

Budget & Finance Committee
Thursday, March 22, 2012 – 6:00 p.m.
1st Fl. Council Committee Rm. – City Hall
-Minutes-

Present: Chair, Councilor McGeary; Vice Chair, Councilor Joseph Ciolino; Councilor Melissa Cox
Absent: None.

Also Present: Kenny Costa; Donna Compton; Suzanne Egan; Mike Hale; Jim Hafey; Fire Chief Stephen Aiello; Nancy Papows

The meeting was called to order at 6:00 p.m.

1. Continued Business:

A) Review and Recommendations for Disposition of real property re: Magnolia School House (a.k.a. Blynman School) (Cont'd from 02/23/12)

Jim Hafey, Facilities Manager explained that before the Committee is the Magnolia School House sale RFP as approved by the Planning and Development Committee which had been amended to include a “no tear-down” clause. This is now before this Committee to decide for the compensation for the sale of the property. **Nancy Papows**, Principal Assessor stated there was a recent inspection of the property and the value they had in place for FY12 was reduced to \$312,800 based on Assessor Gary Johnstone’s inspection. Her office is assessing it as a municipal building at this time, and is the only value they have in place. **Councilor McGeary** commented the RFP does not envision a commercial use and asked would a non-profit have a higher value. **Ms. Papows** responded it was not necessarily the case. Valuation is done according to the use of the property. The valuation she gave the Committee is based on it being used as a municipal building. It is possible it could vary depending on what a successful bidder were to do with the structure, if they alter it at all. **Councilor Ciolino** asked about the points brought up by Attorney Nestor (by way of a letter to the Committee Chair on file and at the previous evening’s P&D Meeting).

Attorney Mark Nestor, 45 Middle Street, representing for the Magnolia Historical Society (MHS) stated some of the issues raised at P&D he is still in the process of researching. They are attempting to identify an apparent 40-foot easement or right of way to the right of the Blynman School which reportedly belongs to the City of Gloucester from land that was allegedly taken via a tax taking in 1974 based in turn on a tax taking in 1944. There is another easement three houses down. Both easements access the city-owned parcel of approximately 5.3 acres. All the land appeared to have belonged to one family. He raised that point at P&D and said that when he did a rough measurement of the 40-foot easement, it encroached on the right-hand side of the parking lot and the driveway of the School House by three or four feet. He said he knew Mr. Johnstone did his assessment; so they aren’t sure and will probably have to have a [land] survey conducted. He expressed concern that if the easement does encroach on the driveway and parking lot, they may have a side setback issue with the entrance because the property is in an R-30 zone which requires at least a 10-foot side setback, possibly creating a non-conforming lot. He said he attempted to resolve the question at both the Registry of Deeds and the Land Court. The only deed they found reflected the parcel having 12,700 square feet of land. Further, there are other conflicting documents. He wasn’t sure if the 40-foot easement actually legally exists. Title searches have not been conclusive, he said.

According to the Request for Proposals, applicants will have 45 days after the Purchase and Sale Agreement (P&S) is signed to go to closing, he requested that there be no time frame on when the closing takes place as there may be issues that crop up while applicants are doing their due diligence. He also expressed great concern about Title V (septic system) issues which he understood to be the buyer’s responsibility. They might want an exception there because based on the topography of the property, and his experience with neighbors with siting septic systems, he believes what is on the property is a cistern. Because there are wetlands in the back, there are issues with how they would get a septic system in place for what the MHS wants to use this property for. He understood his clients did a cursory building inspection; but they would get a trained engineer to go over the building if they were the successful bidder. He expressed this all related to the value of the property. He reiterated his concern that the lot could be a non-conforming lot and building.

He noted that a museum is not authorized in that location. Conversion of the property to a museum would require a special permit by the City Council which would take time to shepherd through the process. He asked that the recommendation that the closing date be left open to six or nine months. He also pointed out the new addition to the

RFP that there was a provision inserted for a “no tear down” clause.

Councilor Ciolino asked what the decision was regarding the square footage of the lot. **Mr. Hafey** stated the revised RFP shows a reference to the deed, and **Ms. Papows** confirmed the deed she has on record shows 12,280 square feet. **Donna Compton**, Purchasing Agent informed the Committee that General Counsel, Suzanne Egan, at P&D, stated the City is selling the property as is. **Mr. Nestor** stated the issue becomes where the northern side of the boundary is located if in fact there is a 40-foot right of way. He had also tried to locate the tax title at Land Court hoping that when the City of Gloucester did the foreclosure that they would have more specificity; but that information would not be available for another week. He mentioned also issues surrounding the identification of abutters of the property. **Ms. Papows** stated with regard to a price for the property, she was not suggesting a price at all; she was simply informing the Committee of what the property was assessed for. **Mr. Nestor** commented that the assessed value of \$312,000 was a large sum. On inquiry by **Councilor Ciolino**, **Mr. Nestor** said he understood as a part of its due diligence the MHS will need to confirm the square footage of the property. If further inquiry shows less square footage, the society could come back and ask for a price adjustment. If the Title V comes in as a failed system, they will come back to the City and say with all that would need to be done to mitigate the situation; they would seek relief from the City. Depending what the accepted price is, they might also have to back out as the MHS has limited financial resources. **Councilor McGeary** stated **Mr. Nestor** had identified a number of issues that would have to be covered in a P&S; but that this Committee is trying to set a minimum bid. **Mr. Nestor** was comfortable the RFP had addressed the concerns he would have except for the number. **Councilor McGeary** stated it would be possible if it turned out the City had a 40-foot easement or didn't that part of the negotiation could include a negotiation would be to re-grant the City an easement still allowing for their setbacks. The Councilor spoke to the language on the 45 days on page 10 and that he would be agreeable to extend the time from the signing of the P&S to closing and allow for one extension of 90 days and not to put an indefinite deadline on it. He expressed being amenable to 90 days with a 90-day extension option. **Mr. Nestor** was for 90/90 with an option if for good cause for another possible 90 day extension. He noted there might arise title issues that the proponents couldn't get an answer on through no fault of their own. Part of the issue, he explained, is that the MHS would have to come forward, as any buyer would do, looking for a special permit during that period as the sale would be conditioned on getting a special permit; once it goes back to the City Council he could not say how long that process would take.

Christine Rasmussen, 82 Woodward Avenue stated the building is deteriorating every day. While understanding the need for timeframes, the MHS wants to get in as soon as possible to get the roof finished, etc., to preserve the building.

Lisa Ramos, President of the MHS, 463 Western Avenue submitted a statement regarding the history of the schoolhouse and read parts of it to the Committee along with emails of support from three direct abutters, a newspaper article and proposal dated from 2011 (all of which was placed on file with the Committee). **Councilor McGeary** stated the job this evening is to set the bid. The questions **Mr. Nestor** raised about timing were well taken and the Councilor was inclined to extend the date of closing for renewal ad hoc. **Mr. Nestor** reconfirmed he was asking it be 90 days from the execution of the P&S which can be extended by mutual agreement of the parties. Said agreement should not be unreasonably withheld.” The language is to be inserted on Page 10, #2 Point F; and in Point G. **Ms. Compton** expressed her feeling that there is a need to consult General Counsel on the language being proposed to be inserted on page 10 of the RFP concerning the closing on the sale of the property, and urged the Committee to do so rather than insert this language ad hoc at this meeting.

Councilor McGeary brought forward the matter of the minimum bid. **Ms. Ramos** stated their two tier proposal in their information packet was either \$1 or \$5,000. **Councilor Ciolino** asked what the land was assessed for. **Ms. Papows** stated the assessment on the land is \$128,600 with the lot size of 12,280 sq. ft. **Councilor McGeary** was inclined to set a \$1,000 minimum bid which he viewed as reasonable rather than \$1. A final price would include some back and forth between the parties. **Councilor Cox** agreed with Councilor McGeary. **Mr. Nestor** stated the MHS is limited financially and may have to come back and say they can't afford it based on their checklist of all the things they will have to have done to the property due to its current condition. **Councilor McGeary** felt this was a reasonable floor and didn't find it to be excessive. **Councilor Ciolino** commented some Councilors may wish to get more for the property's minimum bid. **Mr. Nestor** reminded the Committee this is a non-conforming lot and potentially a non-conforming building. Whoever puts in the bid will have to deal with the same problems, pointing to the Maplewood School as an example. **Jeff Towne**, CFO, stated it seemed they're doing a minimum bid, and then they will negotiate later if there are a lot of things to be done to the property and building. He reminded that the property is sold “as is”. Once the bid is put in, it is sold as is and that is the price you pay; you live with everything else. That is what they look at as “sold as is”. He didn't wish to leave the impression that if a bid is put in at \$1,000 and the winning bidder comes back and says that they have all these costs can then ask for the amount to be reduced to \$1. It defeats the purpose of putting it out to bid. **Mr. Nestor** stated the purpose of a P&S is that you understand

if you purchase a property based on the deed you purchase it "as is". The purpose of the due diligence period in a P&S is to determine if a project makes financial sense, and parties have the right to back off. Once it is bought, if the new owners discover there are more problems later on, they will be the new owner's to deal with--that is the meaning of "as is". **Councilor McGeary** stated the point is they're going to spend more than \$1,000 before they decide to put up \$1,000 and then have to decide if it is still worth doing, then \$1,000 isn't very much. While **Mr. Nestor** didn't think \$1,000 wasn't unreasonable, if the MHS found that there was \$150,000 of things that needed to be done to the property or even more, then they may come back saying they can't afford it. **Councilor McGeary** responded then if someone else wanted to put a museum on the site, then the City would have to entertain that bid. **Councilor Ciolino** then proposed a motion for a minimum bid of \$1 which Councilor Cox seconded. He stated in support of the motion that they are selling the property as is and that whoever buys it has to deal with what state it is in when they purchase it. He didn't wish to haggle. **Councilor McGeary** was not inclined to make this \$1 expressing again that \$1,000 is reasonable. **Councilor Cox** expressed she was now in favor of the \$1,000 minimum bid agreeing with Councilor McGeary. **Councilor Ciolino** withdrew his proposal for a minimum bid of \$1 and accepted a friendly amendment from Councilor McGeary to amend the minimum bid to \$1,000. **Ms. Compton** stated if it is a minimum bid of \$1,000 would they need the 90 days as it is being sold as is. After a brief discussion, the Committee determined they would continue this matter to their next regularly scheduled meeting to give General Counsel time to review the proposed language revision.

This matter is continued to April 5, 2012.

2. *Request from DPW Director re: \$350,000 to fund engineering investigation for lower Essex Avenue area Sewer and West Gloucester sewer collection system*

Mike Hale, DPW Director explained the Engineering office forwarded a cursory look of the lower Essex Avenue sewer during the water main construction as a result of the sewer main break. The report indicated deficiencies for the sewer raising questions on how the sewer functions, the impact on the local residents and the future of any expansion of that area, specifically the construction of a hotel proposed for the area. The report done by the engineering firm, Stantec, according to Mr. Hale, was a preliminary evaluation for a price of around \$14,000. There were a lot of assumptions made and not a lot that could be done for that price. The Department is now requesting that \$350,000 be appropriated from the Sewer Fund Retained Earnings ("Free Cash") for the purpose of funding a full engineering investigation of the lower Essex Avenue area sewer which is the end of the collection system. The study would look into the impacts of upstream flow, residential flow; breaks to the pipes; illicit connections; the impact of the West Gloucester Water Filtration Plant; and the impact of sewer pump stations. The investigation will also include: flow metering and ground water monitoring, to see if the flow going through the pipes calculates to what the anticipated flow would be for a certain neighborhood. The flow monitoring has to be done in the spring to capture spring rains, and fall is also another key time for monitoring. This investigation will give them a full picture of the condition of the sewer collection system and the flows and suggest a remedy to manage it moving forward. There is scope within this study to formulate a construction plan. The sewer was constructed in 2004 through 2006. Mr. Hale posited several possibilities as to why the flow is so high in this pipe causing the problems in this area. No one has yet to figure out why the flow is so high in this pipe. Also, potentially the pipe at the end (meaning the last 1,700 feet in front of the plant upstream to Julian Road) has some deficiencies as well. On inquiry by **Councilor Ciolino**, **Mr. Hale** stated it was important to note that the only two backups they've ever had with that sewer line were a result of construction accidents when the bypass failed during the construction and then when the sewer pipe was broken during the water main construction. Other than that, there hasn't been any back up into homes. Rather than looking at just several houses that experienced backups during construction, they look at the future of West Gloucester which hasn't had any expansion since the construction at all. He noted that there is a City Council-approved map that allows for further development in the area. At this time the city is telling people they have to wait until they resolve this issue. **Councilor Ciolino** noted this is \$350,000 just for testing. **Mr. Hale** stated is also includes design. If the study determines that the whole thing "is shot", undersized from the beginning, then the project would become something different. If the lower piece needs redesigning and lowering, that would be included. If spot repairs along the way with pipes ruptured, those would be included. If the pump stations were designed undersized, that is a different discussion. The City approved plans for the current configuration in 2003/2004 as sufficient and would leave that to the "corner office" to make those decisions. Councilor McGeary clarified the \$350,000 would identify those problems and hopefully propose engineering solutions if they can identify a finite set of problems. If all of lower Essex Avenue needs to be torn up again, that would be something completely different. Mr. Hale pointed there is a fair cost to monitoring well installations. It is very sensitive

equipment. **Councilor Ciolino** asked what the conclusion of the previous tests. **Mr. Hale** explained there were statements that it was under capacity for a number of reasons. The capacity of a sewer pipe is dependent upon its diameter and its pitch. A big sewer that is steep can have the same capacity as a small sewer that is flat. The last 1,700 feet of this sewer is virtually flat, which was the construction method chosen at that time suggesting it may have been done to save some money. They essentially did pipe bursting, a technique by which they drag a bigger pipe through the smaller pipe bursting the smaller pipe. With pipe burst there can be issues created due to topography. Flat lines have limited capacity. With steeply pitched pipe a lot can get through a smaller pipe. They are using the firm of Camp Dresser McKee. The flat length of pipe could have to do with the interceptor pipe and the CSO's. There are no records as to why they chose this method. There will be no impact on the sewer rate by appropriating this money and is a proper use of it. Furthermore, it is paying for the service in cash which is always the preference.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Cox, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council that \$350,000 (Three Hundred Fifty Thousand) be appropriated from the Sewer Fund Retained Earnings ("Free Cash") for the purpose of funding an engineering investigation of the lower Essex Avenue area sewer as well as the contributing factors from the West Gloucester sewer collection system to Sewer Enterprise, Engineering/Arch Professional Services, Unifund Account #600000.10.440.53100.0000.00.000.00.052.

3. Initial Recommendation to School Committee from Superintendent of Schools & Chief Finance Officer re: FY13 School District Budget

Councilor McGeary stated this item is to receive this information and called it to the Committee's attention.

4. Memorandum from CAO re: Fire Department Overtime

Fire Chief Stephen Aiello explained he was requesting this appropriation of \$20,000 to pay for Fire Department Salary/Wages-Overtime. The previous supplemental appropriation of \$30,000 is about depleted. A lot of personnel have returned to work – five will return over the next several days; two firefighters are graduating from the Fire Academy and will return to full duty. They still have two firefighters out on long term disability; one coming back in two weeks to light duty, another firefighter will return in a month to duty. The Administration is asking for this second interim request to again cover emergencies and maintain minimum manning of 14 firefighters per shift between April 1, 2012 and May 15, 2012. February overtime was higher than projected, the chief said. March should drop, perhaps \$18,000. There is no historical data available to support this request. Rather, he is making the assumption based on the upcoming school vacation in April; with firefighters at the Mass. Fire Academy and firefighters out due to injury. May, he suggested, could see a drop. He didn't want to guess with the current prevailing dry conditions as to how long this funding would last. **Councilor Ciolino** further inquired as to the lack of historical data. **Mr. Towne** clarified that the data was unavailable from last year because the Fire Department had spent all the overtime funds by February; and there was no overtime in this period last year unless it was an emergency. The administration has added the \$30,000, and this adds another \$20,000, which is clearly spending more than they did last year. **Councilor McGeary** noted it is likely this money would be expended by the end of April with the school vacation. **Mr. Towne** stated the \$20,000 might extend the timeframe as some of the previously appropriated \$30,000 was used to replenish an account that was already in deficit. Further, he said, if the administration asks for more between now and the end of the fiscal year, he would recommend not tapping free cash but for the department to find the necessary funds in the bottom line budget. **Kenny Costa**, City Auditor agreed with Mr. Towne, noting that some of the remaining free cash will be needed to settle outstanding labor contracts. **Chief Aiello**, on inquiry by **Councilor McGeary** noted there are some line items that may have some unspent funds that might be used for this purpose. The department's priorities will be to keep stations open. **Mr. Towne** expressed he was trying to be conservative; they'll be down to \$600,000 in free cash by the time the contracts settle, and reminded the Committee have to think about the City's Moody's rating.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Cox, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to appropriate \$20,000 (Twenty Thousand dollars) from General Fund Unreserved Fund Balance ("Free Cash") to Fire Department Sal/Wage-Overtime, Unifund Account #101000.10.220.51300.0000.00.000.00.051 for personnel expenses to cover emergencies and manning to 14 firefighters.

5. CC2012-016 (Verga/Whynott) Request for presentation from Administration re: Report of all parking meters Revenues and projected revenues

Mr., Towne said he is unable to track parking meter revenue by location. It is all one “big pot” of money. Last year the city took in \$380,000 in parking revenue including the parking bags. The city has hired a new parking enforcement officer to replace an enforcement officer who left. Councilor Ciolino noted they are going to put in a parking kiosk at I4-C2 (67 Rogers St.). **Mr. Towne** stated they’re only ordering 7 kiosks. If the per unit cost of the kiosks comes in lower than expected, they’ll look kiosks for I4-C2. **Councilor McGeary** stated he believed they could put 65 parking spaces on that lot. **Mr. Towne** reminded the Councilors that I4-C2 hasn’t been designated as a parking lot. The Mayor had done that last year temporarily. The parking ordinance specifically identifies what lots are authorized to have meters or kiosks. They’d have to go through the City Council to designate I4-C2 as a parking lot. **Councilor McGeary** presumed there would be some costs associated with making I4-C2 a parking lot. **Councilor Ciolino** said he thought the intention was to make it into a parking lot as the City was going to “sit” on the property for a bit. **Mr. Towne** believed that was the case, but the kiosks can’t be put there until it goes through the City Council process. Kiosk funding comes from capital loan authorizations from FY12 of \$150,000. If the quote for the kiosks comes in at \$10,000 apiece, they would be able to afford to by several extra kiosks. He noted there would be some costs associated with the installation of the kiosks. Once installed, he would be able to get reports of revenue by kiosk location. He clarified for **Councilor Cox** that the plan for the kiosks is to take the meters off of Rogers Street, the Gloucester House lot, and the Fitz Henry Lane lot. There is a map that Community Development has which shows the areas for the kiosks for what is being done in the first phase. He pointed out the original discussion was to replace the meters on Main Street as meters make clearing the sidewalks in snow events is difficult. Folks will likely complain in the beginning for the “pay and display.” He noted that if a “pay by space” system were used, there would still be all the poles with the numbers on them. A single kiosk covers five parking spaces on each side of it. There would be options to pay by coin or credit card. There will also be the technology for smart phone payment also should they decide to use that option also. **Councilor Cox** asked for a presentation at City Council regarding the kiosk program and to show what they look like. **Mr. Towne** stated they did want to do an educational outreach to the community. **Councilor Cox** asked why they are not putting in kiosks into St. Peter’s Square parking lot. **Mr. Towne** stated the first stage was to go along with the Harbor Walk construction to make it nice looking. The second phase they’ll talk about I4-C2 and because it is not a fee parking lot they have to amend the Code of Ordinances. The administration has been talking about St. Peter’s parking lot, but at this time it is not a high priority. He would put a memo with the requested information to the Council through the Mayor’s Report and at that time put in the request for a kiosk presentation as well.

Referral from the O&A Committee on the resident parking sticker fee: **Mr. Towne** reviewed for B&F Committee the discussion by the O&A Committee on the creation of a resident parking sticker for those citizens who need it to park in “resident sticker parking only” designated areas but did not wish to purchase a resident beach sticker because they were not park or beach goers. This sticker would not be able to be used for City beach parking lots. It is simply for use on City streets that are restricted to resident sticker parking only and to access non-fee City areas, like the compost facility. The O&A Committee asked the B&F Committee to set a nominal fee for this sticker.

MOTION: On motion by Councilor Cox, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to institute a fee of \$5.00 (Five Dollars) for a “Resident Parking Sticker” in reference to Gloucester Code of Ordinances, Sec. 22-270.1 “Resident Sticker Parking Only.”

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

Mr. Costa reviewed and discussed his reports with the Committee.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:40 p.m.

Respectfully submitted,

Dana C. Jorgensson

Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Informational packet from Lisa Ramos, Magnolia Historical Society (MHS) which includes testimonial statements by Ms. Ramos; a MHS maintenance log; contractor estimated repairs; three emails of support from Magnolia School House abutters; a Gloucester Daily Times article and a proposal page