

Budget & Finance Committee
Thursday, July 19, 2012 – **5:30 p.m.**
1st Fl. Council Committee Rm. – City Hall
-Minutes-

Present: Chair, Councilor Paul McGeary; Vice Chair, Councilor Joseph Ciolino; Councilor Hardy (Alternate)

Absent: Councilor Cox

Also Present: Councilor Verga; Jim Duggan; Kenny Costa; Jeff Towne; Suzanne Egan; Mike Hale

The meeting was called to order at 5:40 p.m. Councilor Ciolino entered the meeting at 5:45 p.m.

1. Memorandum from CFO re: Loan Order for purchase of Briarneck Crossing

Mr. Duggan explained following the input of the P&D Committee when they took up this matter the previous evening, he had several conversations today with Bond Counsel to incorporate language suggested by P&D, and gave the B&F Committee the revised version of the loan language with additional language proposed by Bond Counsel (on file). Specifically, the new language proposed was: “No amount shall be borrowed or expended pursuant to this order unless and until the City shall have received confirmation that grants, gifts donations have been made available to pay costs of this project in a total amount of a t least \$___.” The blank is to be filled in with whatever dollar amount the Committee determines. He stated this language gives the Council even more checks and balances. If and when the City borrows the money, Bond Counsel will want confirmation from the CFO that all the funding sources have been received and the City feels comfortable moving forward with the borrowing; and Bond Counsel will be proactive asking for that from the CFO. **Councilor McGeary** clarified this is based on the premise that the cost of acquisition of the property will be raised through grants and fundraising not out of the General Fund; and it is not the intention to get it out of the General Fund at this time. If they say that, then Bond Counsel will want proof this has occurred; which **Mr. Duggan** confirmed.

Conservation Restriction:

Councilor McGeary then read, “In the event that Community Preservation Act (CPA) funds are utilized for this purchase, the Mayor is authorized to grant a conservation restriction on the property purchased with such funds, to the Essex County Greenbelt Association as required by the Community Preservation Act.” This statement says it is tying it to the CPA; and is the State that will require the conservation restriction as part of the LAND grant process. Denton Crews, representing Friends of Good Harbor (FOGH) confirmed it is required by the CPA as well as incorporated into the language of the LAND grant. **Councilor Hardy** reviewed that at the P&D meeting it was noted that once the City would be putting up the \$750,000; and by purchasing the land it would trigger a further requirement once the City obtains ownership and essentially giving the conservation restriction to the Essex County Greenbelt Association (ECGA) as an easement. That would require City Council approval (any land transfers leaving the possession of the City). Therefore, the Councilor further recommended in the loan language where it states, “...the Mayor is authorized to grant conservation restriction” to insert the words, “, with the approval of the City Council,” ...is authorized: to grant...” That way it can come before the City Council to be approved for the conservation restriction which is mandated by the CPA. **Councilor McGeary** had no objection nor did Mr. Duggan.

Receiver of Conservation Restriction:

Councilor McGeary asked if the Essex County Greenbelt Association (ECGA) had been designated by the terms of the LAND grant. **Mr. Crews** stated that that organization was the preference of the Conservation Agent, Lisa Press; and the ECGA will accept it. There is an obligatory \$15,000 fee per property to monitor the parcels which goes into the Greenbelt Association endowment fund.

Funding and Sources of Funding:

Mr. Crews stated that the total budget is \$750,000 which covers the purchase price of \$720,000 and then the closing costs bring it to \$750,000. He outlined the sources of the funding. **Councilor McGeary** expressed concern if the LAND grant fell through someone can come in and ask for more money. The intent is that the City spends no money from the General Fund; essentially this becomes a gift to the City with the City taking ownership of the property. However, they want some safety built into the language for the City. **Councilor Hardy** stated the Administration has addressed this concern. **Mr. Duggan** asked if they need to put in the entire \$750,000 in the final statement of the first paragraph of the loan order. **Councilor McGeary** and **Mr. Duggan** discussed the breakdown

of financing and what number would be appropriate to fill in. **Councilor McGeary** suggested the number be \$700,000 as a minimum. He didn't want to lock them into something. **Mr. Crews** pointed out the agreed upon purchase price is \$720,000. **Councilor McGeary** stated this protects against someone coming in looking for more funding from the City. They want to protect the City but also want to put in a little bit of flexibility. **Councilor Hardy, Mr. Costa** and **Mr. Duggan** agreed there is the safety net, but discussed the question of how restrictive the language needed to be and whether they can they fulfill the requirement for the CFO to borrow the funds. **Councilor McGeary** pointed out that the dollar amount "of at least" is the protection.

After reviewing the funding sources, by the Committee with Mr. Crews, **Councilor McGeary** pointed out there still is the \$375,000 that must be granted from the State. If all goes well, from all sources it will come out to the \$750,000. He wouldn't set the condition for raising the funds through borrowing. If they're at \$750,000, then they can't borrow it even if they only come forward with \$740,000. **Mr. Duggan** revisited the funding sources which he calculated leaves \$29,000 between that and the \$750,000. He suggested deducting the \$29,000 off of the \$750,000 to be an appropriate number to fill in the blank, bringing the total to \$721,000 as the minimum amount to be in hand or pledged before the bond could be issued. **Councilor Hardy** stated this would help to allay her some of her concerns. **Mr. Crews** assured the FOGH is confident would have the funds in place. **Mr. Duggan** stated they wouldn't go out to borrow until they received the state grant. It would then be a matter to look to Mr. Crews/FOGH for the \$50,000 in donations. If they are confident they can close that gap then fine.

Councilor Verga, who entered the meeting at 6:50 p.m., stated he was not comfortable with the City paying out any money at all, although he knew the goal was to prevent that occurrence, he was looking to see that it was ironclad.

Councilor McGeary reviewed for the Councilor the new language submitted by the Administration for the loan order and stated it would be overly restrictive to set the floor at \$750,000 if the FOGH came in with only 749,000; that the Council needs some discretion. In the end, if the Council wishes to expend no funds at all, and the fundraising comes up short, the deal would fall through. **Councilor Hardy** added once this comes before the Council, it has to be approved with a two-thirds vote. She asked what would happen if the project needed additional funds beyond the \$750,000 **Mr. Costa** explained the Council would have to rescind loan order they voted and then revote another loan order. **Councilor Verga**, after having heard the new language in the revised loan order stated he supported this and wishes to see it happen, but not at any cost to the City. If they can facilitate by fronting the money, he was for it; if it is \$1,000 or beyond, he would not support it. **Mr. Duggan** asked Mr. Crews to review for the Councilors that the FOGH have done to raise the \$21,000 and what steps they're taking to raise the additional \$29,000. **Mr. Crews** expressed confidence they can get to their goal. **Councilor McGeary** noted the FOGH are meeting with Congressman Tierney's office to discuss three identified federal funding sources and to pursue them with the Congressman's assistance. There was a suggestion by the Mr. Duggan that FOGH might wish to seek out other off-Cape conservation organizations for possible financial contributions. **Councilor Hardy** noted this loan order has yet to be advertised, and the Council will have to approve the advertising. **Councilor McGeary** stated that as long as the State grantor knows this loan order is in process it suffices, but bringing it forward sooner to public hearing would be better. **Councilor Hardy** thanked the Administration for reaching out to Bond Counsel to obtain the revised language. **Councilor McGeary** stated for the record that he is not a member of the FOGH nor has any fiduciary interest regarding this matter, although he has been working with the group and has expressed his belief this is a good project. By putting a requirement that funds of at least \$721,000 be raised, the project won't go forward with the bond unless the funds are substantially in place. **Councilor Ciolino** expressed his support as well. **Councilor Hardy** explained she would be abstaining from the Committee's vote as she still is continuing her search for more information on the property. She said she would discuss this further with the Assessor's office to ascertain if the property does not come off the tax rolls, what the potential of the development and whether it is worthwhile to factor that in.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the Budget & Finance Committee voted 2 in favor, 0 opposed, 1 (Hardy) abstained, to recommend to the City Council and TO ADVERTISE FOR PUBLIC HEARING the following loan authorization:

ORDERED: That the City of Gloucester appropriates up to Seven Hundred Fifty Thousand Dollars (\$750,000) to pay costs of purchasing two parcels of land located at 70 and 74 Thatcher Road in Gloucester, comprising 5.94 acres, more or less, which are shown on Assessors' Map 184, as Lots 5 and 9, and more commonly known as Briernock Crossing, which includes the payment of all costs incidental or related thereto. To meet this appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to M.G.L. Chapter 44, M.G.L. Chapter 44B (the Community Preservation Act), or pursuant to any other enabling authority. The Mayor, with the approval of the City Council, is

authorized to apply for and accept any and all grants or gifts that may be available to the City to pay costs of this purchase. In the event that Community Preservation Act funds are utilized for this purchase, the Mayor, with the approval of the City Council, is authorized to grant a conservation restriction on the property purchased with such funds, to the Essex County Greenbelt Association, as required by the Community Preservation Act. The amount authorized to be borrowed by this Order shall be reduced by any grants or gifts received by the City on account of this project. No amount shall be borrowed or expended pursuant to this Order unless and until the City shall have received confirmation that grants, gifts or donations have been made available to pay costs of this project in a total amount of at least \$721,000.

FURTHER ORDERED: That the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

2. Memorandum from Police Chief re: request to accept equipment from the Department of Defense

Sgt. Bill Leanos, Gloucester Police Department explained that the Department had the opportunity through the Department of Defense (DOD) to obtain used equipment that is in good shape. The military can take it back if they have a need. The City, however, uses the equipment and takes care of it. There are three Humvees they appropriated through this program to be used for interdepartmental situations during emergencies or for maintenance issues where access for the DPW is difficult. This is known as the federal 1033 program where before going out to public auction, enforcement agencies have the right to view and requisition these items. He was able to justify the three Humvees with various departments needing to get into the woods, like the DPW for repairs to pump stations; to assist the Police and Fire Departments in deep woods searches or for fighting forest fires, for instance. These three vehicles are for public security and safety. The DPW was looking for some back-up generators for pumping stations, and he was able to obtain one. **Councilor McGeary** stated there was a concern about the source of the estimated values of the Humvees enumerated by a memo from Lt. Aiello (on file). **Sgt. Leanos** did not know how the vehicles were valued, but what they've obtained has been very good quality. They did meet with the DPW Director and filled him in on the program before going out to obtain the equipment. Because these are military vehicles, they can get the parts from the DOD; it will be the DPW mechanic putting the parts in and his time to maintain and repair them. The Humvees will be kept at the DPW yard. These vehicles have to be registered with municipal plates. They are available for any department across the City depending on need. The generator is for any emergency use. **Councilor Ciolino** expressed his approval. **Sgt. Leanos** stated they must account to the government each year that they have these pieces of equipment and as to their status; and reiterated these pieces of equipment are for public safety. **Kenny Costa**, City Auditor asked where the values for the vehicles and generator were obtained which **Sgt. Leanos** explained that the information came from the military's website and is what the military paid for them brand new. **Mr. Costa** expressed concern that if there is another opportunity, and they obtain more equipment which brings the aggregate value up to \$300,000, it will trigger an outside audit because a federal grant. He reminded the Committee and **Sgt. Leanos** federally requisitioned equipment must be documented in a particular fashion and tagged which he would meet with **Sgt. Leanos** to discuss implementation. **Mike Hale**, DPW Director said he was pleased to obtain these vehicles. When they have to get into a watershed in case of a brush fire, or to an area that is flooded, they will be very helpful as they are true 4-wheel drive vehicles. Gloucester shares a watershed with Rockport, Essex, and Manchester and knew there will be opportunities to use them. They will be painted and some sort of logo will be affixed to them. **Councilor Hardy** expressed she was pleased to see the communication and cooperation between the departments.

MOTION: On motion by Councilor Hardy, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to accept under MGL c. 44, §53A a grant from the U.S. Department of Defense DLA Disposition Services through the State of Massachusetts for \$120,089.00 for the purpose of obtaining three Humvee vehicles and one diesel generator.

3. Memorandum & documentation from General Counsel re: City's obligations to enact regulations to insure Compliance with the Clean Water Act

Mr. Hale explained that there are two sections in the memo from the General Counsel (on file); the first is an amendment to the Gloucester Code of Ordinances (GCO) for Non-Stormwater Discharge. Currently the GCO has a

prohibition of putting stormwater into the sewer system, but nothing prohibits putting sewerage into the stormwater system. This is all in line with the Clean Water Act and the Phase 2 Environmental Protection Act (EPA) stormwater regulations implemented in 2003. The city is operating under a five-year permit. The permit lays out what you can and cannot do with non-stormwater discharges. On page 7 of the ordinance amendment, there are criminal and non-criminal penalties if you are caught discharging sanitary waste to a body of water, drains and catch basins. The city has the authority to fine and is a requirement within the City's stormwater permit to have these fines. He pointed out that the City of Salem was fined by the EPA for not having strong enough stormwater regulations. Gloucester has a basic stormwater regulation enacted in 2000 that doesn't get into this level of detail. A Post-Construction Stormwater Regulation governing actions which a builder or homeowner takes after construction will also be put forward in upcoming months. Mr. Hale noted that because the regulations include financial penalties, they are before Budget and Finance. The ordinance amendment was before O&A earlier in the week. **Councilor Hardy** inquired who the enforcing agent(s) are for the civil and non-civil violations and was there a citation they would give out for them. **Mr. Hale** explained the City Solicitor could file a criminal complaint through the police and at the district court. The non-criminal violations would be handled by his office; and could add these non-criminal violations to their current citations. **Councilor Hardy** asked what the difference is in definition between sewer and wastewater. **Mr. Hale** cited industrial wastewater, which is regulated through a number of different agencies and regulations. He noted Gorton's of Gloucester is a model nationally for how they pre-treat their industrial wastewater before they discharge into the City's system. **Councilor McGeary** noted the ordinance references emergency suspension of the ordinance and asked what kind of conditions would the ordinance be suspended. **Mr. Hale** stated there will be times when a person or business can't control their actions, as in flooding situations. The City flushes fire hydrants which are listed as exempt as a non-stormwater discharge as is water line flushing; potable water sources or water main break, natural springs, diverted stream flows due to an embankment collapse from torrential rains. The regulations are directed at people who egregiously violate the discharge regulations. There can be a violation due to ignorance of the regulations, and in that case they would do public outreach and education. Repeat offenders would be considered egregious, and would be fined. **Councilor McGeary** noted discharge from street sweeping is one of the exemptions. **Mr. Hale** explained street sweepers fill up with potable water from fire hydrants. The proposed ordinance was vetted by the Attorney General's office as a model for Massachusetts communities to use. It is to prevent contaminated sources from getting into the stormwater drainage systems which goes into the City's water sources. The Councilor asked for a further explanation of an NPDES permit. **Mr. Hale** stated there are multiple types of NPDES permits. City has one for the waste water plant; one for the stormwater; Gorton's has one for their pre-treatment, and other businesses have them as well. **Councilor Hardy** asked if there has ever been a time where the City has allowed homeowners to pump into storm drains. **Mr. Hale** stated there are many homes that have sump pumps that tie directly into the drains of the City. They have an obligation under the Phase 2 NPDES permit to investigate discharges. **Councilor Hardy** asked if they take anonymous complaints. **Mr. Hale** stated they would investigate them. They're cautious of what people do with stormwater in the City. With \$32 million spent on CSO, it is their obligation to keep non-stormwater flow out of the stormwater drains. **Councilor Hardy** asked what kind of outreach has been done and will be done to inform the public. **Mr. Hale** stated they are mandated to have an educational component, which is one of the six criteria (in the permit); and since 2003 they have done many public service notices which on the city website, and post notices and posters at the City permitting offices. Most homeowners aren't doing this kind of work; it would be mostly contractors to whom they provide the information updating them what is new on this front. The EPA has given them lots of models, and they have links from the website.

MOTION: On motion by Councilor Hardy, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the Gloucester Code of Ordinances by ADDING Chapter 23 – Utilities, Article V, Non-Storm Water Discharges, Sections 23-124 through 23-136 on file, AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

3a. Memorandum & documentation from General Counsel re: City's obligations to enact regulations to insure Compliance with the Clean Water Act Part 2: Fats, Oil and Grease discharge regulations.

Mr. Hale stated these are Public Works regulations; the program has been in the City since 2007. There is some question on the fee and fines schedule that was part of the regulations because he had been unable to locate documentation that it ever went before B&F. Therefore the regulations, including the fine and fee schedules are being brought back before O&A, B&F and the City Council. The city is mandated by the Department of Environmental Protection (DEP) to have a Fats, Oil and Grease (FOG) program in place. The current regulations

are what was submitted to the DEP in 2007 and voted on by the City Council in May 2007. Enforcement is handled within the Department of Public Works. The water system's contract operator at the waste water treatment plant has had a person dedicated to the FOG program, who has spent the last year doing outreach and education to the food establishments, who generate the bulk of FOG. Mr. Hale noted that there are a few residential areas that have an issue causing the pump station to have an excessive amount of maintenance done on it because of cooking oils that are being discharged into the system. They will flyer the neighborhoods to let them know about FOG, and what it means to them. FOG in general is a huge expense to the City when food establishments don't manage their byproduct appropriately. There is a fee and fine component to the regulations; an annual permit fee which offsets the cost of inspection and education (\$50). When this was first before Council, they looked at 20 other communities and found this fee was on the lower side. There is a fine schedule associated with this program (on file). After the three violations the fine is \$1,000 and possible suspension of the food establishment license. On inquiry by Councilor Hardy, Mr. Hale explained that the DPW is the enforcing agent. The permit fee would be put on the establishment's sewer charge. The city can place a lien on properties that don't pay the fines. The fine is non-criminal.

MOTION: On motion by Councilor Hardy, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council pursuant to the Gloucester City Charter Sec. 7-16, to ADOPT the "Regulations for Fats, Oil and Grease Program, Sections 1.0 through 10.2(a) on file.

MOTION: On motion by Councilor Hardy, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to amend the Fee Schedule pursuant to the City Charter Sec. 7-16 "Regulations for Fats, Oil and Grease Program", Sections 1.0 through 10.2(a) to adopt a fee schedule as follows:

Permit Fees:

\$50.00 annual wastewater discharge permit fee

\$25.00 variance fee

Fines & Civil Penalty Fees:

\$100.00 for 1st offense

\$250.00 for 2nd offense

\$1,000.00 for 3rd offense

\$1,000 for subsequent violations for every instance

4. *Memo from City Auditor regarding accounts having expenditures which exceed their authorization And Auditor's Report*

Mr. Costa reviewed his documentation (on file) with the Committee.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:31 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Revised loan order language from Bond Counsel submitted by Jim Duggan, CAO