

CITY COUNCIL AND
CITY COUNCIL STANDING COMMITTEE

Ordinances & Administration

Monday, February 8, 2010– 6:00 PM

Council Conference Room-1st Fl., City Hall

Present: Chair, Sefatia Theken; Vice Chair, Ann Mulcahey, Councilor Bruce Tobey

Absent: None

Also Present: Mayor Kirk; Councilor Jacqueline Hardy; Councilor Curcuru; Councilor Greg Verga; Councilor Joseph Ciolino; Councilor Whynott; Suzanne Egan; Linda T. Lowe; David Bain; Bill Sanborn; Nancy Papows; Jeff Towne; Mike Hale; Donna Compton; John McElhenny; Ed Parks

The meeting was called to order at 6:00 p.m. Items were taken out of order.

1. Unfinished Business

A) Orders: CC2009-046 (Grow) Amend Sec. 17 of GCO re: Civil Service Ballot

Measure & Procedure for Selection of Chief of Police (Continued from 01/25/10)

Ms. Lowe spoke of the previously submitted documentation (on file) on other communities she submitted with ordinances regarding that do not use the Civil Service to appoint Police Chiefs. She submitted another memo (on file) with more communities who all go about it in different ways with Somerville as the most complicated procedurally. The commonality is appointing a Chief for a term of 3-5 years. Some communities suggest that if the term is five years then there are no more terms after that. Selection panels are used in the process. Qualifications are by educational degrees as well as experience.

Councilor Theken summarized by saying we need to look at these examples, and find the best options within the scope of these examples to best fit our City's needs. She asked General Counsel and the Personnel Director for their opinions.

Ms. Egan hadn't received any copies and was unaware of the content of tonight's submission.

Mr. Bain said he has spoken with Ms. Lowe but hasn't met yet with her.

Councilor Taken asked they meet as a group and review this documentation.

Councilor Tobey asked for a working draft to emerge from their meeting with options for the O&A to examine framework similarities and areas that can be worked on such as selection criteria models. Their opinions could then be used to make a working draft.

The Committee agreed with Councilor Tobey's suggestion, and by unanimous consent placed the matter on agenda for next meeting on 2/22/2010.

2. Appointments:

John McElhenny

Councilor Theken thanked him for volunteering.

Mr. McElhenny said he has two young children, lives near Burnham's Field, and believes the playgrounds are such an asset. Open spaces are important but also the playgrounds and young families and feels he would represent those interests to the Open Space Committee.

Councilor Mulcahey said she would enjoy working with him on this and suggested a partnership of getting folks involved and working with the DPW. Citizens want to get involved; they just need a way to do it.

Councilor Ciolino endorsed Mr. McElhenny.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances and Administration Committee voted 3 in favor, 0 opposed, to recommend to the City Council the appointment of John McElhenny to the Open Space Committee, TTE 02/14/2013.

Dean Murray – Continued to 2/22/10

Councilor Theken noted a Quorum of the City Council

3. Memo from Operations Manager-Public Properties re: Proposed Changes to Beach and Stage Fort Park Regulations

Mark Cole, DPW and Ed Parks came forward to review the proposed “Executive Summary of Major Changes to the Beach Regulations” with the Committee and Councilors present.

A lengthy discussion on the proposed changes and in particular on trusts ensued along with how they are handled. The Committee and the Councilors present did not favor the proposed parking sticker fee increases for residents and wished to receive more information such as financial data on projected profit and losses, further clarification on trusts from General Counsel with language, and revision of the Executive Summary to be presented at the next O&A meeting.

The matter is continued by unanimous consent to the February 22, 2010 meeting.

4. Memo from General Counsel: Amendment to GCO Section 2-577

Ms. Egan said this is a request from working with the Purchasing Officer to have the City Council delete Section 2-577 because this is a redundant and unnecessary provision in the Code of Ordinances. Chapter 30B exempts designer services, and is highly regulated in State law under procurement process and the State is deemed that it is not necessary to regulate this.

Ms. Compton stated this is a type of service that can be done by an RFP which are awarded to the most advantageous not necessarily by price. It takes close to three months for this process.

Ms. Egan pointed out that the difficult part about this provision in the Code of Ordinances is that this regulation is no where to be found unless you dig through the City Council minutes of July 2006. It is not in the Code of Ordinances book. It's just out there, and it is easy for it not to be enforced and/or difficult to be found. Everyone wants to know what the law is.

Councilor Mulcahey believed this was designed so that there was no appearance of collusion or of favoring bids. She doesn't think it should be eliminated and believes it should stay.

Ms. Compton said the City follows state law in everything her office does. The ordinance in place just adds three months to the process and is unnecessary. They spend 2-3 weeks developing an RFP. Then it has to go out for bids for 3-4 weeks. Then companies send in their proposals. The Committee will evaluate those proposals and pick that they think is the most advantageous to the City. After they make that choice, then they look at the prices. It's not like other bids that are based on the lowest bid. So it's adding three months to a process that the State has exempted.

Councilor Tobey expressed his understanding of their stance and referred to a previous situation as to why he is concerned at the elimination of this ordinance.

Ms. Compton said she appreciates his concern but that it is a whole different system in place now.

Ms. Egan offered that in the provision of Chapter 30B where designers are exempted, she said the reason professionals are exempt is that it's more subjective. It's when you design this proposal and what can you add to it, how are you going to work with these people, how are you going to negotiate everything. She likened it to the hiring of a lawyer. The State law has determined that in this type of contract you don't want to make it the same as somebody who is giving you a table.

Councilor Tobey asked how Ms. Compton would handle the issue of spotting a possible pattern of favoritism in the awarding of contracts.

Ms. Compton said if it happened they could address that. She had no qualms in telling a Department head about a repetitive pattern of awards that needed changing and report it appropriately.

Mr. Hale agreed there was a time when the City had more consultants than could be kept track of. But the DPW has to contract for a lot of design work now with the infrastructure issues. A relationship is built with some of these firms. The City has strong firms doing work for the City now. There are times where continuing the relationship is beneficial. Why would you want to start at ground zero if they have already built up the first phase or two for the City? He believes it's not favoritism – it's about getting the best firms for the job for the City.

Councilor Tobey agreed with Mr. Hale, but pointed out this goes back to 2004, 2005 and 2006 where there were small projects, unrelated to the large capital projects, going to the same firms. Would you be able to live with a requirement in place of the ordinance that bind the City Purchasing Agent shall provide the City Council in writing to show the compilation of designer selections for under \$25,000 every six months so that there is a public record. This ordinance was to keep the system honest.

Councilor Hardy wondered what prompted this to come forward now. This has been working supposedly since it was put through.

Ms. Compton said this came about due to exemptions. It used to be that designers and engineers were only exempt for a construction project. So if we were just hiring an engineer to do a study they weren't exempt. But if they were hired to do a study about digging up a road they were exempt. Now they've exempted all engineers and designers at the State level. We're trying to be consistent with Chapter 30B of Massachusetts General Laws.

Mr. Hale said they want to be consistent with State laws and believed the best way is to go with the way everyone looks at this process. The City is hamstrung by local rules. He understands Councilor Tobey's concern. He thinks Ms. Compton holds a strong line.

Councilor Hardy asked if the same people getting change orders.

Mr. Hale noted that there is a proscribed method for change order approvals in the City. They go through the correct channels. There were some irregularities in the past. A project can't open up without change orders. They have tight timelines. Water mains are a classic example.

Ms. Egan said this is very local enacted to address a specific problem. He agrees with Councilor Tobey that we have something in place to protect us. This ordinance is designed as to how contracts are procured. It doesn't give the City Council any oversight.

Councilor Theken said they could come to Budget and Finance every six months; and they would look over information on a report showing small contracts. If they found a problem they would discuss them with the Purchasing Office. She understands why this is in place. She would rather see the work get done

Councilor Mulcahey said she has a concern about not enough people keeping an eye on the ball, and making sure there are enough checks and balances.

Councilor Theken said they will take this section out but something else will need to be put in place so that the Budget and Finance Committee would receive a report every six months how many contracts are out and for how much for under \$25,000.

Ms. Egan said the current ordinance was for all designer contracts. Did the Councilors want to see a list of all designer contracts.

Councilor Hardy said they need new language.

Councilor Tobey said why not report the information in a normal referral process through the Council every six months. There need to be two sets of language and should come back at the next meeting, do one public hearing, then we delete and then we replace.

The matter was continued to 2/22/2010 by unanimous consent

5. City Council's Confirmation of Mayoral Appointments

James A. Duggan, Chief Administrative Officer

Mayor Kirk spoke to the Committee enumerating the difficulties faced by the City and how Mr. Duggan helped to assist all City departments in a time of transition with losses (27) to the work force, while maintaining support of the City Council business, constituent concerns and day-to-day Fire and Police support. She noted his detailed work on the public safety audits. It has been a tough year and she confidently puts forward Mr. Duggan.

Councilor Tobey pointed out a discrepancy with the job description – bullet #4 as it relates to the CAO serving as Acting Mayor in the Absence of the Mayor appears to be in conflict with Section 3-10(a) of the City Charter which designates the president of the City Council to be Acting Mayor; he asked when this was added and if it was added in error. The Committee asked this be revised as it is in contradiction to the City Charter as well as other items; and the new language be provided to the City Council before their next meeting.

Councilor Hardy asked that bullet #6 be discussed as it relates to day-to-day administration of the personnel ordinance and asked if this should be the duty of the Personnel Director; she also pointed out that in bullet #3 there should be a correction as to preparing programs, that the Charter indicates it should be policy programs and that the wording of ordinance “revisions” should perhaps be ordinance “recommendations” as it is the Council that makes the revisions; bullets #7 and #12 were also questioned as to the wording of “installs and maintains”.

Mayor Kirk indicated that the incorrect job description was submitted to the Council for review, and that the proper one will be ready at the City Council meeting prior to the vote.

Councilors Ciolino, Curcuru, Hardy, Mulcahey, Theken, Verga, and Whynott endorsed his reappointment.

Councilor Tobey stated he was unable to endorse Mr. Duggan's reappointment.

MOTION: On motion by Councilor Mulcahey seconded by Councilor Theken, the Ordinances and Administration Committee voted 2 in favor, 1 (Tobey) opposed to recommend to the City Council confirm the Mayor's reappointment of James A. Duggan, Chief Administrative Officer, TTE 02/14/2011.

Jeffrey C. Towne, Chief Financial Officer

Mayor Kirk said that the City recently received the highest compliment the DOR could give who used Gloucester as a reference for the City of Newburyport to learn from our good financial practices the City has implemented. She endorsed Mr. Towne's reappointment.

The Committee and Councilors present also endorsed and commended Mr. Towne and his department.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances and Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council the Mayor's reappointment of Jeffrey C. Towne, Chief Financial Officer, TTE 02/14/2011.

Suzanne Egan, General Counsel

Mayor Kirk stated Ms. Egan supports the Administration's vision of a hybrid legal office. She consistently demonstrates good judgment whether she is able to take a task on or not. She noted the teamwork that's been required with Department heads and managers to determine the best resolutions. No situations have come back to haunt the City during Ms. Egan's tenure. Her good advice is appreciated.

The Committee and Councilors present endorsed Ms. Egan.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances and Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council the Mayor's reappointment of Suzanne Egan, General Counsel, TTE 02/14/2011.

Sarah Garcia, Community Development Director

Mayor Kirk noted the growth and learning curve of Ms. Garcia who she felt had grown into her job. She pointed to the harbor plan as one of her great successes. She has been creative with funding with quality of life issues. The economic plan is being built with her assistance. She is bringing a lot of stakeholders together successfully.

The Committee and the Councilors present commended Ms. Garcia on her work and that of her department.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances and Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council the Mayor's reappointment of Sarah Garcia, Community Development Director, TTE 02/14/2011.

David J. Bain, Jr., Personnel Director

Mayor Kirk mentioned Mr. Bain's primary motivation is the protection of the City. He is supportive of the Department heads. Progressive discipline is being implemented. His door is open to everyone. He had a successful negotiation with the health insurance for the City and was instrumental in that negotiation.

The Committee and Councilors present endorsed Mr. Bain's work and that of his department.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances and Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council the Mayor's reappointment of David J. Bain, Jr., Personnel Director, TTE 02/14/2011.

Donna M. Compton, Purchasing Agent

Mayor Kirk said she has been managing effectively. She works hard and has stepped up and got her purchasing agent certification. She got a DCAM waiver through the State. She represents the City very well.

The Committee and the Councilors present commended Ms. Compton for her hard work and honesty.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances and Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council the Mayor's reappointment of Donna M. Compton, Purchasing Agent, TTE 02/14/2011.

William Sanborn, Inspector of Buildings

Mayor Kirk said Mr. Sanborn brings her not only problems but solutions to the problems and does a good job managing his team. It is a well-run department.

The Committee and Councilors present endorsed Mr. Sanborn's work and that of his department.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances and Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council the Mayor's reappointment of William Sanborn, Inspector of Buildings, TTE 02/14/2011.

Michael B. Hale, Director of Public Works

Mayor Kirk said Mr. Hale has a Planning degree and has a diverse engineering background with the respect of his staff. He is prioritizing the capital projects and none of them are small. He brings good information to the Mayor's office. He is the right man for the job. The City did an outside search first for this position; but no one compared to the job Mr. Hale could do and is doing.

The Committee and the Councilors present commended Mr. Hale for his work and that of his department, especially in light of the recent difficulties of the City's infrastructure issues.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances and Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council the Mayor's reappointment of Michael B. Hale, Director of Public Works, TTE 02/14/2012.

Nancy Papows, Principal Assessor

Mayor Kirk said Ms. Papows is an exemplary employee. She worked on the CPA project that was huge and there was not one single glitch. She is outstanding running her department.

The Committee and the Councilors present appreciated her management of her office and her staff considering the scope of duties.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances and Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council the Mayor's reappointment of Nancy Papows, Principal Assessor, TTE 02/14/2013.

Council President Hardy asked that all Department Heads please pass along the Council's appreciation to their staff and labor force because if it were not for the efforts and dedication of their staff, they may not be where they are today - with the economy the way it is, the least we can offer is encouragement and a thank you.

Councilor Whynott left the Committee meeting.

The following matters were continued by unanimous consent to the next Ordinances & Administration Committee meeting of February 22, 2010:

6. CC2010-003 (Mulcahey) Amend GCO Sec. 22-269 "Stop Intersections re: Flanagan

Square

7. CC0210-004 (Mulcahey) Amend GCO Sec. 22-270 "Parking Prohibited at all times" and

Sec. 22-292 “Fire Lanes” re: Commercial Street

8. **CC2010-005 (McGeary) Amend GCO Sec. 22-287 re: one handicapped space across from 12 Webster Street**

9. **CC2010-008 (Mulcahey) Amend GCO Sec. 22-287 re: one handicapped parking space across from 11 School Street**

10. **CC2010-007 (Tobey) Review of City Charter concerning proposed amendments or revisions**

Councilor Tobey said charter provides in Section 10.1.b that the City Council review the charter in years ending in a 0, and submit a report on recommendations to the City Council concerning any proposed amendments to the Charter. This is a minimalist review. We can't change the structures of governance or of office of the charter; but it is an opportunity to go through to identify items needing to be tweaked. Ms. Lowe, in her days as General Counsel sat through the 2000 review. He sat in on the 1980 review after the fact as it was still not wrapped up. This is very detail oriented stuff. He suggested that Ms. Lowe and Ms. Egan get together to give the Committee a scope of review; what the Council can and can't do; and hot topics as initial candidates to use as a starting point for the review.

Councilor Theken was on the 2000 review. She is concerned as to how to shepherd this process. To go through now paragraph by paragraph would not be productive. She wanted to speak to the scope first and then look at a workshop on the subject so there is a point of reference.

Councilor Verga said the Council review is limited and wanted to know about a procedure for a larger matter through a Charter Commission.

Councilor Ciolino said you can make small changes through the chair. Anything major has to go through a Charter Commission which is pursuant to State law and is a very complicated process.

This matter is continued to February 22, 2010 by unanimous consent.

11. CC2010-009 (Verga/Whynott) City Council to investigate the possibility and procedure to consolidate polling locations

Councilor Verga said this was discussed at a joint meeting with School Committee a little over a year ago to where the School Committee expressed they'd like to try to remove the polling places out of the schools. At that time, City Clerk Whynott suggested to going to a one polling place for the City. Councilor Verga believes it is worth looking at again. He noted that former Assistant City Clerk Jeremy Gillis, now Town Clerk for Easton, MA has moved from a six polling station system to a one polling place system and rather successfully. Convenience and efficiency is so important.

Councilor Theken suggested looking at City facilities to see what would be the most centrally located and least disruptive and most easily accessed such as the Field House perhaps and putting out to the ward councilors to have a meeting with their constituents and see what they have to say because each ward is different.

Councilor Mulcahey felt it would be difficult to move it out of her ward because of the large senior population.

Councilor Verga said Ms. Lowe has prepared some pros and cons of switching. He noted the order says reduce to one to three places. And while one polling place for the City may not be palatable, two or three may work better, or instance, Fuller, O'Maley and the High School. He said Ms. Lowe has prepared some information to help the Council better assess the situation before going forward to the wards to tell citizens about moving to this possible new system for polling places.

Ms. Lowe supports what Councilors Whynott and Verga trying to do. She knows the difficulties that can happen at the various polling places. Councilor Verga's suggestion to make this change is positive. Ms. Senos, Assistant City Clerk whom this Council all knows and respects supports this, as does Councilor Whynott in his experience as a former City Clerk. Jeremy Gillis, former Assistant City Clerk of Gloucester, now in Easton as their Town Clerk, invited the Council on April 27th when Easton has town elections so we can see what the positives of one polling place. She intends to give the figures of what Councilor Verga is speaking about in human resources and dollars. The earliest opportunity to institute this change in Gloucester would be a primary in September 2010.

Councilor Theken said she has no problem with this. It would be easier to reduce the number of polling places. We can continue to work on this and revisit this in a month's time. She will leave this up to the Ward Councilors as to how this plays out.

Councilor Hardy said she believes Ward 4 and 5 that will have the most difficulty getting folks to move their polling place, especially in the instance of those who live in the outlying areas of Lanesville towards the Rockport line. Maybe having one out in Ward 4 and one out in Ward 5 may be the answer along with the High School. If you can get to Fuller, you can get to O'Maley. If you can get there, then you can get to the high school. She'll know more after she talks to her constituents.

Ms. Lowe said she that she has been in informal conversations with Bob Ryan for a shuttle with CATA, a neutral entity, to polling places should the number of polling places contract to a smaller number.

Councilor Tobey said the Charter in 8.1 states when elections are to be held. Can we also look into changing Election Day for the City to a Saturday? This would be a change in the City Charter. And is there a State law that would trump that. It's not just about money but enfranchising folks. This may encourage more people to vote.

Councilor Ciolino suggested the Committee formulate several options putting it on as a referendum and let the voters decide where they want.

Councilor Theken said she thinks one polling place in Bay View, one polling place in Magnolia and one at the high school could be workable. She disagrees with waiting until the next election for a referendum. These issues need to be addressed now. There could be a public hearing. If there is a big diversity of opinion, then let them vote on it. Let's work on this and see what we want to do.

Councilor Verga felt waiting for the ballot is too long. The Council can get the word out. He has already emailed 100 of his constituency about this and will bring it up in a Ward meeting in March. We'll get the word out there. If it becomes a part of your Committee report at the next meeting it will be in the minutes which should help to get the media and citizens talking about the issue. He also suggested that perhaps Fuller would be the best centrally located option for one polling place.

Councilor Theken said she can acknowledge this in the Committee Report.

The matter was continued to March 8, 2010 by unanimous consent.

12. Memo from CAO and RFP “To Provide Public Relations, Communications and Media Support for the City – Update

Mr. Duggan said he believed that the concern was that one of the proposed donors who is one of the participants in the review committee on this RFP was instrumental in generating the donations that would subsidize the City’s investment towards hiring a vendor for public relations with the help of Linda Lowe, Donna Compton and Suzanne Egan. An initial conversation with the Attorney General referred us to the State Ethics Commission; and through the help of Ms. Lowe, Ms. Egan and Ms. Compton, we referred to the State Ethics Commission as did the proposed donor. It was the opinion of the State Ethics Commission that a disclosure statement is to be presented to the City Clerk’s office of the proposed donor’s participation in this process; and conferring with General Counsel on the process under Section 2-44 to make all the participants in this subcommittee special municipal employees. That would be brought before you in the next Mayor’s report.

Councilor Tobey asked if this requires a vote of the Council.

Mr. Duggan responded yes it does.

Councilor Tobey said that’s the only thing holding the procurement up.

Mr. Duggan said the procurement has already gone through the process. Everything has been submitted to Ms. Compton just on Friday. All the proposals were submitted and were distributed to the people on the subcommittee; and that is able to be done on a parallel track going forward of the special municipal employee; and the acceptance under separate memo of the donation that is coming forth of \$20,000.00.

Councilor Hardy asked for a definition of special municipal employee and what benefits might be derived from that particular designation.

Ms. Egan said under the Code of Ordinances, Section 2-40, all members of boards and commissions in the City are special municipal employees. The Tourism Commission members are designated as special municipal employees. What this would do is include the members of the subcommittee. It would be an

amendment to that. This does not subject them to the same restrictions as a regular municipal employee according to the State Ethics Board. It is to get people to volunteer and not have the same restrictions. It just frees them up and allows them the same ability as those on the Commission to participate at the same level.

Ms. Lowe said this term comes out of the State ethics law, Chapter 268.

Councilor Hardy asked about benefits, retirement, and insurance.

Ms. Egan said people who sit on boards and commission they are already considered municipal employees solely for the purpose of the State ethics law. With a special municipal employee it's just with regard to the ethics requirements. It has nothing to do with 'employee' status.

Councilor Hardy asked if this group of people were a commission now or are they a subdivision of another commission.

Ms. Egan said they are a subcommittee of the Tourism Commission, but there are members of the public that are also on that subcommittee.

Councilor Hardy asked if there was an ordinance in place with a mission statement, etc.

Ms. Egan responded no but typically boards and commissions create subcommittees to do the work of the committee and are acting on behalf of the committee and then refer back to the board or commission. They just refer and make recommendations to the boards and commissions.

Councilor Ciolino strongly objected that a person who is not a resident of the City, doesn't vote in Gloucester, not even a resident of the state, be made a special municipal employee because that individual donated "X" amount of dollars to get this PR person. Subsequently in the selection process the resumes are being sent to a locale out of state, and this person is making their selection and recommending it to the Commission and will fly in from out of state when the interviews take place. It is tailoring a selection committee appointment to fit one individual's opinion and goals. Even though the Ethics Commission says the City can do it, the City absolutely should not get involved.

Councilor Mulcahey agreed with Councilor Ciolino that just because the State Ethics Board says we can do it doesn't mean we should.

Councilor Tobey asked when the donor came forward was a condition placed that the person be involved in the selection.

Mr. Duggan said to be specific the money is currently in the Gloucester Fund. They were instrumental in grouping the money; and yes, it is conditional upon the acceptance of this individual being made a special municipal employee. So the answer is yes.

Councilor Tobey said if they don't put this person on the selection committee then the money goes away.

Mr. Duggan said yes, the person goes away and so does the money.

Councilor Tobey said then the Council has to make this decision when that person's name is put forward before us if we want them to be on the subcommittee making that person a special municipal employee or not; whereupon the person's money goes away.

Ms. Egan said when you designate a position of a special city employee you are not designating the person, you are designating the position.

Councilor Tobey asked if you can carve that person out.

Ms. Egan said you have the Tourism Commission which is composed of special municipal employees who has a subcommittee and you amend that ordinance that the subcommittee members of the Tourism Commission also become special municipal employees. She didn't believe in the ordinance you would say "except person X".

Councilor Tobey said are we, in effect, being asked to select a selection committee which wouldn't typically be the case? This is an unusual circumstance.

Ms. Egan respectfully disagreed. She said the Councilors will be asked to amend the Code of Ordinances to state that the subcommittee of the Tourism Commission, for the purpose of "X" are special municipal employees. In fact, you wouldn't even do that; you would have a box on Section 2-44 that states all the different boards and commissions and we just add another little box that says subcommittee of Tourism Commission for the purpose of, "Title".

Councilor Tobey said so this is an amendment to the Code of Ordinances which we would receive, refer to O&A and then advertise it for public hearing. How long are the proposals good for?

Mr. Duggan said prices are good for 45 days and the Purchasing Agent can move forward and ask each vendor for a hold for another 30 days beyond that.

Councilor Tobey asked when the proposals were submitted to determine timing for this process.

Mr. Duggan said the proposals were submitted approximately two weeks ago; and have just been distributed to the Commission members this past Friday.

Councilor Tobey said by accepting the ordinance as proposed, the Council, in effect, is acquiescing to the situation that Councilor Ciolino finds objectionable.

Councilor Verga agreed with Councilor Tobey completely. This whole thing doesn't seem right nor does it sound right. The meaning of giving is to give.

Mr. Duggan said the Tourist Commission has voted \$10,000 of their money. Business people have donated the money as "PR for Gloucester". This proposed donor gave \$10,000; and the others gave \$10,000.00. If the proposed donor is not on the subcommittee, the whole \$20,000.00 goes away.

Councilor Theken wondered if the City was matching this donation.

Mr. Duggan responded no. The Tourism Commission is using \$10,000.00 that they voted out of their budget to invest in a partnership. The City is investing \$10,000.00 out of the Tourism Commission's budget.

Councilor Tobey said so \$10,000.00 is from this group, "PR for Gloucester" and this individual donated \$10,000 with strings attached.

Mr. Duggan said it is all together.

Councilor Theken said they attached strings to it that this individual has to be on the subcommittee.

Councilor Tobey said that if this individual is not on the subcommittee then the whole \$20,000.00 goes away.

Mr. Duggan stated yes.

Councilor Theken asked for a restatement of what the State Ethics Commission said on the matter.

Ms. Egan said the Ethics Commission would not say for this individual to be there they have to be a special municipal employee. Putting forward the change for this to become a special municipal employee would be for that person to just file paperwork to disclose their interest with the City Clerk. Then we're saying we're going to continuing on the status of the Tourism Commission to the subcommittee.

Councilor Theken said this individual can do this according to the State Ethics Commission – by disclosing that this individual has donated the money.

Mr. Duggan said that she has to file a disclosure statement to the City Clerk's office, yes.

Councilor Theken clarified that the City wants to make this individual a special municipal employee.

Mr. Duggan said that was one of the recommendations. Again, the funds are conditional. One of the recommendations is from General Counsel.

Councilor Hardy interjected that this should be in writing.

Councilor Tobey thanked Mr. Duggan and Ms. Egan for giving the Committee a heads up; this will come through the Mayor's Report to the Council to be referred back to this Committee; and that they have time to get something in writing from the State Ethics Commission that will give the Committee certainty.

Mr. Duggan said it will be submitted to the City Council. The conversation with the State Ethics Commission with himself was under 268A that the individual can submit to the City Clerk's the statement. They also gave him options that if a City so chooses, they can make a person a special municipal employee.

Councilor Theken and Councilor Tobey discussed past precedent of examples where a similar situation may have taken place. She asked for a list of people who donated money, and of the subcommittee. The Committee doesn't know who the donors are aside from the main donor.

Mr. Duggan said there will be a letter of the donation of that dollar amount under separate cover in the next Mayor's Report. There is a holding place in the Gloucester fund while the City worked out the process.

Councilor Theken said she has a problem with the City taking money where only one individual donor is known but the rest are not.

Councilor Tobey said that what we can take from this is there needs to be full disclosure; as much as you can tell us who gave what; who are on the Committee; what the Ethics Commission said; where this thing stands procedurally; lay it out as clearly as possible. It is important that this came out this evening rather than two or three weeks from now when the clock runs down.

Councilor Ciolino said reminded the Committee not to lose sight of the fact that anyone before this committee to be appointed to a Board or Commission of the City *is a resident* of our City. You would never appoint anyone who was not a resident of Gloucester, who doesn't vote in Gloucester, to any of our Committees. It is not a past practice.

Councilor Mulcahey said that by appointing this person it sets a poor precedent.

Councilor Hardy asked about the procedure of how the City goes about the acceptance of the donation of money. Would the CFO or the Auditor approve this; would the Council; is it 10,000.00 from one group and \$10,000.00 from an individual.

Mr. Duggan said it is the Council approving the \$20,000.00 through the 501C3. It is very similar to the City Hall restoration fund. You have a group of donors and the Gloucester Fund was the holding place for that activity. The question of who the donors were was never posed to him before this.

Councilor Theken said if the Committee doesn't know who the donors are there is no way to know if there is a conflict of interest.

Councilor Tobey said that money for the tower restoration didn't come with strings attached to it. But this money does and is it concerning to us.

Mr. Duggan said the strings that are attached to it are a result of the perception that is there that "it's in the bag". There is a trust issue on both sides which needs to be broken down and move forward. There isn't a Tourism Coordinator anymore. The Tourism Commission has stepped up and reached out in collaborative effort with other individuals, volunteers, donors to come forward; and people have stepped up to the plate. Here is the first time, right out of the gate with certain individuals, 'it's a bag job', which is untrue.

Councilor Theken said she recalls very clearly that those individuals said here, do not raise our hotel/motel taxes for the purpose of public relations. We'll raise our own money to promote the City of Gloucester. We await your answers.

13. Other Business

Ms. Lowe said she has tried several times to reach the CPPI |Committee and had been unsuccessful.

Councilor Tobey said in response to Ms. Lowe's more than one inquiry to the CPPI Committee, an email was just received that evening.

Ms. Lowe will report to the Committee as soon as possible following a meeting with the CPPI Committee.

It was moved, seconded, and voted UNANIMOUSLY to adjourn the meeting at 9:44 p.m.

Respectfully submitted,

Dana C. Jorgenson

Clerk of the Committees