

CITY COUNCIL STANDING COMMITTEE
Budget & Finance
Thursday, July 1, 2010 – 6:00 p.m.
1st Fl. Council Conference Rm. – City Hall

Present: Chair, Councilor Steven Curcuru; Vice Chair, Councilor Paul McGeary; Councilor Jacqueline Hardy

Absent: None

Also Present: Councilor Verga; Kenny Costa; Linda T. Lowe; Jeff Towne; Jim Duggan; Police Chief Michael Lane; Sarah Garcia; Nancy Papows

The meeting was called to order at 6:04 p.m. Items were taken out of order.

1. *Continued Business*

A) Monthly review with Jeff Towne, CFO re: Tax Recap (Continued from 06/17/2010)

Mr. Towne reviewed for the City's tax recap process as an educational exercise for the Committee.

B) CC2010-036 (Tobey) regarding (a) rescinding for the FY12 budget cycle the CSO debt shift enacted on May 24, 2010 and (b) instituting a stormwater fee system pursuant to the ordinance enacted in September 2009 (Continued from 06/17/2010)

Councilor Curcuru informed the Committee that the Ordinances & Administration Committee plans to conduct a workshop on the matter scheduled for their August 9th meeting.

This matter was continued to September 9, 2010.

C) COM2010-027: Sullivan & Rogers – Independent Auditors' Report (Reports on file in City Clerk's Office) (Continued from 06/17/2010)

Councilor Curcuru informed the Committee that Chris Rogers of Sullivan & Rogers would be able to come before the Committee to review their findings on July 15, 2010.

This matter was continued to July 15, 2010.

2. *Memo from City Auditor regarding accounts having expenditures which exceed their authorization*

No report was forthcoming from the City Auditor's office due to the close of FY10.

3. *Memo from Police Chief re: two grants - \$61,795.00 from the State E911 Dept. and \$10,987.00 for FY2011 training and education*

Chief Lane stated the request for the use of this State E911 grant funding is for the department's FY11 police overtime budget, allowable under the State E911 grant rules. There was no match for the E911 grant of \$61,795.00 and for a State E911 Department grant for \$10,987.00 to be used for dispatcher training and continuing education. The grant money is based on a calculation that takes into account the population numbers as well as the number of 911 calls each town receives per year. These are vital grants to the department. The turnaround time is very quick; about a month once the Council votes, and they submit their grant request.

Councilor Curcuru asked if they're all related to 911 some items related to heating and ventilation.

Chief Lane stated in their dispatch room it's air conditioned which is required to keep the equipment in working order. The money could be used to replace or repair that. They use it strictly for salaries. The DPW comes in and does periodic maintenance.

Councilor Curcuru commented that this appeared to supplement their budget.

Chief Lane stated it did. This year 911 protocol account only spent \$150.00. This coming fiscal year, they had appropriated \$80,000.00. They know they are getting these grants.

Councilor McGeary asked what EMD stood for.

Chief Lane stated it was Emergency Medical Dispatch. It gives them training how to handle medical emergency calls to keep the caller on the line while they're transferring them, etc. The training has been well received, and the dispatchers felt it has been very worthwhile.

Councilor Hardy asked who is eligible who to receive the overtime monies that would come through this grant; is everyone trained equally.

Chief Lane stated all officers in the department including himself are E911 trained. As the grant requires, they have to identify which salaries will be reimbursed with this grant. They identify those six or seven officers who are assigned as dispatchers the majority of the time and reimburse their salaries out of this. Their salaries then go into the protocol account. He noted once they are trained in E911 dispatch, that certification is non-expiring.

Councilor Curcuru asked if you had civilian dispatchers could they benefit from this training; and would they qualify for the grant if they did have civilians doing this work.

Chief Lane stated they'd have to research the matter noting that contract talks are upcoming and was one of the things he was urging the Administration to look at on both sides.

Councilor Hardy inquired if there was a match.

Chief Lane stated no, neither with cash or in-kind. He also informed the Committee his department has been talking with the School Department having received notice that the federal government is offering a "Secure Our Schools" grant. This does have a 50% cash match requirement. The Police Department has to apply for it on the School's behalf. It would be for a video system for the High School and at least one on every elementary school including a buzzer for the school's front door combined with a phone system. They have the grant all ready to submit. They will be looking for permission to apply for this \$150,000.00 grant: \$140,000.00 of telephone and surveillance equipment for all schools as well as installation. He will submit it promptly through proper channels to the Council.

Councilor Hardy stated because there is no match for the E911 grant and it encompasses a single year, this item would stay at this level, and that the police department with this vote would be able to apply forthwith which is in accordance with the Gloucester Code of Ordinances, Sec. 16.1.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to grant the Police Department permission to apply for a State E911 Department grant for \$61,795.00 to be used for the FY2011 police overtime budget.

Councilor Hardy stated as with the other grant, because there is no match for the E911 grants and it encompasses a single year, this item would stay at this level, and that the police department would be able to apply forthwith which is in accordance with the Gloucester Code of Ordinances, Sec. 16.1.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to grant the Police Department permission to apply for a State E911 Department grant for \$10,987.00 for dispatcher training and continuing education.

4. Memo from Com. Dev. Director and Senior Project Manager re: request to submit a \$150,000.00 request for PARC Grant

Ms. Garcia stated they were seeking permission from the Committee to submit a request for \$150,000.00 for a Parkland Acquisitions and Renovations for Communities (PARC) grant in order to fund focused recreational, accessibility and public safety improvements at Burnham's Field. This grant requires a \$150,000.00 match from the City which can be funded over the course of two years with Community Development Block Grant Funds. She noted that her department successfully submitted a Land & Water Conservation Fund grant for this same project in March which Steven Winslow presented to them at that time. Knowing that they're over subscribed and that they're low on funds, it was recommended that the City also apply for this program. The Massachusetts Division of Conservation Service has yet to make a final recommendation on that original grant.

Councilor Curcuro stated if they get the original grant, then this one goes away.

Ms. Garcia replied if they get the original grant, the other goes away and both are under the same conditions. What they're trying to do is to facilitate improvements for the Burnham Field. The field has very little access going through it; the play equipment hasn't been upgraded for a long time. There seems to be a lot of interest in community gardens now. The Food Project and several other non-profits are interested. They don't want to manage it; but if they can facilitate helping other people making this happen for the neighborhood, they're happy to do that. They're talking about 16 plots for community gardens. She noted it was in the 1980's that the original playground equipment was put in. They will create a comprehensive plan for Burnham's Field. All this would start next year should they receive the grant. They may be notified next month that they have the other grant.

Councilor Curcuro stated he didn't have any issues with the grant since there was a way of funding the match.

Councilor Hardy stated that under GCO, Section 16.1 with this grant requiring a match, it has to be voted by the City Council.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant permission for the Community Development Department to apply for a Parkland Acquisitions and Renovations for Communities (PARC) grant of \$150,000.00.

5. *Memo from Com. Dev. Director requesting creation of a Port Maintenance and Improvement Fund*

Ms. Garcia explained that the property owner of one of the long vacant land parcels in the Designated Port Area (DPA), the former Doyon's Appliance Store, applied for a Chapter 91 license permit to allow the Cape Ann Brewing Company in the existing building as a supporting commercial use. They received a favorable decision from the Department of Environmental Protection with a 21 day appeal period now underway. She felt it was prudent to set this account up under the circumstances. Part of the decision is that they will make a contribution to this Port and Harbor Maintenance fund. In cases like this one where there is no water-dependent industrial use on the site itself, the 2009 Harbor Plan and DPA Master Plan gives the guidance that "...if such investment is not needed on-site, the plan recommends that the funds be contributed to a newly-established Port Maintenance and Improvement Fund for investments in water-dependent industrial uses in the DPA...from the 2990 Harbor Plan, page 2." (See Section 6-2 Gloucester Port Maintenance and Improvement Fund). Its \$20,000.00 over ten years (\$2,000.00 per year). It's not a lot of money, but it says a fund should be established. It also says in the Harbor Plan that there'll be a committee to manage the fund not yet established. In August they'll have a better sense of what will come forward and more of a sense of what kind of entity should manage this fund.

Councilor Curcuro asked what happens should the business fail noting that the payments to the fund are spread out over a period of time.

Ms. Garcia stated that she didn't know. She assumed the payments would stop. She also assumed if they didn't receive a payment, they would contact the DEP because they would be in violation of their license.

Councilor Hardy noted that whatever mitigation monies come in as a result, that those monies must be spent in the Gloucester DPA.

Ms. Garcia stated first has to be spent on wharves and piers on the property; if none exist there, which in this case there are not, then it would be spent on other wharves and piers within the Gloucester DPA.

Councilor Curcuru asked why there was mitigation money and who else would pay it.

Ms. Garcia stated they were not able to have a water-dependent/industrial use on this site. This was to compensate whatever 'harm' they could do to the marine/industrial port. It's a payment proportional to whatever detriment is added by not having a marine/industrial use. This was set by the DEP, consistent with what they have set across the State.

Councilor Hardy asked how long it would be before the Oversight Committee was put together.

Ms. Garcia felt they needed a couple of more months into the process to figure out what they would actually need.

Councilor Hardy stated section 6.2 of the Harbor Plan indicates that the City will be responsible for collecting the money and administering the fund; what process would be in place to collect the money.

Ms. Garcia stated they collect money out of grant funds all the time. They collect loan funds. As with those collections, she would write them a letter, in this case, copying the DEP and Mayor. They'd lose their license if they didn't pay it, which would stop them from operating. She assumed they could use various elements to enforce the issue. The hope would be to bring some kind of pressure to bear to encourage payment. The Chapter 91 license would have this condition. You could lien the property. She would check on it to be sure.

Councilor Hardy stated she'd like to know the process since this was the first time it was coming through. So this would be an instance where the contribution to the fund will be made a condition of the Chapter 91 license.

Ms. Garcia replied yes. She also assumed you could always lien a property. The decision is to the owner of the property, not to the tenant.

Councilor Curcuru stated on that property its a lease with an option to buy by the tenant. There are specifics. Any lien that is put against the property, the tenant is responsible for.

Ms. Garcia stated the City's exposure is \$2,000.00. That \$2,000.00 is for the payment for the 'harm' to the DPA. If the Brewery goes out of business, they've not harmed the DPA. There's no downside other than they enforce it if they don't pay. This is not money the City owes anybody. It's money for the privilege to be there on the part of the Brewery. The City would not be providing a service.

Councilor Hardy related then the Chapter 91 license is granted to the Cape Ann Brewery, the tenant.

Councilor Curcuru stated the lease was presented at P&D. That question did come up, and he contacted the leaser to bring a copy to that meeting. They know where the money is going. Who controls the account is important.

Ms. Garcia stated the Council must approve any expenditure from this account or any account under the Community Development Department. You have to appropriate the money to be spent for a purpose. The money goes to the account that is being set up.

Councilor Hardy stated that she approved the concept. She was involved in the Charette that helped develop and get this Port Maintenance Account going and emphasized the money coming into here will be spent directly back into the Gloucester DPA area. That is the intent on her approval of this.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the creation of a Port Maintenance and Improvement Fund in accordance with the 2009 Harbor Plan and Designated Port Area Master Plan with proper language to follow by Chief Financial Officer for final submission to the City Council for approval.

6. *Memo from Com. Dev. Director re: acceptance of grant in the amount of \$50,130.00 from Clean Energy Center*

Ms. Garcia asked the Committee to accept these funds to move forward with a feasibility study for the possible installation of up to a 2MW wind turbine on City-owned land at the Blackburn Industrial Park, by the water tower, about 500 feet behind it. The consultant felt it appeared to be the best siting for a wind turbine, “with superb wind resources, large and busy buffer of the industrial park of 2,000 feet and a robust electric distribution system to interconnect to 22.8 KV; it appears to be one of the best sites in the Commonwealth. The site is on high ground near a City water tower consisting of wooded ground and granite outcroppings. The location will not interfere with any water views...a tentative 1.5 MW wind turbine is expected to produce 3,800,000 KW per year.” The feasibility study will be completed in about four months from kick off leveraging nearby meteorological data, using the Varian wind data with a project cost of \$50,130.00. So in four months they’ll have not only a study of wind resources but also various financing options and payback periods under a planned City ownership structure.

Councilor Curcuru asked what it would actually be used for if they installed a wind turbine on the site.

Ms. Garcia responded the water tower has a small load, about 1% of what this turbine could produce so they would use that for it. On site further away is the Babson Water Treatment Plant which would use more. Ideally you would net meter it, and credit it to the City. The danger is the State is reaching its overall net metering cap which is in the law, and so there is a concern.

Councilor McGeary commented if Cape Wind came on line it would use the fund up to the cap.

Ms. Garcia hoped they’d be on line before them (Cape Wind).

Councilor Curcuru asked what would be considered a good revenue stream.

Ms. Garcia stated this is what the feasibility study will show. The expectation is that Gloucester would get another \$400,000.00 grant to follow from the State for the turbine, from the Clean Energy Center. It would be a 6-8 year payback. They wouldn’t see a revenue stream for 6-8 years. They’ll get those exact numbers when the feasibility study is done.

Councilor Hardy asked how tall this turbine would be.

Ms. Garcia stated that would be approximately up to 500 feet. This would conform to the local ordinance.

Councilor Hardy believed Varian’s was about 480 feet. This won’t block any views. She felt it was the way to go.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the acceptance of a grant of \$50,130.00 from the Clean Energy Center for the purpose of a feasibility study for the installation of up to a 2MW wind turbine on City-owned land at the Blackburn Industrial Park.

7. Memo from Principal Assessor in response to Council President’s request re: recent SJC appeal decision – Bell Atlantic Mobile Massachusetts Corporation (referred out from 06/22/2010 City Council Meeting)

Nancy Papows, Principal Assessor noted this information was supplied on an inquiry of Councilor Hardy. This litigation goes back to 2004. There were 50 communities that filed against the Commissioner of Revenue, appealing the valuations he sets. They set valuations for 505, a code for a telephone. The City has to assess the values that they give them. It was felt that the communities should not have this corporate utility exception which made them exempt from certain types of machinery which poles and overhead wires over public ways is part of that whole matter. Gloucester didn’t appeal the Commissioner’s values. They spoke with Suzanne Egan at the time; and based on the number of accounts they had and the value that they are talking about, and what still an ongoing litigation not nearing the end, they decided it wasn’t in their best interest to appeal their values. Subsequently, the Appellate Tax Board (ATB) dismissed these appeals on these 50 communities because they said they didn’t have the jurisdiction to act on them. In the meantime they ruled they weren’t telephone companies. Even though they had been valuing them all along as telephones, they weren’t telephones so they felt they couldn’t

then answer to the appeals the cities and towns made. Of the 50 communities, four have appealed the decision for the ATB to dismiss these. The Supreme Judicial Court (SJC) now says they have to hear these cases. It's on the whole valuation not just one piece. The four communities, Newton, Boston, Cambridge and Springfield, still have to try this case and prove that the value the Commissioner put in place was not correct. Eventually what they'll see is a decision by the ATB to either have those communities abate because it was overvalued or recommit and access additional taxes. That won't be known until the Appellate Tax Board finishes the matter. In FY09 they ruled they can assess poles and wires over public ways, which the City has been doing, '09, '10 and '11. 2009 is still in jeopardy because they made some type of amendment that made it more solid for them to do so without chance of the companies appealing. So 2009 is still up in the air even though they assessed them for it. They've kept that amount of money, just from the poles and wires over public ways, in the overlay account in the event they say you couldn't tax them, which still may come to pass for FY09. It was about \$65,000.00 for FY09. We would lose all of it if they determine we couldn't tax them for that piece of machinery in FY09. Their total assessment for that year was over and above that. But the portion that just pertained to poles and wires was roughly \$65,000.00 in taxes. That money has been kept aside in the overlay account in the event that they say you really couldn't tax them in '09. FY10 forward the ruling has been you're safe. They are continuing to tax for poles and wires over public ways. For Boston and Cambridge, in the years that the exemption was not allowed its millions of dollars to them in taxes so it is different for them; it's possible they may be able to go back and reassess some years. Anyone that didn't file an appeal will not have the ability to reassess or abate.

Councilor Hardy stated we don't have an overlay for FY10 or FY11.

Ms. Papows responded there's still money in the overlay account. She always keeps monies for any outstanding Appellate Tax Board cases. It's not just Bell Atlantic. There's a whole host of them. They've settled some things with Verizon, which is based on a whole set of different components, for three years for not a lot of money.

Councilor Hardy asked how Ms. Papows knew when new poles, conduits, linear feet, come in.

Ms. Papows responded that the DOR still assesses the 505, which is the telephone. What they assess is the wireless. Verizon is a telephone company, and the DOR still assesses them. They have to report to the DOR a formal list of what they have and the DOR in turn tells them what the growth is for each year, if there is growth. It could be growth of poles or wires, or a different type of machinery or conduit, pipes.

Councilor Hardy asked if she knew about the number of double poles in the City; the City doesn't charge or assess each pole.

Ms. Papows stated they get a lump sum figure from the DOR, not broken down. They've not been able to get that information from the DOR to break it down. Everything rides on the decision of this one major case, noting it's not large dollars for the City.

Councilor Hardy asked when this all settles out what will happen to the money set aside.

Ms. Papows noted some may be to settle because there are other valuation methodology questions that have come up. The \$65,000.00 was strictly for poles and wires in FY09. If they rule that they are liable to pay those taxes, that money could be put to overlay surplus and appropriated. They're on top of it, but it's very confusing. She's spoken with the consultant and with the City's attorney. New Cingular became AT&T. Names change so often it is hard to keep track. There are poles and wires for cable TV also.

Councilor McGeary asked if Ms. Papows was using the term in her memo "new growth tax dollars".

Ms. Papows responded it was the first time they were taxable and that was the lump sum that they got and went into the levy limit for future years.

Councilor Hardy asked when the matter is settled if she would please report back to the Committee.

8. List of grants currently under management in the Community Development Department from Com. Dev. Director (referred out from 06/22/2010 City Council Meeting) (on file)

There was a brief discussion with Ms. Garcia concerning the grants under the auspices of her department.

Councilor Hardy asked if the I-4, C-2 grant needed further management.

Ms. Garcia stated the money has come in, and it was put against the purchase of the property. **Councilor Hardy** asked if there were any grants to help the elderly to put smoke detectors in their homes. **Ms. Garcia** was unsure. It doesn't qualify under housing rehabilitation. She suggested going through the Senior Center, and also perhaps reaching out to the Fire Department.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:02 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees