

Budget and Finance Committee

11/3/22 6:00 pm Council Chambers

Meeting Post: <https://www.cityofnewburyport.com/budget-finance/events/307146>

Roll:

B/F: Zeid, Khan, Wright

Other Members: Vogel, Shand, McCauley, Lane, Wallace

Staff: Andrew Levine, Ethan Manning, Andy Port

Agenda:

COMM00436_10_11_2022 Ann Marie Monziona Letter re: park bench (COTW)

- Money has been returned to the resident
- Money never touched city accounts
- MWright – to be accurate, funds were refunded Morrill foundation
- AKhan – How is this structured
- AK – Who took the money in the first place?
- EManning – Check was made out to the conservancy
- EM – They operate as sub entity of the Morrill foundation
- AK – Still wondering who issues these checks
- EM – Have seen checks that have come from Parks Conservancy
- AK – So they could have issued refund but they didn't?
- AK – Person has gotten their money, want to make sure money
- BLane – Came to me as one of 3, didn't see memorial
- BL – This one wanted a refund
- BL – One was able to coordinate with Mike Hennessy and they got it done
- BL – This one was halted by a Park Commissioner, person wanted to just wanted to be done and wanted a refund
- BL – Donated to conservancy but got refund from the Morrill foundation
- BL – What does this look like a whole, then it funnels out through foundation and then back in. Need to do a deep dive. Where is the money going? They are representing us as a City
- BL – Want to know about where the money comes in
- BL – Wants to know about impropriety in the Park Department

- BL – Internal review was the paper, motion to receive the review
- BV – Doesn't understand what the 2016 has to do with today
- AK – What is the review?
- BL – It was in the paper
- AK – Ok, thank you
- JM – Need to explore some answers, check came in via City Website via Parks Department
- JM – Check was then issued to Conservancy. Conservancy doesn't exist. It was cashed to Morrill foundation
- JM – There's no paperwork for subset of an entity, no can provide this documentation
- JM – troubling. This is critical for the integrity for the foundation. Once they take public funds and they haven't followed those rules. They are filing reports.
- JM – They are collecting funds and then spending this money via Morrill foundation – operational expenses, fundraising expenses, issuing us more stuff. They are substracting their expenses.
- JM – Morrill send us an email that they set this up to bypass the Council since we were too busy.
- JM – Where is the documentation that has tied the Parks Conservancy into the Morrill Foundation.
- JM – It is germaine as to where the funds came from and where it went to
- BV – Couldn't disagree more, see a document of someone who had a bad experience, very bad. She paid and then get paid back. How can you connect the dots of the letter to a deep dive to the Morrill foundation. Requires some other avenue. This document does not do that. If that is of issue, should go through the Administration. This document is not related to that. Complaint, apology.
- AK – Looked at formation document, how is a conservancy formed, etc. FAQ – who pays for the other cost. Staff costs are paid for by the City. Umbrella formation comes under the City.
- JM – It is germaine because the check was written to conservancy but deposited Morrill foundation. Asked how connected dots. Resident thought they were writing to the City. They don't do any of those things.

- JM – an organization that portrays itself as a City affiliated but they are soliciting funds for a private organization. Slight of hand. These are public funds. It is our job to oversee public funds. Even on our site we say we pay operational overhead. We see overhead expenses on the P&L
- JM – We're not sure where the funds went
- AK – Just wanted to say looking up there are some good points brought up. Board of Directors, etc. We need to follow the structure. There is not some kind of formation.
- BV – There could be a debate on these points. Not saying that your statements are right or wrong.
- BV – This document is about something different. What you're (JM) is not here
- CW – City Employee managing the Conservancy. That is not something you're supposed to do. We are supposed to those gifts haven't seen those years. Asked Ethan to provide what money has been coming in.
- SZ – I can see that the 1.373 from 990 public records but city receipts only show 229k. Discrepancy is 1.114m
- BL – Do you know how many memorials are outstanding
- MH – 2 plaques are outstanding to fulfill with the conservancy
- BL – When these requests came in, what was process?
- MH – Bench was delivered to shop then started to build them in house. Receive plaque and then be told to be installed.
- BL – This one was granite
- MH - there was 6 granite benches
- BL – Would like to fulfill the memorial for Ms. Monziona
- MH – 18-24 months to install a bench
- MW – The account number that ends in 740, same check written into was the same that account that it came out of. While the checks are same account number, there is a mismatch between the owners of the account. This is a fraudulent endorsement. Forgery can be claimed for up to a year.
- MW – This is not something that is no harm, no foul
- MW – This is a fraudulent transaction unless they can provide a document it is a subentity.
- AL – Anything that over for the "care of parks" where excesses went

- SZ – how do we know it's 3k for a bench
- BL – Follow up, why are we charging more
- BL – We are pulling the wool over people's eyes
- AL – Stated that donors were supposedly made aware that they were buying a bench but also making a donation
- BV – non-profit doesn't mean they don't make money
- BV – my experience was that I had to replace a tree on the rail tree. In order to do so was told donate to the Parks Conservancy. Will look at the back of that check.
- SZ – Can we do the right thing going forward
- JM – Looked at the 990s. The variable amount is the amount assigned to the conservancy. We were told that the conservancy raised \$70k of public funds. In one year they raised \$90, City only got \$46k. Had to go through P&L not a lot of details. That's where we see them paying salaries, etc.
- JM - The previous org chart showed management of the Conservancy. This organization was setup to bypass the Council. Want the accounting of \$70k that equal total amount.

Motion to receive and file – AK/MW (3-0)

ORDR00336_03_28_2022 ARPA Amesbury 250K (COTW)

- IMA is still in review
- Hoping for next meeting

TRAN00140_11_01_2022 P&D: Waterfront Park Paid Parking Fund \$40,000 & Harbormaster Retained Earnings \$20,000 to Market Landing Park Expansion Project \$60,000 (A&F)

- APort – Looking at project, realize that we need temporary power during the project. Total amount was going to be \$80k but with value engineering was able to bring this down \$60k (also working Sasaki and their subcontractor)
- APort this provides power to the docks, park, etc.
- APort – Remaining \$20k would come from the Waterfront Trust
- APort – this is for temp power during construction

- Justin Dutcher – 7 Morin Rd. Harbor Commissioner. Couple of questions, appreciate the overview. Still unclear how we can be so certain we need temp electrical without the project being further along.
- Justin Dutcher– Other question – the procedural of this aspect of this particular request. Some of you know the Harbormaster operates as enterprise fund, tight ways that it is managed. Typically the process flows through the Harbormaster – it was surprising to see this request pop up – came out of nowhere. Didn't know we were at the point. We hadn't yet voted. Did talk about it but didn't vote.
- AP – We know from all of the work that has been done on the plans. This requires the transformer has to be moved. There's no way to do the project without doing this. They are certain of the project.
- EM – Enterprise funds full under Ch 44. Spending money requires the Mayor and concurrence of the Council. Past practice Harbor Commission and Water/Sewer serve in their advisory role. The idea was to submit and have it vetted through there.
- JDutcher – Slightly different protocol that we're operating under now. Different under this administration. Was this discussed. Don't know if anyone from the Mayor's office in there.
- AL – Thank you for question, view them as concurrent processes. Not trying to change Harbor Commission just wanted to do things at that the same time
- JKnapp – Comment is about communication. All the named parties involved. Harbormaster was not named to be notified. A little but concerning. Project still coming out of design phase, questioning why the relocation of the power was not part of the bid. Why is it coming up now.
- APort – it takes design work, we brought this forward.
- APort – we did notify the Harbormaster about the expectation, etc. Harbor Commission was a different story.
- AK – Hear the Commissioners and can see where it can be helpful to know the source. Whenever there is something coming from this source, is there communication through this process
- EM – Enterprise fund is an accounting method. Spending requires the Mayor and the Council. We do try and coordinate.
- MW – Is the Harbor Commission said no, it would still come to the Council as the approving body
- JDutcher – Wanted to respond to Ethan about the oversight. 2 things – 1 the intention is to ensure that operations water can be properly

maintained with a seasonal operation. This is not taxpayer funds. Don't think of as fungible coming from any old project. This project is clearly related to the waterfront.

- JDutcher – would support continued electrical power. This is an unfortunate expense.
- JM – 2 questions
- JM – Will this request and moving elec infrastructure during the bulkhead restoration? Will it have to be moved again?
- APort – We do not need to move it twice, the idea is that this covers both projects
- JM – Other comment – How this process is going down. New era and new spirit of collaboration. No one entity can drive it through, we need everyone together. Don't like to the idea of skipping the Commission, their oversight. Should have gotten their approval ahead of time. This is a little bit mature – can do parallel. Would like to see written approval from the Trust and the Commission that they are onboard. I know we can take the money but that's not collaborative.
- AK – Agree with previous speaker. Our volunteer commissions work hard.
- SZ – Did the commission meet and vote?
- JDutcher – yes discussed but wasn't provided ahead of time but discussed it ad hoc. Paul did inform us around discussion on this. Temp elec was identified as a need.
- JDutcher – Had 2 conversations, are supportive and can't go without power.
- JDutcher – Had no vote
- MW – Is there a time-sensitivity to this?
- APort – Talked to Wilbur and Matt, they were circling back and getting a vote. Will have to defer to Commission.
- APort – Thought we had sufficient coordination
- SZ – Can we wait to December?
- APort – want to close loop on this and culvert

Keep in Committee MW/AZ – 3-0

TRAN00139_11_01_2022 Mayor: General Fund Free Cash \$655,525 to Waterfront Culvert Replacement \$655,525 (B&F) - (COTW)

- APort - Trying to reduce flooding in Market Square

- JWhite - Sasaki was the engineer
- JWhite - The \$655k was too high
- JWhite - If the culvert is going to cost much
- JWhite - Costs have expedited
- JWhite - The culvert is \$175k, all the others are related to contaminated soil
- JWhite – Sasaki
- JWhite - Had similar project near the Black Cow
- JWhite – Dewater everything, they characterized everything. We only have to treat for TSS – muddy water
- JWhite – had a meeting with Sasaki and VHB – VHB is LSP. Made some recommendations for this culvert replacement. Let's do liquidated damages to do the work at low tide plug the other side
- JWhite – They think we won't have to treat the groundwater
- JWhite – still recommending holding the \$100k for that purpose. If we don't have enough money. Contaminated soil does not want to wait
- JWhite thinks the estimates are conservative
- JWhite – we went with the largest pipe we could. We are doubling the cross sectional space so much more drainage
- JWhite – People have installed utilities through our culvert
- BV – Are you confirmed that there is bad soil
- JWhite – Sasaki hired VHB. They are essentially consultant LSP work. They did not do any additional soil testing. They looked at the data. There is so much soil evaluation in the area that they believe that it exists.
- BV – Does this run down the new path that was done a few years ago
- APort/JWhite – Yes
- HS – Timing of doing this project only at low tide.
- JWhite - It's not reflected in here, this is a recent development. They learned a lot of Black Cow so that is new thing that guided the thinking. Liquidated damages means you have to deliver within certain number of days. They have to take it seriously. The right contractor.
- APort – want to come in at a lower price
- CW – Interested in some of the technical issues. Can send questions through the Chair
- JWhite – yes come down anytime
- CW – Would it be possible, were diff methods explored. Maybe a retrofit?

- JWhite – Good question. We did not specifically discuss with Sasaki
- JWhite – The culvert is too messed up with debris. We need 54” was the final. All of the flow comes down from High St.
- CW – Even if this gets fixed, may still flood
- JWhite – This doesn’t solve the flooding but it’s a great beginning. The outlet is still 36”
- JM – Diagonal for cost
- JWhite – there is no other penetration through the bulkhead
- JM – Dashed line is that old one?
- JWhite – will abandon in place
- JWhite – fill empty culvert with dirty soil
- JWhite – leave dirty soil on site
- JM – Can we keep the water and water the park
- JWhite – like the idea but problem elevation
- SZ – alternatives analysis
- JWhite – feel that this is the best solution
- APort – Did that have conversation and this is the best solution
- SZ – Only so much space between the building
- JWhite – hydraulic analysis was done, pipe size was done by that
- SZ – why aren’t increasing the bulkhead outflow
- APort – it does involve some more work, more cost
- JWhite – Repair job for face
- SZ – Easements?
- APort – this is all on City property
- SZ – sidewalk
- APort – Sidewalk comes back
- SZ – Why this funding source
- EM – been thinking about this, didn’t make sense to ask to borrow given we have available funds. Did look at ARPA. Very valid.
- CW – the funding source does give heartburn
- MW – Keep in Committee
- APort – want decision in Committee

Keep in Committee.

TRAN00141_11_01_2022 Mayor: General Fund Free Cash \$500,000 to Stabilization Trust Fund \$500,000 (B&F) - (COTW)

Did not discuss

TRAN00142_11_01_2022 Finance: General Fund Free Cash \$18,647 to Parklet Maintenance Fund \$18,647 (B&F)

Did not discuss

ODNC00129_11_01_2022 Defining Conflict Rule for Dept. Heads - (COTW)

Did not discuss

ODNC00130_11_01_2022 Grants, Gifts, and Fees - (COTW)

Did not discuss

ORDR00388_11_01_2022 NYS Facility Bond Order - (COTW)

Did not discuss

Public Comment:

None (some comments from Harbor Commissioners embedded above)

Motion to adjourn:

Adjourn, 7:53 PM, AK/MW – 3-0

Recording:

https://us02web.zoom.us/rec/share/0i5mVrPc6ecASu8pJA37kBJN5J4IUhhWxsZStBo_4P3FJ2or95MLoRLpKQI_DWPb.FJNvDxisppxV1kVY

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