Business Tax Advisory Committee Meeting
Minutes - CORRECTION
September 16, 2010
Room 1060, City Hall

Members Present: Lloyd Greif, Craig Morris, Michael Banner, Mel Wilson, Kathy Faulk, Mel Kohn

Members Absent: Dwayne Gathers, Melissa Patack, Saul Gomez

I. Welcome Remarks

None.

II. Call to Order

Chair Greif called the meeting to order without a quorum. The meeting was continued but not able to vote on items until one more member was present. During the discussion, Michael Banner arrived and the meeting then proceeded with a quorum.

III. Approval of Minutes

Minutes approved for August 18, 2010.

IV. City Office Verbal Reports

Dan Whitley, Deputy City Attorney was asked to discuss the mutual fund agreement from 1975. At this point, the City Attorney’s Office has an existing compromise of a lawsuit from 1975 and it cannot be released because it is a privileged document. Mr. Whitley was advised by his supervisors not to provide the information but he added that the City Attorney’s Office would follow up with a memorandum outlining the procedure. Chair Greif asked when that memorandum would be provided to the committee. Ed Cabrera, Assistant Director of Finance stated that it could be provided by the next meeting. Chair Greif asked to have the document prior to the meeting so the committee would have time to review.

Chair Greif continued by quoting prior minutes regarding the request for mutual funds information. He then asked about the tax rate for mutual funds located in the City of Los Angeles. Mr. Cabrera responded that they are taxed at the rate of Professions and Occupations. Discussions ensued regarding the tax rate. When asked about the research on the number and revenue amounts for mutual funds in the City, Mr. Cabrera stated that it would take multiple employee hours to complete. This is due to the fact that there is not a specific NAICS code to target for mutual funds so the research involves a large amount of manual searching. Mr. Cabrera also added that there are currently two motions that have been introduced to Council regarding mutual funds. Marisa Alcaraz representing Councilman Alarcon’s Office was asked to research those motions and provide to BTAC. Mr. Whitley asked that BTAC e-mail him all questions regarding mutual funds. Chair Greif asked Members Morris and Banner to take the lead on this.

Mr. Cabrera reported on BTAC’s request to have a written policy on City Attorney’s attendance at all BOR hearings. He stated that the Office of Finance was working directly with the City Attorney’s Office to get that policy in place. Mr. Whitley confirmed this and stated that it should not take long to get the language and approval.
Mr. Cabrera spoke on the footnote to be added to the Taxpayer Bill of Rights and stated that the next step was to have it signed off by the BTAC Committee. Member Kohn made a motion to accept the footnote to the Taxpayer Bill of Rights. Motion seconded and approved by all members.

Mr. Cabrera continued with a report on the RFP. Three proposals were received on Tuesday, September 14th by the end of the day, those proposals were from: Beacon Economics, Dr. Swenson, and The Economic Roundtable. The Office of Finance Administrative Unit has been provided with copies of the proposals and will proceed with their initial review. This review will make sure they are responsive and that they have met the administrative requirements as far as outreach and other administrative issues. Once the initial review has been conducted and it has been confirmed that the proposers are responsive the next step will follow. Chair Greif asked about the time frame for the evaluation and mentioned that he had already provided four names of (BTAC) members to be part of the evaluation committee. Mr. Cabrera deferred to the City Attorney’s office regarding participation of members on the evaluation committee.

Mr. Whitley stated that LAMC Section 49.5.17 prohibits participation by members of a commission in the RFP process. However, the City Attorney’s Public Integrity Unit is reviewing to see if there is some exception for members of BTAC to be involved in the selection process. Mr. Whitley continued to state that a selection procedure would normally go forward at various stages and then at a full meeting, under the Brown Act, the findings or decisions would be presented. It would be at this full meeting that the commission would then make comments. Additionally, there are State laws that address conflicts. Specifically the Government Codes make it a felony or misdemeanor to be involved in an RFP where there is a conflict, and also address improprieties such as judicial conflict where there is the appearance of a conflict. Member Kohn wanted to go on record that he is very disappointed that there is a problem with the possibility of a member of BTAC not being involved in the evaluation committee and Chair Greif wanted to add the same.

Member Wilson then asked if members could get involved in the process without being part of the evaluation committee. Mr. Whitley responded saying that the members can give instructions to the evaluation committee either written or oral in the minutes. Member Morris asked if the members would at least be able to review the proposals. Mr. Whitley answered that he was not sure but Mr. Cabrera stated that it was his understanding that it was not possible until the selection process had been completed. He continued to state that the first issue is determining BTAC’s potential participation in the process.

To clarify the Municipal Code, Mr. Whitley quoted the following from Section 49.5.17 as to what the commission is allowed to do: ‘They can participate in the review of staff recommendations regarding the reward of a contract amendment or change order. Consider proposals or other requests submitted for the reward of a contract, contract amendment or change order and/or conduct subsequent negotiations on terms and conditions of a contract within the criteria established by the Commission or Board’. Mr. Cabrera added that it should just be ensured that the process is not tainted so that it does not get challenged and have to start all over again.

Member Faulk made a recommendation that members from BTAC that were selected to sit on the evaluation committee get together and put together a summary sheet with important issues that the evaluation committee can fill out without the name of the companies.

Marcel Porras, Council President Garcetti’s Office was asked by Chair Greif to go to the table to speak in regards to financing for the RFP. Mr. Porras said the Council Office is in discussion with the City Attorney’s Office to identify the process allowing the City to receive funds from outside sources to pay for the RFP. He also stated that his office has had discussions with outside organizations that are interested in providing fundraising. In addition, they are reaching out to the public sector to provide funding for the RFP. Portions of the funding would also be from the City. Mr. Porras stated that he would have an update on this issue for the next meeting.

V. Subcommittee Reports, Recommendations, Discussion & Call to Action

Chair Greif reported that Subcommittee A is still looking into the mutual fund issues but have no report at the current time.
Chair Greif reported for Subcommittee B as Member Gomez was not in attendance. The following two items in Subcommittee B are in Jobs Committee:

1. Board of Review (BOR) ordinance with respect to previous determinations not being overturned if there were no changes in fact or circumstances. This was heard in Jobs Committee, which Chair Greif and Member Gomez attended. Jobs Committee asked the members of BTAC to report back in writing with respect to any issues with the proposed ordinance. Chair Greif suggested that Subcommittee B prepare a response to Jobs Committee with the following wording, “Please provide input to Jobs Committee so this ordinance can conform to our recommendation. Our recommendation dealt with Board of Review and Board of Review determinations not Board of Review classification determinations.”

Member Kohn made motion to reaffirm the March 31st report of Subcommittee B and all recommendations in the report regarding the Board of Review, Prior Determinations and Audit Findings. Motion approved by all members.

Chair Greif made a recommendation that Subcommittee B prepare a written memorandum to be provided to Jobs Committee at least 72 hours in advance which will be two weeks from Tuesday, Sept. 14th.

2. Ordinance dealing with look-back period. This was approved with modifications by Jobs Committee and will move on to Council with recommendations. Chair Greif provided a summary of the ordinance: Ordinance would amend Section 21.16 (a) to clarify that the Office of Finance may audit a taxpayer and make an assessment within the following periods: Businesses which file timely returns - within three years of the due date of the return; Businesses which file untimely returns - within three years of the date of that filing; Businesses that do not file returns can be audited for any time period and businesses that file fraudulent returns also for any time period.

Chair Greif said that he and Member Gomez made a request at Jobs Committee that the VDA (Voluntary Disclosure Agreement) and the BOR ordinance be pushed forward together as they are both an important part of this new policy. Mr. Cabrera reported on the status of VDA stating that Finance is currently working with the Mayor’s Office. Gabriel Sermeno, Office of the Mayor, provided some staff to perform analysis and that is being worked on at this time. Finance is also in contact with the Franchise Tax Board to review their policies such as logic, rational, and the success ratio. In addition to VDA the same procedure is being done on the Offer in Compromise. They are also working with Jobs Committee staff and reporting back at the second meeting in October with the Finance report on VDA. Member Morris made a comment that he had concern with looking at FTB only as their look-back period is longer than other states. He suggested a review of look-back periods for other states. Mr. Cabrera stated that had been a consideration and they are looking at the report (BTAC) provided in the past. However, the IRS and the Franchise Tax Board are models.

Member Kohn suggested that the timeline for all pending issues should be adjusted in accordance to stages of projects.

Mr. Cabrera brought up the statute of limitation policy and the VDA. He wanted to bring to the attention of BTAC members a couple of outstanding issues regarding the statute of limitation in terms of concern and recommendation. The first item had been reported to the Jobs Committee by Finance recommending the inclusion of the substantial (25%) omission or underreporting statute and the language, which is consistent with the Internal Revenue Service. Jobs Committee had asked BTAC to report back on that. The second issue had to do with concerns by Councilmembers Parks and Krekorian regarding the unlimited look-back for non-registered taxpayers. The current City ordinance, Section 21.19, allows for an eight-year look-back. That allows the City to go back eight-years for a taxpayer that is non-registered and had not been discovered by the City of Los Angeles. These two items need to be placed on the (BTAC) matrix for follow-up.

Saeed Ali, Chief of Staff, Councilmember Alarcon’s Office stated that he is there to support the committee and provide them with greater cooperation. He suggested adding a better timeline on the matrix adding where the progress is on the specifics of what is developing, whether it is a report, a draft or a committee action. He suggested sharing with BTAC the Jobs Committee’s agenda, which is set-up for the next six-months with time scheduled for BTAC items. He also noted that there had been substantial progress to date despite the current level
of frustration expressed in today’s meeting. Specifically, through BTAC efforts there have been six to eight actions already taken by Council. Mr. Ali then asked the committee how they see the remaining issues laid out time wise between now and May 1, 2011. He asked about this particular time frame because the Council Office wants to integrate the work of Jobs Committee and BTAC into a timeline in terms of what needs to be accomplished. The Council Office goal is to accommodate to the extent possible what BTAC recommends along with their specific time demands. Mr. Ali suggested the following recommendations:

- Conversation with the BTAC Committee, the Council President and the Office of Finance, which was directed to be of assistance. This would improve the level of work coming out of the city departments and BTAC.
- Schedule time at the next BTAC meeting, possibly 10 – 15 minutes to work out a schedule for the BTAC and Jobs Committee work product. The Jobs Committee meets second and fourth Tuesday of each month.
- The Chair and other members of the Jobs Committee rely on BTAC as a very significant group. They want to be able to go to BTAC and ask for advise and input as needed. With that in mind, the Council Office will take responsibility for improved communication when Jobs Committee asks BTAC to review an issue. The Council Office will send BTAC a written memo via e-mail or directly to the committee so BTAC knows what Jobs is asking for.

Mr. Ali continued stating that they would like to see all the issues on the matrix addressed and adopted by Council by June 30, 2011. Again, he emphasized his personal commitment to move forward and make things more productive.

Mr. Ali asked Mr. Cabrera of the Office of Finance to select three items on the matrix that he will commit to go forward to Jobs Committee along with a specific date. Mr. Cabrera responded with the following: VDA ready by the October 26th meeting; Offer in Compromise will check with Finance staff but tentatively ready for the November 9th meeting; and Finance policy on City Attorney attendance at BOR ready by the October 12th meeting.

Member Faulk had nothing to report from Subcommittee C.

**VI. Discussion of BTAC Matrix of Outstanding Recommendations & Action Items**

Discussed during Subcommittee reports.

**VII. Public Comment**

No public comments

**VIII. Discussion of Next Steps**

Chair Greif will follow up with the City Attorney’s Office regarding the potential appointment of BTAC members to the RFP evaluation committee. Subcommittee A will continue to look at the current taxation of mutual funds. Subcommittee B will deal with Jobs Committee on Board of Review matters. Subcommittee C had nothing to report.

**IX. Scheduling of Next Meeting/Adjournment**

The next meeting was scheduled for October 7, 2010 in City Hall, Room 1060 at 2:00 p.m. Chair Greif adjourned the meeting.