

Special City Council Meeting
Thursday, September 5, 2012 – 6:55 p.m.
1st Fl. Council Conference Rm. – City Hall
-Minutes-

Present: Council President Jackie Hardy; Vice Chair, Councilor Sefatia Theken; Councilor Paul McGeary; Councilor Melissa Cox; Councilor Joseph Ciolino; Councilor Bruce Tobey; Councilor Verga; Councilor Robert Whynott; Councilor Steven LeBlanc

Absent: None.

Also Present: Jim Duggan; Mike Hale; Suzanne Egan; Kenny Costa; Jeff Towne; Rick Noonan; Gregg Cademartori

The meeting was called to order at 7:08 p.m.

1. Addendum to Mayor's Report for the August 28, 2012 City Council Meeting regarding a MassWorks grant in the amount of \$5,000,000

MOTION: On motion by Councilor Ciolino, seconded by Councilor Cox, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to authorize the Department of Public Works to apply for a \$5,000,000.00 (Five Million Dollars) MassWorks Infrastructure Program grant through the State of Massachusetts Executive Office of Housing and Economic Development for the purpose of funding infrastructure improvements in the Commercial Street and the Fort Square area to support existing industries and expand economic opportunities.

DISCUSSION:

Jim Duggan, CAO explained there were two requests before the Committee; that of an authorization to submit an application for a MassWorks Infrastructure Program Grant for \$5 million from the State Executive Office of Housing and Economic Development. It is for the public infrastructure improvements for the Commercial Street area which includes Commercial Street, Beach Court, Pascucci Court and Fort Square. The second matter is to accept a "gift" of \$600,000 from Beauport Gloucester LLC for the engineering design of the infrastructure for the area described. The MassWorks grant is an assembly of multiple smaller funding sources, along with three larger grants the City has previously been awarded: CDAG (Community Development Action Grant) awarded for work at the Blackburn Industrial Park; PWEDG (Public Works Economic Development Grant) previously awarded to the City; and the MORE Jobs Grant related to work done at Gloucester Crossing during its development. The intent of the MassWorks Grant is to improve the public infrastructure to benefit the entire area. The improvements will enable new businesses to be established, existing businesses to expand or invest in their business operations whereas they don't have the ability now with the current state of the infrastructure in place. The improvements will also enhance the marketability of the City-owned parcel at 110 Commercial Street (located at the terminus of the street). In support of the MassWorks grant application is the public/private partnership between the City and Beauport Gloucester LLC's hotel project which goes to the core of the MassWorks grant which is jobs creation. It is expected there would be 90 to 100 construction jobs; and the hotel upon completion would generate approximately 160 full-time jobs and approximately 100 seasonal jobs which doesn't include any other jobs created as businesses on Commercial Street are able to invest in their operations due to the infrastructure improvements in the area. There is no match to the grant. The expected award announcement is October 30th. The schedule of construction would be from July 2013 to July 2014. They are using "July" because they wish in no way to disrupt the St. Peter's Fiesta which takes place at the end of June each year. The Administration respectfully requests the authorization to submit the grant application to MassWorks for \$5 million.

Councilor Tobey commented this is a long sought-after goal of infrastructure rejuvenation for this area. He expressed this should not be viewed as a public/private partnership. A partnership cannot be premised on an unproven project. The Council has a lot of discretion in its quasi-judicial role they need to exercise. Rather, he viewed this as a mitigation measure put forward by a project proponent with no assurances as to the success or failure of the permitting process which has only just started. Public/private partnership implies a project that is between two parties that is an implication they could not reasonably accept. **Councilor Whynott** stated should they accept the \$600,000 offered by Beauport Gloucester LLC, and the City wasn't awarded the MassWorks grant, does the City keep the money. **Council President Hardy** noted that question was addressed at the special B&F meeting just previously concluded, and that the funds would not be returned. However, she expressed concern with the

language of the motion that there is an agreement between the City and proponent that \$600,000 is the limit that the proponent is willing to contribute to the infrastructure project. The City Council through its Special Council Permit process, since they are the granting authority, has the ability to set impact fees, mitigation fees, or anything else they deem reasonable to complete the project which may include furthering the infrastructure improvements in the Fort/Commercial Street area. She asked was it the understanding of the proponent that the maximum they will contribute to the City to this project through the motion for the grant or through a Special City Council Permit is \$600,000. **Attorney John Cunningham**, representing Beauport Gloucester LLC made clear the \$600,000 is a contribution for the design phase of this project because that's all they know about at the present time. Until the design is done and until there are better cost estimates they don't know the scope of the costs of the project. They don't regard this number as a limit. This is what they commit to now in order to get the project underway and make it possible to benefit the whole community. **Council President Hardy** expressed that if the City Council through its Special Council Permit process and its due diligence deems that additional money is a required component, they will consider those as long as it is reasonable. **Mr. Cunningham** stated, "Yes;" but qualified it by adding as long as it was reasonable. **Council President Hardy** asked if there is a limit to the dollar amount the City can apply for in the grant or is it capped. **Mr. Duggan** responded there is no ceiling. They felt because of previous awards they are aware of through MassWorks and the fact that they have a rough estimate of the cost of the construction they don't want to over-exaggerate or compensate, and want the number submitted to be as accurate as possible. **Council President Hardy** explained that the City Solicitor assured the B&F Committee that these are two separate avenues - the acceptance a grant and a "gift," and the allowance of the grant to go forward are separate from the City Council permitting authority. There is no appearance of an impropriety because the Council is wearing different hats to accept grants and gifts and awards versus acting as a permit granting authority in the case of a Special Council Permit. **Suzanne Egan**, City Solicitor affirmed these facts to the Council. **Gregg Cademartori**, Acting Community Development Director added the bookends of the dates on the design for engineering is March 31st, not a two months that was categorized in the special B&F meeting. **Councilor Cox** asked if the project goes over the \$5 million in grant money, can they reapply for more funding with MassWorks. **Mr. Duggan** advised the Council this is an annual grant. They do have the option to go back and apply for another grant for anything like that. **Councilor Theken** commented there were a lot of people from the Fort who told her this [infrastructure work] needs to be done. She hoped that when they do go out for the engineering there is a public meeting with the businesses and commercial interests there so it is not said they have been overlooked. It was pointed out that **Mr. Hale** will administer the grant (see page 1 of grant submission on file). **Council President Hardy** asked if the Mass. Historical Association is required to do a review which Mr. Hale responded not for an infrastructure work such as this.

MOTION: On motion by Councilor McGeary, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to authorize the Department of Public Works to apply for a \$5,000,000.00 (Five Million Dollar) MassWorks Infrastructure Program grant through the State of Massachusetts Executive Office of Housing and Economic Development for the purpose of funding infrastructure improvements in the Commercial Street and the Fort Square area to support existing industries and expand economic opportunities.

MOTION: On motion by Councilor Cox, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to accept a gift of \$600,000 (Six Hundred Thousand Dollars) from Beauport Gloucester LLC on or before September 10, 2012 for the purpose of funding the design of public infrastructure improvements for Commercial Street and the Fort Square area of Gloucester to assist the City in its ongoing efforts to upgrade and improve public infrastructure through the City; and further, that pursuant to MGL c. 44, §53-1/2 the gift shall be deposited with the Treasurer and held as a separate account and may be expended for said purposes without further appropriation.

DISCUSSION:

Mr. Duggan expressed this is a gift from Beauport Gloucester LLC for the infrastructure improvement to the same area. They appreciate the gift, thanking them and look forward to getting this project moving forward. **Councilor Tobey** asked if the Council is required to use the word "gift". **Ms. Egan** pointed out the statute states it is grants or gifts; it is not required but it is statutory language. **Councilor Tobey** expressed concern with the word "gift", and moved to amend the main motion to substitute the word "gift" with the word "contribution". **Councilor Theken** seconded the motion to amend. **Councilor Tobey** expressed he wished to have the word "contribution" substituted

in both instances where it appears in the motion. **Ms. Egan** assented to the substitution of the word “contribution; that it did not compromise the statutory foundation.

The Council voted unanimously to accept Councilor Tobey’s amendment to substitute the word “gift” with the word “contribution” in the main motion.

Jeffrey Towne, CFO pointed out the motion states “separate accounts”. It is a General Ledger account. He would not open up a separate bank account just for this. He assumes it would be spent rather quickly. It will be deposited in a separate General Ledger account. **Councilor Tobey** said he assumed this would create a “Chinese Wall” around the money so it could then be spent on something else. **Mr. Towne** explained that was his reasoning why it should specify “General Ledger”. **Mr. Costa** stated if the design costs come in at \$550,000, there is \$50,000 that could be returned back to Beauport Gloucester LLC. That would require City Council action to revert those funds. **Council President Hardy** noted in the first application submitted to the Council the contributor’s letter indicated that any unused funds could be put towards the construction of the project, not just to be returned. **Mr. Cunningham** confirmed it is an option.

The Council voted unanimously to amend the motion as offered by Council President Hardy, seconded by Councilor Cox to include “General Ledger account” between the words “separate” and “account” in the main motion.

MOTION: On motion by Councilor McGeary, seconded by Councilor Cox, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to accept a contribution of \$600,000 (Six Hundred Thousand Dollars) from Beauport Gloucester LLC on or before September 10, 2012 for the purpose of funding the design of public infrastructure improvements for Commercial Street and the Fort Square area of Gloucester to assist the City in its ongoing efforts to upgrade and improve public infrastructure through the City; and further, that pursuant to MGL c. 44, §53A the contribution shall be deposited with the Treasurer and held as a separate General Ledger account and may be expended for said purposes without further appropriation.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:27 p.m.

**Respectfully submitted,
Dana C. Jorgensson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.