

CITY COUNCIL AND
CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration
Monday, November 29, 2010 – 6:30 p.m.
1st Fl. Council Conference Room – City Hall

Present – O&A Committee: Chair, Councilor Sefatia Theken; Councilor Bruce Tobey; Councilor Greg Verga (Alternate)
Absent: Councilor Mulcahey

Present – B&F Committee: Chair, Steven Curcuru; Vice Chair, Paul McGeary; Councilor Joseph Ciolino (Alternate)
Absent: Councilor Hardy

Also Present: Linda T. Lowe; Jim Duggan; Mike Wells; Mike Hale; Josh Arnold; Kenny Costa; Jeff Towne; Mark Cole; Mary Lou Maraganis; Judy Masciarelli; Suzanne Egan

Councilor Ordinances & Administration Committee meeting was called to order at 6:30 p.m.

1. *Continued Business:*

- A) CC2010-036 (Tobey) (a) Rescinding for FY12 Budget Cycle the CSO debt shift enacted on May 25, 2010, and (b) instituting a stormwater fee system pursuant to the ordinance enacted September 2009 (Cont'd from 10/04/2010 Ordinances & Administration Committee Meeting):

DISCUSSION HELD JOINTLY WITH THE BUDGET & FINANCE COMMITTEE

Councilor Curcuru called the Budget & Finance Meeting to order at 6:31 p.m.

There was a quorum of the City Council present at 6:32 p.m.

Councilor Curcuru stated the stormwater team has met three times in the past month and felt they have done a good job formulating a stormwater plan as far as the structure was concerned.

Jim Duggan, CAO noted the rules and regulations draft before the Committee (on file). They're also reviewing a fair and equitable formula; looking at median versus mean. They will present a number of scenarios with a recommendation moving forward. Mike Wells will present the scenarios so they can gain a good appreciation of what they've been examining over the last four months.

Mike Wells, IT Director reviewed the Scenario 'A' document with data prepared as if they were getting to 'load the system' to start billing and made report assumptions and so created a spread sheet for each parcel; updated it as to if it was residential or not; what its impervious square footage; merged the data from the old flyover; to produce a matrix of information so they could manipulate the parameters to see what it generates in terms of charges and its distribution. He explained the Scenario sheets [NOTE: The scenario sheets referred to are on file with these minutes.] showed under Report Assumptions are the parameters they used to 'feed' the report: [stormwater] Budget put at \$800,000 to start with; a Multi-Occupancy Factor (the multiplier they use for condos or multi-family homes when there is more than one residence on a parcel) of 0.50; ERU size (Equivalent Residential Unit) is the average square footage of a single family home. There is a minimum and maximum of ERU's that a residential parcel can be charged; and a minimum/maximum that can be charged on non-residential which are numbers in ERU's. [NOTE: for discussion purposes SFR stands for Single Family Residential throughout.] In the case of non-residential using the impervious square footage of the site divided by the average single family, there is no limit to how big that number can get. He noted the two numbers generated by this computation:

Total number of charged ERU's; this is for taking a fixed budget and dividing it by the number of ERU's, they can calculate what the typical single family home what a charge for an ERU of 1; in the case of Scenario 'A' it would be \$50.82 which would be an annual figure. He noted the distribution of impervious service in the City, 46% for residential from flyovers (a known fact). Beneath the report assumptions are two charts; the top chart is Area by Parcel Type, is the same in all the scenarios. It shows the distribution of the impervious surface by those categories. It shows 46% of the impervious surfaces in the City are single family homes. That is data taken from the flyover which are the basis of the City's GIS maps. Beneath it is a chart for ERU's Paid by Parcel Type which shows the same categories are paying in terms of where the ERU's are being charged. This is how they came up with a formula that distributes the charges in a fair way given the surface areas. The table that extends over two pages is a group of figures and statistics that has to do with the categorization. For each of the types that are on the chart, each block has a variety of statistical information. All the square footage is impervious; there is no lot size data in this set.

Councilor Tobey stated that based on these charts the single family homes should bear 46% of the total budget of \$800,000. So you take the number of single families and divide it into whatever 46% of \$800,000 is and that is the charge; and wondered if it was that simple

Mr. Wells stated that was "pretty much" what this was doing; it is taking the mean surface area of an average single family and allocating it.

Councilor Tobey asked if it drove the formula on all the others.

Mr. Wells responded there was a bit of a distortion with the allocation.

Councilor Tobey added one commercial unit may have ten times the impervious surface.

Mr. Hale stated the single family is a one-to-one ratio. When you speak of multi-families and non-residential, that's when it becomes a little bit skewed. On inquiry from **Councilor Tobey**, **Mr. Hale** explained the multiplier for each subsequent unit was .5. It was based on most two families in looking at the impervious area.

Mr. Wells noted the average two-family is bigger at 3585 sq. ft. than the average single family at 3287 sq. ft. The 3-family average is less than the two and single family at 3,047 sq. ft. This happens because these distributions are not symmetrical. A house can have a "gigantic" impervious surface but can't go less than zero. The large outliers distort the mean average. They've also considered using median. If you line the values up in order, use the middle one which is another way of calculating an average. If you do that it gets rid of the large outliers then their effect is much smaller. That is the figure that is shown as median. A two family median is bigger than the median for a single family as is for a three family. The median gets rid of the large outlying single family homes at the top end. He noted that one of the reasons this approach is not going to suit because in non-residential maximum rate, the maximum ERU's (the largest number of ERU's that can be charged to a single parcel) is 354.85. This would be like Gloucester Crossing parking lot would pay 354.85 times \$50.82 which is about \$18,000.00 per year, if they use that simplistic approach (with no maximum). Although the formula generates a fair distribution, it may not be the one they want. It will punish the very large land owners.

Councilor Theken asked what these large landowners pay in tax rate through the debt shift.

Jeff Towne, CFO stated with a value of \$40 million, they would pay about \$13,200.00. Gloucester Crossing did not qualify for a TIF this year, and this figure reflects what they would pay without a TIF.

Councilor Curcuro stated the \$13,000; this fee is based with the debt staying where it is

Mr. Wells continued what would be the effect of capping large parcels, that is large multi-families and large non-residentials, as shown in Scenario 'B' looked at what if they use the *median* rather than the *mean* SFR and No Maximums; and if you compare the two graphs, by using a smaller divider, they throw more emphasis onto the non-residential.

Councilor Theken asked what it would be for Gloucester Crossing.

Mr. Wells responded the maximum ERU's in non-residential is 493.20. By using a smaller number, they've driven up the amount they could get from non-residential. Single families pay slightly less because non-residential is picking up more; they're using a better average number because it excludes the outliers.

Councilor Curcuru asked re: \$800,000.00 – the annual operating stormwater utility proposed first year budget, how much is the existing budget that it is operating under the sewer budget (\$500,000) which would go off the sewer fee and go onto the stormwater fee. He asked for a description of how it was broken down to an average cost per household. He explained if they go with something similar to what is before them; high water users will see a significant difference.

Mr. Hale stated anyone who is served by sewer will see a savings on their sewer rate because the rate is lower and shifted over to more homes; the total savings even with this fee won't be for everyone.

Councilor Theken noted non-profits would get a bill not on the debt shift.

Mr. Hale noted that if the sewer rate was lower people are paying less even with this on top; the debt shift is a separate issue.

Mr. Wells noted Scenario 'C' is the same as Scenario 'A' in that they use a Mean SFR and Low Maximums but are limiting multi-families to no more than five ERU's, using a .5 factor, that's 10 residences. If you have more than 10 multi-family units on your parcel, you pay the same. Maximum non-residential is limited to 10 also which means ten times the size of the standard SFR. In that situation "instead of paying \$18,000, for example, Gloucester Crossing pays ten times \$61.98 which comes to about \$610.00. This is to show the effect of a cap." They are not advocating this, and is not their recommendation. This is an example, for instance, of putting the cap in place it dramatically reduces the non-residential (see pie chart) which means to make up for it everyone else has to pay more. In order to make up for that, to cover the budget, everyone else pays more, with residential paying a large portion of it. Scenario 'D' is as to Scenario 'B'; that is Medium SFR and Low Maximum where the cap drives down the non-residential.

Councilor Tobey noted the cap gives a misallocation. The impervious surface drives the cost away disproportionately in Scenarios 'C' and 'D'.

Mr. Hale thought the one thing the cap does in looking at the bigger developments, Gloucester Crossing went through the stormwater calculations and mitigation they went through with a net decrease post development as opposed to pre-development.

Councilor Tobey interjected that was a system benefit they gave the City as part of a mitigation package. **Mr. Hale** stated any new development would. A cap, he believed, was justifiable at some level; that at some point one has to say they've paid their fair share.

Councilor Curcuru noted everything was based on the proposed 1st year stormwater utility budget of \$800,000. They don't know where the fee is going since the budget will increase.

Mr. Hale thought it wrong to say it was going lower (than \$800,000.00).

Mr. Hale commented whether there is a stormwater fee or not the chart will still be there. They aren't doing anything extra; they're not taking on any more work just because of the stormwater fee. They're taking it on to be compliant with the State and Federal requirements.

Councilor Curcuru asked hypothetically where the fee would end up: on the sewer rate or on General Fund.

Mr. Hale stated most is paid through the sewer rate currently which is applicable to State law. It is sanitary sewer versus storm sewer. It is all sewer.

Councilor McGeary felt they should be creating a separate utility.

Mr. Hale stated this is what this all was for is to create a stormwater utility.

Councilor Curcuru noted \$400,000-\$500,000 is operating costs. The rest is built into additional costs.

Mr. Hale stated the other costs, personnel, ordinary costs, the cost of what they assume permits will entail, sampling, other permit plan issues and collection of new data (one time cost) was included.

Mr. Wells stated the only thing "unique" to draw from these issues is that by lowering the ERU size it would drive cost into non-residential; and by adding caps add it back into non-residential. Their *recommendation* is that they do 'Scenario-Recommendation' of Median SFR and 20/30 ERU Maximum (a cap of 20 ERU's for residential and a cap of 30 ERU's for commercial). They use the lower ERU size, the median and adjust the caps and try and drive the allocations. This creates a much closer distribution. This is not saying these are the right numbers; rather, their recommendation is something along these lines. They can adjust it; perhaps it is 25 each.

Mr. Hale on inquiry by **Councilor Theken** if they took 30 and multiplied it by \$52.35, it would be about \$1,600.00 which she felt made quite a large difference.

Mr. Hale stated it's not a big difference from Scenario 'A' where a single family home is paying \$52.35 which comes to a \$1.50 difference for the average single family, the majority of the parcels in the City. It is still makes it more attractive to the non-residential base to have something that is a reasonable fee.

Councilor McGeary stated it isn't that they are penalizing the small to medium businesses who has less than or close to 30 ERU's in square footage. They're going to pay the maximum and Gloucester Crossing gets the breaks.

Mr. Hale stated it will always be the case. He gave the example of perhaps Councilor Theken had a bigger lot than he did; and he will pay the same as the Councilor. At some point there has to be a way.

Councilor Theken could argue, she has a one family, and he has a four family. It is smaller in lot size but they have four families in that rental. Why do I pay more than you because I only have one single lot?

Small businesses are already suffering; how do you explain a small business owner is paying \$500 while Gloucester Crossing is only paying \$1,600. They have to be able to justify what is being done. She also wondered who pays for Gloucester Crossing – the developer, Sam Parks, or individual store owners.

Mr. Duggan stated it is the management company who pays the bill. Each lease is individually negotiated.

Mr. Hale stated the idea is a formula that gives them a direction. Some of the variables are static, some dynamic. Caps can be adjusted from time to time or set now.

Councilor Theken appreciated the recommended scenario because she felt it to be fair. They're all still paying their sewer bills.

Councilor Tobey stated anything they launch will have to have a "trial flight" and be based, like the water and sewer rate, on an annual recommended charge. These will come back before the Council every year. There will be time to fine tune and be a good reasonable base to start.

Councilor Theken stated this is a way to be fairer. She noted her own personal situation with regards to mortgages. For someone who has refinanced, and has to pay these taxes and fees, this would not go on the escrow.

Councilor Verga asked Mr. Towne on a house assessed at \$300,000, what was increase when they shifted to the tax on the sewer.

Mr. Towne stated it was 33 cents per thousand, about \$115.00.

Councilor Curcuru asked how much will the debt shift changes that figure if they add it on there. They're at \$52.35 per ERU for an \$800,000 budget; and wondered how much money they were talking about.

Mr. Towne responded it would be \$2 million.

Councilor Theken thought it would be paid out of her own pocket and doesn't go on the escrow.

Councilor Curcuru brought them back to the multi-family where that becomes an issue.

Mr. Hale stated this is a snapshot in time – anticipating year one's budget for the stormwater utility.

Councilor McGeary stated they can work on the formula each year to maintain the equilibrium.

Mr. Hale stated this is another budget to review. Responding to **Councilor Curcuru**, he stated in year one a fly over is captured in the budget. The old flyover is 2005. Ms. Papows spent a great deal of time and put Gloucester Crossing in. GIS needs updated information every seven years. They don't change dramatically; Gloucester doesn't change dramatically.

Mr. Towne stated the reason why to focus on this now is they have to do programming for software to get the formula and concept so they can work with the software vendor to move this forward. It's as to how they're going to do it – they need to know the formula and how to do the billing.

Mr. Wells stated all the numbers can be changed but they have to say how they're going to do it; the rules, the multiplier, etc. They need to decide the method to use. The numbers can be decided at the end of June.

On inquiry from one of the Councilors, **Suzanne Egan**, City Solicitor responded the reason that this is a good legal way to do it is that it is based on data. It makes it defensible. There is a basis for it.

Councilor McGeary asked how much time it takes to create the utility agency.

Ms. Egan stated they enacted the stormwater utility ordinance last year; the utility is in place which gives them the authority to charge this fee.

Mr. Wells stated one of the reasons to go to this method is to not create a whole new assessors office. They have to come up with a method they can do mechanically with large data sets they already have.

Mr. Towne stated they don't want to do a lot of manual data manipulation. Just as they do for water and sewer, they want to do a report to work off of the software data in the system already.

Mr. Wells noted the unassigned are 214 lots (as listed in the documents on file) that they can't decide how to handle yet.

Councilor Tobey asked about the Coast Guard station; the State Fish Pier and asked how the team had accounted for those government owned parcels.

Ms. Egan noted they would be considered non-residential.

Councilor Tobey thought it will be interesting to see going forward when they send a stormwater fee bill to any federal agency if they pay because federal agencies aren't paying this across the country.

Mr. Wells' understanding was most of these are parcels are improved but not residential, for instance, they have a shed only on them.

Mr. Duggan gave an example of a piece of property next to your residence that has a shed for a tractor; that would be one of the 214 parcels referring to.

Mr. Hale stated it could be a result of perimeter deeds for zoning purposes; they've perhaps never combined the deeds but are looking at them as one combined parcel.

Councilor Ciolino asked regarding deductions from federal taxes he knew commercial to be deductible, is the deduction for residential as well.

Mr. Towne stated no, not if it goes to a stormwater fee. If it is on the taxes it would be. You're looking at a residential fee of \$52.35 annually for a deduction. If it was on the taxes, it would be about the same amount, 15% of \$52.35. They're losing about \$10-\$12.

Councilor Tobey thought this is a good sound approach for a trial run; and if the sentiment prevailed, would the Administration put the recommended version forward, the 20/30 ERU Max.

Mr. Duggan stated that is what they would do and asked the Councilors to look at the regulations that are in draft form that were a part of their packet as well as the scenario.

Councilor Curcuru stated \$52.35 for single family; \$52.35 for a two family; plus half of that for a three family would be \$77.00; a four family would be \$104 and was there a cap.

Mr. Duggan stated there was. It was on 20 ERU's, like the Heights at Cape Ann.

Councilor Curcuru stated condos pay their own way.

Mr. Wells noted the cap doesn't apply to condos because they're considered single parcels; each one pays a half. There is an inequality being created there. If there were two blocks, one condos, one multi-family then the condo unit would end up paying more because the cap wouldn't come into effect.; whereas it would if they cap it at 40.

Councilor Curcuru thought this would be an added to a condo fee.

Mr. Duggan stated that the condo owners would be billed individually.

Councilor Verga clarified that the condo residents may not have a water and sewer bill but they would get the stormwater fee bill.

Mr. Wells believed there would be about 2,500 new bills to be done for those who currently get their water and sewer some other way.

Mr. Towne stated that non-profits would see these bills now.

Councilor Curcuru didn't see a problem with the figures now; but once that figure [for the annual budget] jumps, that's when it will begin to be an issue.

Councilor Ciolino stated for those who don't have water and sewer what is the justification.

Steve Malboeuf, 25 Overlook Avenue stated Councilor Ciolino was correct, that the majority of Ward 5 don't have sewer. This debt shift to the taxes didn't do anything but increase his taxes. He felt real important thing that happens is that the sewer rate shall be reduced by an amount equal to what is shifted to the taxes. This is great if everyone is on sewer, but a large majority outside the center of town isn't on

sewer. This is the fairest system that's come out to date but doesn't get back to the issue of the debt shift. He was looking to see the debt shift rescinded.

Councilor Theken stated this is the best [recommendation] they've seen in the last year and a half. No matter, they'll have to do it and can't keep doing it on sewer.

Councilor Tobey stated if they view the CSO projects as stormwater management oriented, they have to take stormwater out of sewer system and handle it differently. The CSO costs have to be moved to the fee which would be the equitable answer. Then folks like Mr. Malboeuf who doesn't have water or sewer services from the City, will pay a baseline fee for the water that runs off their property into the street that has to be paid for.

Councilor Curcuru interjected they're still basing it on the \$800,000 proposed 1st year budget.

Councilor McGeary stated Mr. Malboeuf will pay one way or the other. He's going to pay on his taxes; he's going to pay a stormwater management fee. If he pays on his tax rate, he gets 15% to 20% back from the federal government. If he pays on the stormwater fee, there is nothing back. He also asked how much debt they are looking at long term for CSO.

Mr. Towne stated right now it is \$34 million. \$1.750 million is on the tax rate.

Councilor McGeary asked how much more could they add if they preserve the method of putting all the debt of the CSO on the tax rate, how much money would be added in levy.

Mr. Towne responded the maximum would be about \$2.5 million if they went to about \$36 million from \$34 million. Its 33 cents for \$1.750 million; additionally on the tax rate, it would be 50 cents on an \$11 tax rate. If you have a value of \$5 million for residential property, then you end up with a lot of change. If you have a \$350,000, he didn't believe anyone would be terribly dismayed. They'll probably pay the same stormwater fee as you would pay on your tax bill. It's when the tax rate goes up with high value residential and commercial will pay more on the debt shift versus stormwater which is spread to more people based on impervious surface.

Councilor Theken stated they're willing to put a cap on the large residential and commercial. A low income or medium income it is very difficult. It may only be \$50.00 but many people have had their values re-evaluated. A working class person just wants a bill and will pay it. It comes at them all the time. She lives in Ward 5 and knows her stormwater goes into the drain on her street. She likes this idea.

Councilor Tobey stated they "can't eliminate the pain but they can eliminate the uneven way they distribute the pain now."

Councilor Theken felt they should give something to the Administration to let them move forward with a plan.

Councilor Curcuru stated Councilor Tobey was right. It doesn't become equitable and fair if they put a fee on top of this; someone who owns a three family it won't make a difference; and when you start adding additional fees on that, that figure changes. He expressed his concern about additional fees coming on this. If you add fees it is not equitable, his point being that this won't stay in one place (that of the overall budget number).

Councilor Ciolino asked if Mr. Malboeuf could live with the recommendation.

Mr. Malboeuf thought it was a great way to do it, but reiterated it doesn't fix the debt shift issue. He liked the caps. He thought this is a saleable plan.

Councilor McGeary asked about the basis for seeking abatement.

Mr. Hale stated they haven't vetted that which **Mr. Duggan** agreed and thought it would be a case-by-case basis.

Ms. Egan responded the abatement process will be the same. This is an act pursuant to the City's sewer charges, and so it will follow the same process.

Councilor McGeary quoted from the suggested language, "...and may result in the City's termination of all services appearing on the bill." What would those services be?

Mr. Towne stated that would be water and sewer; yes, the law does allow them to shut off the water just like it now allows them to shut it off for non-payment of a water bill. It would then affect the sewer. They turn it on when they get the stormwater bill paid. That is the way it is intended. It is the way they enforce it now. And like sewer and water, it can be liened on the tax bill.

Councilor Verga thought this was a credible recommendation. It took some convincing for people who weren't on sewer. Most have come around and wanted something like the recommendation presented. He didn't wish to lose sight of the intent of the order which is the intent to rescind.

Councilor McGeary liked the recommended version and thought, like Councilor Tobey, that it was a good place to start. They can change the percentages and caps annually which is part of the budgetary process. It is not an ordinance change.

Mr. Towne stated the calculation comes from the DPW Director as a recommendation that they approve through the budget process.

Mr. Wells agreed it is exactly like water and sewer. They know how much money the fund is going to expend; therefore, they know how much money they have to raise. The calculation drives the number of users charged which sets the rate.

Councilor Tobey thought it was a two-step process; one step is the May/June review as to how the formula will generate the rate for the next fiscal year. If folks aren't happy at Council the next step would be in the subsequent months to revisit the regulations.

Mr. Towne asked they all recall the timing of how the debt shift was done. Books weren't closed; the finances of the City were in tough times. They had to make a decision to leave it on the sewer rate or do something else because this was not in place. They had two options, and chose the debt shift.

Councilor Theken summarized the discussion and thought what is in front of them was great teamwork. She felt she advocated for citizens in those meetings. It was the way it was promised to the people who came before them; and she didn't want them to think they weren't working on it.

Councilor Curcuru had no problem with the recommendation. The \$800,000 figure will jump, gradually year to year; and therefore so will the fee.

Mr. Wells stated one of the things that has changed dramatically prior, they were unable to do this calculation; but in the last two year there is now a GIS person on board; and they have the ability to do these kinds of calculations.

The Committees agreed to consensus on the chart entitled "Recommended Scenario" by the stormwater team (on file with the minutes). The matter was placed back to the Administration for further modification. Mr. Duggan would meet individually with the Councilors who were unable to attend to discuss and educate them, with the team.

The Councilors thanked the Stormwater team for their hard work, especially Mike Wells and Nancy Papows.

A motion was made, seconded and voted unanimously by the B&F Committee to adjourn their meeting.

- B) CC2010-073 (Tobey) Enact ordinance amending GCO Ch. 8, Article II, §8-16 and §8-17 Re: Process of selection of Fire Chief (Cont'd from 10/18/10)

Mr. Duggan assumed they would follow the way the Police Chief ordinance was done. He thought that was the area that this ordinance is intended. The Administration understands that and supports it.

Councilor Tobey asked for recommendations for the next meeting on how to do this. With the Police Chief ordinance, they spoke of educational degrees, the composition of the screening committees. Was it enough to say the same number? How do the Fire Department and its professional standards, union make up, translate into that ordinance? He asked they go through the ordinance perhaps with the City Clerk so that it is specific then it could be translated which could be done quickly and come back to the Committee and get that coordinated and can come back to O&A on December 13th. They're "butting up against time" on how to get a new Police Chief; with the Police Department having an interim Chief, whom he felt everyone respects "enormously"; and wondered how they coordinate the timing when his contract runs out; is there an option on it. Police is immediate.

Mr. Duggan stated the ordinance kicks in once the Mayor declares the position is declared vacant. There is an option to renew on the contract.

Councilor Tobey asked in the spirit of transparency he'd like to know where they are on that matter.

Mr. Duggan stated Chief Lane has expressed a willingness to continue by means of the option to renew. He knew the Fire Chief was up in April.

Councilor Tobey stated there will be a transition; and in order for the process to be handled correctly, assuming April 1st is the last day of the term. It will take four months to do what this ordinance calls for, for the very first time; he didn't believe that to be the case; that it would take more than four months.

Mr. Duggan stated both the Chiefs have expressed their desires to renew.

Councilor Tobey felt this only makes a stronger case to get the ordinance moving forward now.

This matter is continued to December 13, 2010.

2. *Appointments:*

Capital Improvement Advisory Board (CIAB) TTE 02/14/2013 Josh Arnold

The Committee questioned Mr. Arnold to his professional background and qualifications, desire to serve the community as well as his familiarity with the Open Meeting Laws. He was also asked if he had taken his State Ethics exam, and filed appropriately with the City Clerk's office.

Councilor Theken stated they were very fortunate and was grateful to have Mr. Arnold on board for the CIAB. She knew him to get along with everyone in the community in all walks of life and was assured by his coming forward.

Councilor Verga endorsed Mr. Arnold and knew him for many years and thought his experience was appropriate.

Councilor Tobey stated Mr. Arnold has great analytical capability .

MOTION: On motion by Councilor Verga, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Josh Arnold to the Capital Improvement Advisory Board, TTE 02/14/2013.

3. *Memorandum from Operations Manager-DPW re: rules and regulations for a proposed dog park In The City of Gloucester*

Councilor Theken asked Mr. Cole's opinion on the rules.

Mark Cole, DPW Operations Manager didn't have any issues with the rules and thought them to be fine. There would need to be discussion on the hours. From a logistical standpoint they don't open the parking lot until 8 a.m. but that doesn't mean the dog park can't be used before that time.

Councilor Theken noted the location hasn't been confirmed by the Council. It is assumed it would be at Stage Fort Park. It hasn't been confirmed by the Council. It was never stated.

Councilor Tobey stated they can assent to these rules without it being said where the park will be.

Councilor Theken agreed this would be their standard procedure.

Ms. Lowe added when they choose the site, the location will go into the rules because that is the way the Dog Park ordinance is written.

Mr. Cole stated if Mr. Hale determines the site to be at Stage Fort Park, which they walked with Councilors McGearry, Curcuru and Ciolino, and wondered if it would require a public hearing.

Ms. Lowe clarified that it would be part of the rules and would come before them the same way.

Councilor Theken asked that they present a formal letter from the DPW Director this is where they think it would be the most proper place.

Councilor Tobey stated they need to know the area and neighbors which will determine whether these rules are stringent enough. They could say they don't disagree with them but won't mean anything until Mr. Hale recommends a location.

Ms. Lowe confirmed that the rules and the selected location do require a public hearing as part of the rules.

Councilor Theken thought there should be a ward meeting by that Councilor with his constituents to discuss the Stage Fort Park location for the new proposed dog park. They're talking about where the old school house is.

Mr. Cole noted the school house (Stanley Marchant building) is used by the Gap program. The park would not go in that area. He reviewed a photograph (not submitted as previously part of the record of the Committee) of the area with the Committee so they would have full access to the school, the basketball court. The area isn't used often at all for parking. There is plenty of room for all users. The only time it is really used is for the Waterfront Festival, which is two days out of the year.

Mr. Cole stated the biggest issue is the fencing.

Councilor Theken asked who enforces the rules.

Mary Lou Maraganis, dog park proponent stated the dog parks are self governed. There is no lock on the area.

Councilor Theken expressed her concern that it not be used as a 'hangout' for safety purposes. There is also a liability issue. Who is liable if someone doesn't follow the rules and someone is injured.

Councilor Verga noted a procedure in the packet.

Mr. Cole stated the Animal Control officer is the first call and then the Police are the next call. There was a discussion that the phone line to the Dog Officer cannot be relied upon for a response.

Judy Masciarelli, another dog park proponent noted that the "What to Do If" are suggestions for safety for those using the park. These are the types of things that would be posted. It is only the first page that is the actual rules. There are limits to ages for people who can go in there, how many dogs someone can bring in.

Councilor Verga asked do the police respond to dog issues.

Councilor Tobey thought they were empowered to.

Councilor Verga wanted to be sure someone in a position of authority would be able to step in.

Ms. Masciarelli stated it would be same as if it happened outside of the dog park.

Councilor Verga thought a call to Chief Lane to see what would be his plan.

Councilor Theken asked that the Clerk of Committees Chief Lane have the rules forwarded to him and what he felt could be done to improve the rules and "What to Do If". She noted the Animal Control number gives you a recording.

Councilor Tobey thought the rules covered the right areas and needed to be turned into regulations. He asked that Mr. Cole and the dog park proponents meet with General Counsel to get the regulations done correctly and to get the recommendation from the DPW Director for the location at once back to the Committee.

Mr. Cole noted that the gates at Stage Fort Park are locked at 9 p.m.

Councilor Theken thought once the dog park users got used to the parking situation they would understand to move their cars.

Mr. Cole expressed the concern that the parking is open from 8 a.m. to 9 p.m. Whatever the hours are they need to be tied to the parking lot.

Councilor Verga stated it really is a non issue in the morning but is at night.

Councilor Theken didn't want there to be arguments regarding the parking scenario with the gates.

Mr. Cole stated the hours for the lot are well posted.

Ms. Maraganis noted after 9 p.m. there are other areas to park.

Councilor Theken asked that it should be posted at the dog park itself.

Ms. Lowe suggested they should check with the City's insurer to see if they cover the dog park and to what extent

Councilor Theken asked that Mr. Hale make his recommendation and work with Councilor Curcuru have his ward meeting on the location of the dog park. Prior to it coming before the City Council, Councilor Curcuru has to let the abutters know and discuss the matter with them. These rules and the location have to go to a public hearing so that it can go forward. They want to be sure the public is fully informed.

Councilor Tobey asked if Mr. Hale could get this to them in the next Mayor's Report which would get the matter moving forward.

Councilor Verga thought it should be a joint ward meeting with himself and Councilor Curcuru as well noting the park is in Councilor Curcuru's ward, but the abutters are in his.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed that the matter of the rules and regulations for a proposed dog park in The City of Gloucester be continued to January 3, 2011 so that the following steps may be taken:

- A) A specific site recommended by the DPW Director be made and forwarded through Mayors Report;
- B) The materials referred to the O&A Committee from the November 23, 2010 City Council meeting regarding dog park rules be converted into regulatory language through a meeting with the proponents, Mark Cole, DPW Operations Manager, and Suzanne Egan, General Counsel;
- C) That the CFO be requested to obtain and provide guidance on the extent to which the City's existing insurance company will extend to a dog park;
- D) That Ward 3 & 5 Councilors reach out to the abutters of a site that has been indicated at Stage Fort Park so that all this information is available to the O&A Committee at its January 3, 2011 meeting.

This matter is continued to January 3, 2011.

- 4. *CC2010-080 (Curcuru) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: Vicinity of 197 Washington Street (TBC to 12/13/10)*

This matter is continued to the December 13, 2010 meeting.

- 5. *CC2010-082 (Verga) Speed limit signs and "Slow Children" sign re: Fuller Street (TBC to 12/13/10)*

Councilor Verga noted this is a resubmission of Councilor Devlin's order submitted in 2009.

This matter is continued to December 13, 2010 meeting.

- 6. *Letter and documentation from Deputy Fire Chief Aiello re: enactment of ordinance to bill for Certain Fire Dept. responses (Referred from B&F Committee on 11/18/210)*

Mr. Duggan reviewed for the Committee that what Chief Dench and Deputy Chief Aiello to bill for particular services of the Fire Department. It is something that right now on comprehensive insurance on homeowners and car insurance you're paying \$500 automatically, as an example on a homeowner's policy. North Andover does this, and others; they are tapping into what's already being charged to the homeowners by the insurers for those fees. They would have a local ordinance that applies to people that are at fault for automobile accidents. If they have a response, it's "x" amount of dollars. If they have to use the 'Jaws of Life', an axe; it is almost like an ala carte menu as they use each piece of equipment it is charged to this total bill to the insurer.

Councilor Tobey thought it was sounding like the situation in a mid-West community where folks didn't pay their fire service fee to the local fire district and the Fire Department didn't respond and sat there and watched the house burn feeling it was a "slippery slope".

Mr. Duggan felt it wasn't because responded he didn't know how the fire services were set up there and with the insurance in that particular state. Deputy Chief Aiello has done his research; we are paying a comprehensive part of our homeowners insurance. They bill the insurance companies (not the homeowners).

Councilor Tobey thought a smart company was making a pitch to benefit their business plan as well; and was concerned for the "slippery slope" that a day comes when they're seeing a house burn, what happens when someone is uninsured. "We're going to turn the water on, but before we do, do you have homeowner's insurance. It's cancelled? Sorry." Finally, does the money go to the General Fund.

Mr. Duggan stated the money would come to the General Fund, and as part of the budget review process, they'll look at the proposed revenue and then increase that budget just by that amount. He understood the concern.

Councilors Tobey and **Theken** expressed that in the past these sorts of promises were broken regularly.

Mr. Duggan responded they have been doing that with the ambulance now, unlike in the past.

Councilor Verga sat at B&F two weeks ago. For the home it is negligence. A house burns down because they were smoking in bed, not using a licensed electrician. A grease fire isn't a homeowners fault. There is a third party billing. Chief Lane asked about billing for police services, and that wasn't recommended and is the "slippery slope". He thought it might be worth having Deputy Chief Aiello explain this to the Committee.

Councilor Theken expressed her concern in billing someone who may have not been at fault but what happens in the case of no fault.

Mr. Duggan stated the insurance company is taking this money and putting it in their pocket. They're saying that money is not theirs; it should be the City's.

Councilor Theken realized they would render services but it is billing on top of billing. How do they know the insurance company will continue paying this, recalling when Gloucester had the highest car insurance in the area.

Mr. Duggan stated that they do this billing already in North Andover, Wenham. They could potentially see, with the number of runs per year, \$50,000 to \$60,000 annually in increased revenue.

Councilor Verga noted that the equipment used is part of a typical report anyway. What they do day to day would serve the purpose.

Councilor Theken would like to ask questions of the Chief and Deputy Chief reiterating her concern.

Councilor Verga noted if the fire responds to a tourist driving recklessly and there is a cost for the Jaws of Life, then there is a fee involved.

Councilor Theken wanted to be sure if they do this the money does go back to the Fire Department.

Councilor Tobey thought it was "a concerning shell game." He respected the Department looking to find new fees but had policy concerns.

Councilor Theken asked about the third party billing.

Mr. Duggan stated they get a percentage which comes from the percentage from the insurance company whereas now they get nothing now at all.

Councilor Verga agreed it was worth the conversation and commented when this was presented last week at B&F, it was perceived more positively because they had the Chief and Deputy Chief Aiello in front of them.

Mr. Duggan stated he would have them bring them scenarios. The billing is similar to the billing for the ambulance bills. He noted annually they take 'bad' ambulance bills and write them off, the same would apply here.

Councilor Tobey asked that when that meeting occurs, he'd like the local insurance firms to receive notice because he wants to hear whether or not they think the dollar cost of claims would not have an adverse affect on homeowner and car insurance rates in the City.

This matter was continued to January 17, 2011.

A motion was made, seconded and voted unanimously to adjourn the meeting as 8:32 p.m.

Respectfully submitted,

**Dana C. Jorgenson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Scenarios A, B, C, D and final recommendation for Stormwater Fee calculations (each two pages long) as prepared by and provided by the Mayor's Stormwater Utility Fee Team**