

GLOUCESTER CITY COUNCIL MEETING

Tuesday, October 8, 2013 – 7:00 p.m.

Kyrouz Auditorium – City Hall

-MINUTES-

Present: Chair, Councilor Jacqueline Hardy; Vice Chair, Councilor Sefatia Theken; Councilor Joseph Ciolino; Councilor Melissa Cox; Councilor Steve LeBlanc, Jr.; Councilor Paul McGeary; Councilor Greg Verga; Councilor Robert Whynott

Absent: Councilor Tobey

Also Present: Linda T. Lowe; Jim Duggan; Suzanne Egan; Aleesha Nunley; Jim Caulkett; Gary Johnstone; Donna Compton

The meeting was called to order at 7:00 p.m.

Flag Salute & Moment of Silence.

Oral Communications: None.

Presentations/Commendations: None.

Council President Hardy noted that Councilor Tobey is unable to attend this evening's meeting as he is out of state on business.

Consent Agenda:

- **MAYOR'S REPORT**

1. Memorandum from Principal Assessor re: Tax Classification (Refer B&F)
2. Memorandum, Grant Application & Checklist from Police Chief re: Council acceptance of funding up to \$17,202.25 in reimbursement overtime costs for FY14 from the Drug Enforcement Agency (DEA) (Refer B&F)
3. Memorandum from Police Chief requesting City Council permission to apply for FY14 State 911 Training & EMD Grants (Refer B&F)
4. Memorandum & relevant information from Community Development Director re: updated Activity & Use Limitation related to New Balance Track & Field at Newell Stadium (Refer B&F)
5. Memorandum from Chief Administrative Officer requesting City Council approval of building delivery method for the West Parish School Project known as Construction Manager at Risk (CMAR) (Refer B&F)
6. New Appointments: Tourism Commission TTE 02/14/14 Susan Parent, Catherine Ryan
Tourism Commission TTE 02/14/15 Pauline Bresnahan, Laura Dow, Paul Frontiero, John Orlando, Peter Webber
Tourism Commission TTE 02/14/16 Lily Linquata, Karen Ristuben, Zach Sears (Refer O&A)

- **COMMUNICATIONS/INVITATIONS**

1. Mayor's Veto & Memorandum re: Home Rule Petition for removal of 65 Rogers Street from Designated Port Area (Council Discussion)
2. City Council letter to support Cape Pond Ice for removal from Designated Port Area (Info Only)
3. Communication from Council President Hardy to City Councilors re: MSBA Board Action Letter re: West Parish School (Info Only)

- **APPLICATIONS/PETITIONS**

- **COUNCILORS ORDERS**

1. CC2013-043 (McGeary) Amend GCO c. 22, Sec. 22-287 "Disabled veteran, handicapped parking" re: Herrick Court #5 (Refer O&A & TC)
2. CC2013-044 (Cox) Amend GCO c. 22, Sec. 22-287 "Disabled veteran, handicapped parking" re: Liberty Street #14 (Refer O&A & TC)
3. CC2013-045 (Hardy) City Council review Gloucester Dog Park Regulations adopted March 22, 2011 for purpose of incorporating the same into GCO c. 4 "Animals," Art. II "Dogs," Sec. 4-16(d) "Off-Leash Dog Areas" and adding enforcement to Sec. 1-15 "Penalty for Violation of Certain Specified Sections of Code" (Refer O&A)
4. CC2013-046 (LeBlanc) Amend GCO c. 22, Sec. 22-287 "Disabled veteran, handicapped parking" re: one space across from Washington Street #200 near Knowlton Square (Refer O&A & TC)
5. CC2013-047 (Cox) Amend GCO Sec. 22-269 "Stop intersections" re: Center Street & Middle Street intersection (Refer O&A & TC)
6. CC2013-048 (Cox) Request addition of crosswalk on Pleasant Street at Sheedy Park to Burnham's Field (Refer TC & DPW)
7. CC2013-049 (Cox) Request removal of crosswalk on Railroad Avenue at the intersection of School Street (Refer TC & DPW)
8. CC2013-050 (Hardy) City Council letters to Senate & House Chairpersons of the Joint Committee on Housing reinforcing Gloucester Housing Authority's Executive Director's letter supporting House Bill 1094 and companion bills regarding continued control of Local Housing Authorities (City Council)

- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**

1. City Council Meeting: 09/24/13 (Approve/File)
2. Standing Committee Meetings: B&F 10/03/13 (under separate cover), O&A 09/30/13, P&D 10/02/13 (Approve/File)

Items to be added/deleted from the Consent Agenda:

By unanimous consent of the City Council the Consent Agenda was accepted as presented.

Committee Reports:

Budget & Finance: October 3, 2013

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to adopt the Budget & Finance Committee Consent Agenda dated October 8, 2013 as follows:

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to approve the amendment to the City’s Beach & Stage Fort Park Regulations by DELETING Section II (D) 7 in its entirety and renumbering the subsequent paragraphs of Section II (D).

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, that under MGL Chapter 44, §64 to authorize payment of outstanding invoices incurred by the Department of Public Works for goods/services received in FY13 from HD Supplies Facilities Maintenance Limited for a net total of \$21,054.62 to be paid with funds from the current FY14 Water Enterprise Fund budget, Account #610000.10.450.54320.0000.00.000.00.054, Water Enterprise, Pipes, Tubes, Fittings:

<u>Invoice #</u>	<u>Date of Invoice</u>	<u>Amount Due</u>
6319243	4/08/13	\$15,368.29
8112097	5/08/13	\$ 648.00
B092030	6/14/13	-\$ 550.00
B053542	6/05/13	\$ 341.00
9679035	6/05/13	\$ 7,182.20
B088831	6/13/13	<u>-\$ 1,934.07</u>
NET TOTAL:		\$21,054.62

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to authorize payment of invoices as listed below from HD Supplies Facilities Maintenance Limited for a net total of \$21,054.62 for goods/services received in FY13 to be paid from the current FY14 Water Enterprise Fund budget, Account #610000.10.450.54320.0000.00.000.00.054, Water Enterprise, Pipes, Tubes, Fittings without a purchase order in place:

<u>Invoice #</u>	<u>Date of Invoice</u>	<u>Amount Due</u>
6319243	4/08/13	\$15,368.29
8112097	5/08/13	\$ 648.00
B092030	6/14/13	-\$ 550.00
B053542	6/05/13	\$ 341.00
9679035	6/05/13	\$ 7,182.20
B088831	6/13/13	<u>-\$ 1,934.07</u>
NET TOTAL:		\$21,054.62

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, that under MGL Chapter 44, §64 to authorize payment of an outstanding invoice #65562 from the Beverly, Mass. Police Department dated 5/23/13 incurred by the Department of Public Works for services received in FY13 for a total of \$180 to be paid with funds from the current FY14 Water Enterprise Fund budget Account #610000.10.450.52000.0000.00.000.00.052, Water Enterprise, Contractual Services.

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to authorize payment of Invoice #65562 from the Beverly, Mass. Police Department dated 5/23/13 incurred by the Department of Public Works for services received in FY13 for a total of \$180 to be paid with funds from the current FY14 Water Enterprise Fund budget, Account

#610000.10.450.52000.0000.00.000.00.052, Water Enterprise, Contractual Services without a purchase order in place.

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, under MGL Chapter 44, §64 to authorize payment of outstanding invoices incurred by the Department of Public Works for services received in prior fiscal years from National Grid for a total of \$4,620.53 to be paid with funds from the current FY14 Department of Public Works budget Account #101000.10.472.52150.0000.00.000.00.052, FACILITIES, NATURAL GAS HEATING.

<u>Billing Period</u>	<u>Amount Due</u>
11/4/11 to 4/3/12	\$ 595.91
4/3/12 to 11/3/12	\$ 281.42
11/3/12 to 4/3/13	\$3,579.13
4/3/13 to 5/8/13	<u>\$ 164.07</u>
Total	\$4,620.53

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to authorize the payment of invoices as listed below from National Grid for a total of \$4,620.53 for services received under National Grid Account #44218-23800 in prior fiscal years to be paid from the current FY14 Department of Public Works budget Account #101000.10.472.52150.0000.00.000.00.052, FACILITIES, NATURAL GAS HEATING without a purchase order in place:

<u>Billing Period</u>	<u>Amount Due</u>
11/4/11 to 4/3/12	\$ 595.91
4/3/12 to 11/3/12	\$ 281.42
11/3/12 to 4/3/13	\$3,579.13
4/3/13 to 5/8/13	<u>\$ 164.07</u>
Total	\$4,620.53

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, that MGL Chapter 44, §64 to authorize payment of outstanding invoices incurred by the Department of Public Works for services received in prior fiscal years from Sprague Operating Resources, Inc. for a total of \$8,721.07 to be paid with funds from the current FY14 Department of Public Works budget Account #101000.10.472.52150.0000.00.000.00.052, FACILITIES, NATURAL GAS HEATING.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to authorize payment of invoice # 70157420 from Sprague Operating Resources, Inc. for a total of \$8,721.07 for services received under Sprague Account #89718000 in prior fiscal years to be paid from the current FY14 Department of Public Works budget Account #101000.10.472.52150.0000.00.000.00.052, FACILITIES, NATURAL GAS HEATING without a purchase order in place.

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to approve the City entering an agreement with the Massachusetts Port Authority (Massport) regarding Funding for the Purchase and Installation of Conservation Moorings for the purpose of eelgrass mitigation (“Agreement”). The term of this Agreement shall be from the date of execution of October 9, 2013, through the completion of the Massport Conservation Mooring Installation Program or September 30, 2014, whichever is earlier.

Ordinances & Administration: September 30, 2013

Councilor Theken reported there were no matters for Council action from this meeting. She noted that the O&A Committee has done their first site visit to Fort Square regarding a traffic matter with that matter to be taken up at the Committee's October 28th meeting.

Planning & Development: October 2, 2013

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, to recommend to the City Council to grant the Massachusetts Electric Company d/b/a National Grid ("MEC") an exclusive license to use Solomon Jacobs Park located at the Harbor Loop area in Gloucester, Mass., as described in the 9.3.13 Remediation Agreement between the City of Gloucester and MEC commencing on or about October 9, 2013 and terminating on or about October 9, 2018, if any extensions are necessary.

DISCUSSION:

Councilor Verga said that this agreement deals with the clean up that National Grid (NG) has inherited from the liquid gas company that was there years ago and needs exclusive use and access to the area of Solomon Jacobs Park at Harbor Loop to remediate the soil contamination in that area.

Councilor Theken asked if this agreement and the work associated with it would interfere with the Harbormaster and his work. She was informed by **Council President Hardy** that it would not according to the Harbormaster.

MOTION: On a motion by Councilor Verga, seconded by Councilor Hardy, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to grant the Massachusetts Electric Company d/b/a National Grid ("MEC") an exclusive license to use Solomon Jacobs Park located at the Harbor Loop area in Gloucester, Mass., as described in the 9.3.13 Remediation Agreement between the City of Gloucester and MEC commencing on or about October 9, 2013 and terminating on or about October 9, 2018, if any extensions are necessary.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent to recommend to the City Council to accept the Activities and Use Limitation Agreement on Solomon Jacobs Park to be recorded at the Essex County Registry of Deeds after the completion of the Solomon Jacobs Park Remediation by the Massachusetts Electric Company d/b/a National Grid.

DISCUSSION:

Councilor Verga said this is related to the agreement drawn up between the City and NG.

MOTION: On a motion by Councilor Verga, seconded by Councilor Whynott, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to accept the Activities and Use Limitation Agreement on Solomon Jacobs Park to be recorded at the Essex County Registry of Deeds after the completion of the Solomon Jacobs Park Remediation by the Massachusetts Electric Company d/b/a National Grid.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, to recommend to the City Council to approve the RFP #13155, Disposition by Lease of City-owned Land for Property Located at 8 Washington Street, Gloucester, MA as put forward by the City Administration with the terms and conditions as presented and as incorporated in this approval.

DISCUSSION:

Councilor Verga said that after several months of discussion with the Administration and the American Legion clearing up issues of the terms of the lease and who is responsible for what. This RFP would make the tenant in charge of the interior and the City is in charge of the exterior. He said the Committee was assured by the Administration that will be done. The Committee asked that care be taken on any interior or exterior work that is done to the building must be correct for historical reasons because it is in the historic district and that it doesn't

violate any conditions of a federal grant for a major renovation and restoration of the building in 1991, he said. **Councilor Verga** noted both the current tenant and the Administration said they will be sure that will be adhered to.

MOTION: On motion by Councilor Verga, seconded by Councilor Cox, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to approve the RFP #13155, Disposition by Lease of City-owned Land for Property Located at 8 Washington Street, Gloucester, MA as put forward by the City Administration with the terms and conditions as presented and as incorporated in this approval.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, to recommend to the City Council that the Request for Proposal #31338, as received by the P&D Committee on October 2, 2013 for disposition by sale of the City-owned property at 6 Stanwood Street (Map 111, Lot 8, zoned R-10), be authorized by the City Council pursuant to the terms and conditions of the RFP and pursuant to the Code of Ordinances Sec. 2-3 (a) (2) and 2-3 (a) (4) and MGL c. 30B with a minimum bid of \$2,300 conditioned upon the new property owner for a property located at Map 111, Lot 8, 6 Stanwood Street granting an easement to a property located at Map 111, Lot 6m 541 Washington Street to pass and repossess for the purpose of access for parking for 541 Washington Street.

DISCUSSION:

Councilor Verga explained that originally what came before the Planning & Development Committee were two related matters for discussion – an RFP for the Disposition by Sale of 6 Stanwood Street and a request for an easement from the owner of 541 Washington Street, a property adjacent to 6 Stanwood Street for a small portion of that property. He said the Committee decided that the City would not deal with the easement but the winning bidder would deal with the easement. **Councilor Verga** noted that representatives for the current leaser, Cape Ann Amateur Radio Association (CAARA) who potentially will be answering the RFP would like to address the matter of the RFP which he said he had no objection to.

At **Council President Hardy's** request, **Councilor Verga** explained the following: that the abutting property at 541 Washington Street has used a handshake agreement for years to use a portion of 6 Stanwood Street for access to that property. At the last P&D Committee meeting, the Committee had before it a request for an easement from the City to formalize an easement agreement to be filed with the Registry of Deeds. The Committee decided the City shouldn't undertake the easement but would let the new owner work out with the abutter an easement agreement. Since the Committee would not address the easement request, it wanted to be sure it was addressed by the new owner. Apparently there is concern for this caveat by CAARA.

Councilor Verga offered an amendment to the main motion to remove the last sentence of it so that it ended with the words, "...minimum bid of \$2,300." **Councilor Whynott** seconded the amendment to the main motion.

Councilor Verga added that the request for the easement is still live for the City and would have to be addressed at some point by the P&D Committee. The action this evening removes the easement from the RFP but it would still have to be addressed by the Council. **Council President Hardy** said the winning bidder would have to address the easement situation. **Councilor Verga** agreed but added that the Council will still have to take action on the easement request in hand and on file with the Council; that the matter has yet to be disposed.

MOTION: On a motion by Councilor Verga, seconded by Councilor Whynott, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to amend the main motion by ending it at the words, "...minimum bid of \$2,300.

MOTION: On a motion by Councilor Verga, seconded by Councilor Hardy, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, that the Request for Proposal #13138, as received by the P&D Committee on October 2, 2013 for disposition by sale of the City-owned property at 6 Stanwood Street (Map 111, Lot 8, zoned R-10), is authorized by the City Council pursuant to the terms and conditions of the RFP and pursuant to the Code of Ordinances Sec. 2-3 (a) (2) and 2-3 (a) (4) and MGL c. 30B with a minimum bid of \$2,300.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, under Code of Ordinances Sections 2-3 (a) (2) and 2-3 (a) (4) and 2-3 (d) to recommend to the City Council to grant a water line easement, for a nominal consideration of \$1 to be paid for 4 Lane Road and 151 Leonard Street from the City of Gloucester to the property located at 4 Lane

Road off of 151 Leonard Street (Certificate #14564 filed 6/4/1943, Plan dated 12/16/1942). Easement documents, including a plan for Council approval is to be prepared by Gateway and to be recorded by the owners of 4 Lane Road.

Councilor McGeary left the dais at 7:17 p.m.

DISCUSSION:

Councilor Verga explained that this water line easement was recommended by the Land Disposition Committee as well as the Waterways Board who placed conditions on the installation of the water line for 4 Lane Road's owner who agreed to the conditions (on file). A City public landing is adjacent to this property. For the Council's information, Lane Road runs between the house on 4 Lane Road and the Annisquam Village Church. The water line will service a red barn on the 4 Lane Road property. It was confirmed by the DPW Director that the nominal consideration of \$1 is usual for this type of easement.

Councilor McGeary returned to the dais at 7:18 p.m.

MOTION: On a motion by Councilor Verga, seconded by Councilor Cox, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, that under Code of Ordinances Sections 2-3 (a) (2) and 2-3 (a) (4) and 2-3 (d) to grant a water line easement from the City of Gloucester to the property located at 4 Lane Road off of 151 Leonard Street (Certificate #14564 filed 6/4/1943, Plan dated 12/16/1942) for nominal consideration of \$1.00. Easement documents, including a plan prepared by Gateway Consultants are to be recorded by the owners of 4 Lane Road.

Scheduled Public Hearings:

- 1. PH2013-053: Amend GCO Chapter 22, Sec. 22-270 "Prohibited parking at all times" by DELETING "East Main Street from Bass Avenue to entrance to Quincy Market Cold Storage building off East Main Street**

This public hearing is opened.

Those speaking in favor:

John Burlingham, owner of Zeke's Place at 66 East Main Street said there was always public parking at this East Main Street intersection; but there was a misinterpretation of the parking ordinance, and he asked the Council to vote in favor of the change to correct the ordinance.

Michael Carroll, owner of 56 East Main Street for seven years said he and his neighbors have seen a dramatic increase of wrong way traffic in the one-way portion which he said was due to the extra wide roadway available. He said he has experienced traffic passing him on the left while attempting to turn left into his driveway because of this excess available width of the roadway.

Ann Whiteman, 65 East Main Street said she too has noticed an increase of vehicles travelling the wrong way onto East Main Street to access Wall Street; and that this ordinance change would help to keep wrong way drivers from accessing the one-way portion of East Main Street.

Those speaking in opposition: None.

Communications: None.

Councilor Questions:

Council President Hardy asked those folks who spoke in favor of the ordinance if there were any signs in place now that indicate "Do Not Enter" which was confirmed by the three speakers but they said another sign is needed. **Councilor McGeary** noted that the DPW, at his request, put up a second "Do Not Enter" sign at that intersection within the last two weeks.

This public hearing is closed.

MOTION: On a motion by Councilor Whynott, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Chapter 22, Sec. 22-270 (Parking Prohibited at all Times) by DELETING: "East Main Street, both sides, from Bass Avenue to the entrance to the Quincy Market Cold Storage building off East Main Street."

DISCUSSION:

Councilor Ciolino said when he was ward councilor he went through this same situation with the street. The problem seemed to stem from when the City did hot topping and sidewalk work on East Main Street and traffic signs were pulled because of it. But when the signs were replaced, signage went according to the ordinance which was incorrect and so the roadway traffic situation has not worked since. Having parking on the one-way street portion of East Main Street, he said, will slow drivers. He urged the Council to vote in favor of the ordinance change as this is what the neighbors want.

Councilor McGeary as the filer of the Council Order, said that with the help of the City Clerk it was discovered that in 2002 when East Main Street was made one-way from two-way, the parking ban was not lifted; rather the ordinance continued to reflect a two-way street. Parking was allowed in front of the former Boley's auto dealership some time ago, he pointed out. This action is actually one of two – the first is to delete a corridor of "Parking prohibited at all times" and then replace it with a parking ban which does allow parking from Wall Street to Cripple Cove.

Council President Hardy expressed concern for vehicles coming out of Wall Street onto East Main Street saying that there is still need to honor the 20 feet no parking from the corner to the intersection and asked that it is made sure proper signage is in place. **Councilor McGeary** said that signage is in place and that an arrow just needs changing from running in two directions to one.

MOTION: On a motion by Councilor Theken, seconded by Councilor Whynott, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to Amend GCO Chapter 22, Sec. 22-270 (Parking Prohibited at all Times) by DELETING: "East Main Street, both sides, from Bass Avenue to the entrance to the Quincy Market Cold Storage building off East Main Street."

2. **PH2013-054: Amend GCO Chapter 22, Sec. 22-270 "Prohibited parking at all times" by ADDING "East Main Street, both sides, from Bass Avenue to 159 Main Street (Americold Building) across from Chapel Street with the exception of East Main Street, westerly side from Wall Street in a southerly direction for a distance of 360 feet (Pole #3671)**

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Councilor Questions: None.

This public hearing is closed.

MOTION: On a motion by Councilor Whynott, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Chapter 22, Sec. 22-270 (Parking Prohibited at all Times) by ADDING: "East Main Street, both sides, from Bass Avenue to 159 East Main Street (Americold Building) across from Chapel Street with the exception of East Main Street, westerly side from Wall Street in a southerly direction for a distance of 360 feet (Pole #3671)."

DISCUSSION:

Councilor McGeary reminded the residents present from the affected area on East Main Street that this ordinance change will not take effect for 31 days once voted by the Council.

MOTION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to Amend GCO Chapter 22, Sec. 22-270 (Parking Prohibited at all Times) by ADDING: "East Main Street, both sides, from Bass Avenue to 159 East Main Street (Americold Building) across from Chapel Street with the exception of East Main Street, westerly side from Wall Street in a southerly direction for a distance of 360 feet (Pole #3671)."

Jim Duggan, CAO confirmed with the Chair of B&F, **Councilor McGeary** that the Agreement between the City and Massport was taken up under the B&F Consent Agenda.

3. PH2013-055: RZ2013-001: Norman Avenue #18, Assessor's Map 170, Lot 43 from R-20 (Low-Medium Density Residential) to VB (Village Business)

This public hearing is opened.

Those speaking in favor:

- Overview of Petitioner's Application for Rezoning:

Attorney Robert Coakley, representing Jon von Tetzchner, Petitioner, Curry Properties LLC, 18 Norman Avenue (present), said that this evening concludes a formal process of about seven weeks started upon the filing of the petition filed with the City Council. During that time this matter has been before P&D over two meetings; one public hearing with the Planning Board; a general meeting with neighbors of Magnolia and one meeting with some of the direct abutters, he noted. He said Mr. Von Tetzchner purchased a home in Magnolia two years ago and is a successful business owner having formed and operated a software company web browser called Opera, in Norway. Mr. von Tetzchner, he said, was born in Iceland. **Mr. Coakley** explained Mr. Von Tetzchner resigned his position over philosophical differences with investors at Opera and decided to go into new areas. Mr. Von Tetzchner, he said, discovered the Inn at Magnolia was for sale and has put the property under agreement because the property offered a unique opportunity for Mr. Von Tetzchner to start something that was almost seamlessly similar to what was there before.

Mr. Coakley described the property lot: The property is almost 2 acres in size with an about 8,000 footprint of the building with almost 12,000 square feet in total in two stories on one side, and on another three stories. The inn has a license from the Licensing Board for 40 guests as a Bed and Breakfast with two apartments and ancillary business uses that are akin to operating a successful Bed and Breakfast concern such as a concierge desk, registration area, a business office for presenting statements to guests and taking reservations.

Mr. Coakley reiterated that Mr. Von Tetzchner lives in Magnolia, likes the community and wants to be a good neighbor. What he and Mr. Von Tetzchner learned in meetings with the neighbors and Magnolia residents that the current operation of an inn has gone on almost unnoticed by residents as it is a very quiet operation, and Mr. Von Tetzchner plans to keep it a quiet operation. He said that if his client were to change the use in the way he wanted to do it, the neighbors would not have noticed any difference; however, what he would have been doing would have been violating the zoning ordinance because what he wants to do is add primarily an office component. Mr. Von Tetzchner, he said, wants to add into the property an office component and wants to bring in former employees, business associates, computer professionals, software engineers as non-paying guests by invitation only, living for a period of time there in order to explore the U.S., Cape Ann because a lot of Europeans are not familiar with this country. **Mr. Coakley** said his client also believes that by having these professionals on site that it is an opportunity for cross-pollination and stimulation of ideas for start up businesses by those gathered at the innovation house at the same time. He noted there will be a manager on site, an American associated with Mr. Von Tetzchner who coming back to this country after being in Norway for some years.

- Rezoning versus Use Variance from the Zoning Board of Appeals:

Mr. Coakley also pointed out that Mr. Von Tetzchner will put his office in this facility. If they were to try and add the office use to the existing use, it would have to go to the Zoning Board of Appeals for a use variance. To get a use variance is impossible in this situation, he said, because the standard for a use variance is that there is no other practical use for the property except for the use the petitioner goes to the ZBA for. **Mr. Coakley** said that standard can't be met because there is a successful on-going business and use on that site. He said his client is proposing to take that use on one side of Norman Avenue, a major thoroughfare qualified by definition as a collector street within the zoning ordinance, and move it across the street to the business area of Lexington Avenue. He pointed out the business area extends out on both sides of Lexington Avenue because of the way the zoning goes, but is primarily along Lexington Avenue. By moving the property's zoning over, the uses that are currently engaged by the Inn at Magnolia are grandfathered in because those are permitted uses and in the VB district.

- Planning Board Review of Rezoning Request:

He said the only other thing his client would be looking to do would be to add an office component. **Mr. Coakley** explained when this rezoning request went before the Planning Board and Gregg Cademartori, City Planning Director was talking to the Board members when he presented them with his recommendation, he was talking about this particular site if it went to VB, it constrained by certain things in the future such as to septic as there is no City sewer in Magnolia which will likely remain that way for the foreseeable future. The business uses in the VB district are largely regulated by the ZBA or by the City Council under four different tiers of uses. Mr. Cademartori, he said, told the Board that there are a lot of regulations within the business use section of the zoning ordinance that governs the VB district.

Discussions between the Petitioner and Neighbors and Abutters on a Permanent Private Restriction:

He said they heard from neighbors, whom he complimented by saying they have been cordial and courteous throughout this process; who acknowledged his client is a gentlemen, man of integrity and his word. **Mr. Coakley** said the neighbors believe what Mr. Von Tetzchner says what the use going forward to be. The point the neighbors brought forward was what happens if Mr. Von Tetzchner sells this property. In meeting with the neighbors a second time, **Mr. Coakley** said he and his client proposed that there are four major business use categories that were a "Yes," in the zoning ordinance - a Laundromat, banks and ATM machines, restaurants, and retail/commercial services. **Mr. Coakley** said he and his client proposed that of those four categories they would take three out of the mix. He said they would offer to the neighbors a permanent private restriction enforceable by any of the neighbors taking the three categories out.

Mr. Coakley showed the Council a 1984 survey map commissioned by the former owners, which indicated the size of the lot and location of the building only changed through the years in minor ways. He said they offered the same setback criteria for the property to remain that of the R-20 district: 30 feet in front, 30 feet in the rear and 20 feet on the sides. Another concern expressed by the neighbors was what would happen if a big restaurant came into that location. His client, he said, agreed to remove the restaurant restriction except so far as to provide food either cooked on premises in a commercial kitchen or brought on site to feed visitors at the facility and that an exception would be allowed as that service is currently being provided at that location.

Mr. Coakley noted that prior to the P&D meeting, he mailed out a proposed amendment to that affect to about five of the immediate abutters through the only two email addressees he had. Since that time he has only heard back from a two neighbors – a neighbor to the right of the property, a multi-family home owner, Mr. Goodwin who is represented by Attorney J. Michael Faherty. He said that Mr. Goodwin thought, subject to confirmation of his lawyer, that the restrictions proposed met his all of his concerns. **Mr. Coakley** said he has subsequently spoken with Attorney Faherty and with Mr. Goodwin again just today who he said stands behind that. He showed the Council an email that Mr. Goodwin accepts that provision. Two owners of multi-family homes across the street from 18 Norman Avenue in the business district, he said, also called him to express their support for this rezoning because the business use, which one termed a business retreat, would be good for the downtown Magnolia business district.

He said he spoke to David Gerard, an immediate abutter to the rear who is the neighbor of 18 Norman Avenue. He said Mr. Gerard asked could they agree if Mr. Von Tetzchner were to sell the property that he would take the property back to R-20 zoning. **Mr. Coakley** said the property could move from residential zoning to VB zoning because use is already in existence because it is allowed in the VB district, but the property can't go back to residential if the only use could be done is a residential use, and so it couldn't be done. He said he spoke to Mr. Gerard the previous day as well as today; and Mr. Gerard was asking is there a quid pro quo involved in this offer. **Mr. Coakley** responded to Mr. Gerard there was not, as the quid pro quo which he said he confirmed with Mr. Gerard was that if Mr. Gerard opposes the rezoning (Mr. Gerard had filed a letter in opposition at this public hearing), would his client still offer the restricted covenant, and Mr. Coakley said he responded, "Yes." He and his client would do so. They are not making this offer of a private restriction conditioned on their support. It is offered because they believe in it. Mr. Gerard told Mr. Coakley, **Mr. Coakley** said, that his mind was eased knowing that the restrictive covenant was not being held out as a carrot on a stick, so to speak. Mr. Gerard also told Mr. Coakley, he reported, that he appreciated that Mr. Von Tetzchner is an honorable man. **Mr. Coakley** said he also explained this to Mr. Faherty, that regardless, the only person formerly to step up and willing to take the restriction is Mr. Faherty's client, Mr. Goodwin; **Mr. Coakley** said, because the restriction has to be accepted by at least one of the neighbors and right now one of the neighbors is willing to accept it.

Mr. Coakley noted he had given the Council a summary of the existing of existing uses and why this fits in within the VB criteria (previously on file). This is primarily a real benefit, he said, to the residents of Magnolia and for the City. It also fits into the criteria of the City's Master Plan which is updated on a 10-year cycle. He said they are pleased to have received a unanimous endorsement from the Planning Board saying that the issue before the Board was to change of use for this property from R-20 to VB and that the use was provided for by the rezoning. **Mr. Coakley** said his client is trying to provide for future use because they want to be a good neighbor.

Jim Duggan, CAO said that the Administration and the City Council are supportive of growing the City's economy. He said the rezoning application before the Council would allow office use to occur on this property in Magnolia. He noted that the Administration fully supports the rezoning application. The applicant, Mr. Von Tetzchner, is the founder and former CEO of Opera software in Norway; and he pointed out that Opera's web browser is used by over 300 million users worldwide. After leaving Norway he chose this City was his new home along with his wife and children. He said he is a successful and creative entrepreneur who is thoughtful, caring and an intentional individual whom he pointed out was clear in his working with City staff, the Community Development Director, Tom Daniel; Planning Director, Gregg Cademartori; and especially with the EDIC Executive

Director, Tom Gillette. **Mr. Duggan** said Mr. Von Tetzchner cares about Gloucester. Although Mr. Von Tetzchner has business interests in other parts of the world, he wants to do something in Gloucester that would support innovation and the community, he said. As a resident of Magnolia, **Mr. Duggan** added, he is particularly interested in supporting Lexington Avenue. He said one can envision Mr. Von Tetzchner's innovation house concept contributing in positive ways to Lexington Avenue. Another example, he said, of Mr. Von Tetzchner's active support of innovation in Gloucester is the coaching he has been providing to the team from overthebridge.com, Corey Curcuru and John Cooney. Mr. Curcuru and Mr. Cooney, he said, hope to have a presence in the innovation house. **Mr. Duggan** said the Administration is very excited about the innovation concept which will provide a space for creative, innovative entrepreneurs to come together and collaborate right here in Gloucester which may lead to a new businesses being established and based in the City with some of these new businesses' employees choosing to live here also. **Mr. Duggan** reiterated the Administration fully supports the application and urged the Council to support the application also.

Jon Von Tetzchner, 18 Shore Road said his idea is simple; he has been working with start ups many years ago, starting a software company in 1994 starting with two people and became very, very large. He said as part of this action he set up an innovation house in Iceland where 18 companies will be there and has ties to another innovation house in Oslo, Norway with whom he is working with. His hope, he said, is that he can contribute to start up companies here or in Scandinavia to help them get things done. There are people moving here to work with him; his head of Human Resources is moving here to take care of his office here and in Iceland. Another former employee is moving in from Texas to work with him here, and said he would not be surprised to see more of employees come here as he is starting a new software company in Gloucester; and the idea is to have them all working out of the house at 18 Norman Avenue. The businesses, he noted, are generally software technology companies, and the idea is to be helpful to their development. He said he did not wish to create issues for the neighbors; to not be a nuisance to the abutters. He said he has a commitment to them, if this rezoning goes through he will do his best to be a good neighbor.

Tom Gillett, Executive Director, Economic Development and Industrial Corporation (EDIC) located in City Hall Annex on Pond Road said that the opinion of the EDIC and him is they are in support of the rezoning. He said he has worked with Mr. Von Tetzchner for months to assist him in finding an appropriate property that was an acceptable alternative in Gloucester. He said they looked on Main Street, in the Fort, the industrial parks, and could not find something that met the needs for something like an innovation center nor did it meet Mr. Von Tetzchner's primary goal of being in Magnolia and being a part of the revitalization of its economy. He said in the EDIC's opinion this rezoning makes sense because there are very few alternatives to bring developments like this to the City. The ability to bring this to Magnolia very attractive, he said; and 18 Norman Avenue already is a commercial location and that because the business is non-conforming the EDIC's recommendation is to make this property conforming and appropriate. This brings the opportunity to Gloucester; **Mr. Gillett** said, noting he comes from 45 years experience in the high tech industry and has experience in three start ups the last being built up only over a couple of years and became worth over \$1 billion in public valuation. He said he chose to come to Gloucester 15 years ago, similarly to why Mr. Von Tetzchner came to the City because they love Gloucester which has soul of the City which has courage from its fishermen and creativity from its artists. That **Mr. Gillett** said, is the same thing entrepreneurs look for, and a part of who they are. This is an opportunity to develop a high tech site and he said he hoped that this would begin an exciting economic opportunity for Gloucester.

Corey Curcuru, 71/2 Williams Court said he grew up in Magnolia and founder of The Bridge who said he hopes to move into the innovation house. He said he and Mr. Von Tetzchner are very interested in revitalizing Magnolia. **Mr. Curcuru** said there will be a local presence in the innovation house; The Bridge isn't just a website and a tech start up that prides itself on community outreach. He said they hope to host community events for Magnolia; they teach after school programs at O'Maley Middle School and Gloucester High School and recently hosted a family fall festival at Mile Marker One. He said the property will be offered for community events for Magnolia. Their commitment to the property goes further to the community and the City as a whole, he said. **Mr. Curcuru** also pointed out they would work with the abutters to make this transition smoother and understands their concerns. Mr. Von Tetzchner's and his commitment are long term, he said.

Dick Wilson, 12 Village Road said he couldn't be any more favorable than he is now to the rezoning of 18 Norman Avenue. He said he is an abutter to an abutter to 18 Norman Avenue and that he is convinced that his land will increase in value by this change. The zoning of Magnolia is "dead". He said in the 47 years he has lived in Magnolia, Lexington Avenue has gone from having stores such as Macy's and other high end Fifth Avenue stores to nothing but empty, crumbling storefronts. **Mr. Wilson** said this is a golden opportunity from a first-class individual. He asked the Council to not pass up this fine opportunity.

Walter Kolenda, 14 Harvard Street and is owner of Cape Ann Auction said he moved into a storefront on 8 Lexington Avenue. Nothing the civility between the petitioner and the objecting neighbors, he said the fears from the abutters are being guaranteed to not transpire with Mr. Von Tetzchner because of precautions being set in place. Just because they are concerned about resale is not a valid reason to stop the process, he added. He said he has an auction company; his business affords him he can sell on line and doesn't need to be in a storefront but that he is on Lexington Avenue because the location has great energy. He said he believes Mr. Von Tetzchner and that if the property were to be sold in the future that the Mr. Von Tetzchner would take care not to let the property fall into the wrong hands.

Susan Zampell, 7 Fuller Street said that she is speaking on behalf of her husband and herself noting they have been residents of Magnolia for some years. She said what Mr. Von Tetzchner is doing is something positive and is proposing a soft use for the property. As far as the international clientele is concerned, this is what Magnolia used to have years ago, she pointed out, and expressed she and her husband were in favor of the rezoning.

Margaret Mayer, 2 Cove Ledge Lane said she only met Mr. Von Tetzchner tonight, and added that from a resident's point of view it is heartbreaking to see Lexington Avenue and Magnolia with vacant buildings. She said this is wonderful that someone wants to come to Magnolia and help revitalize it. She said she was in favor of what Mr. Von Tetzchner is trying to do.

Amanda Nash, current owner of 18 Norman Avenue said she wished to address the issue of the petition submitted to the Council by Mr. Marcous in opposition to the rezoning of this property and said she spoke to a neighbor that day who signed the petition who told her he signed it because he didn't want a gas station or a Walgreens on the property. She said she asked this gentleman had they not explained to him about the difference between VB and R-20 and the difference between other kinds of business zoning. He told Ms. Nash that had not been explained to him but that he thought that perhaps that the people who asked him to sign the petition didn't quite know that themselves. **Ms. Nash** said people are not quite informed about the differences are and that this gentleman knew nothing about the restrictive covenant that took away a lot of the extensions that would have been added with the VB district which she said was a concern. She said she also heard from the neighbors they want things to stay the same. **Ms. Nash** explained that she cannot continue to run the business the way it is; while it may look successful, it is not what they think and can't remain the same.

Those speaking in opposition:

Charles Marcous, 20 Ocean Avenue, an immediate abutter to 18 Norman Avenue noted **Regina V. and David J. Gerard** who could not attend this evening; but he read a letter signed by them, and submitted it for the record which stated the Gerard's opposition to the rezoning of 18 Norman Avenue and expressed their concern that the property's use could be different should the petitioner sell the property in the future.

He read a letter from **Joan F. Rose**, 22 Ocean Avenue, which Mr. Marcous submitted for the record. Ms. Rose, he said, is not a direct abutter but is an abutter to an abutter who expressed her opposition to the rezoning of 18 Norman Avenue. She was concerned, he said, that the property's use could be changed to other business uses. She urged that the Inn at Magnolia remain an inn. **Mr. Marcous** then read a letter from **Janet Marcous**, 20 Ocean Avenue, submitted for the record, also in opposition of the rezoning of 18 Norman Avenue and asked to have the property remain a Bed and Breakfast establishment serving the needs of the Magnolia community as it has in the past. She contended that this matter had moved forward very swiftly and had not been widely publicized given the nature of the historical aspects and was only published in the Cape Ann Beacon which is not as widely read as the Gloucester Daily Times, she pointed out. She also said she did not think the residents of Magnolia had been given fair notice. **Mr. Marcous** then read a letter he wrote, submitted for the record, in opposition to the change in the zoning from R-20 to VB. He also submitted to the Council a petition with 46 original signatures stating the signers were all in opposition to the rezoning of the property.

He said while he and his neighbors support the idea of an innovation house and see an economic uptick in Gloucester, they still oppose the rezoning. **Mr. Marcous** said he and his neighbors have already been to two government meetings already where this was voted unanimously in favor to the City Council. Referencing GZO Sec. 2.3.4 Business Uses table, **Mr. Marcous** pointed out that if this residence has more than 6,000 square feet of living area, office use is not allowed in the VB district. He asked how two bodies could vote for this rezoning and not take even a cursory look at the zoning laws. He said this matter is on such a fast track that due diligence has not been done.

Council President Hardy pointed out that the Council had yet to vote on this matter.

Mr. Marcous said Mr. Coakley is asking for a big change in zoning, noting the Hotel Overlay District matter in the Fort, he pointed out that there is 12,208 square feet of living space at 18 Norman Avenue. In the 2008 zoning ordinance that if you have more than 6,000 square feet of living space you can't make an office. He said he agreed also with Mr. Coakley that they have been generous making the offer of a restricted convent which includes R-20

setbacks, but, he said, that would be on the neighbors. He said if the property is sold to someone else, the new owner could get permits, bring bulldozers in and could change the use of the property, the neighbors couldn't go to the City and say to stop the new owner's action because it is a violation of the City's zoning, they would have to hire attorneys and fight it themselves; and the burden would be on the neighbors. If the sale goes through and the zoning goes through the owner would grant to the grantees the R-20 set backs but the City would have no obligation to enforce it. He noted Mr. Goodwin, a direct abutter to 18 Norman Avenue, indicated to him personally that he would be selling his property very soon. **Mr. Marcous** said that Mr. Goodwin's future interest is different than the rest of the abutters are not planning to move anytime soon.

David Ellms, 18 Ocean Avenue, an abutter to 18 Norman Avenue said that his property is actually cut by Mr. Goodwin's property by a dirt road which he said concerns him with the change in zoning. All the people that were for the idea, he said, not one is an abutter. He said he has two boys, 8 and 11 years old whom in 30 year might want to take over his home which is when the restricted covenant expires. This rezoning would mean he is living next to a piece of commercial property. He said he has owned this property 18 years and lived in Magnolia for a total of 23 years because it is quiet and a block from the ocean. He said he wished there was a different way to do it than change the zoning as there are a lot of unknowns.

Rebuttal:

Mr. Coakley said the private covenant by law can only be for a term of 30 years; however, the 30 year term can be brought forward by those who have the benefit of the restriction and extended another 30 years. At the end of the 30 year term, the abutters have the right to bring that restricted covenant forward by recording it again. He also pointed out that the office use is allowed in the VB district. The entire building of 12,000 square feet will not be used as an office, but there will be an office use within the building along with the lodging use of the existing units there. Mr. Gillette, he noted, has said that besides contributing to the revitalization of Lexington Avenue, one purpose of the rezoning is to reduce non-conformance with the zoning ordinance. The current use is a business use in a residential neighborhood and that the VB provides a framework of regulation; and this action is reducing a non-conforming pre-existing use. The use is currently regular for a residential district.

Mr. Marcous said that a survey of all the hotels, B&B's and inns in Gloucester. There are 21 of them, 2 are in a business zone, the Crow's Nest and the hotel on Long Beach. All others are in R-5, R-10 or R-20. There are no B&B's motels or hotels in a VB District. He handed his list to the Council President. He added each of these are a commercial business who rent rooms, make meals, does laundry. Nineteen out of the 20 businesses are in residential zones, he said. He submitted the list for the record.

Communications:

Linda T. Lowe, City Clerk said a communication has been received from Regina and David Gerard was already read into the record and that of Jane F. Rose, Janet Marcous and Charles Marcous and that also received was a petition signed by no more than 45 people (one who appeared to sign twice) who give Magnolia addresses who appear to be abutters in opposition to the rezoning application.

Councilor Questions:

Councilor Whynott asked if this rezoning is granted can someone come along and put in a gas station or a convenience store on the property. **Gregg Cademartori**, Planning Director told the Councilor, "No." He added that the Planning Board did hold a properly noticed public hearing on September 19th and that hearing was also closed; a report was submitted to the City Council dated September 30th. He said in the process of the Planning Board review, and as was previously pointed out appropriately, that the question of the change of allowance of uses and some not allowed if the rezoning was enacted. When the Planning Board reviewed the rezoning matter, he said, the Board was given a review of those uses that are allowed and not, some are allowed as of right but many are continued to be controlled by special permit either by the City Council or the Zoning Board of Appeals (ZBA). He also said that since 2010 when Site Plan Review was enacted, many of the uses that were allowed as of right didn't go through any other review process other than being submitted to the Building Inspector for a building permit review process. The Site Plan Review process is now in place, he said. **Mr. Cademartori** said there are very few commercial uses; the threshold is very low – greater than 2,000 square feet that wouldn't require Site Plan Review by the Planning Board or potentially additional reviews by either the City Council or the ZBA. He pointed out that gas stations are allowed only by special permit of the City Council. **Councilor Whynott** noted that Mr. Coakley said that the 30 year restrictive covenant could be renewed at the end of the 30 year term, and he asked who would decide whether that covenant would be renewed or not. **Mr. Cademartori** said that he couldn't speak the covenant; however, that discussion was introduced at the Planning Board level; but the discussion of zoning doesn't entertain those types of agreements. He said if this petitioner does acquire the property and enters into those restrictions that may be a benefit to the abutters. The Board had to consider the uses allowed with the zoning change so the consideration of a private restriction was not something, he said, he could speak to.

Councilor Whynott asked who benefits whether the covenant gets extended. **Mr. Coakley** explained that: The neighbors participating in the restricted covenant have the benefit of the restriction can bring the restriction forward. Whoever owns the property does not get a say in whether it is brought forward. As to the gas station under the business use section only the City Council can authorize a gas station in a VB district. It is a Special Council Permit granting process.

Councilor Verga said in 2043 if the heirs of the abutters want to continue the restrictive covenant and the owner of 18 Norman Avenue does not, the owner is stuck. **Mr. Coakley** confirmed that would be the case.

Councilor Verga said neighbors are concerned about the loss of the inn because it serves as a benefit to the neighbors. Were someone to purchase that property no one would say they have to be an innkeeper and he asked what an allowable use is currently for the building and the property. **Mr. Cademartori** said it is primarily residential uses. He said it has also been appropriately pointed out that there are 13 districts where hotels and motels permitted in the City; many are in residential districts but only by Special Council Permit.

Councilor Verga said this property could be a single family use but asked at what level by right a conversion can take place. **Mr. Cademartori** said it is three units. He added that if someone was to convert or try to establish apartments or townhouse units by re-dividing the house in some way or removing the building and starting anew, two units as of right in the R-20 district and anything beyond that would require a Special Council Permit.

Councilor Verga confirmed with **Mr. Cademartori** there is nothing in the zoning ordinances that says the property has to stay as an inn.

Councilor Cox asked if a site visit was conducted by the Planning Board. **Mr. Cademartori** said the Board was furnished with photographs and GIS layers of the area; and all Board members were familiar with Magnolia, knew the site. He said the Board did not suggest or require a site visit. **Councilor Cox** asked if the current building is a non-conforming use in the R-20 district. **Mr. Cademartori** said because the inn was in existence before zoning ordinances were set in place that it did not go through the Special Council Permitting process, it is not something that went through a permitting process per se and is typically labeled an existing non-conforming use. **Councilor Cox** noted **Mr. Cademartori** had said earlier that anything over 2,000 square feet would trigger a Site Plan Review. **Mr. Cademartori** confirmed that anything over 2,000 square feet or if there was a parking lot reconfiguration, those types of thresholds are outlined in GZO Sec. 5.8 and would require a Site Plan Review of the Planning Board. **Councilor Cox** clarified that **Mr. Cademartori** was saying that there are plenty of provisions in place to trigger a secondary review should the property be sold anytime after the proposed owner. **Mr. Cademartori** said there are a number of processes in place including the Site Plan Review process. There were a number of uses that were allowed by right that were only reviewed through the building permit process; but now between the special permits that are required either in the R-20 or VB district, there are now more review processes in place that look at specific issues that have been raised this evening.

Councilor McGeary said as he viewed GZO Sec. 2.3.4 use table it does say on line 3, "office building containing more than 6,000 square feet of floor area either new or conversion of dwelling is not permitted in VB;" which he said he inferred from that **Mr. Von Tetzchner** can use up to 6,000 of his 12,000 square feet for office and if goes to 6,001 square feet he would not get a building permit. **Mr. Cademartori** responded that would be a determination of the Building Inspector, but until such time as an application is put forward, that is a limitation of use in the zoning district. He added that 6,000 square feet beyond that is a "No" in the use table and that would be the limitation of office use on that property.

Councilor McGeary asked if **Mr. Coakley's** client was prepared to live within the limitation to half of the square footage of the building would be used for non-office purposes, to which **Mr. Coakley** responded, "Yes." **Councilor McGeary** confirmed with **Mr. Coakley** that extending the restrictive covenant is at the option of the neighbors, of the grantees. **Councilor McGeary** then asked did the owner of 18 Norman Avenue in 2043 have any recourse. **Mr. Coakley** said there is no recourse.

Councilor McGeary said the inn is a non-conforming use now; if it is bought and run as an inn that commercial use would be grandfathered in. **Mr. Cademartori** responded if someone were to purchase it now as of right in the VB district up to 30 guests are allowed. If the zoning stayed R-20 and the use doesn't change the grandfathered status runs out after a period of two years.

Councilor McGeary asked **Mr. Von Tetzchner** in Oslo and in Iceland how many companies were in the innovation houses. **Mr. Von Tetzchner** said in Iceland's innovation house there are 18 companies at present located there. He pointed out he was not saying that was the idea to have that many companies at Norman Avenue. **Councilor McGeary** asked how many start up's consisting of two, three people or so, did **Mr. Von Tetzchner** anticipate being housed there. **Mr. Von Tetzchner** said these are all small companies. He noted there is a limitation as to the number of people/start ups as there is a maximum of 6,000 square feet available for office space with the intended use of having people come over from Iceland and Norway. He said in Iceland he purchased an

apartment over the office where people can stay for housing. There will be more sleeping quarters in Magnolia, he said and pointed out that the idea is for people to come to the U.S. site and the 18 companies in Iceland and 16 companies in Norway, to be able to provide space for those visitors and for his former employees. **Mr. Von Tetzchner** said there is no intention to use more than 6,000 square feet for office space or increase the building footprint. **Councilor McGeary** asked in Norway and Iceland how long do people typically stay in the innovation house, days, weeks, months. **Mr. Von Tetzchner** said he just opened his office in Iceland although not officially opened. If staying there and using an office, a start up may use that space for a year or two, he said. People that are visiting from the overseas offices will be for a shorter time and have limitations.

Councilor Theken asked how many VB districts are in the City. **Mr. Cademartori** said there are three. There are also Neighborhood Business districts in addition to Village Business districts which have general definition as to the mix of uses that are allowed in those areas. **Councilor Theken** said if this rezoning didn't go through and another buyer bought the property she could put in multi-units under MGL 40B (subsidized housing) and if yes, how many units could go in. **Mr. Cademartori** said that could be done right now without changing the zoning. As to the number of units, it would depend on the capacity of the project; the factors that a developer usually considers is the amount of affordable housing units that has to be provided which is 25 percent of a project so the multiplier would depend on the number of units the developer would have to provide and then 75 percent more than that. He said it would depend on the septic capacity, but it would be likely more than three but at least four units would be able to be placed on the property at 18 Norman Avenue.

Councilor Theken said if the client sells the property, the covenant goes with the property. **Mr. Coakley** said whoever owns the property and any successive owners, the covenant runs with the land not the property owner.

Councilor Theken asked what is across the street from 18 Norman Avenue which **Mr. Cademartori** said was a Dunkin' Donuts which is the VB district. **Councilor Theken** said if she wanted to open a convenience store, a night club or a bar, what is it she would have to do to change the use of the property. She also pointed out that in the village of Lanesville there are stores, food shops and a convenience store that sells adult beverages with apartments on the second and third stories of these buildings; in the village of Annisquam there is a restaurant, a convenience store and marina. **Mr. Cademartori** said such a change would depend on the use. Depending on whether additional licensing is needed from the Licensing Board to sell adult beverages, if it is greater than 2,000 square feet, there is a building permit requirement; a review by the Engineering Department for adequacy of utilities for any use proposed; and in this particular area since it is on septic, usage would be reviewed by the Board of Health as well as other reviews by Board of Health depending on what is sold. Responding to **Councilor Theken's** inquiry, he said that there are no plans for sewerage that road. **Councilor Theken** asked could she could put onto the property a 12,000 square foot clothing store. **Mr. Cademartori** said that in the VB district she can't propose a shopping center, and there is a limitation of 10,000 square feet which puts such a proposal into the category of a shopping center which is actually a "No" in the VB district; any scenario would have to have be a mix of uses to be allowed and may not necessarily be allowed to use the entire footprint of what is there.

Councilor Ciolino asked about food service arrangements for the innovation house. **Mr. Von Tetzchner** said the idea is to have the possibility to serve visitors something to eat; to provide meals because everyone is working whether it is prepared on site, brought in or these people go out for meals. **Councilor Ciolino** asked would the guests of the innovation house add to the local economy if they were eating their meals on site. **Mr. Von Tetzchner** said visitors would not eat on premises all the time but will go to local restaurants and spend money. Prices in the U.S. are considered low by Europeans, he noted, and Europeans believe they are saving money here and so go out and spend money. **Councilor Ciolino** asked how many people would be on premises when the innovation house is in full operation. **Mr. Von Tetzchner** said he has yet to find out how many people will be on site at any given time, but there are 20 bedrooms and that is a limitation. He said those staying permanently would be staying during the day, and those who are visitors would stay for a month or so getting the feel of the U.S. market and staying on site. A company could send all their employees over. He said his small software company has 14 employees whom he would bring here, and he assured the Councilor he would take them out for dinner and staying on site.

Councilor LeBlanc asked if there will be marketing of the innovation house to local areas and in the U.S. or is the plan to just bringing people from Scandinavia; or is this a worldwide type of thing. And would, he asked, the innovation house be only for a certain demographic; or could anyone come there. **Mr. Von Tetzchner** said the innovation house participation is by invitation only. He said he has ties with Iceland and Norway with his Norwegian office having connections with Germany and Silicon Valley also. However, he said that there will be local people from the area also that would be in and out on a daily basis. If local folks come to him with a good idea and **Mr. Von Tetzchner** said if he thinks it fit with the innovation house, they would be invited.

Council President Hardy asked if there was sufficient parking on site with the zoning change. **Mr. Coakley** said there was. **Council President Hardy** asked what the parking restriction is. **Mr. Coakley** said that much of the

existing use is grandfathered and was hard to say as a lot was done by the Steele family and has evolved through the years without a lot regulation by the City. **Council President Hardy** said intensity of use will be increased. **Mr. Coakley** said if they are increasing the intensity, and go to the Building Inspector for a building permit for offices, the property is now subject to current regulations; if they are looking to expand the existing parking, it would trigger a Site Plan Review by the Planning Board. He said they would have to determine just what the usage is; and the site plan is commissioned. **Council President Hardy** said that is in the building code and would be picked up there as a differential, to which **Mr. Coakley** agreed. **Council President Hardy** said a term has been used frequently for the people who are staying there and asked for a definition of "staying there," which she pointed out at P&D she was under the impression there would be no overnight stays. **Mr. Coakley** clarified that at P&D the question was would there be a 24/7 house manager on site. He said here will be a manager for the facility but that person is not scheduled to be there on an overnight basis; people will be staying overnight at the house, however. Food provided will be only for those who are staying in the innovation house and not for the general public; the commercial kitchen will be for that use only or food will be brought in, he said. He added they do not want to have a restaurant that is opened to the public.

Council President Hardy noted a previous comment that people weren't aware that this rezoning process was going on in the neighborhood. She said she wished to let the public know that this rezoning process was duly noticed and advertised, and that the Council has met the letter of the law. She said the Council does not advertise on the front page of the Gloucester Daily Times and has never done so and never will due to the cost. **Council President Hardy** pointed out that the City Council places their notices of public hearings in the legal notices sections of the Cape Ann Beacon or in the Gloucester Daily Times which has to be in a certain column, a certain length. If the Gloucester Daily Times determines a matter may be of interest to the readers, they may do an article on it; but the Council does not pay for that. The Council pays for the legal advertisement according to the law, she pointed out, and the Council has met the letter of the law in having duly advertised this particular public hearing. **Councilor Theken** reminded the Council that Councilor Verga, Ward 5 Councilor, had a ward meeting on this rezoning matter as well. **Council President Hardy** reiterated the public hearing was advertised; that this rezoning matter has not been rushed. She said this was a normal course of business; the Council must act upon a rezoning matter within 65 days of the application being filed with the City Clerk's office.

Councilor Theken asked about what the innovation house is because she said this concept did not seem as open to local people but sounded more like it was open to local folks only on a limited basis. She asked if the innovation house will help local people start their businesses, because that the petitioner keeps speaking about European connections and bringing Europeans here primarily. **Mr. Coakley** responded that his client sees a huge growing market of interconnectivity in the mobile area and if he wishes to promote a particular theme relative to some project that he sees a need for, he said he would expect there would be an invitation for people who had particular skills. **Mr. Von Tetzchner** said in response to **Councilor Theken** that, "Yes," that there is a mix between local and outside connections. He said if he gets the building, he has already offered a position at the innovation house to Over the Bridge (also referred to previously as "The Bridge" involving Mr. Curcuru and Mr. Cooney) and the other local start up is his new software company. If other locals come forward to join the community their business proposals will be considered, he said; and there would be people from Europe to come and assess the U.S. market and to brainstorm business ideas also.

Councilor McGearry asked what the business model is, was Mr. Von Tetzchner a venture capitalist, did the innovation house charge rent to start ups for instance. **Mr. Von Tetzchner** said in Iceland people pay rent (at the innovation house). This local situation is more of a calling to do something positive; and if this can help to have a place, it is a good thing, he said. He added that he does things that are worthwhile but not necessarily financially beneficial to him. He has invested in some of these companies, and he is setting up his own new company, he said. There is no particular benefit to him but to see someone succeed he noted.

This public hearing is closed.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee under Gloucester Zoning Ordinance Section 1.11 and MGL c. 40A, §5, voted 2 in favor, 0 opposed, 1 (Tobey) absent, to recommend to the City Council Grant the proposed rezoning petition of the owners of Norman Avenue #18 to change the zoning designation for Norman Avenue #18 (Assessors Map 170, Lot 43 with a property depth of 250+ feet, a frontage of 261.29 feet and a lot area of 75,263 +/- square feet), from R-20 (Low-Medium Density Residential) to VB (Village Business).

DISCUSSION:

Councilor Verga said that he urged the Council to support the zoning petition. He said this as close to a win the City could get. The arguments made against the rezoning, although valid, were covered in the covenant which he said he found to be the belt and suspenders that anyone could expect. He added that his mind was eased when he learned that the 30 year term is by law and that it is up to the abutters in the future in 2043 to continue it regardless of what the owner of 18 Norman Avenue wants to do. **Councilor Verga** said this will benefit the neighborhood directly; there are a lot of empty storefronts in Magnolia. He said he has had discussions with the Community Development Director before about developing the downtown and reminds him about the villages of Magnolia and Lanesville. This is an opportunity for a private entity to not only help to bring people from the outside but spark interest in the neighborhood and the City, maybe turn into the case of some new residents, raising the tax revenues, filling restaurants, etc. **Councilor Verga** said he would support the petition wholeheartedly. He said at least 99 percent of the concerns are covered in documentation. If the Council, he said, based their vote on "what if's" or a long-shot scenario of something inappropriate being put on a property, nothing would be passed. Everyone is covered, and that they didn't need to worry something inappropriate to show up in 30 years, he added.

Councilor Theken said she attended Councilor Verga's Ward 5 meeting and heard both sides on the rezoning issue. She said she didn't think the rezoning will make the village across the street lively; businesses will go to Lexington Avenue if they want to. She pointed out that not all concerns were addressed, and no one will ever be happy 100 percent. However, she said she would support this rezoning. **Councilor Theken** pointed out there was a man who came to the City an individual who founded a million dollar pharmaceutical firm but found no place develop it within the City. She also pointed out that many people started businesses at a table, such as herself, she said; and there is a need to have a place to start these new businesses, noting that start up costs are high; and this is a place to stay and develop a business. Lexington Avenue needs to be vibrant and be encouraged, she said but Lanesville and other areas need to be promoted too. **Councilor Theken** said the restricted covenant does address a lot of the neighbors' concerns. She reiterated that City sewer is not going into Magnolia and assured that the Board of Health will be overseeing the septic. She said that Mr. Marcous' concerns are valid, but that this petitioner is not coming here on a fly-by-night basis. For a property owner to sign the covenant and subject him to restrictions says a great deal to her, she pointed out. **Councilor Theken** said she hoped this rezoning brings positive change. She said that without City sewer nothing bigger will go on the property and would support the rezoning.

Councilor Whyntott said he doesn't usually go to ward meetings, but did attend the Ward 5 meeting where some of his concerns were allayed. He said he heard some concerns about the rezoning this evening, and he believed they were taken care of. He said this is a safe change that will not harm the neighborhood; especially with the 30 year covenant renewable by the neighbors. This, he said, will fit in with the neighborhood. There is no guarantee an inn would remain on the property either, he pointed out. **Councilor Whyntott** said he would support this because this would be a good use of the property.

Councilor Ciolino said that he was in favor of the zoning change. He pointed out that this change is a case in point of how to bring people to the Magnolia village downtown area. Mr. Von Tetzchner spoke a great deal about Iceland and Norway, which he said was ironic since there was a time when freighters would bring in frozen fish from Iceland and Norway and unload here for processing at Gorton's of Gloucester and that there is a link between those countries and the City. **Councilor Ciolino** also touched upon how Gloucester needs to be a green City. Bringing something into the City like Mr. Von Tetzchner is speaking of that will not have a big carbon foot print has potential, he said, and looked forward to the project going forward. He said the City will need to start thinking about private enterprise and have some kind of study for a vision plan for Magnolia Center to move forward and find grants to fix it up. This might be the seed that will germinate into something to be proud of, he said.

Councilor Cox said this is the best compromise and most promising way to promote the visibility and growth of the City she has seen in two years since she became a Councilor. She said she would support the zoning change.

Councilor LeBlanc said he, too, went to the ward meeting in Magnolia and listened to both sides. He said that he was impressed with Mr. Von Tetzchner and his willingness to bend for the benefit of the neighborhood as well as standing up and saying it wasn't about the bottom line and that the values are worth it. He said Mr. Von Tetzchner came to Gloucester and saw something that made him want to stay. **Councilor LeBlanc** added that it is worthwhile for others to come from around the world and will hopefully stay and make something the City can be proud of. He said he would support the rezoning.

Councilor McGearry added his support for the rezoning. The key question, he said, does the changing to the VB district add to the village quality of Magnolia; and he said he thought it does, more than vacant storefronts on Lexington Avenue. He said this will add vibrancy, and an activity that will spin off to other activities on Lexington Avenue without changing in any significant way the village atmosphere as a place of residence and peace by the sea. He pointed out this is why Mr. Von Tech was drawn here and said he thought Mr. Von Tetzchner wouldn't want to see that change. He noted his son lives in northern California and works in a very similar innovation house situation

like Mr. Von Tetzchner is proposing and has seen how it works. **Councilor McGeary** pointed out they have a kitchen, a small club house where they all get together and work with each other that turns into something. The feed back, the place of creation is an important spot he said, adding that the City is well served to have one like that here. As to the concerns of the opposition, everyone likes what Mr. Von Tetzchner is doing but are worried about the future, he said; but after having heard from Mr. Coakley, this is as close get ironclad protection should Mr. Von Tetzchner tire of Gloucester. He said for all of those reasons, but mostly because this is a small but significant beginning to revivify the economy of Magnolia and the City, was why he is supporting the zoning change.

Council President Hardy said she would support the rezoning application. The property is immediately adjacent and across to the Village Business district, and is consistent with what is already in the neighborhood. The rezoning petition is consistent with definition of the VB district. **Council President Hardy** also said she agreed with the Planning Board's ruling of September which was in support of the rezoning application after the Board held a public hearing.

MOTION: On a motion by Councilor Verga, seconded by Councilor Cox, the City Council under Gloucester Zoning Ordinance Section 1.11 and MGL c. 40A, §5, voted by ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent to Grant the proposed rezoning petition of the owners of Norman Avenue #18 to change the zoning designation for Norman Avenue #18 (Assessors Map 170, Lot 43) with a property depth of 250+ feet, a frontage of 261.29 feet and a lot area of 75,263 +/- square feet), from R-20 (Low-Medium Density Residential) to VB (Village Business).

The Zoning Map will be amended accordingly.

For Council Vote:

1. Warrant for City Election on November 5, 2013

MOTION: On a motion by Councilor Hardy, seconded by Verga, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent to approve the warrant for the City Election to be held November 5, 2013.

2. Decision to Adopt: SCP2013-004: 20 Biskie Head Point, Unit 1, Section 5.5.4 Lowlands

MOTION: On a motion by Councilor Verga, seconded by Councilor Hardy, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to adopt the Special Council Permit (SCP2013-004) decision for 20 Biskie Head Point, Unit 1, pursuant to Section 5.5.4 of the Gloucester Zoning Ordinance.

Unfinished Business: None.

Individual Councilor's Discussion including Reports by Appointed Councilors to Committees: None.
Councilors' Requests to the Mayor:

Councilor Cox said compass Rose dedication at Maritime Gloucester

Councilor LeBlanc said he congratulated his fellow councilors on the debate the previous evening.

Councilor Ciolino said he hoped Gus Foote is feeling better.

Councilor Theken said that there was a health fair for City employees regarding open enrollment for the GIS Health Insurance Program being adopted by the City from 12 noon to 4 p.m. on October 15th at O'Maley School for City employees. She said that it is also open enrollment for seniors and warning that there are many changes particularly in drug coverage, said that on October 29th at the Rose Baker Senior Center at 10 a.m. there will be an informational meeting to learn about those healthcare options. Obamacare applications are in her office at the Addison Gilbert Hospital. She pointed out that the State's Commonwealth Care will be null and void on December 31st and if anyone is on that plan, they have to apply for Obamacare, it is not automatic enrollment from one plan to the other. If an application isn't in by December 31st there will be no insurance coverage. MAHealthConnector.org is a place for great information, she said. Dental insurance is now offered and the premiums are low. She said she can be reached at her office at the AGH at 978-283,4001x623.

A motion was made, seconded and voted unanimously to adjourn the meeting at 9:32 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Letters in opposition to the rezoning of 18 Norman Avenue by Charles Marcous: Janet Marcous, 20 Ocean Avenue; Joan F. Rose, 22 Ocean Avenue; Charles Marcous, 20 Ocean Avenue**
- **Petition to City Council submitted by Charles Marcous with 45 signatures of Magnolia residents not in favor of the rezoning of 18 Norman Avenue**
- **List of hotels, motels, inns and Bed & Breakfast establishments and what districts they are located in submitted by Charles Marcous related to the rezoning of 18 Norman Avenue**