

SPECIAL CITY COUNCIL MEETING
Tuesday, February 15, 2011 - 7:00 p.m.
Friend Room – Sawyer Free Public Library
Council Meeting 2011-04
- Minutes -

Present: President, Councilor Jacqueline Hardy; Vice President, Councilor Sefatia Theken; Councilor Joseph Ciolino; Councilor Bruce Tobey; Councilor Robert Whycott; Councilor Paul McGeary; Councilor Steven Curcuru; Councilor Greg Verga

Absent: Councilor Mulcahey

Also Present: Linda T. Lowe; Jim Duggan; Suzanne Egan; Mike Hale; Mike Wells; Jeff Towne; Nancy Papows

The meeting was called to order at 7:00 p.m.

Flag Salute and Moment of Silence.

ORDERS:

CC2011-007 (Hardy) That O&A reviews the following City Ordinances: (Refer O&A)
ARTICLE II. CHAPTER 8-16(b) FIRE DEPARTMENT
ARTICLE II. CHAPTER 7-16(b) POLICE DEPARTMENT

CC2011-008 (Hardy) Creation of Language for Ballot Question (Water Ordinance) (Refer O&A)

By unanimous consent the City Council referred the matters of CC2011-007 and CC2011-008 to the Ordinances & Administration Committee.

FOR COUNCIL VOTE:

Councilor Ciolino stated since the applicant withdrew their rezoning proposal there was no point in going further with the process of meetings, advertising, etc.

Councilor Tobey stated P&D worked hard. While they may not have all agreed on what came out or where it came out; the bottom line was that they worked hard. He felt the three Committee members were the “victims of a cheap shot...when counsel for the applicant made the remarks that Council failed the applicant. He thought they deserved “credit not condemnation.” This Council has not voted against anything, and wished for the community to understand that fact. Two proposals were put before two different Councils and have had them withdrawn. He was convinced this Council would work with anyone who is willing to “sit down and negotiate with [them]” and go through the public hearing process; and hoped someday they’d have another opportunity on that site.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Mulcahey) absent to rescind the previously adopted measure voted on January 11, 2011 to refer the Planning & Development’s rezoning plan of the (CSMOD) (f/k/a BMOD) to the Planning Board for review and hearing.

MOTION PASSES.

Councilor Hardy informed the Council that **Councilor Mulcahey** was ill that evening and sent her regrets.

PRESENTATION:

1 of 1: Stormwater Utility Regulations: Proposed Regulations establishing the Utility Fees and the Administration of the Utility pursuant to the GCO Section 23-2

Jim Duggan, Chief Administrative Officer appreciated the Council's attendance on an off week to allow for their presentation of the team who worked hard to present the most fair and equitable regulations as they could apply to the Stormwater Ordinance passed in 2009. He expressed their appreciation with the Council's patience during the process. They will make a slide presentation (on file) as well as review the proposed regulations which have the calculations included (on file). Feeling they have had good collective meetings with the Council, in joint O&A and B&F meetings and in individual meetings with Councilors, he believed they should be able to move forward on that basis.

Mike Hale, DPW Director went through the slide program with the Council and gave a recap of the history of the Stormwater Utility which started with the Clean Water Act and evolved over the years to now addresses how stormwater impacts the environment; in the 1980's it started regulating how it got there and the pollutants it carries with it as it enters water bodies. The amendment in the 1980's gave the EPA (Environmental Protection Agency) the authority to govern stormwater and the point discharge of it to the receiving bodies. The goals were always to reduce the negative impact to water quality and habitat. Phase I involved large municipalities for big industrial users. Gloucester became involved in the Phase II portion of the regulation program and noted it also regulated construction activity. In 2003 the City filed with the EPA and DEP (Department of Environmental Protection) for their first Phase II permit which had six minimum control measures, and gave several examples which had to do with the City's management of the controls. The 2003 permit was for five years. However, the permits actually expire when the new permit goes into effect. There is a draft permit ready to be filed later this spring. The EPA keeps pushing it off. The new permit will maintain those six measures but enhance the level of reach that the federal government has. It will enhance the illicit discharge detection elimination program. There weren't any true metrics of achievement within the first permit. The next permit will have them in place. Regarding water quality monitoring for stormwater discharge, there is no sampling under the current permit; but they will be asked to sample at discharge points so they can detect levels of pollutants and report it back to the EPA which will be information gathering used for the City's next permit after this new one. They will also encourage low impact development (LID). The City's subdivision standards are 1960's, 1970's traditional type. A big move in the last 10-15 years has been to have low impact design, such as pervious pavement (stormwater hits the pavement, runs through it and is absorbed into the sand and stone underneath it; and is not necessarily appropriate for city roads with sanding and salt operations for instance), grass swales with bio-retention. These kinds of low impact design may be more applicable to small developments. There are some residential proposals in the City that have requested to use pervious pavement. The next permit talks about total maximum daily load – how much pollutant can go into certain water bodies and meet water quality standards (fertilized lawns; big parking lots with oil runoff). The EPA wants measureable metrics of this also. There aren't many ways to fund stormwater enumerated within the slide entitled Municipal Stormwater Financing Options. This proposal is a separation from sanitary sewer to a stormwater utility. There has to be a funding source to pay back loan debt. As they move forward there are a number of capital costs in the near future. Street sweepers used March through November pick up road sands and litter preventing it from going into catch basins is over \$200,000 each. The vactor that they use to clean out catch basins, drain lines, etc., are almost a \$300,000 purchase. He also reviewed the Council action since September 2009 when they enacted GCO Section 23-200 Stormwater Fee. Essentially, he was requested to develop regulations so they could develop a Stormwater Utility that would have an equitable fee base and account for a separate division under Public Works for stormwater. Since then the team, they believe, has worked to develop a fairly equitable measure of stormwater distribution. He also reviewed definitions of stormwater, impervious surface and impervious area and the Equivalent Residential Unit (ERU) which is the representative average of impervious area of a single family residential property located in the City which is the largest land use category, over 7,000 single family units, by far the largest and is their benchmark going forward. They calculated the average area of imperviousness of that and using that in reference to all other parcels in the City. He reviewed the slide which shows the Expenses Covered in the Stormwater Utility Fee such as personnel, operational and capital. He explained there is no intention to hire new employees for the stormwater division. The DPW has an existing utility division that handles sewer and water. Within that

sewer piece, they do the stormwater maintenance and repair and will remain the same group of labor for the stormwater utility. They will charge off a portion of those salaries to the Stormwater Utility and take it away from the Sewer Enterprise. They anticipate the permit compliance in the first year of the new permit to be \$100,000 (that is just for testing). In Years 2-5 of the permit, it will have a broader financial impact (materials: pipe, stone to backfill pipes, pre-cast manholes and catch basins). He then gave examples of some of the materials they would use to do the maintenance. A lot of the data they have is generated from the City's GIS program. Some of it is aged; and as they move forward they believe it will have to be updated on a specific cycle. They're not showing in the upcoming budget the interest and principal debt service; however, will be in the budget in future.

Mike Wells, IT Director spoke to the billing method portion of the slide presentation; that they will combine a fair economic method and a straightforward administrative method so as not to create a whole new organization of people. It is all around the ERU, the standard median area of a single family home. They have a basic charge which says a single family is 1 ERU and apply multipliers, or factors, for other kinds of parcels. It will be billed as part of the utility billing, adding to existing accounts where possible and create new accounts where required. They will always charge to the property owner. It is "lienable" like any other utility fee. He reviewed the slide which showed cost allocation of single family homes being the largest sector. There was a side-by-side comparison of impervious area by parcel type; and on the other half the calculation is done showing where those charges would go. The goal is to have the graphs be the same so that they are assigning an appropriate charge. Therefore, if single family homes are 60% of the entire impervious surface area of the City, then they would pay for that 60% of the cost of the fund. He gave the example of what they can do with GIS: a flyover is done and mark out all the impervious areas from the aerial photographs; then they overlay that with the parcel map so they can calculate a parcel's impervious surface area accurately. This would not have been possible to do by hand and couldn't be done without current computer systems. He reviewed the parameters to apply the stormwater fee calculation that were used to be sure it was applied evenly and fairly. Multi-occupancy factor is the proportion of the ERU that will be charged for each unit in a multi-family occupancy. Two and three family homes are statistically no different than single family homes in terms of their size; four and above family homes are larger. Therefore, they count 'twos and threes' as single family; and those would be one single family charge. There are minimums and maximums for residential and non-residentials. Another factor is a minimum threshold (or square footage) to trigger the charge. The final slide was an example of an annual charge calculation for a single family home. The rate is the budget divided by the number of charged units you are going to bill for which in their case is the number of ERU's. On inquiry by **Councilor Hardy**, Mr. Wells stated the bill would go on the normal utility bill, which is billed on a quarterly basis with few exceptions.

Mr. Towne noted they haven't factored in collection rates like they do for water and sewer. They still have to do that as part of the budgetary process. The example is a simplistic approach towards that.

Councilor Curcuru stated they anticipate 3,000 new billings. The amount being shifted is approximately \$800,000. What is the saving to the ratepayers on the shift along with the additional billing?

Mr. Towne stated they estimated about \$500,000 out of the sewer fund. It would be about 70 cents on the rate.

Councilor Curcuru stated basically, except for the 3,000 new billings, this is a shift to which **Mr. Towne** responded, "right".

Mr. Duggan stated they still have stormwater obligations regardless to repair and maintain the stormwater system.

Councilor Curcuru stated this will be a self-sustaining enterprise account.

Mr. Duggan stated that this will be every year the Council will vote on the rate during the budget process.

Mr. Hale responding to **Councilor Curcuru** referring to the \$800,000 base budget noted in the final slide for the calculation stated every year the aggregate cost will likely go up. There are no capital costs on this.

Councilor Tobey asked how much the CSO debt is going to be put in the current estimate; and how much of the CSO debt for next year will be put into the enterprise fund.

Mr. Hale replied that formula doesn't include any CSO debt.

Councilor Tobey restated that the Administration's plan was "none".

Mr. Duggan replied, "Correct".

Councilor Tobey expressed that was a 'problem' for him. He then asked regarding the legality of the ordinance the Council enacted and now these regulations; was there an update; do they remain comfortable this is beyond challenge. He had since learned of a challenge in the Massachusetts Appeals Court on an I & I (Infiltration and Inflow) fee for the Town of Saugus that was "shot down".

Attorney Suzanne Egan, City Solicitor stated there is a recent appeals court case. That was different from the Gloucester ordinance and proposed fees. In Saugus whenever there was additional stormwater that went into the sewer system, it would get discharged; the Town was dumping untreated sewerage into the Saugus River. They had a mandate from the EPA to remove a lot of that I & I from their sewerage system. They set up an equation where anybody who had to connect to the sewer system, any new development, they would charge an additional fee to remove the infiltration into the system (as if it was a plumbing or building fee). Developers then challenged it. The courts looked at whether it was a fee related to a service the town provides or was a tax. Because this particular fee was purely related to something the town had to do anyway and didn't have to do with a developer making a connection to the sewer system. This was something the town was mandated to do by the DEP; therefore, the court found it a tax and invalidated the fee. **Councilor Tobey** paraphrased that this "was a taking a cost that they had to absorb for the whole town anyway and unfairly levying a fee." **Attorney Egan** continued they were saying it was related to new construction but, in fact, it was related to infrastructure improvement. A case in Michigan found a stormwater fee as an illegal tax; but that is very different from Gloucester's situation because it is a different set of laws. Massachusetts has a statute that says they can charge a stormwater fee. The court found it is related to a service the city was providing. Ms. Papows and Mr. Wells worked hard to make sure the calculation to come up with the fee is related to a service that the City is providing and is related to the amount of impervious surface on the land. She expressed her confidence this would survive a challenge.

Councilor Tobey expressed he was impressed by the side by side profiles produced by the team and thought that to be an important comparison of the various types of real estate and thought the staff and done a "really nice job."

Councilor Verga asked about two-three families counted as one. How were condos handled as some condos were formerly two or three family homes.

Nancy Papows, Principal Assessor stated condos are separate parcels in the system. A multi-family, like a three-family, is one parcel. The residential condos should be handled similarly to a three family. So if there was a three-family condo conversion on one parcel, they wanted the aggregate of three individual units would be charged in a relatively similar manner to what they were doing with the multi-family properties. That is why they came up with a factor less than one for those. The factor and the other criteria they're setting, first they analyze the data which can change over time. It depends on what it tells them. That is why they came up with a factor that is less than 1 ERU for a condo unit. Commercial property is being measured on specifically what they have. That will be more manual and is the only way to do it fairly for commercial condominiums which will be based at this time would likely be a percentage of interest ownership. They have a square foot impervious for one parcel. All the commercial property is done based on square footage impervious and would be apportion that over the units.

Mr. Wells stated that was using a number they already had. In the case of two units that gets treated as a single family; two condos get a half charge each [.5 ERU]. Three condos would be charged 3 lots or .5 ERU whereas a multi-family with three units within it would be charged 1 unit. It is the data that will uphold that decision.

Councilor Verga asked what the service is; he believed the push back he would see is "we don't have water and sewer". In the "far reaches of Magnolia and West Gloucester is it cleaning storm drains".

Mr. Hale stated they spent an “inordinate” amount of time in West Gloucester with stormwater. There are culverts that cross the major roads there; grass swales on side roads; a fair amount of storm water infrastructure in West Gloucester. Acknowledging the City core has the “lion’s share of it”, but Wards 5, 4, and 1 have just as much stormwater as other areas.

Councilor Verga stated some of the newer developments have to maintain their own stormwater systems; Village at West Gloucester which he is involved with was one such example. Anything that is currently public, no matter where it is in the City, this fee would be part of maintaining it.

Mr. Hale responded if they currently maintain it today, that is what this fee would go to. If there is something they should be doing regardless of the stormwater utility or not.

Councilor Curcuru asked about commercial parcels.

Mr. Hale responded non-residential properties will be assessed to their actual imperviousness. The flyover and the model they based this on helped them to develop this. He gave the example of a small coffee shop on Main Street and if that building was no bigger than a single family home, it would get charged the equivalent of a single family home. If it is a medium-sized industrial building, say, five times the impervious area of a single family it will be charged five times what a single family would be charged because that’s the actual impervious area. Responding to **Councilor Curcuru** asking about Gloucester Crossing and other large non-residential areas, **Mr. Hale** noted, is where they propose to include some caps. It would be a huge charge if not, which seemed “so unfair.” They looked at a number that would allow them to distribute the land area equally. The largest non-residential would be capped at 30 times a single family.

Councilor Curcuru stated this comes off their sewer rates like it does a residential but felt in fairness they likely don’t use as much depending on the type of business; they may be burdened a bit more.

Mr. Hale stated it would depend on the type of business it is.

Councilor Tobey thought that to be imprecise. Only a piece of the expenses they’re contemplating covering are currently going to be on the sewer rate. It is basically new work that they haven’t yet figured on how to charge. He understood what they were saying but expressed concern.

Councilor Curcuru inquired using Gloucester Crossing as an example what would the cap be.

Mr. Wells stated if capping at 30, that is \$1,600.

Councilor Curcuru felt \$1,600 is not going to come of that sewer rate as they’re probably charging each unit who are probably paying their own water and sewer; and wondered if the property owner was responsible.

Councilor Theken stated it would be up to the business arrangement between the owner of the development and the leasers.

Councilor Curcuru stated it didn’t seem equitable at that point; the ‘commercial’ gains very little and seemed disproportionate.

Mr. Hale believed they are paying an equitable portion “relative to everyone else.”

Councilor Curcuru expressed if you look at their sewer rate, their stormwater fee is going to be more than what they would be saving on the sewer rate.

Jeff Towne, CFO didn’t think they were trying to tie those two things together.

Councilor McGeary added an argument could be made what you take from one you’re putting in another; and it’s basically a wash.

Councilor Curcuru expressed his disagreement that it was not a wash.

Councilor Theken thought it hard to determine.

Councilor McGeary asked if there was any provision for abatement like if someone goes to the trouble of doing a low impact development, such puts in a green roof, or doing something to lessen their impact on stormwater, was there a provision for awarding or encouraging that.

Mr. Hale stated in the current regulations they do not have abatements for that purpose.

Councilor Tobey noted there was an abatement provision in the ordinance.

Mr. Hale stated there was an abatement process for all utilities but not for the green infrastructure or low impact development specifically. They will still shed a portion of stormwater regardless.

Councilor McGeary expressed this was more in terms of commercial properties.

Mr. Hale stated if they have less impervious, they'll be charged less. Commercial is calculated on their specific amount of imperviousness. If you reduced your paved areas and installed green areas with vegetation, or have less impervious parking areas for employees, that would be calculated into how much impervious area you have.

Councilor McGeary noted the apportionment of cost of personnel and asked how it would be calculated.

Mr. Hale stated typically people who share funds for personnel costs are set at the beginning of the year. They don't have time cards where they note what percentage they spent their time on that day between utilities. It is a best guess estimate at budget time, such as Employee A will spend 50% on this utility, and 50% on that utility this coming fiscal year.

Councilor McGeary asked at this time regarding CSO indebtedness did they intend to be move it to this rate.

Mr. Duggan stated it was not their intention nor are they proposing to make any type of a shift.

Councilor McGeary thought that made sense because it is exempt from the Prop 2-1/2 override; and people do get a tax write off. He was concerned in the future if there was additional indebtedness and that is not subject to a Prop 2-1/2 exemption; it seemed they had created a mechanism to apportion that equitably and not charge it against the Prop 2-1/2 cap. Would they consider that at that time?

Mr. Duggan didn't want to speak to the future; but it will be reviewed; and if it is something they should do, they would; "but at this point the answer would be no."

Mr. Towne noted in the vote that Councilor McGeary had said 100% of all CSO debt will be debt shifted. Each year if they took on additional CSO debt, unless you change that, then it would be 100%, at least in his opinion, of CSO debt.

Councilor Whynott commented this was for everybody not just those on the sewer system. And it would be on the utility bill. He asked why they wouldn't put it on the tax rate so it is tax deductible.

Mr. Towne stated the Council created an ordinance that asked them to come up with a stormwater fee. If they put the budget on the tax rate, it will effectively eliminate other City services as well. You're limited by Prop 2-1/2. By example, if they were to take \$500,000 out of the sewer, and put it on the General Fund, "you would literally have to put that into your calculation of the amount of money you can raise. That is another limiting factor, though not impossible, as a General Fund fee.

Councilor Tobey noted regarding Mr. Hale's assessment section 8 on how abatements are to be applied, he believed there are instances where they will be incorrect. If say Varian decided to put on a green roof they had and created substantial artificial wetlands using all kinds of readily available technologies to maximize their diminishing the amount of stormwater they're shedding, effectively how much impervious surface they have, he felt they would be hard pressed to not give them a substantial abatement.

Mr. Hale commented he had no argument on that point.

Councilor McGeary thought the way the formula is calculated there would be an automatic abatement because their impervious area would be reduced.

Mr. Hale, continuing to use Varian as an example, if they came and did a large greening project for their campus and had some permitting involved and knew how much impervious they had, they could enter it into their formula.

Councilor Tobey noted they'd adjust it formulaically as opposed to abatements.

Mr. Wells replied they'd adjust the impervious surface square footage recorded for that parcel and that it would end up changing the total residential units that would be charged.

Mr. Towne added that would end up changing the total number of residential units which would change the fee structure.

Councilor Tobey noted in 2009 they spent a lot of time to listen to the public who said do not shift the CSO debt under the Prop 2-1/2 exemption. That previous Council voted for this ordinance to come up with a more equitable distribution scheme based on the fact that CSO is as much about stormwater as anything else. He urged the Administration to allocate some of the CSO debt to the system of cost recovery. He pointed out there are folks in Wards 5, 1, 4 and even 2 or 3 who aren't connected to the sewer and contended this wasn't fair. He urged during budget deliberations, as they put together this fund, as they look at how CSO debt is handled, to give those folks a break. He explained he was "open to

a compromise". He asked they craft some kind of measure of relief in the FY12 budget using this scheme. He contended the "tax deductibility is a red herring." The tax code has shifted for so many folks, "you can't itemize anyway". He also asked the Council to keep an open mind.

Councilor Ciolino asked what kind of action they need from the Council.

Mr. Hale believed it required an up or down vote from the Council. Then there'd be another vote for the Enterprise Fund that has to be self supporting.

Mr. Towne stated once they establish the regulations, that will precipitate another discussion like they did with the rink in order to create an enterprise fund. That has to be self-supporting. In contemplating moving some of the debt, he reminded that they have to be sure at year end every year the fund is in the black, not the red, so their formula has to be very specific to make sure they can recoup enough money and bring in enough money to pay all the expenses every single year.

Mr. Hale added at budget time they'd have to vote the budget for the stormwater utility and consequently a rate with that.

Mr. Duggan stated this was the intention in his request for a special City Council meeting to look for a vote of whether the regulations are accepted.

Councilor Tobey stated he would call on the Charter, Section 2-11 (c). In his opinion there has to be a public hearing and expressed his concern regarding public notice of the special meeting that evening.

Councilor Hardy stated for the record the meeting "has been publically noticed according to law".

Councilor Tobey didn't wish to imply that it was an illegal meeting. He wanted to give folks the opportunity to be there to listen and comment on the matter before them.

Councilor Hardy did not disagree.

Mr. Duggan answering **Councilor Ciolino's** question of process, stated because there is a tremendous amount of training and testing to applying this, a Council vote would be required whether now or at the end of a public hearing. He recounting this has been vetted through sub-committee levels with joint meetings with B&F and O&A meetings in which many scenarios were given.

Councilor Whynott stated as one of the six who voted for the ordinance, explained his thought process was that everybody who was on sewer isn't necessarily contributing to the CSO. There was no fair way. He voted to put it on the tax rate and then, he believed, they all pay for it. "They all own the harbor and need to make sure it's clean."

Councilor Hardy asked were they intending to bill 501-C3's, state and federal entities.

Mr. Duggan stated whoever gets a utility bill with the exception of City property.

Mr. Towne confirmed 501-C3 entities and churches would be billed.

Councilor Whynott stated this is for every single property in the City not just people who have been getting utility bills. They will still pay this.

Mr. Wells stated if you were eligible to get sewer and water bills, if you had the service, you will get this bill. Whether you get the water or sewer service "is not pertinent to whether you get this charge."

Councilor Curcuru asked if the billing structure figured into these costs with the additional billing. This will be added onto the bill to current rate payers, and the new rate payers will receive a separate bill.

Mr. Towne confirmed the Councilor's statement. He noted they'll split the postage equitably between the three enterprise funds, as they now do for water and sewer and now stormwater.

Councilor Theken stated she'll get this bill now too. She thought this would eliminate the CSO billing. They'll get both bills. . People don't care if it's a write off. You're not saving on your taxes. They're all willing to pay but she asked they look as to how they can do it on one bill.

Mr. Hale stated if CSO debt was transferred it would not be \$53.00 any longer (as in the final slide of the presentation) per year to which **Councilor Theken** indicated her understanding.

Mr. Duggan stated they're not proponents. They're bringing forward what the Council asked for in the most fair and equitable manner. They're not advocating for this.

Councilor Theken wondered if this goes through as is, could they look back and change this with the next City Council or whomever it would be.

Mr. Towne stated once an enterprise fund is established, it can't be rescinded for three years. They could vote a very low budget, but not rescind.

Councilor Theken clarified, not the enterprise fund but the CSO project and putting it into the stormwater fund.

Mr. Towne reiterated once they create the stormwater enterprise fund it can't be rescinded for 3 years. It is a M.G.L. issue.

Councilor McGeary stated another way to ask it would be could they put the CSO debt back to the enterprise fund.

Mr. Towne replied "yes".

Councilor Tobey stated under the Charter a Council can only approve the rate proposed by the Administration. They can't approve a higher rate or a lower rate. They can only say yes or no. They can't unilaterally move anything. The Administration has to recommend a rate.

Councilor McGeary if they were to say they're not going to pay the CSO debt out of the Prop 2-1/2 exemption, the Administration would have to come up with a way to pay for it either by applying it to the general tax rate or by moving it over.

Councilor Verga noted that he was "crucified" after the 6-3 vote of the Council (referring to the debt shift). Many in his ward said they don't have water or sewer and they didn't want to pay anything. But the majority said they'd pay their fair share but not on the tax. To date all of the debt is on the CSO.

He'd like to see a way, in his opinion, to correct what he viewed as a mistake last November and put it onto a fee based on the feedback he'd been getting. For the most part Ward 5 wants it off their tax bill.

Councilor Curcuru asked what would be the real figure per year, not the \$53.00 shown in the example.

Mr. Towne stated if you did \$2.4 million with an operating budget of \$800,000, that \$53.00 would become \$250 per year perhaps.

Councilor Curcuru stated the ratepayers were paying for the CSO. They've been paying it for years. Now the whole City is to bear the burden. He believed there is a difference between sewer and stormwater.

Councilor Theken remarked abatements aren't plainly shown to be made available. For the working class this is a burden. This brings up other things like mortgages and escrow issues for homeowners.

Councilor Tobey stated if 80% or more of equity you're required to escrow your real estate tax and what they did is what had been on sewer they put on real estate tax. The CSO project was more about sewer because they took out stormwater out of the sewer pipes so it didn't go to the sewer treatment plant and allowed the sewer pipes to no longer discharge dirty water "overboard" because there was too much water in them. He contended it was all about the sewer pipes and sewer plant. He reiterated it was largely about the sewers. He asks for a compromise.

Councilor Ciolino stated when the CSO is on their taxes, and, say, they shifted it and brought it back to a utility stormwater bill, the dollars are going to change, but it's still on your bill. It will not be on their taxes but on a utility bill.

Councilor Theken stated every year escrow is estimated. The mortgage companies see a big increase and then expect more money for escrow for tax payments. It's not just about the CSO.

Councilor Ciolino noted with mortgage and taxes, that taxable item is always going to be a variable but usually goes up.

Mr. Towne added that it is the high valuation properties when they shifted the debt that suffered the most because it's based on values. A \$5 million house or a \$2 million house pays more which he has heard from those taxpayers who have contacted him as well as the Assessors office. It is not the typical family home that pays an extravagant amount more.

Councilor Verga noted in talking about the shared sacrifice, they're looking at a flat fee. Whereas, if someone has a house valued at \$300,000 with 1,900 sq. ft., their tax rate increased from last year but was significantly lower than someone who has the same sized home in a different area of town using Wingersheek or the Back Shore areas as an example. "It's not apples to apples." But he felt this was fair.

In response to **Councilors Theken and Curcuru's** conversation about sewer rates, **Mr. Towne** noted the sewer rate went down \$2.00. If people's usage had stayed the same, they would have noticed their sewer bill would have gone down.

Councilor Tobey stated combined water and sewer bills stayed the same. People didn't save any money, and they avoided for a year was that much more "rate shock". Most stayed the same. They avoided a big jump.

Councilor McGeary asked if and when they do vote on this as Councilor Tobey by invoking 2-11 (c) prevents a vote this evening, they aren't voting on the actual numbers. They're voting on the regulations. When budget time comes, as they do with tax classification, he wondered would they get to weigh in on the occupancy factor; or is it presented as up or down vote as part of the budget process.

Mr. Hale remarked yes. The regulations allow the DPW Director to set it, just as the Council doesn't vote on the consumption numbers they use on water and sewer either.

Councilor Tobey stated they do have to approve up or down the rate.

Councilor Curcuro added those numbers will rise and the ratepayers will have to pay. "If they don't enact it, and the full City doesn't pay for it, the ratepayers will get stuck paying it." It is the idea that the cost is born by the entire City not just the ratepayers.

Councilor Whynott left at 8:23 p.m.

Mr. Towne stated there is a timing factor to this; they need time to do the programming changes and test the file, produce new files, bills. If they want to start July 1st for a bill to go out in August that they get this approved very soon.

Mr. Duggan stated they also have staff training to do: how do they handle incoming calls, inquiries how to get an abatement; who will do the investigations and what the burden on the staff will be.

Mr. Hale stated there are also seasonal homes that receive two or three utility bills a year. So things like this they need time to work on for the bugs to be ironed out.

Mr. Wells stated they need confirmation that this method is acceptable so they can move forward with the construct, not the budget not the percentage.

Councilor Theken asked Mr. Hale to expand on about summer residents' homes.

Mr. Hale stated it depends on what type of seasonal resident they are. Some are billed twice and some three times annually. It may be divided differently.

Councilor Theken had no problem with this. She thought it was great how they worked it out. She lauded Ms. Papows and her staff for their efforts.

Ms. Papows added regarding the cap for commercial is that it is per parcel. If a commercial venture owns several parcels, it could be \$1,600 per parcel.

Mr. Hale noted that future development and in fact with recent development they've had to do a lot of mitigation on site. There is a substantial amount of investment and any future development that comes in will have a larger burden with state and federal regulations to bear. Just because you're big doesn't mean you'll have a larger amount to pay.

Councilor Tobey felt this is part of a larger process begun two years ago. He wants all those who came out them to have their voices heard. It isn't fair for folks not on sewer to be bearing all of the cost of a system project that they got no benefit. He wants them to come to the public hearing and reminded them of the fairness article and that the Administration will craft a compromise that some part of the CSO debt is moved to this fee. He also wanted a well publicized public hearing.

Mr. Duggan stated with what they're up against, having a few weeks before the vote is taken isn't unreasonable. But he cautioned that extending much further would be a burden.

By unanimous consent the matter of Stormwater Utility Regulations: Proposed Regulations establishing the Utility Fees and the administration of the utility pursuant to the GCO Section 23-2 is to be on the next regularly scheduled meeting agenda of and O&A, February 28th and B&F on March 3rd.

By unanimous consent the matter of Stormwater Utility Regulations: Proposed Regulations establishing the Utility Fees and the administration of the utility pursuant to the GCO Section 23-2 is to be advertised for Public Hearing for March 8, 2011.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:36 p.m.

Respectfully submitted,

**Dana C. Jorgensson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Color version with typographical error corrections of slide presentation by the Stormwater Team**