

City Council Workshop

Agenda Item #3

June 24, 2013

Endowment Fund

Last year, the City Council was presented with some thoughts around the establishment of an endowment fund to pay for the cost of purchase, repairs and maintenance of City assets. This was brought about during discussion regarding the maintenance of the Liberty Ship.

It was learned that, in establishing an endowment fund, a fund can come to exist through two different methods of legal authority. The first, is establishing the fund through the development of an Ordinance, very similar to the City's Land Bank Ordinance. The Ordinance would have clear and distinct purpose and eligibility, provide Council oversight at arm's length and provide provisions that allows only fund interest to be used for projects, which cannot replace general fund tax dollars.

The second form of establishing an endowment fund would be through the incorporation of a separate 501(c)(3), which would run independent from local government. The independent entity would have its own board of directors, by-laws, purpose and eligibility of expenditures. The Council would have little if any oversight of the group other than possibly appointing the board of directors.

Both of these forms of endowment programs were explored by staff and presented to the City Council at its February 11, 2013 workshop. The Council provided guidance to move forward with the Ordinance form of program. It was decided to bring this item back to another workshop for further discussion, in particular around the oversight committee.


City Manager

ARTICLE VIII. ENDOWMENT FUND

Sec. 2-221. Establishment of the Endowment Fund.

The South Portland Endowment Fund (the "Fund") is hereby created and established.

Sec. 2-222. Purpose of the Endowment Fund.

The purpose of the Fund is to preserve the principal contributions of the Fund in perpetuity with interest earnings to support City capital improvement or equipment projects determined to enhance the City. Projects should contribute to the betterment of the City and be projects that may not otherwise be determined necessary or available for funding from other revenue sources. The Fund is not intended to provide ongoing funding for any City department, project or program and it is not intended to supplant budgetary appropriations to any one City department.

Sec. 2-223. Establishment of Endowment Commission.

The Endowment Commission (the "Commission") is hereby established to consist of seven (7) members appointed by the City Council, all of whom shall be residents of the City, one from each of the five (5) voting districts and two (2) members from the City At-Large, all of whom shall serve without pay. The term of the office shall be three (3) years, except initial appointments after the date of adoption of this Article shall be such that the terms of no more than three (3) members shall expire in any single year.

Sec. 2-224. Purpose of the Endowment Commission.

The Commission acts in an advisory capacity for the purpose of providing assistance to the City Council relating to the advisability of acceptance of gifts to the Fund and expenditure of interest earnings on capital projects.

Sec. 2-225. Investment Powers.

As directed by the City Council, the Finance Director shall invest the Fund consistent with 30-A M.R.S.A. §§ 5706-5719, as may be amended from time to time. All income from any investment shall accrue to the Fund.

Sec. 2-226. Expenditure of Income.

At such time as the Fund balance exceeds \$200,000, the Commission shall meet and make a recommendation to the City Council on how to expend up to 80% of the income generated during any City fiscal year for the

purposes set forth herein. The City Council, on its own or at the request of the City Manager, may forward capital projects for consideration by the Commission. Expenditure of income generated by the Fund shall be preceded by a recommendation from the Commission and appropriation of the income generated by the Fund by the City Council. Income generated by the Fund shall only be appropriated consistent with Sec. 2-222 above. The Finance Director shall keep an accurate accounting of the Fund principal, income and expenses and shall report annually to the City Council on Fund income and expenditures.

Sec. 2-227. Gifts.

The Fund may receive gifts. The City Council shall determine whether to accept any such gifts. Gifts conditioned on their use for specific City projects or departments shall not be accepted as part of the Fund. Any gifts accepted on behalf of the Fund shall be accounted for as such, and appropriate receipts issued to the donor. Such gifts shall be added to the principal of the Fund, and the income derived therefrom shall be used in accordance with this Article.

Deposits into the Fund shall include:

1. Any funds appropriated to be deposited into the Fund by vote of the City Council;
2. Voluntary contributions of money or other liquid assets to the Fund not specifically directed to any one project or department;
3. Interest from deposits and investments of the Fund; and
4. Any grant funds received on behalf of the Fund.

Sec. 2-228. Separability.

In any section, subsection, paragraph, sentence, clause, phrase or portion of this Article is, for any reason, held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions thereof.