

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

Present: Chair, Councilor R. Scott Memhard; Councilor Joseph Ciolino; Councilor Joseph Orlando

Absent: None.

Also Present: Kenny Costa; John Dunn; Assistant Chief Tom Aiello; Mike Hale; Karin Carroll

The meeting convened at 5:30 p.m.

1. Memorandum from General Counsel re: request permission to pay FY16 invoices w/FY17 funds

Kenny Costa, City Auditor, reviewed that two invoices were received after the close of FY2016 for legal services rendered by outside law contractors through the Legal Department. One invoice was from Hill Law which related to 40B casework for a total invoice of \$560, of that \$300 was carried over but Legal is short \$260 because the department just didn't have the funds. The second invoice is for the services of Thomas Mullen P.C. who provide advice related to land issues and litigation, with a total invoice amount of \$11,238 with \$2,370 was previously paid, so that \$8,868 is remaining to be paid. Both these invoices were received after the close of FY16 and the Legal Department weren't sure as to how much each invoice would entail by the close of FY16. For these reasons, it is why the Legal Department is asking to pay the remainder of these two invoices from the prior fiscal year with current fiscal year funds, he pointed out.

Councilor Orlando noted that he had a fruitful conversation with Chip Payson, General Counsel, during the recent FY17 budget season about how much money the city was spending on outside counsel, and was advised that because there was now an Assistant General Counsel on staff who wasn't in place for most of FY16 it will be easier to keep more casework in house. He indicated that while the city needs to pay these invoices, and that keeping more casework kept in house will be helpful moving forward. **Councilor Ciolino** inquired whether developers have helped to pay for any of the outside legal assistance to the city. **Mr. Costa** noted to his knowledge the first invoice reflected a legal review the 40B project decision. There was a brief discussion pursuant to the funds expended by the city on the recent permitting of a 40B project. **Councilor Orlando** reminded the Committee that the city's use of outside legal counsel was to ensure that the city's legal rights were protected.

Councilor Memhard inquired about the invoice from Thomas Mullen P.C. for land use casework. **Councilor Orlando** explained that last year was General Counsel's first full year of employment with the city, but that with full staff and General Counsel's added municipal experience, more casework is being kept in house. CFO, **John Dunn**, added that there are some specialty legal issues that make more sense seeking outside counsel as land use issues are very technical, as are some labor contract negotiations, in particular public safety. He advised while General Counsel keeps as much casework in house as he can but has to go outside for specialty issues. He noted there will be issues that will require specialty counsel from time to time. **Councilor Orlando** voiced his agreement that in those cases outside counsel makes sense and advised he can already see an improvement and a demonstrable difference this year.

Councilor Ciolino noted when a third-party review is requested by the Conservation Commission the applicant pays for it, and asked why this wasn't done in the case of the 40B project legal advice. **Mr. Dunn** explained that a peer review is costed back to the property owner via a deposit, and once the review is completed whatever funds remain are returned to the applicant. The casework for the 40B project was different in that it was associated with court proceedings. **Councilor Memhard** reminded the Committee that when ConCom was dealing with the Soones Court development, the proponent was responsible for paying for the third-party review rather than the city. If someone brings suit against the city whether it be in Land Court or Superior Court, there is no mechanism for the applicant to pay the costs of the city representing itself, **Councilor Orlando** advised, and that this issue has been addressed to his satisfaction with Mr. Payson.

COMMITTEE RECOMMENDATION: On a motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council in accordance with MGL c. 44, §64 approve payment of a prior year invoice for legal services rendered by Hill Law, Cambridge, Mass., in FY2016, Invoice #2939 dated 7/09/2016 to be paid with FY2017 funds from the current FY2017 General Fund, Law Department Account #0115152-530010 for \$260.00 from an invoice total of \$560.00.

COMMITTEE RECOMMENDATION: On a motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council in accordance with MGL c. 44, §64 approve payment of a prior year invoice for legal services rendered in FY2016 by Thomas A. Mullen, P.C., Lynnfield, Mass., Invoice #14290 dated July 3, 2016 to be paid with FY2017 funds from the current FY2017 General Fund, Law Department Account #0115152-530010 for \$8,868.00 from an invoice total of \$11,238.95.

2. Memorandum from Interim Director of Health Dept. re: acceptance of Tower Foundation Grant for \$125,000 to support Health Gloucester Collaborative's program initiatives

Karin Carroll, the city's newly hired Health Director, conveyed the following: that the city's Healthy Gloucester Collaborative (GGC) received an unsolicited grant from the Peter and Elizabeth C. Tower Foundation in recognition and continuation of the HGC's efforts in substance abuse prevention, education and outreach initiatives with a one-year grant award of \$125,000. The purpose of the grant is to provide funds for the personnel, supplies and activities costs associated with the HGC. There are no matching city funds or in-kind services that are required as part of this grant award. There is a small report due at the end of the grant year summarizing how the funds were spent in support of the HGC programs, she noted.

Councilor Ciolino asked about salaries paid through the Tower grant. **Mr. Costa** said generally health insurance and pension costs are budgeted for grants, and that at some point of concern are unemployment payments which the city may have to pick up. The grant is budgeted to pick up salary and benefits, and there is no match he confirmed. **Ms. Carroll** added that all grant funded positions have a contractual caveat that says that employment is contingent on grant funding.

COMMITTEE RECOMMENDATION: On a motion by Councilor Orlando, second 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 private grant of \$125,000 from The Peter and Elizabeth C. Tower Foundation for the purpose of exclusively supporting the City of Gloucester, Mass., Healthy Gloucester Collaborative associated personnel, materials and activities. The grant period of the grant is from October 1, 2016 through September 30, 2017.

3. Memorandum from HR Director re: request permission to pay FY16 invoices w/FY17 funds

Donna Leete, Personnel Director, informed the Committee that invoices from city staff for travel reimbursements associated with educational courses were not received before the close of FY16 and now need to be paid with FY17 funds.

COMMITTEE RECOMMENDATION: On a motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council in accordance with MGL c. 44, §64 approve payment of a prior year invoices for city of Gloucester employees' reimbursements in FY2016, to be paid with FY2017 funds from the current FY2017 General Fund, Human Resources Department Account #0115251-519001 for a total of \$99.34 as follows:

<u>Employee</u>	<u>Date</u>	<u>Purpose</u>	<u>Cost</u>
Bill Sanborn	6/22/2016	Travel Expense to Court	\$41.00
	6/27/2016	Residential HVAC Class	\$20.00
Madonna Fleming	6/8/2016	Travel Expense to Clerks Mtg.	\$18.34
Greg Cefalo	6/27/2016	Residential HVAC Class	\$20.00
		TOTAL:	\$99.34

4. Correspondence from Grant Writer of Gloucester Community Emergency Response Team (CERT) re: acceptance of \$3,500 grant from MEMA

Assistant Fire Chief Tom Aiello informed the Committee that the Gloucester Citizen Emergency Response Team (CERT) was in receipt of a \$3,500 federal grant passed through the Massachusetts Emergency Management Agency (MEMA). This grant has been received for several years now to assist CERT with its annual expenses

associated with recruitment, training, and exercises in emergency management, support of the Emergency Operations Center housed at the O'Maley School and printing services. **Mr. Costa** confirmed that this grant has been received by the city for the past six years and that there is no match.

Councilor Ciolino inquired about CERT's recent activities which **Assistant Chief Aiello** reviewed briefly noting that a recent sheltering drill saw 50 people participating.

COMMITTEE RECOMMENDATION: On a motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, § 53A a FFY2015 U.S. Department of Homeland Security State Homeland Security Program (SHSP) Citizens Corp Program (CERT) Grant through the Federal Emergency Management Agency (FEMA) and passed through the Massachusetts Emergency Management Agency (MEMA) in the amount of \$3,500 for the purpose of recruiting, training, exercising and printing needs for the Citizen Emergency Response Team (CERT) volunteers. The grant period of the grant is from August 15, 2016 through April 30, 2017.

5. Supplemental Appropriation Budgetary Transfer Requests 2017-SA-1 and -2 from the DPW

Mike Hale, Public Works Director, explained that he is looking to fund a new excavator to be primarily be used by the Water Department. He showed the Committee a brochure of a Takeuchi TB260 excavator (placed on file), which is considered to be a small excavator which is replacing an excavator purchased in 2003 John Deere backhoe which is problematic and well past its useful life and was a workhorse for the department for years. The funds come out of the Water Enterprise Construction Renewal Fund (2017-SA-1 for \$50,000), he noted, and second funding sources is the Highway Force Account (2017-SA-2 for \$17,365) to complete the funding of the excavator.

He highlighted that his department is trying to do more work in house, in light of a large capital list to be managed. He gave the example of a project on Western Avenue replacing 3,000 feet of water main which would be several hundred thousand dollars were he to bid it out, but in house it will cost about \$80,000 for pieces, parts and department labor. He advised that the excavator was tested out at the dealer in Chelmsford, and explained that Takeuchi is a Korean brand machine comparable to Caterpillar, Komatsu, and John Deere. He noted that the Takeuchi excavator appears better built than some excavators the department has had in the past and prefer it over the John Deere machine they currently have. The dealer is a state contractor, and so the original price being \$80,000 was reduced to \$67,365. He indicated the excavator will be run continuously for the next 10-15 years. The machine is small enough that it can be pulled by a three quarter ton truck, and features rubber tracks so it won't tear up pavement and is a very versatile tool. This is a piece of equipment the department has needed for some time and is money well spent.

Councilor Ciolino asked if parts for the new excavator will be readily available, not just now but in future years. **Mr. Hale** conveyed Takeuchi was one of the older producers of excavators around, and made parts and pieces for many of the well-known companies -- Hitachi, Komatsu, and was the founder of those companies. Many public utilities use these excavators from this company, he advised.

Councilor Ciolino said that the DPW staff is doing a good job for the city highlighting the work done this summer to secure many manhole covers especially in the East Gloucester corridor and asked Mr. Hale to convey his thanks for their hard work especially during this summer's heat and traffic. **Mr. Hale** noted manhole covers and frames have been replaced extensively in the East Gloucester corridor and explained the process with a newer product to shore up the below road structures and how it is cost effective for the city.

COMMITTEE RECOMMENDATION: On a motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2017-SA-1 in the amount of \$50,000 from Account #6000-328000 Water Enterprise, Special Purpose Fund Balance Reserve, to Water Enterprise, Equipment Account #600058-585000, for the purpose of funding the purchase of a new excavator to be used by the Water Department.

COMMITTEE RECOMMENDATION: On a motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2017-SA-2 in the amount of \$17,365 from Account #32085-596001 Highway Force Account, Transfers to the General Fund to DPW Public Services, Equipment Account #0147058-585000, for the purpose of funding the purchase of a new excavator to be used by the DPW Public Services Departments.

6. CC2016-039 (Cox/Nolan) Amend Beach & Stage Fort Park Regulations, Article III “Miscellaneous” by adding “No smoking will be permitted on city beaches at any time” and to determine whether a fine shall be imposed

The Committee reviewed Councilors Cox and Nolan’s request to amend the Beach and Stage Fort Park Regulations for a possible smoking ban on all city beaches and whether a fine should be imposed if they recommend such a ban. There was agreement by the Committee that the concept was laudable, and that cigarette butts constitute a great deal of the litter on city beaches. It was acknowledged that there are smoking bans on beaches mostly on the South Shore/Cape Cod towns, but that the smoking ban on National Seashore beaches on Cape Cod have park rangers to ticket violators as those beaches fall under the oversight of the U.S. Department of the Interior, and that the Gloucester has no such structure to enforce a ban of that nature.

Mr. Hale conveyed he understood the principal to limit litter (memo dated September 1, 2016 on file), but that beachgoers would be looking to his lifeguards to either report violations or enforce the smoking ban and that he couldn’t have such a situation distracting his lifeguards from their primary duty overseeing and protect the swimming public. He added that that a smoking ban would give a beachgoer the right to complain but that there would be no one at the beach for them to take their complaint to and that would create conflict. He pointed out his department have discussed “park rangers,” but indicated the department can’t get enough police details in the summer for that let alone road details, as there are only so many off-duty police officers and only so many auxiliary officers to go around.

The Committee’s determination was that it was premature at this time to carry forward a smoking ban on all city beaches without more research and more thought as to who would be the enforcing officers -- a ban without enforcement is simply symbolic and becomes a further distraction to the lifeguards. It was also noted that if the Beach and Stage Fort Park Regulations were amended for such a ban, that in order for there to be a penalty for civil violation that the Code of Ordinances would need amending to be reflective of that penalty, its cost per violation and who would be the enforcement officer. As a result the Committee was unable at this time to support the Council Order and voted as follows:

COMMITTEE RECOMMENDATION: On motion of Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 0 in favor, 3 opposed, to recommend that the City Council approve the proposed change to the Beach and Stage Fort Park Regulations pursuant to Section 7-16 of the City Charter, under Article III “Miscellaneous Restrictions, to ADD: “P. No smoking will be permitted on city beaches at any time. [Penalty for violation of the smoking ban on city beaches shall be \$____.]

7. Memo from City Auditor regarding accounts having expenditures which exceed their authorization & Auditor’s Report

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

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:27 p.m.

Respectfully submitted,
Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Quote and brochure from Chadwick-BaRoss, 15 Katrina Road, Chelmsford and specifications on a Takeuchi TB260 Excavator**