



GLOUCESTER CITY COUNCIL
9 Dale Avenue, Gloucester, MA 01930
Office (978) 281-9720 Fax (978) 282-3051

CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration
Monday, June 18, 2012 – 6:00 p.m.
1st Fl. Council Conference Rm. – City Hall
AGENDA

(Items May be taken out of order at the discretion of the Committee)

1. ***Continued Business:***
 - A) Report of Ad Hoc Committee regarding possible amending of the Gloucester Code of Ordinances, Chapter 2, Article V, Sec. 2-471 to 2-476 re: Tourism Commission as relates to CC2012-015 (Hardy/Cox)
 - B) Addendum to Mayor's Report for the May 22, 2012 City Council Meeting re: Mayor's decision to allow remote participation by the City Council and the City Council Standing Committees (Cont'd from 6/4/12)
2. ***CC2012-029 (Verga/Ciolino) Resolution re: Equitable treatment of residents who are City water users, customers and water rate payers and Amend GCO Sec. 23-58 to reflect the requirement of equitable treatment of all customers (Amended CC2012-023)***
3. ***CC2012-030 (LeBlanc/Whynott) Amend GCO Sec. 22-287 re: handicapped parking in front of Cleveland St. #20 (TBC 07/02/12)***
4. ***CC2012-031 (Hardy/Ciolino/Theken/Tobey) Amend GCO Chapter 1, Article IV, Division 4 "Department of Veterans Services" Sec. 2-291 re: Veteran's Director***
5. ***CC2012-032 (Whynott) City Council request to State for permission to allow 30 minute parking in front of WWII Memorial***

COMMITTEE
Councilor Sefatia Theken, Chair
Councilor Robert Whynott, Vice Chair
Councilor Steve LeBlanc, Jr.

Committee members – Please bring relevant documentation
Back-up and Supporting Documentation all on file at the City Clerk's Office, City Hall

CC: Mayor Carolyn Kirk
Jim Duggan
Linda T. Lowe
Suzanne Egan
Mike Hale

The listing of matters is those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

May 7, 2012

CITY CLERK
GLOUCESTER, MA

To:

City Councilor and O & A sub-committee Chair Sefatia Romeo-Theken
City Councilor and P & D sub-committee Chair Bruce Tobey

12 MAY -9 AM 9:23

From:

The ad hoc committee re: recommendations for rewriting the Tourism Commission Ordinance. Members include (# denotes attendance of meetings): Linn Parisi, Discover Gloucester (3); John Orlando, Harborview Inn (3); Kay Ellis, Schooner Thomas E. Lannon (3); Tracy Muller, Bass Rocks Ocean Inn (3); Paul Frontierro, 7 Seas Whale Watch (2); Bob Ryan, CATA (1); Pauline Bresnahan, Pauline's Gifts from the Heart (3); Karen Scola, at large (3); Denise Foley, Tiny Island Beach Glass (3); Mona Faherty, Sea Lion Motel & Cottages (2), Accommodations at Rocky Neck; Dr. Nicole Andrade, Cape Ann Healing Center (2); Peter Webber, Cape Ann Chamber of Commerce (2).

Dear Councilors Theken and Tobey,

We, the ad hoc committee, would like to thank you for giving us the opportunity to make recommendations before your sub-committees begin the process of rewriting the Tourism Commission ordinance. We recognize that this opportunity may be our only chance to formally encourage positive, forward motion in regard to Gloucester taking its place as a competitive and desirable destination which will in turn, generate tax revenue.

Twelve members of the community met at the Harborview Inn on three separate occasions for a total of ten hours to discuss and ultimately compile our recommendations.

We unanimously agree that:

- the Gloucester tourism community deserves recognition for generating thousands of dollars in tax revenue
- the City needs to invest in its tourism community so that the stream of tax dollars grows and will continue to flow into the City
- the Tourism Commission needs reinvigoration, along with your attention and support, so that it may create and carry out a plan for generating more tourism tax dollars on an ongoing basis

We understand that not all of our recommendations will be followed, and that some may evolve within the Tourism Commission in the future. However, some of our recommendations, such as the way the new Tourism Commission will carry out a plan, must be implemented as soon as possible. It is not possible for volunteers on the new Tourism Commission to carry out a much-needed plan as the new members will presumably all have businesses to tend to daily. Therefore, the ad hoc committee feels strongly that the new tourism plan should be outsourced as a private/public partnership.

Please see our recommendations attached, and know that we are available as a committee to come before you, with notice, to discuss any questions you may have. Also, the ad hoc committee is willing to reconvene again if we may be of further help, perhaps in culling through resumes of nominees or whatever else you might need.

It has been our pleasure and honor to serve on the ad hoc committee. We await your further instructions.

On behalf of the ad hoc committee for the Tourism Commission ordinance recommendations,

Linn Parisi

Ad Hoc Committee May 2012
RECOMMENDATIONS FOR GLOUCESTER TOURISM COMMISSION ORDINANCE

CITY CLERK
GLOUCESTER, MA

12 MAY -9 AM 9:23

Composition

- 1) **Choose members for a new Tourism Commission from Gloucester tourism businesses:**

Commission Composition:

Representation (two members, staggered terms) from Restaurants

Representation (two members, staggered terms) from Accommodations

Representation (two members, staggered terms) from Attractions

Representation (two members, staggered terms) from Retailers- 1 Downtown, 1 not Downtown

Representation (two members, staggered terms) from Arts/Culture/Wellness

Representation (one member) At Large

Representation (Ex Officio) from Chamber of Commerce

Representation (Ex Officio) from Discover Gloucester

Representation (Ex Officio) from PR for Gloucester

Representation (Ex Officio) from City Council

Members should be owners of a Gloucester tourism based business with preference given to a Gloucester resident.

The Commission seats should number not less than seven nor more than eleven.

Chair is elected from within the Commission.

Post vacant seats on the City website and Facebook page.

What do we want them to do?

- 2) **Empower the Tourism Commission to devise an overall umbrella plan for Gloucester tourism** to increase year round visitation and therefore tax collection, that includes:

• **Communication.**

Develop and maintain tourism related data bases for use by the Commission for communication with all Gloucester tourism based businesses, adjunct City departments, civic/tourism related organizations, regional and State tourism bureaus and consumers.

Create a separate, interactive micro site for the Tourism Commission to communicate with tourism businesses and to recruit new members.

Create City government email addresses for the Tourism Commissioners and all other City Commissioners as well.

Develop and maintain a permission based consumer database.

Generate a quarterly report (Chair) to the Mayor and City Council that includes what the Tourism Commission has done; plans to do; the cost of the plan; benefits of the plan; the attendance of Tourism Commission members at Commission meetings.

• **Collaboration.**

Work with and liaise between Gloucester municipal departments i.e. DPW, CDC, DDC, EDIC, Waterways Board, etc. and civic tourism based organizations as necessary to nurture the Mission.

Attend adjunct meetings as necessary.

Partner with existing local groups that attract visitors here i.e. the Chamber of Commerce, St. Peter's Festival Committee, the Farmers Market, the Horribles Parade, etc., and regionally i.e. North of Boston CVB, MOTT, ENHC, NE CVB, etc.

- **Identity.**

Execute a branding study that will identify and define Gloucester's visitor based identity and will produce a branding program to promote the brand. (funded or co-funded by CDC? EDIC? Grant?) .

- **Infrastructure.**

Work with City departments and civic groups & organizations to identify potential attractions.

Advocate for infrastructure improvement re: public safety e.g., (railings and sidewalks on the Boulevard); beautification; traffic & parking e.g. (parking garages); way finding; hospitality e.g. (public restrooms), and others that impact becoming visitor ready which are also beneficial to our population in general.

- **Education.**

Seek out opportunities for seminars, workshops, certifications, etc. relating to growth in the tourism community.

Host periodic informational & networking meetings for the tourism community to discuss relevant issues.

- **Visitor Welcoming**

Assess and develop a plan for visitor welcoming that includes budgeting of resources; coordination & training of volunteers & staff; data collection; printed material needs; etc.

Coordinate with Downtown retailers for servicing cruise ship arrivals.

- **Marketing, Media and PR**

Develop a marketing plan for Gloucester tourism that may include but not be limited to the following-

Trade show representation: Coordinate representation either by attendance and/or cooperative buy in at selected trade shows to sell our destination to wholesale domestic, international, group and niche markets, and to consumer travel decision makers in our drive and extended drive markets.

Distribute leads to appropriate tourism businesses for follow up.

Familiarization Tours (FAMs): Coordinate familiarization tours for qualified travel & trade professionals, both individually and en masse through a vendor participation bank.

Advertising: Recommend & coordinate efforts for print; web based; multi-media; cooperative.

Web based: Oversee, coordinate and maintain the City's tourism website, GloucesterMA.com (**outsource?**).

Develop a destination blog; utilize YouTube, Twitter, Facebook and other social media.

Develop and distribute a consumer e newsletter for future newsletter marketing and consumer data collection.

Collateral: Recommend & coordinate City funded printed materials as necessary that may include producing and distribution of a Visitor Guide, maps, brochures, rack cards, business cards, Gloucester profile sheet, etc.

Public Relations. Contract (outsource) with a public relations firm that will pitch the best of Gloucester to multi-media outlets.

- **Grant Program**

Grant Program: Implement a grant program to provide money for Gloucester non-profit and Government organizations looking to develop festivals, events, etc. , both new and existing, e.g., (Block Parties, Schooner Festival, Seafood Trail,) that will increase and extend overnight visits.

How will they execute their new plan?

- 3) **Make an annual investment in Gloucester tourism of 50% of the previous fiscal year's collected hotel and restaurant tax** which will allow the Tourism Commission to execute the Gloucester tourism plan, either entirely or in selected segments of the plan via an RFP process to an entity or entities that will report directly to the Tourism Commission.

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CITY OF GLOUCESTER
OFFICE OF THE MAYOR

TO: City Council
FROM: Carolyn A. Kirk, Mayor
DATE: May 18, 2012

12 MAY 18 AM 11:34
CITY CLERK
GLOUCESTER, MA

RE: Addendum to Mayor's Report for the May 22, 2012 City Council Meeting

Councilors:

Under the Code of Massachusetts Regulations 940CMR, Section 29.10, (2) (a), as the Chief Executive Officer of the City of Gloucester, I am notifying you of my decision to allow remote participation by all local public bodies, in accordance with the requirements of said regulations.

I have attached a copy of the Attorney General's Open Meeting Law Guide for your information.

The Official Website of the Attorney General of Massachusetts

Attorney General Martha Coakley



[Home](#) [Government Resources](#) [Open Meeting Law](#)

Attorney General's Open Meeting Law Guide

The AGO is pleased to offer this Guide to the Open Meeting Law for use in understanding the application of the law and the regulations to your situation. Keep in mind, however, that the Guide is not the Law or the Regulations. In the event of any conflict, the language in the Law and Regulations is controlling.

This Guide is written for the ease of every-day users for whom the provisions of the Open Meeting Law are important. We welcome comment on how this Guide may be improved from time to time. Please make sure you are referring to the latest which will be posted on this website.

Click to download a copy of the [Attorney General's Open Meeting Law Guide \(PDF\)](#)

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Overview

Purpose of the Law

The purpose of the Open Meeting Law is to ensure transparency in the deliberations on which public policy is based. Because the democratic process depends on the public having knowledge about the considerations underlying governmental action, the Open Meeting Law requires, with some exceptions, that meetings of public bodies be open to the public. It also seeks to balance the public's interest in witnessing the deliberations of public officials with the government's need to manage its operations efficiently.

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AGO Authority

The Open Meeting Law was revised as part of the 2009 Ethics Reform Bill, and now centralizes responsibility for state-wide enforcement of the law in the Attorney General's Office. [G.L. c. 30A, § 19 \(a\)](#). To help public bodies understand and comply with the revised law, the Attorney General has created the Division of Open Government. The Division of Open Government provides training, responds to inquiries, investigates complaints, and when necessary, makes findings and takes remedial action to address violations of the law. The purpose of this Guide is to inform elected and appointed members of public bodies, as well as the interested public, of the basic requirements of the law.

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Certification

Within two weeks of a member's election or appointment or the taking of the oath of office, whichever occurs later, all members of public bodies must complete the attached Certificate of Receipt of Open Meeting Law Materials certifying that they have received these materials, and that they understand the requirements of the Open Meeting Law and the consequences for violating it. The certification must be retained where the body maintains its official records. All public body members should familiarize themselves with the Open Meeting Law, Attorney General's regulations, and this Guide.

Where no term of office for a member of a public body is specified, the member must complete the Certificate of Receipt on a biannual basis by January 14 of a calendar year, beginning on January 14, 2011. Where a member's term of office began prior to July 1, 2010, and will not expire until after July 1, 2011, the member should have completed the Certificate of Receipt by January 14, 2011. In the event a Certificate has not yet been completed by a member of a public body, the member should complete and submit the Certificate at the earliest opportunity to be considered in compliance with the law.

Click to download and print a copy of the [Certification Document](#) .

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Open Meeting Website

This Guide is intended to be a clear and concise explanation of the Open Meeting Law's requirements. The complete law, as well as the Attorney General's regulations, training materials, advisory opinions and orders can be found on the Attorney General's Open Meeting website, <http://www.mass.gov/ago/openmeeting>. Local and state government officials, members of public bodies and the public are encouraged to visit the website regularly for updates, as well as to view additional Open Meeting Law materials.

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What meetings are covered by the Open Meeting Law?

With certain exceptions, all meetings of a public body must be open to the public. A meeting is generally defined as "a deliberation by a public body with respect to any matter within the body's jurisdiction." As explained more fully below, a deliberation is a communication between or among members of a public body.

These four questions will help determine whether a communication constitutes a meeting subject to the law:

- 1) is the communication between members of a **public body**;
- 2) does the communication constitute a **deliberation**;
- 3) does the communication involve a matter within the body's **jurisdiction**; and
- 4) does the communication fall within an **exception** listed in the law.

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What constitutes a public body?

While there is no comprehensive list of public bodies, any multi-member board, commission, committee or subcommittee within the executive or legislative branches¹ of state government, or within any county, district, city, region or town, if established to serve a public purpose, is subject to the law. The law includes any multi-member body created to advise or make recommendations to a public body, and also includes the governing board of any local housing or redevelopment authority, and the governing board or body of any authority established by the Legislature to serve a public purpose. The law excludes the Legislature and its committees, bodies of the judicial branch, and bodies appointed by a constitutional officer solely for the purpose of advising a constitutional officer. Boards of selectmen and school committees are certainly subject to the Open Meeting Law, as are subcommittees of public bodies, regardless of whether their role is decision-making or advisory. Neither individual government officials, such as a mayor or police chief, nor members of their staff, are "public bodies" subject to the law, and so they may meet with one another to discuss public business without needing to comply with Open Meeting Law requirements.

Bodies appointed by a public official solely for the purpose of advising on a decision that the individual could make himself or herself are not public bodies subject to the Open Meeting Law. For example, a school superintendent appoints a four member advisory body to assist her in nominating candidates for school principal, a task the superintendent could perform herself. That advisory body would not be subject to the Open Meeting Law.²

¹ Although the Legislature itself is not a public body subject to the Open Meeting Law, certain legislative commissions are required to follow the Law's requirements.

² See *Connelly v. School Committee of Hanover*, 409 Mass. 232, 565 N.E.2d 449 (1991).

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What constitutes a deliberation?

The Open Meeting Law defines deliberation as "an oral or written communication through any medium, including electronic mail, between or among a quorum of a public body on any public business within its jurisdiction."

Distribution of a meeting agenda, scheduling or procedural information, or reports or documents that may be discussed at a meeting is often helpful to public body members when preparing for upcoming meetings and will generally not constitute deliberation, provided that when these materials are distributed no member of the public body expresses an opinion on matters within the body's jurisdiction. E-mail exchanges between or among a quorum of the members of a public body discussing matters within that body's jurisdiction may constitute deliberation, even if the sender of the email does not ask for a response from the recipients.

To be a deliberation, the communication must involve a quorum of the public body. A quorum is usually a simple majority of the members of a public body. Thus, a communication among fewer than a quorum of the members of a public body will not be a deliberation, unless there are multiple communications among the members of the public body that together constitute communication among a quorum of members. Courts have held that the Open Meeting Law applies when members of a public body communicate in a manner that seeks to evade the application of the law. Thus, in some circumstances, communications between two members of a public body, when taken together with other communications, may be a deliberation.

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What matters are within the jurisdiction of the public body?

The Open Meeting Law applies only to the discussion of any "matter within the body's jurisdiction." The law does not specifically define "jurisdiction." But as a general rule, any matter of public business on which a quorum of the public body may make a decision or recommendation is considered a matter within the jurisdiction of the public body.

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What are the exceptions to the definition of a meeting?

There are five exceptions to the definition of a meeting under the Open Meeting Law.

1. Members of a public body may conduct an on-site inspection of a project or program; however, they cannot deliberate at such gatherings;
2. Members of a public body may attend a conference, training program or event; however, they cannot deliberate at such gatherings;
3. Members of a public body may attend a meeting of another public body provided that they communicate only by open participation; however, they cannot deliberate at such gatherings;
4. Meetings of quasi-judicial boards or commissions held solely to make decisions in an adjudicatory proceeding are not subject to the Open Meeting Law; and,
5. Town Meetings are not subject to the Open Meeting Law. See G.L. c. 39, §§ 9, 10 (establishing procedures for Town Meeting).

For "quasi-judicial boards or commissions," the AGO interprets this exemption to apply only to certain *state* "quasi-judicial" bodies, and a very limited number of public bodies at other levels of government whose proceedings are specifically defined as "agencies" for purposes of G.L. c. 30A.

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What are the requirements for posting notice of meetings?

Except in cases of emergency, a public body must provide the public with notice of its meeting 48 hours in advance, excluding Saturdays, Sundays and legal holidays. Notice of emergency meetings must be posted as soon as reasonably possible prior to the meeting. Also note that other laws, such as those governing procedures for public hearings, may require additional notice.

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What are the requirements for filing and posting meeting notices for local public bodies?

For local public bodies, meeting notices must be filed with the municipal clerk sufficiently in advance of a public meeting to permit posting of the notice at least 48 hours in advance of the public meeting. Notices may be posted on a bulletin board, in a loose-leaf binder or on an electronic display (e.g. television, computer monitor, or an electronic bulletin board), provided that the notice is conspicuously visible to the public at all hours in or on the municipal building in which the clerk's office is located. In the event that the meeting notices posted in the municipal building are not visible to the public at all hours, then the municipality must either post notices on the outside of the building or follow one of the alternative posting methods approved by the Attorney General in 940 CMR 29.03(2)(b):

- Public bodies may post notice of meetings on the municipal website;
- Public bodies may post notice of meetings on cable television, **AND**, post notice or provide cable television access in an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- Public bodies may post notice of meetings in a newspaper of general circulation in the municipality, **AND**, post notice or a copy of the newspaper containing the meeting notice at an alternate municipal building (e.g., police or fire station) where the notice is accessible at all hours;
- Public bodies may place a computer monitor or electronic or physical bulletin board displaying meeting notices on or in a door, window, or near the entrance of the municipal building in which the clerk's office is located in such a manner as to be visible to the public from outside the building, or;
- Public bodies may provide an audio recording of meeting notices, available to the public by telephone at all hours.

If one of these alternative posting methods is used, the clerk of the municipality must inform the Division of Open Government of its notice posting method, and update the Division of any future change. All public bodies shall consistently use the most current notice posting method on file with the Division.

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What are the requirements for posting meeting notices for regional district, county, and state public bodies?

- For regional or district public bodies and regional school districts, meeting notices must be filed and posted in the same manner required of local public bodies, in each of the communities within the region or district. As an alternative method of notice, a regional or district public body may post a meeting notice on the regional or district public body's website. A copy of the notice shall be filed and kept by the chair of the public body or the chair's designee.
- County public bodies must file meeting notices in the office of the county commissioners and post notice of the meeting in a manner conspicuously visible to the public at all hours at a place or places designated by the county commissioners for notice postings. As an alternative method of notice, a county public body may post a meeting on the county public body's website. A copy of the notice shall be filed and kept by the chair of the county public body or the chair's designee.
- State public bodies must file meeting notices by posting the notice on the website of the public body or its parent agency. The chair of a state public body must notify the Attorney General in writing of the website address where notices will be posted, and of any subsequent changes to that posting location. A copy of the notice must also be sent to the Secretary of State's Regulations Division and should be forwarded to the Executive Office of Administration and Finance, which maintains a listing of state public body meetings.

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A Note About Accessibility

Public bodies are subject to all applicable state and federal laws that govern accessibility for persons with disabilities. These laws include the Americans with Disabilities Act, the federal Rehabilitation Act of 1973, and state constitutional provisions. For instance, public bodies that adopt website posting as an alternative method of notice must ensure that the website utilizes technology that is readily accessible to people with disabilities, including individuals who use screen readers. All open meetings of public bodies must be accessible to persons with disabilities. Meeting locations must be accessible by wheelchair, without the need for special assistance. Also sign language interpreters for deaf or hearing-impaired persons must be provided, subject to reasonable advance notice.² The Attorney General's Disability Rights Project is available to answer questions about accessibility and may be reached at (617) 727-2200.

²The Massachusetts Commission for the Deaf and Hard of Hearing will assist with arrangements for a sign language interpreter. The Commission may be reached at 617-740-1600 VOICE and 617-740-1700 TTY.

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What information must meeting notices contain?

Meeting notices must be posted in a legible, easily understandable format; contain the date, time and place of the meeting; and list the topics that, as of the time the notice is filed, the chair reasonably anticipates will be discussed at the meeting. The list of topics must be sufficiently specific to reasonably inform the public of the issues to be discussed at the meeting. While not required under the Open Meeting Law, public bodies are encouraged to make a revised list of topics to be discussed available to the public in advance of the meeting if the body intends to discuss topics that come up after posting but before the meeting convenes.

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When can a public body meet in executive session?

While all meetings of public bodies must be open to the public, certain topics may be discussed in executive, or closed, session. Before going into an executive session, the chair of the public body must:

- Convene in open session;
- State the reason for the executive session, stating all subjects that may be revealed without compromising the purpose for which the executive session was called;
- State whether the public body will reconvene in open session at the end of the executive session; and
- Take a roll call vote of the body to enter executive session.

Where a public body member is participating in an executive session remotely, he or she must state at the start of the executive session that no other person is present and/or able to hear the discussion at the remote location. The public body may authorize, by a simple majority vote, the presence and participation of other individuals at the remote participant's location.

While in executive session, the public body must keep accurate records and must take a roll call vote of all votes taken and may only discuss matters for which the executive session was called.

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The Ten Purposes for Executive Session

The law states ten specific Purposes for which an executive session may be held, and emphasizes that these are the only purposes for which a public body may enter executive session.

The ten Purposes for which a public body may vote to hold an executive session are:

1. To discuss the reputation, character, physical condition or mental health, rather than professional competence, of an individual, or to discuss the discipline or dismissal of, or complaints or charges brought against, a public officer, employee, staff member or individual. The individual to be discussed in such executive session shall be notified in writing by the public body at least 48 hours prior to the proposed executive session; provided, however, that notification may be waived upon written agreement of the parties.

This Purpose is designed to protect the rights and reputation of individuals. Nevertheless, it appears that where a public body is discussing an employee evaluation, considering applicants for a position, or discussing the qualifications of any individual, these discussions should be held in open session to the extent that that the discussion deals with issues other than the reputation, character, health, or any complaints or charges against the individual. An executive session called for this Purpose triggers certain rights on the part of an individual who is the subject of the discussion. The individual's right to choose to have this discussion in an open meeting takes precedence over the right of the public body to go into executive session.

While the imposition of disciplinary sanctions by a public body on an individual fits within this Purpose, this Purpose does not apply if, for example, the public body is deciding whether to lay off a large number of employees because of budgetary constraints.

2. To conduct strategy sessions in preparation for negotiations with nonunion personnel or to conduct collective bargaining sessions or contract negotiations with nonunion personnel;

Collective Bargaining Sessions: These include not only the bargaining sessions but also include grievance hearings that are required by a collective bargaining agreement.

While a public body may negotiate with nonunion personnel or conduct a collective bargaining session with a Union in executive session, and may even agree on final contract terms in executive session, the public body must vote to approve or ratify any contract or collective bargaining agreement in open session before it can take effect.

3. To discuss strategy with respect to collective bargaining or litigation if an open meeting may have a detrimental effect on the bargaining or litigating position of the public body and the chair so declares;

Collective Bargaining Strategy: Discussions with respect to collective bargaining strategy include discussion of proposals for wage and benefit packages or working conditions for union employees. The public body, if challenged, has the burden of proving that an open meeting might have a detrimental effect on its bargaining position. The showing that must be made is that an open discussion *may* have a detrimental effect on the collective bargaining process; the body is not required to demonstrate or specify a definite harm that would have arisen. At the time the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's bargaining or litigating position.

Litigation Strategy: Discussions concerning strategy with respect to ongoing litigation obviously fit within this Purpose, but only if an open meeting may have a detrimental effect on the litigating position of the public body. Discussions relating to potential litigation are not covered by this exemption unless that litigation is clearly and imminently threatened or otherwise demonstrably likely. That a person is represented by counsel and supports a position adverse to the public body's does not by itself mean that litigation is imminently threatened or likely. Nor does the fact that a newspaper reports a party has threatened to sue necessarily mean imminent litigation.

Note: A public body's discussions with its counsel do not automatically fall under this or any other Purpose for holding an executive session.

4. To discuss the deployment of security personnel or devices, or strategies with respect thereto;

5. To investigate charges of criminal misconduct or to consider the filing of criminal complaints;

This Purpose permits an executive session to investigate charges of criminal misconduct and to consider the filing of criminal complaints. Thus, it primarily involves discussions that would precede the formal criminal process in court. Purpose 1 is related, in that it permits an executive session to discuss certain complaints or charges, which may include criminal complaints or charges, but only those that have already been brought. Also, unlike Purpose 5, Purpose 1 confers certain rights of participation on the individual involved, as well as the right for the individual to insist that the discussion occur in open session. To the limited extent that there is overlap between Purposes 1 and 5, a public body has discretion to choose which Purpose to invoke when going into executive session.

6. To consider the purchase, exchange, lease or value of real property if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body;

Under this Purpose, as with the collective bargaining and litigation Purpose, an executive session may only be held where an open meeting may have a detrimental impact on the body's negotiating position with a third party. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session may be detrimental to the public body's negotiating position.

7. To comply with, or act under the authority of, any general or special law or federal grant-in-aid requirements;

There may be provisions in state statutes or federal grants that require or specifically allow a public body to consider a particular issue in a closed session. Before entering executive session under this purpose, the public body must cite the specific law or federal grant-in-aid requirement that necessitates confidentiality.

8. To consider or interview applicants for employment or appointment by a preliminary screening committee if the chair declares that an open meeting will have a detrimental effect in obtaining qualified applicants; provided, however, that this clause shall not apply to any meeting, including meetings of a

preliminary screening committee, to consider and interview applicants who have passed a prior preliminary screening;

This Purpose permits a hiring subcommittee of a public body or a preliminary screening committee to conduct the initial screening process in executive session. This Purpose does not apply to any stage in the hiring process after the screening committee or subcommittee votes to recommend candidates to its parent body, however it may include multiple rounds of interviews by the screening committee aimed at narrowing the group of applicants down to finalists. At the time that the executive session is proposed and voted on, the chair must state on the record that having the discussion in an open session will be detrimental to the public body's ability to attract qualified applicants for the position. If the public body opts to convene a preliminary screening committee, the committee must contain fewer than a quorum of the members of the parent public body. The committee may also contain members who are not members of the parent public body.

Note that a public body is not required to create a preliminary screening committee to consider or interview applicants. However, if the body chooses to conduct the review of applicants itself, it may not do so in executive session.

9. To meet or confer with a mediator, as defined in section 23C of chapter 233, with respect to any litigation or decision on any public business within its jurisdiction involving another party, group or entity, provided that:

- (i) any decision to participate in mediation shall be made in an open session and the parties, issues involved and purpose of the mediation shall be disclosed; and
- (ii) no action shall be taken by any public body with respect to those issues which are the subject of the mediation without deliberation and approval for such action at an open session.

10. To discuss trade secrets or confidential, competitively-sensitive or other proprietary information that has been provided under the following circumstances:

- a. in the course of activities conducted by a governmental body as an energy supplier under a license granted by the department of public utilities pursuant to G.L. c. 164 § 1F;
- b. in the course of activities conducted as a municipal aggregator under G.L. c. 164 § 134; or
- c. in the course of activities conducted by a cooperative consisting of governmental entities organized pursuant to G.L. c. 164 § 136; and
- d. when such governmental body, municipal aggregator or cooperative determines that such disclosure will adversely affect its ability to conduct business in relation to other entities making, selling or distributing electric power and energy.

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May a member of the public body participate remotely?

The Attorney General's Regulations, 940 CMR 29.10, permit remote participation in certain circumstances. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

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How can the practice of remote participation be adopted?

Remote participation may be used during a meeting of a public body if it has first been adopted by the chief executive officer of the municipality for local public bodies, the county commissioners for county public bodies, or



by a majority vote of the public body for retirement boards, district, regional and state public bodies. The chief executive officer may be the board of selectmen, the city council, or the mayor, depending on the municipality. See G.L. c. 4, § 7.

If the chief executive officer in a municipality authorizes remote participation, that authorization must apply to all public bodies in the municipality. 940 CMR 29.10(2)(a). However, the chief executive officer determines the amount and source of payment for any costs associated with remote participation, and may decide to fund the practice only for certain public bodies. See 940 CMR 29.10(6)(e). In addition, the chief executive officer can authorize public bodies in that municipality to "opt out" of the practice altogether. See 940 CMR 29.10(8).

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What are the permissible reasons for remote participation?

Once remote participation is adopted, any member of a public body may participate remotely if the chair or, in the chair's absence, the person chairing the meeting, determines that one of the following factors makes the member's physical attendance unreasonably difficult:

- Personal illness;
- Personal disability;
- Emergency;
- Military service; or
- Geographic distance.

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What are the acceptable means of remote participation?

Acceptable means of remote participation include telephone, internet, or satellite enabled audio or video conferencing, or any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another. Accommodations must be made for any public body member who requires TTY service, video relay service, or other form of adaptive telecommunications. Text messaging, instant messaging, email and web chat without audio are *not* acceptable methods of remote participation.

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What are the minimum requirements for remote participation?

Any public body using remote participation during a meeting must ensure that the following minimum requirements are met:

- A quorum of the body, including the chair or, in the chair's absence, the person chairing the meeting, must be physically present at the meeting location;
- Members of a public body who participate remotely and all persons present at the meeting location must be clearly audible to each other; and
- All votes taken during a meeting in which a member participates remotely must be by roll call vote.

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What procedures must be followed if remote participation is used at a meeting?

At the start of any meeting during which a member of a public body will participate remotely, the chair must announce the name of any member who is participating remotely and which of the five reasons listed above requires that member's remote participation. The chair's statement does not need to contain any detail about the reason for the member's remote participation other than the section of the regulation that justifies it. This information must also be recorded in the meeting minutes.

Members of public bodies who participate remotely may vote, and shall not be deemed absent for purposes of G.L. c. 39, § 23D. In addition, members who participate remotely may participate in executive sessions, but must state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless the public body has approved the presence of that individual.

If technical difficulties arise as a result of utilizing remote participation, the chair or, in the chair's absence, person chairing the meeting may decide how to address the situation. Public bodies are encouraged, whenever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If a remote participant is disconnected from the meeting, the minutes must note that fact and the time at which the disconnection occurred.

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What public participation in meetings must be allowed?

Under the Open Meeting Law, the public is permitted to attend meetings of public bodies but is excluded from an executive session that is called for a valid purpose listed in the law. Any member of the public also has a right to make an audio or video recording of an open session of a public meeting. A member of the public who wishes to record a meeting must first notify the chair and must comply with reasonable requirements regarding audio or video equipment established by the chair so as not to interfere with the meeting. The chair is required to inform other attendees of any such recording at the beginning of the meeting.

While the public is permitted to attend an open meeting, an individual may not address the public body without permission of the chair. An individual is not permitted to disrupt a meeting of a public body, and at the request of the chair, all members of the public shall be silent. If after clear warning, a person continues to be disruptive, the chair may order the person to leave the meeting, and if the person does not leave, the chair may authorize a constable or other officer to remove the person.

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What records of public meetings must be kept?

Public bodies are required to create and maintain accurate minutes of all meetings, including executive sessions. The minutes, which must be created and approved in a timely manner, must state the date, time and place of the meeting, a list of the members present or absent, and the decisions made and actions taken including a record of all votes. Minutes must also include the name of any member who participated in the meeting remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. While the minutes must include a summary of the discussions on each subject, a transcript is not required. No vote taken by a public body, either in an open or in an executive session, shall be by secret ballot. All votes taken in executive session must be by roll call and the results recorded in the minutes. In addition, the minutes must include a list of the documents and other exhibits

~~29.08: Advisory Opinions~~

The Attorney General may issue advisory opinions on request or at his or her own initiative to provide guidance to public bodies and the public on changes to M.G.L. c. 30A, sec. 18-25, court decisions interpreting M.G.L. c. 30A, sec. 18-25, or other developments concerning M.G.L. c. 30A, sec. 18-25.

(1) The Attorney General shall ordinarily make a draft advisory opinion available for comment on the Attorney General's website at least 60 days prior to the planned issuance of the opinion. Notice of the posting shall be provided to the Commission.

(2) Comments on the draft advisory opinion shall be submitted, in writing, to the Attorney General at least 30 days prior to the planned issuance of the opinion.

(3) Action taken by a public body in good faith compliance with an advisory opinion, provided that the circumstances are not materially different, shall not constitute an intentional violation of the M.G.L. c. 30A, sec. 18-25.

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29.09: Other Enforcement Actions

Nothing in 940 CMR 29.06 or 29.07 shall limit the Attorney General's authority to file a civil action to enforce M.G.L. c. 30A, sec 18-25 M.G.L. c. 30A, sec. 18-25 pursuant to M.G.L. c. 30A, sec. 23(f).

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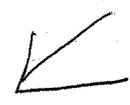
29.10: Remote Participation

(1) Preamble. Remote participation may be permitted subject to the following procedures and restrictions. However, the Attorney General strongly encourages members of public bodies to physically attend meetings whenever possible. By promulgating these regulations, the Attorney General hopes to promote greater participation in government. Members of public bodies have a responsibility to ensure that remote participation in meetings is not used in a way that would defeat the purposes of the Open Meeting Law, namely promoting transparency with regard to deliberations and decisions on which public policy is based.

(2) Adoption of Remote Participation. Remote participation in meetings of public bodies is not permitted unless the practice has been adopted as follows:

(a) Local Public Bodies. The Chief Executive Officer, as defined in M.G.L. c. 4, sec. 7, must authorize or, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that authorization or vote applying to all subsequent meetings of all local public bodies in that municipality.

(b) Regional or District Public Bodies. The regional or district public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote



applying to all subsequent meetings of that public body and its committees.

(c) Regional School Districts. The regional school district committee must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.

(d) County Public Bodies. The county commissioners must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of all county public bodies in that county.

(e) State Public Bodies. The state public body must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.

(f) Retirement Boards. A retirement board created pursuant to M.G.L. c. 32, sec. 20 or M.G.L. c. 34B, § 19 must, by a simple majority, vote to allow remote participation in accordance with the requirements of these regulations, with that vote applying to all subsequent meetings of that public body and its committees.

(3) Revocation of Remote Participation. Any person or entity with the authority to adopt remote participation pursuant to 940 CMR 29.10(2) may revoke that adoption in the same manner.

(4) Minimum Requirements for Remote Participation.

(a) Members of a public body who participate remotely and all persons present at the meeting location shall be clearly audible to each other;

(b) A quorum of the body, including the chair or, in the chair's absence, the person authorized to chair the meeting, shall be physically present at the meeting location, as required by M.G.L. c. 30A, sec 20(d);

(c) Members of public bodies who participate remotely may vote and shall not be deemed absent for the purposes of M.G.L. c. 39, sec. 23D.

(5) Permissible Reasons for Remote Participation. If remote participation has been adopted in accordance with 940 CMR 29.10(2), a member of a public body shall be permitted to participate remotely in a meeting, in accordance with the procedures described in 940 CMR 29.10(7), if the chair or, in the chair's absence, the person chairing the meeting, determines that one or more of the following factors makes the member's physical attendance unreasonably difficult:

(a) Personal illness;

(b) Personal disability;

(c) Emergency;

(d) Military service; or

(e) Geographic distance.

(6) Technology.

(a) The following media are acceptable methods for remote participation. Remote participation by any other means is not permitted.

Accommodations shall be made for any public body member who

requires TTY service, video relay service, or other form of adaptive telecommunications.

(i) telephone, internet, or satellite enabled audio or video conferencing;

(ii) any other technology that enables the remote participant and all persons present at the meeting location to be clearly audible to one another.

(b) When video technology is in use, the remote participant shall be clearly visible to all persons present in the meeting location.

(c) The public body shall determine which of the acceptable methods may be used by its members.

(d) The chair or, in the chair's absence, the person chairing the meeting, may decide how to address technical difficulties that arise as a result of utilizing remote participation, but is encouraged, wherever possible, to suspend discussion while reasonable efforts are made to correct any problem that interferes with a remote participant's ability to hear or be heard clearly by all persons present at the meeting location. If technical difficulties result in a remote participant being disconnected from the meeting, that fact and the time at which the disconnection occurred shall be noted in the meeting minutes.

(e) The amount and source of payment for any costs associated with remote participation shall be determined by the applicable adopting entity identified in 940 CMR 29.10(2).

(7) Procedures for Remote Participation.

(a) Any member of a public body who wishes to participate remotely shall, as soon as reasonably possible prior to a meeting, notify the chair or, in the chair's absence, the person chairing the meeting, of his or her desire to do so and the reason for and facts supporting his or her request.

(b) At the start of the meeting, the chair shall announce the name of any member who will be participating remotely and the reason under 940 CMR 29.10(5) for his or her remote participation. This information shall also be recorded in the meeting minutes.

(c) All votes taken during any meeting in which a member participates remotely shall be by roll call vote.

(d) A member participating remotely may participate in an executive session, but shall state at the start of any such session that no other person is present and/or able to hear the discussion at the remote location, unless presence of that person is approved by a simple majority vote of the public body.

(e) When feasible, the chair or, in the chair's absence, the person chairing the meeting, shall distribute to remote participants, in advance of the meeting, copies of any documents or exhibits that he or she reasonably anticipates will be used during the meeting. If used during the meeting, such documents shall be part of the official record of the meeting, and shall be listed in the meeting minutes and retained in accordance with M.G.L. c. 30A, sec. 22.

(8) Effect on Bylaws or Policies. These regulations do not prohibit any municipality or public body from adopting bylaws or policies that prohibit or further restrict the use of remote participation by public bodies within its jurisdiction.

(9) Remedy for Violation. If the Attorney General determines, after investigation, that 940 CMR 29.10 has been violated, the Attorney General may resolve the investigation by ordering the public body to temporarily or permanently discontinue its use of remote participation.

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CITY OF GLOUCESTER 2012 CITY COUNCIL ORDER

ORDER:	#CC2012-029
	(Amended from CC2012-023)
Councillor	Greg Verga/Joe Ciolino

DATE RECEIVED BY COUNCIL:	06/12/12
REFERRED TO:	O&A
FOR COUNCIL VOTE:	06/26/12

RESOLUTION IN COUNCIL

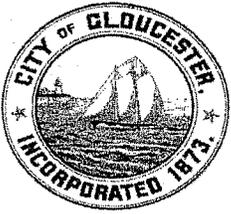
WHEREAS there are a number of streets in the City of Gloucester whose residents are City water users and customers and City water rate payers although they do not have the benefit of publicly owned and constructed water lines in their street, and

WHEREAS these water rate payers have for many years paid water costs assessed by the City which have paid for water improvements including water line reconstructions and replacements *on many streets* throughout the City,

WHEREFORE, BE IT RESOLVED that the City Council finds that all City water customers shall be entitled to equitable treatment concerning the construction, replacement and upgrades of water lines regardless of whether they reside on a public street or a private street and regardless of whether they are served by *water lines in their streets* that were not constructed and installed in their streets by the City. Therefore, be it further resolved, that the Gloucester Code of Ordinances, sec.23-58, "*Disposition of money paid into treasury on account of waterworks*" shall be amended to reflect the requirement of equitable treatment of all water customers concerning construction of public water lines in all city streets and charges for such construction.

Greg Verga
City Councillor Ward 5

Joseph Ciolino
Councillor At Large



**CITY OF GLOUCESTER 2012
CITY COUNCIL ORDER**

ORDER: #CC2012-030
COUNCILLORS: Steven LeBlanc and Bob Whynott

DATE RECEIVED BY COUNCIL: 06/12/12
REFERRED TO: TC & O&A
FOR COUNCIL VOTE:

ORDERED that the GCO Sec. 22-287 entitled "Disabled veteran, handicapped parking" be amended by **adding**:

one (1) handicapped parking space in front of Cleveland Street #20

And further

ORDERED that this matter be referred to the Traffic Commission for review, measurements and recommendation and to the Ordinances and Administration Committee for review and recommendation.

Steven LeBlanc, Jr.
City Councillor, Ward 3

Bob Whynott
Councillor at Large



**CITY OF GLOUCESTER 2012
CITY COUNCIL ORDER**

ORDER: #CC2012-031
COUNCILLORS: Jackie Hardy, Joe Ciolino &
Sefatia Theken

DATE RECEIVED BY COUNCIL: 06/12/12
REFERRED TO: O&A
FOR COUNCIL VOTE:

ORDERED that the GCO Chapter 1, Article IV, Division 4 "Department of Veterans' Services*" Sec. 2-291 "Appointment, qualifications and general powers and duties of director" be amended by **adding** after "approved by the city council" "**for a term of one (1) year**";

And further

ORDERED that this matter be referred to the Ordinances and Administration Committee for review and recommendation.

Jackie Hardy
City Councillor, Ward 4

Joe Ciolino
Councillor at Large

Sefatia R. Theken
Councillor at Large



CITY OF GLOUCESTER 2012 CITY COUNCIL ORDER

ORDER: #CC2012-032
COUNCILLORS: Bob Whynott

DATE RECEIVED BY COUNCIL: 06/12/12
REFERRED TO: O&A
FOR COUNCIL VOTE:

ORDERED that the City Council request the State to allow for 30 minute parking signs in front of the WWII Memorial on Western Avenue; and further

ORDERED that this matter be referred to the Ordinances and Administration Committee for review and recommendation.

Bob Whynott
Councillor at Large