

Budget & Finance Committee
Thursday, April 7, 2016 – 5:30 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

Present: Chair, Councilor R. Scott Memhard; Councilor Joseph Ciolino; Councilor Paul Lundberg (Alternate)

Absent: Councilor Orlando

Also Present: Councilor Gilman (entered at 5:35); Councilor Cox (entered at 6:04 p.m.); Kenny Costa; Jim Destino; John Dunn; Mark Cole; Stacie Nicaastro; William Dugan; Catherine Schlichte

The meeting convened at 5:33 p.m. Matters were taken out of order. Upon the arrival of Councilor Cox there was a quorum of the City Council until 6:10 p.m. when Councilor Cox left the meeting.

1. Memorandum from City Auditor re: City's FY2015 Basic Financial Statements (TBC 04/21/16)

This matter is continued to April 21, 2016.

2. Memorandum & Supplemental Appropriation-Budgetary Transfer 2016-SA-23 from DPW Director

Mark Cole, Assistant Public Works Director, explained that his department is requesting \$120,000 of capital funds from the city's Building Maintenance Stabilization Fund be transferred in order for the city to replace an approximately 5,100 square foot section of roof on the police station/District Courthouse building. He said that the entire roof of this facility is well past its useful life expectancy and is in need of replacement. He pointed out that the roof of the Police Station has been on a capital plan since 2012/2013. Leaks are going directly into the courthouse, and into one of the court officer's office, he noted, and that ceiling tiles are also falling on office furniture. This reroofing will solve the water leaking into the courthouse, he added. The rest of the roof can be addressed at a later time, since it remains sound, he said. **Mr. Cole** advised water is still leaking into the police station, but it wasn't leaking into the courthouse offices before. The project is ready to be bid but the DPW is waiting to see if the transfer goes forward. Work is anticipated to begin in late June or July, he advised.

Councilor Ciolino asked if rent was collected from the District Court and if they pay for any repairs of their offices. **Mr. Cole** said up to \$10,000 in necessary repairs can be reimbursed per year. **Jim Destino**, CAO, added that he had asked that the District Attorney's office for assistance in this matter but had not heard back. He said taking the money from the Building Maintenance Stabilization Fund for this purpose is a good use of the set aside funds. **Councilor Memhard** asked how this roof repair fits in to the city's capital improvements plan for city facilities. **Mr. Destino** advised there is a capital plan for the rest of the building's roof and the interior. **Councilor Memhard** asked how this roof repair fits in to the city's capital improvements plan for city facilities. He said it will be about a year and a half before the rest of the roof of the police station is done. He noted that there are concepts of what they can do with the city's facilities, but the plan at this time is for the Police Department to stay at the Main Street building and renovate it rather than build a new facility in the nearby. **Kenny Costa**, City Auditor, advised that the funds the Committee recommends for transfer will stay in a sub-stabilization fund so that the money doesn't fall to the bottom line at the end of the fiscal year should the actual reroofing take place after the FY16 books are closed.

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2016-SA-23 in the amount of \$120,000 from Account #860000.10.995.59600.0000.00.000.00.059 Building Maintenance Stabilization Fund to Account #860002.10.472.58425.0000.00.000.00.058 Capital Projects Stabilization – Gloucester Police Department/District Courthouse Building Improvements for the purpose of the replacement of approximately 5,100 square feet of roof for the Gloucester Police Department/District Courthouse building.

3. Memorandum, Grant Application & Checklist from Police Chief re: FY16 Dept. Public Health, Bureau of Substance Abuse Services, Legislative Earmarks Program, with a maximum obligation of \$100,000

Stacie Nicaastro, Financial Coordinator for the Police Department explained the following:

The Police Department has been awarded a FY16 Substance Abuse Legislative Earmarks through the Mass. Dept. of Public Health with a maximum obligation of \$100,000 to be accepted by the city for the purpose of funding the Gloucester Angel Program Initiative. This grant award funding period is from Feb. 8 to June 30, 2016. Out of this \$100,000, \$25,000 will be allocated to the city of Arlington and \$25,000 will be allocated to the city of Worcester through the city of Gloucester so they can initiate their own Angel Program.

Mr. Destino added that as part of the earmark deal, two other communities participate and the city acts as the fiscal agent which **Mr. Costa** confirmed as did **Ms. Nicastro** who explained the process by which the funding is distributed through reimbursement. The \$50,000 for the city, will be for clinicians, case managers, Narcan, ambulance rides, etc., **Ms. Nicastro** said.

Councilor Gilman if the city has any liability if something adverse happens in Arlington's or Worcester's newly established Angel Programs, and is the city protected from such events under this grant. **Mr. Destino** assured that it is just the way the grant is written and the city's only obligation is fiduciary. The liability lies with each participating community. The precedent has been set with the Health Department for such regionalized grants, **Mr. Costa** advised.

Councilor Ciolino said it was good work on the part of the Gloucester Police Department in obtaining the earmark grant.

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council under MGL c. 44, §53A accept a state grant from the Massachusetts Department of Public Health, Bureau of Substance Abuse Services grant award of \$100,000. The state grant authorization period is from February 8, 2016 ending June 30, 2016. The purpose of this grant funding is to support of the Gloucester Angel Program Initiative.

4. *Special Budgetary Transfer 2016-SBT-12 from Legal Department*

Mr. Destino said that this small transfer is for the purpose of funding a deficit in the salary/wage part time account to cover the salary of the Assistant General Counsel due to a miscalculation. He said there are excess funds in the settlement account which covers that deficit.

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2016-SBT-12 in the amount of \$2,700 from Account #101000.10.151.57620.0000.00.000.00.057, City Legal Department, Settlement-Out of Court, to Account #101000.10.151.51250.0000.00.000.00.051 City Legal Department, Salary/Wage-Part Time Position, for the purpose of alleviating a funding deficit in the Legal Department's Salary/Wage Part Time account.

5. *Memorandum from Community Development Director for approval of a Community Preservation Committee Off-cycle recommendation for the purchase of property on Atlantic Road for its preservation in the amount of \$50,000*

William Dugan, Co-Chair of the Community Preservation Committee (CPC) advised that at a special meeting of the CPC was convened due to extraordinary circumstances on March 23, reconvening on March 24, which saw the Committee able to forward their positive recommendation with a condition for the appropriation of \$50,000 in Community Preservation Act (CPA) funds in an off-cycle funding for the purpose of supporting the Save Our Shores Gloucester (SOSG) acquisition and preservation project to preserve and acquire the four (4) parcels of land on the ocean side of Atlantic Road #166-#178. This application was quickly and thoroughly considered by the CPC due to the goal of the completion project deadline of April 19. He noted that the CPC minutes show their unanimous vote in favor of the application and that it includes a condition that the lawsuit of by the owner Atlantic Road #166-#179, Cheryl D. Soones against the City of Gloucester be dropped in order for the funding to be released.

Martin DelVecchio, 11 Tragabigzanda Road, applicant on behalf of SOSG through to the Land Conservation and Advocacy Trust (LCAT), a 501 (c)(3) organization whom SOGS partnered with, confirmed the closing date for the purchase of the four parcels on Atlantic Road is April 19. He said LCAT is giving SOSG advice as well as will be the interim owners of the land through a Limited Liability Company (LLC) that they have created under their stewardship. He assured that the parcels will not be held privately once purchased but will be owned by the LLC

until it is determined what the “final destination” for the property is. **Councilor Memhard** said that in the interim that Mr. DelVecchio is the named fiscal agent for SOSG based on the Purchase & Sale Agreement (P&S). **Mr. DelVecchio** explained that he signed the P&S for the four parcels as an individual but that the P&S contains a proviso that the land will be owned by him or a designee, and he indicated that his designee is the LLC created by the Advocacy Trust. **Mr. Dugan** clarified that the application for the off-cycle request came from LCAT.

Catherine Schlichte, Co-Chair of the CPC, added that a second requirement for use of the CPA funds that this land be conditioned with a permanent conservation easement so that it can never be developed. She added that her understanding was from the Community Preservation Coalition, the CPC’s technical advisory group, that the entity that owns the land can’t be the same entity that owns the easement. The city will hold the conservation restriction, she said, and LCAT or its nominee which currently is the LLC that LCAT is or has formed to hold the property, she said.

Councilor Ciolino confirmed with **Ms. Schlichte** that after the purchase of the property by SOSG through LCAT, the public will have unlimited access to the property which is a requirement of the funding. **Mr. DelVecchio** said that the public access aspect is the primary goal of SOSG and to protect the land from development. He said he understood it is a requirement of the Open Space CPA funding that public access is guaranteed. **Ms. Schlichte** added that any CPA funding for land acquisition must have a permanent easement preserving the parcels as open space and allows public access. Responding to a statement made by **Councilor Ciolino**, **Ms. Schlichte** said the agreement to be signed should the CPA funds be awarded will have these conditions clearly stated -- that no money is to be released until the easement is prepared and approved by the Massachusetts Secretary of the Department of Environmental Affairs. Once the easement is reviewed and approved, and placed on the land the funds can be released, she said.

Councilor Lundberg read from the cover sheet of the CPC application Project Summary (on file) quoting for the Committee that, “...The land will be owned by LCAT, through a LLC, Gloucester Holdings II. LCAT is a fiscal sponsor for SOSG. Through LCAT, SOSG will make the land available to the public in perpetuity, by placing a conservation easement on the land or by donating the land to a trust, which would preserve it for all time...” If the application is accepted, he said he thought that the documentation goes with the grant. **Ms. Schlichte** added that the CPA documentation says that the grantee has to comply with all state regulations and suggested it may be prudent to spell it out more clearly. **Mr. Costa** in a brief discussion with **Councilor Ciolino**, said the city will have an executed contract/grant agreement with LCAT that will be in place before any purchase order is opened which will include that language. The action here is to appropriate the funds and the contract will hold all the conditions as stated here at the meeting, he said, and the Committee doesn’t have to put in extraordinary language for conditioning the release of the funds.

Mr. DelVecchio, at the request of **Councilor Memhard**, reviewed SOSG’s fundraising efforts by saying that four parcels’ purchase price is \$75,000, but the actual project budget is \$100,000 in total to cover legal fees, contingencies, closing costs, liability insurance and taxes which **Mr. DelVecchio** indicated were minimal. He said that the conservation restriction or easement guarantees the protection of the parcels and assures that the land is never developed. SOSG/LCAT don’t know yet what entity will end up owning the land but he said that will have been decided and implemented by the end of the calendar year. **Ms. Schlichte** said it was a condition of the grant funding by the CPC that preparation of the conservation restriction by the applicant has to be reviewed and approval by the Secretary of Energy and Environmental Affairs and General Counsel. **Mr. DelVecchio** said SOSG have \$84,946 raised through the GoFundMe website including pledges for the purchase of the four parcels and donations have been made to the Gloucester Fund off line. He assured they will close on the property. He said they have bridge loans set up to span any gaps in financing for the closing on a contingency basis.

Councilor Ciolino advised that the city’s General Counsel has suggested a condition that this off-cycle CPA funding be conditioned upon the lawsuit brought against the city, Cheryl D. Soones v. City of Gloucester et. al. is withdrawn by Ms. Soones or her designated representative. He said he believed that is a condition that should be placed by the Council on the funding. **Mr. DelVecchio** said they had no idea when negotiating the P&S that this lawsuit was under way which came through either the day of or the day after the P&S was signed. SOSG asked through their attorney/real estate agents why this lawsuit was brought when Ms. Soones was selling the property to SOSG. He said it was indicated to them that there is a 120 day look back after a zoning ordinance is adopted in which an appeal can be filed. He said they were told that several times that as soon as the property is sold to SOSG/LCAT, Ms. Soones will withdraw the lawsuit. If this grant is approved by the Council, it is contingent on the dropping of the lawsuit, he added. He said they asked more formally through their attorneys can they give them a signed document that the lawsuit will be dropped. He said he had instead an email from their attorney which he read, “I have received permission from Soones’ lawyer that you can represent to the City Council that the lawsuit will be dropped if the closing occurs.” He pointed out that although the lawsuit is still in place, SOSG/LCAT must

continue to move forward with the contingency in place that says nothing will happen (regarding CPA funds) until the lawsuit is withdrawn. **Councilor Lundberg** said that Mr. DelVecchio believes that by the closing date, regardless, the financing will be in place to make the purchase of the four parcels, which **Mr. DelVecchio** confirmed. When the lawsuit is dropped the city could then forward, should it be approved, the CPA funds of \$50,000, Councilor Lundberg said and expressed his agreement with **Councilor Ciolino** that to protect the city they would put into the Committee Recommendation to the City Council the language for a condition regarding the lawsuit withdrawal.

Mr. Destino said what the Councilors have just recommended is what he would recommend also. He said while he appreciated the fast-tracking of the off-cycle CPA application by the CPC, but that the Mayor's office hasn't vetted this matter with anyone to date. If they can purchase the land, they should own it. If they're not going to put an MOU or some agreement in place then the city should just wait until the lawsuit is resolved. He said when SOSG started their fund raising efforts there was no way of knowing they'd raise so much money. The excess money will go to preserving other pieces land. **Mr. Destino** then put forward a recommendation recommended his application after SOSG/LCAT close on the purchase of the four parcels and reconvene on the matter. **Councilor Memhard** in a brief conversation with **Mr. Destino** suggested the motion could say, "...up to \$50,000..."

Councilor Memhard said that the most important aspect of this matter is the hard work SOSG have accomplished and that the Council helps to support them to close on the property. The city came forward immediately for this project, **Mr. Destino** but added there are plenty of needs for this type of money. **Mr. DelVecchio** said everyone involved from the CPC, the Mayor's Office, and the City Council has gone to great lengths to help SOSG. He said the short timeframe for the closing was because of what the seller wanted and everyone has helped across the city which is greatly appreciated.

Councilor Ciolino said \$50,000 should be spent for this four parcel purchase and preservation, and highlighted that other land needs to be protected by being placed under a conservancy easement on the Back Shore, and this will and will help SOSG to finish what they started. Their two goals, he said, are to stop development not only on these four parcels under this grant application, but to do the same for the rest of the Atlantic Road water side undeveloped lots. **Mr. Costa** reminded the Committee that the \$50,000 for this off-cycle CPA funding can only be used for these four parcels purchase. If SOSG wanted further funding for other parcels to be purchased, they would have to make a separate CPA grant application, he pointed out.

Councilor Ciolino reminded Mr. DelVecchio that signage must be posted that the properties were purchased with a contribution of the city through CPA funds.

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council appropriate \$50,000 (Fifty Thousand Dollars) from the Community Preservation Act Funds as recommended by the Community Preservation Committee, for the purpose of the Save Our Shores Gloucester (SOSG) and Land Conservation and Advocacy Trust (LCAT) purchase and preservation of four (4) parcels of land located at 166-178 Atlantic Road, Gloucester, Massachusetts as Open Space. The appropriation will be allocated to the Open Space category and funded from the Open Space Reserves in Fund 270100. This project will be tracked in the Community Preservation Fund – Open Space Projects Fund #271007. This CPA funding is conditioned upon the lawsuit brought against the city, Cheryl D. Soones v. City of Gloucester et. al. is withdrawn by Ms. Soones or her designated representative.

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

Mr. Costa briefly discussed his reports on accounts having expenditures which exceed their authorization and the Auditor's Report with the Committee.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:12 p.m.

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

DOCUMENTS/ITEMS SUBMITTED AT MEETING: *Memo from City Auditor regarding accounts having expenditures which exceed their authorization & Auditor's Report dated 7-Apr-16*