. Ms. Ambrose said that in the past the Trustees have explored other options and stated that she would reach out to them for more information for the Committee.

The Capital Reserve Fund item was kept in committee.

## 7. Other

Councilor Beaudoin referenced the Riverwalk discussion from earlier in the agenda. He suggested that charities are subject to numerous laws and regulations through the state to which they need to adhere and there is a great deal of oversight by the Attorney General; however, the process of establishing a charity is not difficult. He suggested that if there is a Riverwalk Charity formed, it would take the responsibility off the City Council. Councilor Beaudoin stated that in this scenario, the Riverwalk Committee would not need to continuously come to Council for approval of activities and appropriations unless they involve use of public lands, and they would manage their own funds. He requested that the City Attorney investigate this further and determine what would be involved in establishing such a charity.

Deputy Finance Director Sullivan clarified that in his previous summary, he was not stating that a charity could not be formed but rather that it could not be formed by the City of Rochester or the Finance Department, which is not equipped for such a venture. However; if the Riverwalk Committee wanted to independently form a charity and use financial management systems outside of the City of Rochester's systems, they could do so. He questioned whether the Riverwalk Committee would need to become a separate entity to do so, as it is currently a mayor's committee. He suggested the City Attorney look into this. Councilor Lachapelle agreed that the Riverwalk Committee establishing a charity might be a good option and the City Attorney should investigate; however, the Riverwalk Committee should give input regarding whether establishing their own charity is something they even want to do. Dave Walker, Riverwalk Chair, stated that if the City Attorney felt a charity was plausible, he would discuss the potential with the Riverwalk Committee.

Councilor Hainey inquired about grants through the Governor's office that are available for police department body camera purchases. She asked if the Rochester police department had applied for any of these grants and if it could offset the cost of the body camera purchase discussed at the prior Finance Committee meeting. Finance Director Ambrose confirmed that the police department is applying for grants; although the grant funding would not cover the entire cost of the purchase and there is still question on whether a department is eligible to receive funding if the appropriation for the purchase has already been approved in the City budget.

## 8. Adjournment

Mayor Callaghan **ADJOURNED** the Finance Committee meeting at 7:01 PM