

July 31, 2001

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Dear Ms. Barzel, Mr. Sakai and Mr. Larkin:

As I write this letter, the parking development Authority, which operates the River Park Square Parking Garage in downtown Spokane, reports that parking revenues will be insufficient to fully fund the August 1st payment due on the Spokane Downtown Foundation's Parking Garage Bonds. In prior credit wires, both Moody's and Standard & Poor's had predicted this shortfall, and that bondholders would receive their August payment only through partial application, for the first time, of the debt reserve fund.

We regret the occurrence of the technical default which, as you know, is attributable to Parking Garage financial performance that has continued to fall far short of the revenue projections prepared by Walker Parking Consultants.

I recognize that in reviewing this development for the Foundation's bonds, you might at the same time review the status of the dispute pending over the City's contingent pledge to make loans to the Authority. I wanted to take the opportunity at this time to report on what the City is doing to try to resolve the pending dispute over the Parking Garage Bonds in a prompt and responsible way.

As outlined below, the City's actions include:

- Pro-actively seeking a court's determination of the City's duties under its 1997 loan ordinance, with a commitment to abide by whatever the courts determine those duties to be;

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- In the meantime, setting aside the Parking Meter Revenues which were the subject of the City's loan pledge, so they will be fully available either for settlement purposes, or to satisfy any court determination that they are required to be transferred to the Authority;
- Repealing the ordinance passed last year which could have resulted in the parking development Authority's being dissolved by a public vote this November;
- Seeking a judicial determination that the parking development Authority can not be dissolved by public referendum under present circumstances;
- Exploring any and all prospects for settlement, and continuing to call on all parties to mediate; and
- Finally, and on a different front, taking financial management and budget measures designed to improve the City's overall financial practices and position.

I know you would prefer that the City not be embroiled at all in litigation over its obligations relating to the Parking Garage Bonds. So would I. I understand that given the role of the ratings agencies in the municipal bond market, one of your principal concerns has to be that local governments honor their obligations. But surely you accept the proposition that there are occasionally transactions that are so fraught with problems and poor communication that there are legitimately different understandings as to what those obligations are.

The Moody's Rating Update of April 9th of this year was right in observing that the City's actions relating to the Parking Garage Bonds "were the result of the specific controversy surrounding the parking garage project itself," and that the City had "displayed no reluctance to honor its other, more traditional obligations." The Parking Garage represents an exceptional and flawed transaction. It is one in which any prudent person would feel justified in asserting its rights and seeking to clarify its obligations. Any fiduciary is duty-bound to do so.

Please understand that I come to that point of view independently. I did not base my mayoral campaign on opposition to the River Park Square Project. I see a real value in public-private partnerships. Although I was not a part of City government nor otherwise involved in any way in the River Park Square transaction until inheriting the Parking Garage problem with my election, I support the retail project. Along with other projects, it has been a positive force in revitalizing downtown.

My view that the City is duty-bound to protect its legal interests through its declaratory judgment claims or through a negotiated solution comes from three things: First, from my own reading of the City's loan pledge ordinance and my own review of portions of the historical record on how the idea of City financial support for the Parking Garage was presented to the City Council, and

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how it was in turn presented by the Council to the citizens of Spokane. Second, from knowing that the City engaged the Walker Parking Consultant firm to provide assurances of financial feasibility and specifically required Walker to review all assumptions which it relied upon for their reasonableness. It finally comes from my own sense of what is equitable when a partnership that was supposed to give the private partner a relatively high but nonetheless fair price for its Parking Garage at little or no risk to the City (and the record is very clear on this) has proved instead to have given the private party a grossly excessive price for its Parking Garage and grossly excessive ground rent, at tremendous risk to the City.

In this connection, when your consideration turns to who is being harmed by the City's suspension of loans to the Authority, understand that the party principally affected is the same Developer whom it is now clear was overpaid substantially for the Parking Garage. The bondholders, in their litigation, estimate that the overpayment to the Developer was as much as \$16 million. Thus, while I do not like the current impasse, I am also aware, as you need to be, that at this point, the amount of expense for which the Developer is not being paid or reimbursed as a result of the City's suspension of loans pales in comparison to the premium it was paid over the fair value of their Parking Garage.

The City is, as mentioned above, trying to move its disputes with other parties over the Parking Garage transaction to their earliest possible resolution. Let me elaborate on the City's efforts:

Pro-active efforts to resolve outstanding legal issues. The City has not waited passively for other parties to assert legal claims. As early as July of last year, the City initiated its own declaratory judgment action in an effort to get its legal claims and defenses before a court for early determination. The City intends to honor its obligations as construed by the courts.

Unfortunately, the City has been continually delayed in its efforts to bring issues on for resolution. Upon the motion of the Developers, the City's claims were stayed for a number of months last year and early this year, pending appeal of the mandamus decision ultimately reversed by the Supreme Court. That stay was lifted in March of this year, but the Developers then resisted discovery and moved for a protective order.

After the City moved its claims for declaratory relief into federal court in response to the bondholder litigation, the Developers first moved to stay discovery, and more recently, their agent, R.W. Robideaux, asked the court to suspend other defendants' duties to respond at all to the City's claims for an additional six weeks.

The City desires, and will continue to seek, the earliest possible resolution of its disputes with other parties.

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Setting aside Parking Meter Revenues. At the time the City Council declined to make a loan in April 2000, a motion was made to set the requested loan amount aside as a show of good faith. The entire Parking Meter Revenues were placed in a court-ordered escrow last summer, where they remained while the mandamus appeal was pending. Even after the funds were released from the court-ordered escrow, the City has held the Parking Meter Revenues in a self-imposed escrow.

The City is not refusing to honor its obligations; it is seeking to determine what its obligations are. It is making sure that it has the funds available to honor any determination by the courts.

Repealing the PDA dissolution ordinance. Moody's April Ratings Update expressed ongoing concern about an ordinance, adopted by the Spokane City Council in December 2000, that would place on this November's ballot the proposition of dissolving the parking development Authority.

Several weeks ago, I notified City Council members that I shared the concern and I asked the City Council to repeal the ordinance that could lead to dissolution of the parking development Authority. It is one thing to have honest disagreement over our obligations to the Authority. It is another thing entirely to seek to avoid obligations by frustrating their performance.

The City Council acted on my request and repealed the PDA dissolution ordinance at its July 30 meeting.

Preventing dissolution of the PDA by referendum. Council member Steve Eugster has advised me that if the ordinance to dissolve the parking development Authority were repealed, the City could expect a public initiative to place the PDA dissolution issue on the November ballot. Council member Eugster raised the possibility of such an initiative in a legal action he filed earlier this year, and my administration notified him several months ago that we would challenge any such initiative.

That issue is framed and before the courts. We will move forward to challenge the viability of any initiative to dissolve the PDA.

Working on settlement and lobbying for mediation. I have been working both privately, on a party-to-party level, and through the usual attorney channels, in an effort to persuade all parties to the Parking Garage disputes to talk settlement privately or to mediate their differences.

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Recently, several Council members were able to initiate settlement discussions with the Developer, and I have given those efforts my strong support. When it appeared that the earliest proposals could not garner the necessary level of support from the Council, I made a public plea for patience and perseverance in an effort to prevent the parties from abandoning discussions prematurely. A copy of my public call for continued discussions is enclosed. The parties are still talking.

Ongoing financial management and budget work. Finally – and I believe most important, based on what I heard from a couple of you when I visited with you in San Francisco in January – my administration is working hard to restore fiscal discipline that had slipped somewhat in recent years. We will be proposing a budget that, for the first time in recent history, will not depend on sales of excess assets for its balance. Our budget will, for the first time in recent history, establish a true contingency reserve, to be tapped only in bona fide emergencies. We have set goals of a three percent reserve within two years and a five percent reserve within three years. This year, we are budgeting for a \$3.5 million reserve, something over two percent of our projected general fund.

In order to be in a position to meet these targets for funding the reserve, we have taken some steps on the expense side already, with others planned. Earlier this year, we froze use of emergency budget ordinances for the first six months of the new budget, to eliminate what was becoming a pattern of almost-weekly modifications to the City's operating budget. This last week, I imposed several cost-cutting measures, including on new hires, and I am pleased to say that by successfully making the case for these steps to the City's unions, we faced no opposition from the employees' representatives. Our new and very capable City Administrator, Jack Lynch, has identified several opportunities for department reorganization that will reduce City expenses, and we have evaluated and determined that it is time to increase our surcharge for City services provided outside the City limits, to improve our revenues by having those users pay their full share of the associated costs.

You may be aware that consistent with this fiscal discipline, one financial appeal I felt bound to refuse, using my veto power, was a request from the parking development Authority for an \$800,000 unsecured loan from one of the City's enterprise funds. The Authority had wanted to augment parking revenues, in order to avoid the August 1 shortfall and reported technical default. Based on initial reports from the Authority that its revenue picture had improved to a point where it could present an adequately-collateralized, bankable loan proposal, I encouraged the Authority to make the best proposal it could make, with the understanding that I would go along with a loan of enterprise funds that was creditworthy.

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I was forced to veto the Council's approval of the loan request for several reasons. First, it did not meet any generally accepted standards for creditworthiness. Even if we were willing to set aside the fact that the Authority is already in default on two other loans to the City, its projected revenues in support of its repayment presented a loan-to-value ratio of almost 95%. Second, by its own admission, the loan was repayable as projected only if ignored its obligation to be accruing revenues towards its August 2002 payment; it was only postponing its problem, not solving it. Third, its lease obligations require the Authority to pay all of its first revenues in excess of debt service toward ground rent, with 59¢ of each excess dollar going to the Developer and 41¢ pledged as collateral on \$108 Notes issued by the U.S. Department of Housing and Urban Development. The Authority had not obtained the permission of HUD to repay the City prior to making payments on the ground lease.

Finally, the loan proposal – especially since it was only supported by four, not five, Council members – was fraught with legal questions. Arguably, it could only become effective immediately with five votes. Arguably, it required five votes to avoid §85 of the City Charter, requiring a vote of the people on “capital” expense. Arguably, it was an unconstitutional gift. Arguably the increased demands that operating with the repayment obligation would make on Parking Meter Revenues would violate, indirectly, the City's ordinance prohibiting the use of Parking Meter Revenues to pay debt service.

At least one of our Council members had promised, and could be relied upon to file, an immediate legal challenge to the loan. I found myself faced with a loan being advocated by the Authority not because the City had any legal duty, but to help the City's “image” in the market. Yet I could foresee the virtual certainty of an immediate legal challenge and negative public relations, with the City and others mired in even more litigation.

There were many reasons for vetoing the loan request, but probably most compelling to me was the incongruity between making this very imprudent loan at the same time that my number one priority is in reestablishing fiscal discipline. Late last week, I asked a local banker to come in and hear out the Authority's loan proposal, in hopes that his bank would make the loan. He said it wasn't creditworthy. I could not justify setting lower standards for the taxpayers of the City than that banker sets for his shareholders and borrowers.

The Parking Garage problem should be resolved before year-end 2002, through our own efforts at settlement or with the help of the courts, and with the City ready, willing and financially able to perform its obligations as determined by the courts. In the meantime, it is everything else we are doing to improve the City's financial practices and strength that I would welcome the possibility to discuss with you and your credit committees.

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I would appreciate the opportunity to visit you in San Francisco, introduce our new City Administrator, and tell you about my administration's efforts in its first six months in office. I will be asking my Chief of Staff, Randy Withrow, to follow up with you and see if a meeting in the next couple of weeks might be possible.

Very truly yours,

/s/

John T. Powers, Jr.
Mayor, City of Spokane

cc: Rob Higgins
Phyllis Holmes
Steve Corker
Steve Eugster
Roberta Greene
Dean Lynch
Cherie Rodgers
Terry Novak
Bob Glatzer
Gavin Cooley
Rochelle Williams
Charles Gasparino