

**City of Westminster
City Financial Task Force**

**Final Report to the Mayor and City Council
May 2016**

I. Background

At the City Council meeting of September 23, 2015, Mayor Ta recommended the formation of a community task force to offer financial advice to the City Council in an effort to find a long term solution to the City's budget deficits. On October 14, 2015, the City Council approved formation of the City Financial Task Force and on October 28, 2015 the Mayor and City Council members appointed the following five individuals in the community to serve on the Task Force: Don Anderson, Gil Cruz, James Davidson, Kimberly Ho and Khanh Nguyen.

Following its appointment of City Financial Task Force members, the City Council heard a presentation on the City's budget and finances from the City's financial consultant, Irwin Bornstein, on November 18, 2015. The presentation consisted of an independent review of the City's fiscal year 2015-16 budget, as well as projections for fiscal year 2016-17 and 2017-18. The City's General Fund expenditure budget for fiscal year 2015-16 is \$52.3 million. Mr. Bornstein indicated that his projection of the General Fund budget deficit for fiscal year 2015-16, \$2.6 million, is \$1.2 million lower than previously estimated. He also indicated that the structural deficit in the General Fund stands at \$12.6 million. He noted that action must be taken before the end of fiscal year 2017-18, because General Fund reserves are projected to be depleted prior to the conclusion of fiscal year 2018-19. Budget solutions should focus on the structural deficit with the goal being to eliminate the current structural deficit and to control the growth of ongoing expenditures going forward.

The Task Force convened for the first time on November 30, 2015. In total, the Task Force held a series of eight meetings on the following dates in 2015 and 2016: November 30, December 14, January 11, January 25, February 16, March 8, March 28 and May 2. Each meeting lasted from 1-1/2 to 2 hours. Staff support to the Task Force was provided by City Manager Eddie Manfro, Assistant City Manager Chet Simmons, Finance Consultant Irwin Bornstein, Financial Services Manager Erin Backs and Accounting Manager Sherry Johnson.

The format of each meeting included a PowerPoint presentation by Mr. Bornstein, followed by discussion among the Task Force members and questions of staff to identify ideas for possible recommendation to the City Council for addressing the City's structural deficit. The initial meetings focused on providing Task Force members pertinent information with which to evaluate the City's financial condition. Presentations were made covering the basics of how California cities are financed, tax limitations and vote requirements, an overview of the City's budget, a summary of Mr. Bornstein's November 18 presentation to the City Council, a review of actions previously taken to address budget deficits, and a review of City staffing levels as far

back as fiscal year 1997-98. At these initial meetings, the Task Force also had the opportunity to hear from each City department head and to discuss each department budget, the service levels currently being provided and the degree to which department budgets have been reduced over the past four years.

As a result of these meetings, the Task Force identified a total of 35 possible ideas for addressing the City's structural deficit situation. The process the Task Force utilized to reach consensus on which of these ideas to recommend to the City Council included: discussion among Task Force members at Task Force meetings, two separate tallies of individual Task Force member's support for each of the ideas mentioned, discussion of the results of these tallies at Task Force meetings, and review and discussion of a final report draft prepared by staff based on the Task Force members' individual expressions of support and group discussions.

The recommendations included in the following section include all of the ideas that received at least simple majority support among the five Task Force members. In the following section, the number in parentheses after each recommendation indicates the number of Task Force members supporting the recommendation. The Appendix at the end of the report includes a list of all of the remaining ideas discussed by the Task Force.

II. Summary and Recommendations

The City Financial Task Force understands that the current City Council did not create the current budget and structural deficits. They were created primarily by two actions. The first occurred when a former City Council approved reducing the City's property tax rate many years ago. This reduction became permanent in 1978 with the approval of Proposition 13 by the voters of California. As a result, Westminster receives a very small share of each dollar of property tax paid by property owners of the City, and one of the smallest shares of all the cities in Orange County. Over the last four years, the City has received millions of dollars less in property tax revenue than surrounding cities such as Fountain Valley, Garden Grove, and Huntington Beach have received. The second significant action that helped to create the current deficits occurred when the State of California in 2012 abolished all redevelopment agencies in California and diverted to the State all of the property tax revenue the agencies had been receiving. The loss of redevelopment funds for Westminster was about \$11 million per year.

However, the Task Force has also observed that over the past several years the City has continued to use reserves to balance its annual General Fund budget and if the City Council takes no action, the reserves will be depleted within approximately three years. The Task Force believes that the City should first examine how costs can be further reduced, before seeking voter approval on a tax measure. But given the size of the City's budget and structural deficits,

the Task Force also believes that regardless of what additional cost-saving measures may be implemented, additional revenue will need to be generated to overcome the deficits and maintain an appropriate level of reserves.

The Task Force makes the following recommendations to the Mayor and City Council:

- (R1) The City should first examine all possibilities for further cost savings prior to placing a local sales tax measure before the voters.⁽⁴⁾ The Task Force understands the urgency of addressing the City's budget and structural deficits and is aware of the significant budget and staffing reductions that have already taken place over the past four years. But the Task Force believes that tax measures should only be considered after the City has exhausted and implemented the following cost cutting and efficiency-related recommendations included in this report. This will allow the City to further refine the amount of shortfall needing to be addressed by a revenue measure.
 - (R1a) The City should immediately commission a study by an outside firm to examine all current City operations and make recommendations for cost reductions, greater efficiencies and other methods of service delivery, including contracting out or contracting in.⁽⁴⁾
 - (R1b) The City should seek a proposal from the Orange County Sheriff to provide police services to the community.⁽⁴⁾
 - (R1c) If feasible, the City should develop a plan to relocate City Hall offices as soon as possible to the police headquarters building, and seek the best alternative use for the current City Hall property.⁽⁵⁾ There is significant unused space available in the police building. Building maintenance costs can be reduced to generate ongoing annual savings and the sale or lease of the current City Hall building and/or land could result in significant one-time or ongoing revenue.
 - (R1d) The City should begin to identify alternatives to the Orange County Fire Authority (OCFA) for providing fire and emergency medical services to the community.⁽⁴⁾ The next opportunity for the City to opt out of the OCFA is in the year 2020, with two-year notice required to be given in 2018.
- (R2) The City should commission a study to determine the feasibility of selling or leasing the City's water utility as a means of generating additional general funds for the City.⁽⁵⁾ Other cities with water utilities and who are facing fiscal

challenges are looking at this option as well for generating additional funds for their General Fund.

- (R3) The City should conduct an aggressive and transparent campaign to educate the community on the City's finances, and hire a communications firm to handle the campaign with guidance from City staff.⁽⁴⁾ The City faces significant budget challenges and the community may be asked to decide, at some time in the future, how best to address these challenges. Such an education effort should include the possible outcomes of various ways to address the deficits and the consequences of taking no action.
- (R4) The City should also consider adoption of a Declaration of Fiscal Emergency.⁽³⁾ A number of cities facing budget issues of similar magnitude to Westminster's have done so. Such a declaration would allow the City the flexibility to place a revenue measure on the ballot at any time, and to not be restricted to doing so only in November of even-numbered years. A Declaration of Fiscal Emergency for this purpose requires a unanimous vote of the City Council.

The Task Force also makes the following recommendations related to various revenue enhancements that do not require voter approval:

- (R5) The City should enhance the marketing of its current ambulance subscription program to realize additional revenue.⁽⁵⁾ This program has been generating net revenue annually to the General Fund. The City could also reduce costs associated with this program by implementing some additional restrictions on the number of ambulance responses covered by the program.
- (R6) The City should seek ways to reduce its accounts receivable delinquencies, the most significant of which affecting the General Fund are for ambulance services.⁽⁴⁾ On average, 13% of gross ambulance billings for the year are sent to collections. While this is also the industry average according to the City's billing firm, there may be room for some improvement.
- (R7) The City should expand its business license inspection program, to better ensure that all businesses operating in the City have a proper license.⁽⁵⁾ Currently, every new business is inspected and staff canvasses every commercial street at least once a year, to identify new businesses that may not have obtained a business license.
- (R8) The City should investigate whether franchise fee revenue for commercial and industrial refuse collection services could be obtained from the Midway City Sanitary District.⁽⁴⁾ The District currently collects franchise fee revenue from its

commercial and industrial refuse collection operators, and their trucks utilize City streets.

- (R9) The City should update its user fees.⁽⁴⁾ In addition, the City should establish a policy for updating user fees every two to five years and approving fees for a two-year period, including an appropriate automatic escalator to reflect cost increases in the second year. The most recent update of user fees occurred in June 2013, based on FY 2012-13 budgeted costs.
- (R10) The City should consider increasing certain fines that can be set locally (for example, fireworks, street cleaning/parking, and disabled parking).⁽⁴⁾
- (R11) The City should endeavor to increase cost recovery for Code Enforcement activities, through greater use of citations and other program-related revenue sources.⁽³⁾ Costs for the Code Enforcement program run slightly under \$500,000 per year, with program-related revenues currently averaging about \$50,000 per year.

The Task Force makes the following recommendation related to updating the City's Utility Users Tax ordinance:

- (R12) The City should seek voter approval to modernize its Utility Users Tax ordinance to capture revenue from additional telecommunications services not in existence when the ordinance was adopted.⁽⁴⁾ Many cities have achieved voter approval for such measures by lowering the tax rate slightly while expanding the types of services covered. The City's current tax rate is 4%. Two members of the Task Force support an increase in the Utility Users Tax rate of 2%, and one member recommends a 1% increase.

The Task Force makes the following additional policy recommendations:

- (R13) The City should change the priorities of Code Enforcement activities to focus on City appearance.⁽⁴⁾
- (R14) The City should establish a policy that no new facilities or capital improvements will be approved without identified funding for ongoing maintenance.⁽⁴⁾
- (R15) Legalized gambling should not be permitted in the City.⁽⁴⁾
- (R16) The City should establish a minimum fund balance policy. It is recommended that the combined fund balances of the General Fund and Internal Service Funds be maintained at a level of no less than \$10 million.⁽⁵⁾ The Government Finance

Officers Association of the United States and Canada, the multi-national organization of municipal finance officers, recommends that government agencies establish a minimum fund balance policy and that agencies maintain no less than two months of general operating revenues or expenditures as a minimum fund balance. Two months of General Fund revenues equate currently to \$8 million. Staff has previously targeted a minimum of \$500,000 for each of the City's five Internal Service Funds.

In conclusion, the members of the City Financial Task Force would like to thank the Mayor and City Council for the opportunity to participate in the effort to resolve the City's financial challenges and would also like to thank City staff for their support and assistance during the Task Force deliberations.

Respectfully submitted,

Don Anderson, Member

Gil Cruz, Member

James Davidson, Member

Kimberly Ho, Member

Khanh Nguyen, Member

Appendix

Other Ideas Discussed by the Task Force

This Appendix includes ideas that were discussed by the Task Force but did not receive majority support. They include several other revenue enhancement ideas and three process-related ideas.

Each of the following items received the support of two Task Force members:

- Implementation of a 1% local Transactions and Use (Sales) Tax. ⁽²⁾ Task Force members supporting this idea argued that given previous expenditure and staffing cuts made by the City over the past several years, this is the only realistic avenue for closing the structural deficit. However, the majority felt that this is premature until such time as the expenditure cutting ideas recommended by the Task Force have been fully investigated and implemented. It is currently estimated that a 1% local Transactions and Use Tax would generate \$15 million in FY 17-18 (\$3.6 million for one quarter in FY 16-17), if a measure were to be placed before the voters in November 2016 and passed.
- Increase the transient occupancy tax rate. ⁽²⁾ Westminster's current transient occupancy tax rate is 8% compared to a range of 9% to 14.5% for our five neighboring cities. However, this requires majority voter approval and the revenue potential is only \$86,000 for every 1% increase in the tax rate.
- Raising business license taxes on large businesses. ⁽²⁾ The maximum business license tax paid by a retail business in Westminster is \$2,500, regardless of the size of the business. Other nearby cities do not have a similar cap. The maximum fee amount of \$2,500 in Westminster is reached when a business generates \$5 million in annual gross receipts. A change to the business license tax structure requires majority voter approval.
- Increases to recreation fees. ⁽²⁾ There may be some potential for increased recreation-related revenues in the areas of advertisements in the recreation brochure, establishing youth ballfield fees, establishing gazebo/shade structure rental fees, implementing tennis court light fees, charging a Civic Center/public property use fee and eliminating facility fee waivers. However, recreation fees in general are sensitive to market forces. Raising fees, or implementing non-resident fees, can drive participants elsewhere.

- Establish a new user fee for cost recovery of planning services provided to potential applicants prior to plan submission.⁽²⁾ About 1/3 of Planning time is spent on counter, phone and emails, a portion of the cost of which could be recoverable. However, other cities do not charge for this time, to encourage open communication with potential applicants.
- Evaluate marijuana dispensaries revenue potential.⁽²⁾ The Task Force did not discuss this idea in any detail. However, there was some interest in further research.

As noted in the body of the report, the one process-oriented idea that received majority support from the Task Force was the recommendation to consider a Declaration of Fiscal Emergency. The other three process alternatives discussed by the Task Force were as follows, and each received the support of only one Task Force member:

- Bankruptcy filing.⁽¹⁾ The City Attorney's office provided information to the Task Force on the legalities of a municipal bankruptcy filing. The Task Force discussed such an action and determined that this would not be of any benefit to the City. The purpose of a bankruptcy filing is to get relief from debt by restructuring debts through a reorganization plan. The City does not have a large amount of outstanding bonds. Its other long-term debt consists primarily of pension and post-employment benefit liabilities, which would not appear to be candidates for restructuring. A bankruptcy filing does not increase revenue and would not decrease expenditures to any significant degree.
- Disincorporation.⁽¹⁾ If the City is unable to close its structural budget deficit, disincorporation is another option. The process for disincorporation is spelled out in State law; however, no city in California has ever disincorporated for financial reasons. The Local Agency Formation Commission (LAFCO) would oversee the disincorporation process. Disincorporation requires the approval of both LAFCO and City voters. If remaining City funds are insufficient to pay remaining debts, the law states that the county shall levy additional taxes on the former City residents, and approval of these additional taxes could be a condition of LAFCO approval of the disincorporation proposal.
- Allowing the City to become insolvent and taking no action at all.⁽¹⁾ The fund balance of the City's General Fund is currently projected to be depleted before the end of FY 2018-19. If the City's deficits are not addressed in a timely manner and the City's General Fund becomes insolvent (i.e., there is insufficient cash to pay bills), then the City would risk repossession of City equipment and vehicles, foreclosure of City land and/or curtailment of local services. No city has ever taken this approach in

the face of severe budget challenges. Other cities have concluded that this option is far worse than any other option available to them. In addition, there is no law requiring the county to step in and take over for a city that becomes insolvent. If the City took this approach, this would be uncharted territory.