



## CITY OF SOMERVILLE, MASSACHUSETTS CLERK OF COMMITTEES

June 9, 2010

### REPORT OF THE FINANCE COMMITTEE

Attendee Name	Title	Status	Arrived
Maryann M. Heuston	Chair	Present	
William A. White Jr.	Vice Chair	Present	
Bruce M. Desmond	Alderman At Large	Present	
John M Connolly	Alderman At Large	Present	
Rebekah L. Gewirtz	Ward Six Alderman	Present	
Dennis M. Sullivan	Alderman At Large	Present	
Thomas F. Taylor	Ward Three Alderman	Present	
Matthew Dias	Administrative Assistant	Present	
Monica Lamboy	Executive Director, OSPCD	Present	
Frank Wright	City Solicitor	Present	
Anne Thomas	Counsel - OSPCD	Present	
Rositha Durham	Purchasing Director	Present	
Robert May	OSPCD	Present	
Ed Bean	Director of Finance	Present	
Rick Matthews	Vanasse Hangen Brustlin, Inc.	Present	
Hugh Holland	Vanasse Hangen Brustlin, Inc.	Present	
David Webster	Federal Realty Investment Trust	Present	
McFall Kirby	Oustide Counsel	Present	

#### **189045 - That the BOA Accept Utility Improvements in Assembly Square Completed by FRIT:**

The contractors for this project were Cranshaw Construction and Vanasse Hangen Brustlin, Inc. (VHB). Mr. Matthews of VHB was the project manager for monitoring the work and he was at the site or in the field office daily during the construction project, observing the work being performed, the quality of the water in the lines, the sewer lines, storm drains, bedding, etc. VHB also acted in a capacity to oversee the project for both Cranshaw Construction and the City of Somerville. A water and sewer drain has been completed and the gas line will be done when the road is finished. The DPW has all the workmanship plans related to the project. Federal Realty Investment Trust (FRIT) contracted with Cranshaw for the construction and with VHB for the design of the project. VHB and FRIT contracted with the city's Office of Strategic Planning and Community Development.

Alderman White stated that the resident engineer should have been from another company that was not involved with Cranshaw. Ms. Lamboy told the members that it would have been beneficial to have the city's engineer involved but having the engineer from VHB there daily was a benefit for the city.

There was a discussion about liability and Ms. Thomas told the committee that the city would have to sue for breach of contract under tort law in the event of a problem arising and that the city could go back for a period of 6 years. Alderman White stated that Cranshaw did not have a contract with the city and he is concerned about a breach of contract and puzzled as to why FRIT doesn't want to transfer the contract with respect to rights to sue for damages only, noting that if FRIT doesn't assign rights to the city, the city would be responsible to sue for damages against the contractor under tort law. Mr. Webster stated that he would inform FRIT's legal department to consult with the City Solicitor's Office as to why FRIT won't assign responsibility.

Alderman White's motion that the City Solicitor work with Federal Realty Investment Trust to assign to the City of Somerville those rights that Federal Realty may have under its contract with Cranshaw Construction, only with respect to claims of defective performance by Cranshaw under such contract, was approved.

Chairman Heuston requested that Ms. Thomas provide the Board of Aldermen with an outline for the assignment of rights for defective work by Cranshaw as it relates to tort action and breach of contract.

**189287 - Requesting the Approval to Hire the Law Firm of Kirbey Harrington LLP as Outside Counsel to Negotiate the Renewal of the City's Comcast Licence and Proposed Transfer of the RCN Licence.:**

Mr. Kirby told the members that Somerville has 3 telecom services that are above ground and that data is more secure when transmitted below ground. Verizon is a Title 2 company in the telecommunications system, and as such, is heavily regulated. To date, Verizon has not asked to be a cable provider in the city. Comcast and RCN are both regulated by Title 6. Part of the negotiations with RCN involved making sure that the city received financial concessions from RCN that were comparable to those received from Comcast. RCN resisted for 2 years but finally agreed to an amount of \$550,000, spread over 10 years, and additional channel and 10 new sites for I-Net. This was a solid victory for the city. RCN is in the process of being acquired by the private equity firm Avery Partners and the city should ask questions regarding the transfer.

<b>RESULT:</b> <b>APPROVED BY VOICE VOTE</b>
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**189621 - Requesting Approval to Transfer \$35,000.00 from the Police Personal Services-Salaries Account (4301-51110)- to the Police Ordinary Maintenance - Medical & Dental Account ( 4301-53010) to Fund Payments for Line of Duty Injury Medical Bills:**

Mr. Bean spoke about the reason for the transfer.

<b>RESULT:</b> <b>APPROVED BY VOICE VOTE</b>
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**189622 - Requesting Approval to Transfer \$27,500 from the Traffic and Parking Meter Receipts Acct. to the Traffic and Parking Professional Services Line Acct., for Services Relating to Kiosks and Park Cards.:**

Ms. Durham appeared to address the committee's earlier concerns regarding the incompatibility between the hand held computers and the parking meter kiosks. The city received 5 proposals for the kiosks and considered 4 of them. Two of the vendors were discarded because of the poor references the city received on them. Another company was compatible but had poor references.

**RESULT:        HEARD AT COMMITTEE**

**189623 - Transfer of Funds from Fire Department to Department of Public Works to Pay for the Lowell Street Apron Construction:**

No discussion

**RESULT:        APPROVED BY VOICE VOTE**