

**CITY OF NEWPORT BEACH
FINANCE COMMITTEE
OCTOBER 14, 2021 MEETING MINUTES**

I. CALL MEETING TO ORDER

The meeting was called to order at 3:00 p.m. in the Crystal Cove Conference Room, Bay 2D, 100 Civic Center Drive, Newport Beach, California 92660.

II. ROLL CALL

PRESENT: Chair Will O'Neill, Committee Member Noah Blom, Committee Member John Reed, Committee Member Nancy Scarbrough, and Committee Member Joe Stapleton

ABSENT: Mayor Brad Avery and Committee Member William Collopy

STAFF PRESENT: City Manager Grace K. Leung, Finance Director/Treasurer Scott Catlett, Deputy Director/Finance Steve Montano, Administrative Specialist to the Finance Director Marlene Burns, Budget Manager Shannon Espinoza, Fiscal Specialist Bryan Bello, Revenue Manager Evelyn Tseng, Public Works Finance/Administrative Manager Theresa Schweitzer, Senior Budget Analyst Amber Haston, Senior Budget Analyst Shelby Burguan, Revenue Auditor Antonio Velasco, and Harbormaster Paul Blank

MEMBERS OF THE PUBLIC: Laura Curran, Charles Klobe, and Jim Mosher

III. PUBLIC COMMENTS

Laura Curran recommended the City allocate funding and resources for outside counsel to address issues related to group residential facilities. She advised there was a vigorous community meeting on group residential facilities held by the City on October 11 and noted there was a lot of participation. She advised it is clear there is a lot of interest in this issue and will require significant resources including outside counsel experienced in this issue. She reported the City of Costa Mesa's sober living ordinances were recently upheld in the United States Court of Appeals for the Ninth Circuit and noted they used an attorney who is very assertive and effective in addressing these types of issues. She encouraged the Finance Committee to consider adding this as an extra budget item so City staff will not be over-extended especially with having to deal with the legal ramifications following the recent oil spill.

IV. CONSENT CALENDAR

MINUTES OF SEPTEMBER 16, 2021

Recommended Action:

Approve and file.

Chair O'Neill called for public comments.

Jim Mosher advised Charles Klobe was in attendance at the last meeting and recommended additional changes to the minutes.

MOTION: Committee Member Stapleton moved to approve the minutes, as amended, seconded by Committee Member Scarbrough. The motion carried 5 ayes, 0 noes, 2 absences (Mayor Avery, Committee Member Collopy)

Chair O'Neill requested Item B be heard prior to Item A.

V. CURRENT BUSINESS

B. FOLLOW-UP HARBOR DEPARTMENT OPERATING BUDGET

Summary:

Per the Committee's request, staff will provide additional information regarding the Harbor Department's budget.

Recommended Action:

Receive and file.

Finance Director/Treasurer Scott Catlett reported the item was agendaized at the request of the Finance Committee. He presented an overview of historical Harbor Department Revenues and noted this presentation just reflects the years where there has been a Harbor Department that has existed separately from the former items that were in Public Works. He advised the report includes three years of actual revenue and the budget for the upcoming year. He presented an overview of historical Harbor Department Staffing and advised a line was added to reflect the Code Enforcement Supervisor who was on loan from the Community Development Department for two years.

Finance Director/Treasurer Catlett provided an overview of the historical Harbor Department budget and noted it was the main item changed in the report based on comments from the Finance Committee, which should now tie to the budget document. He advised the report reflects the savings that have occurred in the budget. He noted a line was added to show the cost of the loaned Code Enforcement Officer, which then became part of the budget in subsequent years.

In response to Chair O'Neill's inquiry regarding Maintenance and Repair actuals for previous years, Finance Director/Treasurer Catlett advised funding was appropriated for expenditures that did not occur. Finance Director/Treasurer Catlett explained there were some surprise expenses back in 2019 that the budget responded to but there have not proven to be similar expenditures in the following years.

In response to Committee Member Blom's inquiry regarding allocating that funding to the Harbor Department, Harbormaster Paul Blank advised he prefers to leave the allocation as is due to deferred maintenance. He believes the City is catching up quickly and would like to have a full year under his belt before he commits to a reduction.

Finance Director/Treasurer Catlett presented an overview of Other Tidelands Fund Operating Costs that are remaining in the Public Works Department's area of responsibility, which is primarily Maintenance and Repair. He noted this is the area that was skewing the report that was previously presented. He reported over the last three years there has been a \$1.5 million average expended for Tideland Capital Improvement Projects. He noted there are some very large projects in the long-term Harbor Beaches Master Plan that are coming up down the road such as sea wall repair and dredging, so \$14 million has been allocated in the FY 2021-22 budget. He advised there is additional fund balance available in the Tidelands Capital Fund that can support those future projects beyond what is currently appropriated.

In response to Chair O'Neill's inquiry regarding the Tidelands Operating Fund and Tidelands Capital Fund, Finance Director/Treasurer Catlett confirmed the Tidelands Operating Fund never has a balance. He clarified the capital component of certain Tidelands revenues plus the General Fund monies being transferred in annually is what is supporting the \$14 million of capital projects.

In response to Chair O'Neill's inquiry regarding anticipated additional costs for dredging, Harbormaster Blank reported \$20 million is the total for dredging and the City is expecting \$12 million coming from other agencies. He confirmed the City has \$7 million appropriated for dredging.

Chair O'Neill inquired if the Tidelands Capital Fund can pay for the Balboa Island storm drainage. He noted he is inquiring about flexibility. Finance Director/Treasurer Catlett advised much of the funding in the Tidelands CIP has been transferred there from the General Fund. Deputy Director/Finance Steve Montano reported he has researched it and noted that utilizing the portion of funds that derived from the General Fund can be used. He recommended the Finance Committee think about that from a flexibility standpoint.

Committee Member Scarbrough inquired if the Build Back Better Act has been explored. She noted some of the proposed funding is for piers and weather-related issues. City Manager Leung advised the bill has not passed yet, but the City has lobbyists in Washington D.C. pushing for that funding and believes it would be in line for these types of projects. Finance Director/Treasurer Catlett advised once the program guidelines are released, they can be investigated.

Chair O'Neill opened public comments.

Charles Klobe inquired if the \$2.9 million allocated in the 2022 Budget for Ocean Piers was for design. Committee Member Blom advised those funds were allocated to replace the pilings at the end of the pier and continued maintenance but not for design. City Manager Leung advised tearing down the building at the end of the pier is a separate demolition expense. Committee Member Blom advised 19 pilings will need to be replaced at the end of the Newport Pier in addition to a few at Balboa Pier.

Ms. Curran inquired about the spike in Marina Park Slips revenues in 2021 and the \$230,000 increase to salaries and benefits expenditures with only one full-time equivalent added. Harbormaster Blank reported he has been working since May to get the Harbor Department properly staffed. He advised one additional position will be filled and at that time the Harbor Department will be fully staffed. He reported there has been a big uptick in utilization at Marina Park over the last two years and the increase in revenue is a windfall. He advised he is unsure if this will continue as the trend.

Chair O'Neill closed public comments.

The item was received and filed.

A. YEAR-END BUDGET RESULTS

Summary:

Staff will provide a presentation regarding the year-end budget results for FY 2020-21.

Recommended Action:

Receive and file.

Finance Director/Treasurer Catlett reported economic indicators and employment have continued to improve in recent months. He advised the City expected sales tax to be higher than originally budgeted but it came in at the highest it has ever been for the City. He noted a lot of it has to do with auto sales that are above the pre-pandemic levels and prices are 8% higher. He added that the City's Sales Tax Consultant advised there is a supply issue that may moderate the increase in sales, but the prices being higher is expected to offset any decline in sales. As a result, they do not foresee there being a downturn in auto sales that would cause the City's sales tax revenues to decline.

Finance Director/Treasurer Catlett reported in-person spending continues to improve in areas that were still soft relative to sales tax, which are mainly restaurants and in-person retail and noted there is room to grow. He advised multiple hotel properties have reported record transient occupancy tax (TOT) Revenues to the City, which is a good sign, although not across the board, but is nonetheless an encouraging trend.

Finance Director/Treasurer Catlett reported General Fund revenues ended up surpassing third quarter estimates and as a result ended up being \$36 million higher than the adopted budget and \$16.9 million higher than the third quarter forecast. He reported property tax has been very stable and noted a small positive variance was seen due to strengthening of home values and strong sales in the fourth quarter. He advised revenues ended up at \$119 million, while \$117 million was projected. He reported sales tax has really been the bright spot and ended up \$500,000 higher than the record year of FY 2018-19. He noted Sales Tax ended up \$4.4 million above the revised budget. He advised there were some concerns that Amazon's sales tax allocation methods could have some negative impacts on cities, but the impact was smaller than the City's consultants originally forecasted. He advised it would be approximately \$350,000 per year, which is less than half what was originally anticipated.

Finance Director/Treasurer Catlett provided an overview of TOT revenues and reported the Fashion Island Hotel remains closed and noted the Marriott is still under renovation. He advised hotel occupancy has been tracking upwards and as of August was back up to 71% and noted the City was expecting 60% of prior year revenues as the starting point for the fiscal year. He noted that even with the COVID-19 delta variant staff is optimistic about TOT and believes there is still room for growth in the future. He advised TOT finished at 11% above the most recent projection but is still 68% of where the City was before the pandemic hit.

Finance Director/Treasurer Catlett reported that the budget for other revenues was reduced by 20% in the early response to the pandemic. He reported strong parking revenues due to more people using beaches and frequenting Newport Beach during the day. He advised property transfer tax was \$1.8 million above budget, which is 75% higher than the prior year and noted this growth reflects the growth in the housing market. He reported fees from building permits was 27% above budget.

Finance Director/Treasurer Catlett reported overall expenditures were \$7 million below what was budgeted and that includes making the extra \$5 million pension payment. He reminded the Finance Committee that all of the FY 2020-21 tiered budget cuts that needed to be restored were restored as part of the budget adoption, including Facilities Financial Plan transfer, Harbor CIP transfer, and funding for certain deferred Neighborhood Enhancement projects.

Finance Director/Treasurer Catlett reported a strong surplus was projected in the third quarter and at that point the City Council appropriated the funds to restore the tiered budget cuts and it was then forecasted that the reserves would drop due to those appropriations. He advised as a result of strong year end results, the reserve is back up to \$30 million. He noted the net effect is a \$20 million variance from the third quarter projection. He advised the \$7 million change in unrestricted fund balance is really the change in the current year because the City started the year with \$24 million of surplus funds on hand. He explained the \$31 million has three components that include an \$11.5 million carry forward from FY 2018-19, a \$12.6 million carry forward from FY 2019-20, and \$7 million from the current year. He advised the bottom line is that only \$7 million of is the surplus was generated from current year operating revenues.

Chair O'Neill discussed the origins of the surplus. He advised there is also a City Council Policy F-5 that states half the surplus goes towards Neighborhood Enhancement programs and half goes towards long-term liabilities. He noted the reason the City had \$24 million to deal with the pandemic is because it had not yet spent the surplus which is why there was two-years of surplus available. He advised it could be thought of as a super reserve.

Chair O'Neill explained the City ended up using \$2.3 million of its Contingency Reserve to balance the budget last year. He advised when the \$2.3 million was rolled back to the Contingency Reserve in the first quarter it was again fully funded. He explained that when Finance Director/Treasurer Catlett referenced rolling back he was referencing the Tiered Budget Balancing Framework. He further explained the expenditures were increased which is why there was a reduction. He noted he wanted to ensure everyone is on the same page because the last year was an abnormal year and abnormal budget and very difficult to explain.

He noted it is very important to understand that the surplus is all one-time money. He explained while it was good to have the funds available to balance the budget during the pandemic, it also means that the funds were not spent on long-term liabilities or capital projects and so there are some deferred items out there.

Finance Director/Treasurer Catlett advised, to echo Chair O'Neill's point, the budget that was just adopted for FY 2021-22 only has a \$32,000 surplus. Chair O'Neill further explained the adopted budget is balanced by \$32,000 and does not rely on any of the \$31 million anticipated surplus to balance it. He explained it is very complicated and encouraged the Finance Committee to ask questions during the presentation. He explained everything in the budget would need to go as budgeted in order to have the \$32,000 surplus. He noted the \$31 million can be used on a one-time basis going into this year, which would increase the expenditure assumptions.

In response to Committee Member Reed's inquiry regarding the anticipated \$32,000 surplus, Finance Director/Treasurer Catlett explained he expects the anticipated surplus to grow as is the case each year due to expenditure savings and/or positive revenue variances.

Finance Director/Treasurer Catlett advised to be consistent with Council Policy F-5, the City Council previously directed a 50/50 split with half going towards the long-term obligations such as pensions and the other going towards CIP projects and neighborhood enhancement projects. He reported staff is recommending that \$5 million be allocated towards the CalPERS Unfunded Liability to bring the annual contribution to \$40 million consistent with the Finance Committee's previous direction to evaluate making an additional contribution every year. He advised staff recommends \$10.5 million be allocated towards the FFP and Harbor and Beaches CIP to rehabilitate and reconstruct existing City facilities. Lastly, he advised staff recommends \$15.5 million be allocated to the routine CIP and neighborhood enhancements. He advised staff would return to City Council with the FY 2022-23 budget process in six months to bring forward specific recommendations for the programming of those funds.

Finance Director/Treasurer Catlett reported in addition to the \$31 million surplus the City has American Rescue Plan Act (ARPA) funds in the amount of \$10.1 million available for allocation. He advised the City has demonstrated that the ARPA funds can be used to offset revenue loss, which allows the City to have more flexibility in the use of the funds than if it did not have revenue losses equal to or greater than the amount of allocated funds. He noted the funds can be used for infrastructure capital projects. He advised staff's recommendation would be to also allocate the \$10.1 million from ARPA for infrastructure projects which would be in addition to the \$31 million.

Chair O'Neill explained there is \$31 million in General Fund surplus and \$10.1 million from ARPA and noted they do not have to be tied to specific projects at this time. He noted the City has allocated \$6.5 million towards the Library Lecture Hall and \$3.5 million towards the Junior Lifeguard Building, which is almost the exact amount received from ARPA and is worth remembering as this is being assessed. He reported CalPERS did really well in their last cycle and the impact will be good for the City in terms of the funded percentage. He advised the Finance Committee recommendation would deviate from Council Policy F-5 that calls for half of the surplus to go to long-term liabilities. He believes it is a good recommendation but wanted to make that clear.

Committee Member Stapleton noted the City is still adding the \$5 million to the annual payment.

Chair O'Neill noted the for the last two years the City has not missed the \$5 million payment to CalPERS.

Committee Member Blom inquired if the Policy anticipated having more than \$10 million in surplus in a single year. Chair O'Neill explained the \$5 million discretionary payment to CalPERS is more of a recent development. He explained in 2014 the City Council did a partial

fresh start which means they took some of the pension amortization bases, combined them together, and increased the amount the City had to pay as a default amount. He likened it to a 30-year mortgage that was dropped down to a 20-year mortgage in that the payment is higher, but less is being paid on interest. He advised the default amount the City pays has increased at least twice since 2014. He explained that instead of locking future City Councils to that higher amount the City is making additional discretionary payments. He noted even in a year the City did not have \$31 million in surplus the City would put the \$5 million towards additional discretionary payments to CalPERS. He noted the City's surplus has been able to cover the \$5 million previously.

Committee Member Blom inquired if the variance from the typical surplus amount is the reason the City would want to deviate from City Council Policy F-5. Chair O'Neill confirmed.

Committee Member Scarbrough inquired why the City would not want to hold some of the \$31 million back in the event something like the pandemic happens again or allocate more to long-term liabilities and not promise departments or residents infrastructure projects.

Chair O'Neill noted he could not provide answer since it is a City Council policy question. He noted Committee Member Collopy has been asking for the last couple of years how much should the City hold in its reserves. He advised the City has \$52 million in contingency reserves and noted even in a black swan year the City only ends up dipping into it for approximately \$2 million. He explained the Finance Committee's job is to make those types of recommendations to the City Manager and then eventually making a recommendation to the City Council on the budget. He explained as an example that the City could pay down its pension liability in five years, but many of the projects that residents are expecting from their tax dollars will not be completed. He noted that is the balance the City has to constantly play out. He noted when dealing with CIP projects, the Junior Lifeguard Building and the Library Lecture Hall are "nice to haves" not "need to haves". He noted "need to haves" coming up are the fire station and the library at the end of the peninsula that needs to be replaced and those are the kind of things that could be funded with one-time monies. He advised the City could hold the money back and then the question becomes does the City want to add it to the reserve as a hold back.

Committee Member Scarbrough noted the City has been allocated a Regional Housing Needs Assessment (RHNA) number and new housing will be needed along with infrastructure. She inquired how that gets studied and gets put into this entire discussion.

Committee Member Stapleton advised he has been on the Finance Committee long enough to know that when CalPERS misses, they miss big. He feels it is best to spend some of this money on long-term projects and infrastructure the City needs.

Committee Member Blom advised it is important to note when funds are allocated to CIP, they are not being spent they are sitting in an allocated fund. He explained CIP projects can always be deferred if there is a crisis. He believes development fees could also be used to develop areas to meet the RHNA numbers. City Manager Leung advised City Council gave direction to staff to conduct a Development Impact Fee Study.

Committee Member Scarbrough advised it is harder to rescind the funding once residents are promised projects.

Chair O'Neill advised it is not very common for the City Council to promise projects. He advised the City has never dealt with anything like this before.

Charles Klobe reported there is an annual ranking of cities statewide that always seems to give the City a black eye financially and inquired if there is anything the City can do to because the City's financials are actually better than what is being reported. Chair O'Neill reported he has spoken offline with Senator John Moorlach about the issue repeatedly. He advised the City will not receive its annual CalPERS actuarial valuation report for FY 2020-21 for a year and half

and noted the City will look better after that. He noted the City is one of the only cities that is trending towards reducing its pension liability.

Ms. Curran reported as a CalPERS retiree they could not tell her potential qualification threshold was until she retired. She inquired about the upside versus the downside of the two year and one-year horizon for the \$31 million and how it compares to other cities.

Finance Director/Treasurer Catlett explained the main reason is it allows the City to deploy resources in a timelier fashion especially relative to the pensions. He explained that when the City spends its surplus reserves down to zero there is still \$52 million in the Contingency Reserve and noted the City also has the ability to pull funds back or not make transfers next year to various other funds. He noted there is a lot of flexibility, but it makes sense to deploy these funds as fast as possible.

Ms. Curran inquired if philosophically it leads to being more conservative in some of the projections because there are not excess reserves on hand over time.

Chair O'Neill explained philosophically by the time the City hits the fourth quarter it has a good sense of where it is with surplus. He advised by the time the City Manager begins working on the budget which is at the start of the fourth quarter and presents it to the Finance Committee and eventually to the City Council it is close to the end of the budget year. He advised the City Manager is able to estimate what the anticipated surplus will be. He advised if the City is putting \$5 million towards additional discretionary pension payments the City Manager will have an idea if it is coming from surplus or from the General Fund or a combination of the two. He explained, for example, if the City has a Contingency Reserve of \$52 million plus an \$11 million surplus it can spend the \$11 million because it is not being relied upon for revenue assumptions. He further explained if there is a situation such as the pandemic, the Contingency Reserve can be used rather than using the surplus as a balancing mechanism. He indicated it is conservative and explained it is like a nine month acceleration of payments.

Ms. Curran noted it sounds like the City makes a specific estimate for its Contingency Reserve, so it is requiring the City to be more transparent. Chair O'Neill advised he does not believe it is a transparency issue and noted in previous years the City would be using the money in nine months after the timeframe currently being discussed. He explained if the City was doing it this way two years ago it would have had two years' worth of Surplus instead of three years' worth to use during the pandemic.

Chair O'Neill opened public comments.

Jim Mosher advised the agenda did not mention the Finance Committee was being asked to make a recommendation on how to allocate the surplus and noted he needed to look at the staff report cover page to find out that was the recommended action. He recommended having the recommended action on the agenda match what the actual recommended action is in order to properly inform the public on the agenda. He noted in the presentation under Other General Fund Revenues states a 20% reduction is assumed in the adopted budget and actual revenue is \$9.2 million higher than the revised budget. He inquired if the \$9.2 million is larger or smaller than the 20% or how do they compare.

Finance Director/Treasurer Catlett advised he could not answer Mr. Mosher's question directly from the information in the presentation or the staff report. He advised a 20% reduction in all of the non-major categories of revenue would have been reflected in the \$199.6 million. He explained the \$9 million is a variance between the revised budget and the actuals. He noted the variance from the originally adopted budget would have been more, but he does not have that number in front of him. He advised he would follow up with Mr. Mosher.

Mr. Klobe inquired if the funds for the Library Lecture Hall and Junior Lifeguard building are already budgeted. Chair O'Neill advised only the design was budgeted for the Library Lecture

Hall, but the CIP included \$4 million for the project and noted the next year's CIP budget will be increased by \$2.5 million for a total of \$6.5 million. He advised it is a question of how quickly the City could work through the Memorandum of Understanding (MOU) and noted there is no construction money currently budgeted.

Mr. Klobe noted in last few years and even with the pandemic the City had a budget surplus. He inquired if it is safe to assume the City will have a \$7 million surplus at the end of the next fiscal year. Chair O'Neill noted it is possible to have a surplus at the end of fiscal year. Mr. Klobe noted the big revenue generator such as real estate sales and auto sales are still strong. He noted Amazon versus retail has not really impacted the City.

Ms. Curran inquired about the nexus of sales tax when the customer, for example, places an order for Bristol Farms on Amazon. Committee Member Blom suggested that the customer is probably paying sales tax on products sold and Amazon charges a service agreement that would be independent.

Finance Director/Treasurer Catlett explained if a customer is ordering online from a store and picking up at the store, the nexus is with the store location in Newport Beach, but when the order is placed online, and the product is delivered to the customer the revenue would flow to the county sales tax pool. He noted he does not know the answer for the Bristol Farms and Amazon relationship but will follow up with Ms. Curran.

Ms. Curran noted the Amazon model will continue to grow.

Chair O'Neill closed public comments.

Committee Member Reed inquired what would happen if the recommendation is to remain in alignment with the Council Policy F-5. Chair O'Neill advised in that case \$15.5 million be allocated for pension liability and \$15.5 million would be allocated to CIP. He explained it is tricky to greatly accelerate the City's unfunded pension liability payments. He advised the \$5 million is going towards the idea that CalPERS will continue to miss on a long-term basis on their 7% investment return assumption. He reiterated the \$5 million is a second additional discretionary payment. He noted the City would then be funding \$11 million over what it would normally be required to pay in any given year. Chair O'Neill advised the only other long-term liabilities the funds can be allocated to are retiree medical and unemployment insurance reserve but those either cannot be paid down faster or are already in a good position.

Committee Member Scarbrough inquired which projects would get funded with the \$31 million and who makes that decision. Chair O'Neill advised the Finance Committee explains to the City Council where the money is and how it can be spent but the City Council makes the final decision. He advised this would be providing the flexibility to City Council for the possibility of accelerating some of the projects or changing the timeline of a project.

Chair O'Neill explained the reason Finance Director/Treasurer Catlett is talking about \$10.5 million and \$15.5 million and not just \$25 million to CIP is because FFP is a long-range planning document to make sure the funding is available when it is needed. He noted the City needs to anticipate General Fund transfers into the FFP for those long-range planning tools. He advised the \$15.5 million for CIP needs to be reviewed in the next or following budget cycle as CIP has not been reviewed for some time. He believes the staff recommendation is right because it splits between long-term liabilities and the CIP.

Committee Member Blom moved to approve staff's recommendations.

MOTION: Committee Member Blom moved to approve staff's recommendations, seconded by Committee Member Reed. The motion carried 5 ayes, 0 noes, 2 absences (Mayor Avery, Committee Member Collopy)

C. OVERVIEW CREDIT CARD FEES DISCUSSION

Summary:

Staff will provide the Committee with an overview of the costs associated with processing credit card transactions, as well as the various types of payments for which the City currently accepts credit cards. The purpose of this item is to receive the Committee's feedback on whether it would make sense to recommend to the City Council that the City collect a service fee for any or all credit card transactions.

Recommended Action:

Receive and file.

Finance Director/Treasurer Catlett reported the City collects payments at a variety of locations and accepts a variety of types of payments. He advised staff is looking for feedback regarding the City collecting a service fee for any or all credit card transactions. He reported two of the largest types of payments collected are building permits and utility bills. He explained the fees charged work out to approximately 2.5% across all of the City's transactions.

Finance Director/Treasurer Catlett advised parking transactions are the largest portion of payments received from people paying at pay stations and through their cell phone using the parking application and totaled \$600,000 in the most recent year. He reported building permits totaled \$200,000 and online utility payments totaled \$260,000. He advised other programs where credit card payments are collected are recreation fees, parking citation payments, and business licenses.

Finance Director/Treasurer Catlett provided a brief overview of what the City pays in credit card fees and noted the percentage varies by category and noted the average fee works out to approximately 2.5%.

In response to Chair O'Neill's inquiry about the 5% fee for utility payments, Revenue Manager Evelyn Tseng explained the City is not getting the discount it would normally get because we are using a third-party vendor for hosting the payment portal.

Finance Director/Treasurer Catlett explained the City has a variety of systems on the backend, so depending on the software and the system the fee can vary. He reported the City now recovers the credit card fee on utility bills via utility rates. He noted that cost was part of the rate study. He advised that credit card fees for other programs are being subsidized by the fund where they are budgeted, primarily the Tidelands Fund and the General Fund.

Finance Director/Treasurer Catlett reported the City benchmarked with peer cities such as Irvine and Beverly Hills and advised none of them are charging credit card fees for parking. He advised Irvine and Santa Monica charge a fee for building permit credit card fees and noted most cities are recovering utility bill-related fees through rates. He advised Santa Monica is charges a flat dollar fee per utility bill transaction.

Finance Director/Treasurer Catlett reported the City could pass through fees for every type of transaction or look at specific categories of transactions. He noted charging customers for credit card fees on building permits might make sense because the user is obtaining a service from the City and the City's user fees are generally set at 100% of the City's costs by policy, other than certain user fees such as recreation fees where the fees are subsidized from the General Fund. He advised the user fee schedule can also be used to recover credit card fees or the City could choose to leave things the way they are today.

In response to Committee Member Scarbrough's inquiries regarding rates, Finance Director/Treasurer Catlett explained the fee for utilities is being recovered through utility rates.

In response to Committee Member Scarbrough's inquiry regarding payments by debit card versus credit card, Revenue Manager Tseng explained the fee is slightly less when a customer

pays with a debit card versus a credit card. Chair O'Neill noted when residents pay property tax payments with a credit card, they are charged a 2.5% fee.

Committee Member Blom expressed support for a pass-through fee. Chair O'Neill does not think this can be done with parking because the way most people pay will always be transacted through a credit card. Finance Director/Treasurer Catlett confirmed the fees for utilities are recovered through utility rates.

Committee Member Stapleton advised he does not want to create a problem that does not already exist and feels like it may create more headaches by charging fees.

Chair O'Neill reiterated this should not be done for parking but maybe is doable for building permits. He expressed concern that a California Coastal Commission permit may be needed because the City would effectively be increasing parking rates. Committee Member Stapleton inquired if it is not an increase in the parking and only an increase in the line item is a California Coastal Commission permit still needed.

Committee Member Scarbrough noted it seems reasonable to collect a fee for processing building permits with a credit card. Committee Member Blom advised the City is not making a profit on building permits and is strictly paying for staff hours for those fees so incurring the credit card fees as a City expense is a net loss.

Chair O'Neill noted that recreation would have a tough time switching over to checks versus credit cards and he would like to see how it would work for the building permits first. He advised the whole point of charging a fee for processing building permits with a credit card is to offset fees for the City. City Manager Leung clarified for building permits customers would be charged an additional credit card fee for those who chose to use a credit card.

Committee Member Scarbrough explained the building and plan check fees are in the Building Code and are based on valuation of construction.

City Manager Leung reported there are many other permit fees and confirmed a fee study is conducted.

In response to Chair O'Neill's inquiry regarding valuation-based fees, Public Works Finance/Administrative Manager Theresa Schweitzer confirmed valuation-based fees are set based on the cost documented in the City's user fee study and are then charged based on project valuation.

In response to Committee Member Blom's inquiry regarding number of credit card transactions, City Manager Leung noted 8,200 credit card transactions were conducted.

Committee Member Blom noted the question is why the cost is not being recovered by the City. He noted he does not think the City is going to lose out on building permit fees. Committee Member Scarbrough noted she does not feel that customers obtaining building permit fees would be concerned about the fee.

Chair O'Neill opened public comments.

Mr. Klobe reported it is worth investigating if the City can charge a credit card fee for one thing and not another and ensure there is no legal challenge because everyone is not being treated fairly. He advised the City would have to go to the California Coastal Commission for increased parking fees but can use the cost of credit card fees as the justification. He advised many utility providers are encouraging customers to pay through ACH payments and inquired if customers are offered an ACH option.

Revenue Manager Tseng advised the ACH program is free to the customer but not free to the City and noted the fee is slightly less than credit card costs. She reported staff contacted the County who chose to pass-through fees for credit card transactions but not for ACH transactions.

Ms. Curran noted it is not a zero-sum game and the City can offer both forms of payment and let the customer choose. She inquired why the processing fee for parking pay stations is 5.85% and if it has always been that rate.

Revenue Manager Tseng explained the City is not able to negotiate discounts with the credit card companies. She explained the parking processing fees are higher because there is a flat fee for all 1.7 million parking transactions. Ms. Curran suggested the City sell a pay card where visitors could purchase set amounts of prepaid parking fees. Revenue Manager Tseng noted it is a great idea and was discussed years ago when they contracted with Park Mobile but advised that at the time the back end administrative fee was high, and the cost could not be justified. Ms. Curran noted the pay card could be used for more than parking fees.

Chair O'Neill closed public comments.

Committee Member Reed inquired what the cost savings to the City would be for not having to service the meters. Chair O'Neill advised that contract is very expensive which was recently amended. City Manager Leung advised the City looked at the fiscal impact of not servicing the meters.

Committee Member Scarbrough inquired if trash was included in utility payments. City Manager Leung advised recycling is included but not trash.

Committee Member Scarbrough inquired if the recycling fee gets added to the utility bill and customers are going to pay by credit or debit card will the increased percentage of the recycling fee be calculated into the cost or will the City be subsidizing more. Finance Director/Treasurer Catlett advised he is not sure if the rate study included recycling.

Public Works Finance/Administrative Manager Schweitzer advised the recycling study did not include credit card fees in the analysis, but the fees could be included in the next study.

Chair O'Neill advised he likes the idea of giving customers the option of paying the pass through for credit cards or paying by check for building permit fees as a starting point.

The item was received and filed.

D. REVENUE AUDIT PROGRAM UPDATE

Summary:

Staff will provide an update on audits conducted by the Revenue Division to verify transient occupancy tax (hotels, agents, and residential owners), charter boat company, waste hauler, etc. revenue collections.

Recommended Action:

Receive and file.

Revenue Auditor Antonio Velasco advised one of his main tasks is ensuring hotels, charters, and solid waste franchisees are in compliance with the City's Municipal Code and paying their TOT and franchise fees. He reported for the period of June 2020 through September 2021, 40 companies were audited and of those 40, six were appealed. He advised the appeals were for hotels and some short-term lodging owners who were challenging the late fee. He reported all six appeals were upheld by the City's Hearing Officer.

Revenue Auditor Velasco reported underreported taxes and fees totaled \$82,000 including penalties and interest. He advised some of the main issues for Charter Tax are that some

Marine Charters are operating without a Marine Activities Permit. He explained when the City receives that information it reviews it for any back taxes owed and applies penalties and interest. He advised due to pandemic there were some operators who shut down last year and failed to file or filed late.

Revenue Auditor Velasco reported the City has contracted with a consulting firm to conduct audits on the Solid Waste Haulers and check franchisees to see if they are reporting correctly. He advised they have conducted two thirds of the 30 total audits and noted a new finding is that Solid Waste Haulers are incorrectly reporting gross receipts.

Revenue Auditor Velasco reported some hotels are not reporting cancellation fees and some of the Short Term Lodging Agents were not reporting cleaning fees. He advised the City followed up with letters to all hotels and Short Term Lodging Agents to remind them of the Municipal Code and their tax requirements. He noted some follow up audits have been conducted and advised the letters are very effective. He advised when Short Term Lodging Agents call to register with the City, they are being notified of their tax requirements and required forms.

Revenue Auditor Velasco reported last year 1,000 Short Term Lodging Owners filed for 2020 and 76 filed late or did not file at all. He advised they were sent letters and incurred penalties and interest.

Revenue Auditor Velasco reported some hotels have had recent changes of ownership or management and they are being audited. He advised Marine Charter late filers and new operators will be audited to ensure they are reporting correctly. He noted the Harbor Department is also identifying charters to follow up on. He advised that once the consultant completes the audits they will be reviewed for findings. He noted the due date for Short Term Lodging Agents and owners reporting is at the end of October.

Committee Member Scarbrough inquired how the auditor identifies unlicensed short-term rentals. Revenue Auditor Velasco reported there are a few programs that help the City identify properties being listed.

Revenue Manager Tseng explained there are 1,500 to 1,600 short-term lodging permits and they all cannot be audited. She advised staff picks permittees who are paying more than average and also randomly pick ones to audit. She advised before Revenue Auditor Velasco came on board the City was not great at auditing short-term lodging owners. She noted with an increase in permits a more robust program was needed.

Committee Member Stapleton reported beach picnic companies have become very popular and inquired if they were included in the audit program. Finance Director/Treasurer Catlett advised it is an issue from a business licensing and code enforcement perspective. Revenue Manager Tseng advised staff regularly receive calls about it and they send out code enforcement. City Manager Leung advised those companies can get a license, but they are not supposed to conduct business on the beach. She advised yoga in the City's parks is okay and can be permitted. Chair O'Neill advised companies can obtain a business license and still be violating the law.

Committee Member Reed noted he liked the idea of reaching out to new short-term lodging operators and inquired if it is possible to cross reference who has short term rentals by address and changes of property ownership. Revenue Auditor Velasco advised they do not have that ability at this time. Revenue Manager Tseng reported staff started conducting outreach with short-term rental owners last year and noted many agents/owners were contacted. She confirmed there is no way to track the new owners.

Chair O'Neill opened public comment.

Mr. Mosher noted he did not follow the logic of auditing the high paying short-term rental owners and inquired about permit holders who are not paying. Revenue Manager Tseng reported the audit is also randomized so the high payers are not the only ones being audited. She advised the City Council passed an ordinance that if the owner does not pay for two years the permit can be revoked.

Mr. Klobe advised he would support a policy that requires everyone to be audit every few years.

Chair O'Neill closed public comments.

The item was received and filed.

E. BUDGET AMENDMENTS FOR QUARTER ENDING SEPTEMBER 30, 2021

Summary:

Staff will report on the budget amendments from the prior quarter.

Recommended Action:

Receive and file.

Chair O'Neill called for public comments and hearing none, closed public comments.

The item was received and filed.

F. WORK PLAN REVIEW

Summary:

Staff and Finance Committee to review the proposed work plan and identify matters that members would like placed on a future Agenda for discussion, action, or report.

Recommended Action:

Receive and file.

Chair O'Neill reported the next meeting of the Finance Committee will be on November 4, 2021, and will include a review of the City's relationship with Visit Newport Beach, an update on the City's Long Range Financial Forecast, and an Internal Audit update. He advised the Finance Committee will be off in December. He encouraged the Finance Committee to note the two meetings in May 2022.

Chair O'Neill called for public comments and hearing none, closed public comments.

The item was received and filed.

VI. ADJOURNMENT

The Finance Committee adjourned at 4:51 p.m. to the next regular meeting of the Finance Committee.

The agenda for the Regular Meeting was posted on October 7, 2021, at 6:45 p.m., in the binder and on the City Hall Electronic Board located in the entrance of the Council Chambers at 100 Civic Center Drive.

Attest:

Will O'Neill, Chair
Finance Committee

Date

DRAFT