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Finance Committee

Written Report Only - Transportation Benefit District (TBD) Debt Financing

Agenda Date: 5/9/2013
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Agenda Item:

Written Report Only - Transportation Benefit District (TBD) Debt Financing

City Manager's Recommendation:

Discuss the legal and practical concerns surrounding the issuance of debt by a Transportation Benefit District (TBD).

Staff Contact:

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Presenter(s):

Jane Kirkemo, Administrative Services Director

Background and Analysis:

At the January meeting of the Olympia TBD, a board member asked if the TBD could issue its own debt. This will be discussed at the next TBD board meeting. However, the Olympia Finance Committee has also raised the question. The question has to be looked at from both a legal and a practical aspect. I contacted Foster Pepper, the City's bond counsel as well as the State Auditor's office. To date, I have received no response from the State Auditor's office. Currently there are approximately 30 TBDs in Washington State (no county TBDs) and none have issued bonds.

The TBD statute does state that a TBD is a "quasi-municipal corporation, an independent taxing authority and a taxing district." TBDs are statutorily authorized to issue general obligation bonds within a statutory limit as well as revenue bonds. A Washington State Supreme Court case, however, analyzed a library district and whether it was truly an independent entity. The case is *Granite Falls Library Capital Facility Area v. Taxpayers*, 134 Wn.2d 825. Based on this and other cases, the concern is that courts may look to the facts and circumstances to determine whether the TBD acts sufficiently independently of the City, and if it does not, the TBD debt could be determined to be debt of the City. A court would look at whether there are sufficient guidelines and safeguards to ensure the TBD Board is acting solely in their capacity as members of a governing board separate from the City Council, that the TBD funds were not commingled, that the TBD and not the City is conducting the TBD affairs, and that the City received consideration for services and funds provided to the TBD. Currently the Olympia TBD (OTBD) does not act independently. The OTBD does not have any employees, they do not contract for services, and the funds are used to pay for City of Olympia projects.

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If the TBD did issue bonds, the City's credit could not be pledged to secure those bonds. This is the practical aspect of issuing debt. If the City of Olympia did not pledge its full faith and credit to back the bonds, the TBD would not receive a high rating and thus not receive a favorable interest rate or even potential bidders for the bonds.

Neighborhood/Community Interests (if known): N/A

Options: This item is for discussion only. Any action would have to be taken by the TBD.

Financial Impact: None