

**GLOUCESTER CITY COUNCIL CALENDER OF BUSINESS**

**TUESDAY, MAY 5, 2009 - 7 P.M.**

**KYROUZ AUDITORIUM, CITY HALL**

**COUNCIL MEETING #2009-009**

**Attendance: Bruce Tobey, Council President; Sefatia Romeo Theken, Council Vice President; Councilors Joe Ciolino, Steve Curcuru, Phil Devlin, Sharon George, Jason Grow, Jacqueline Hardy**

**Also: Mayor Carolyn Kirk, Jim Duggan, Suzanne Egan, Jeff Towne, Jack Vondras, Mike Hale, Patti Paige, Jeff Towne, Viking Gustafson, Doug Parsons, Lt. Joe Aiello, Attorney Steve Epstein, Margaret Sheehan**

**Absent: Councilor John "Gus" Foote,**

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

**FLAG SALUTE & MOMENT OF SILENCE**

**ORAL COMMUNICATIONS**

**Patti Paige, Tidal Cove Way** (*see attached*)

**COUNCILLOR'S REQUESTS TO THE MAYOR**

**09-049 (Grow)** Request that the DPW repair potholes on roads around our beaches in anticipation of the summer season.

**09-050 (Grow)** Request that the administration, in conjunction with the legal department, purchasing and the auditor's office, craft a written policy to address the issue of municipal/public employees and their ability to bid on and receive service contracts with the City of Gloucester. The policy should clarify how potential conflicts are reported and recorded for auditing purposes and insure that such bids comply with all procurement laws. Further, it should address any areas where it would be inappropriate (if any) for employees to bid on contracts/services.

**09-051 (Grow)** Request that a Slow Children sign be installed in the immediate vicinity of 33 Beach Road.

**09-052 (Council)** Request the Mayor direct the IT director to research and install any and all software systems that would ease and increase the flow of work in the City Clerk's office, including but not limited to the free web based system offered by Mass Laser.

**MAYOR'S PRESENTATION OF THE FY10 BUDGET**

**Mayor Kirk** presented the FY10 budget. We are days away signing a formal agreement on changes to employee health care switching from BCBS to Harvard Pilgrim Health with an increase in co-pays for employees but an overall savings of \$700,000 over what it would have been if we stayed with BCBS. We have

less revenue this year to work with then last year, even after raising taxes the maximum allowable under Prop 2 ½ and factoring in growth. Any growth in revenue is wiped out in the cuts in state aid and decrease in local revenues. We are assuming level funding of Ch. 70 and a 32% cut in unrestricted state aid. Should additional revenue become available over the coming weeks, all of that will have to go towards snow and ice. This budget does not take into consideration the deficit in snow and ice. If the state revenue picture worsens or we are unable to make up the snow and ice deficit we will have to go deeper in cuts in FY10. We are looking for relief in spreading the snow and ice deficit over three years. Local revenues are reflective of the economic climate. With regards to future revenues, sustainability needs to come from within the city and from the resources we have – economic development and the harbor plan.

There is a corresponding decrease in expenditures. The Administration has cut the school budget an additional \$200,000 from what the school committee passed. The overall cut to school department is \$500,000. The school department will benefit from \$1.4 million in stimulus money over two years and that is what is keeping the school budget and programs intact. We have reduced city personnel wage positions by \$860,000 from FY09 to FY10 and that net savings came from the early retirement program. There has also been a reduction in the scope of city services and the need to partner with other organizations to provide those services. The emphasis has been on public works; public safety reforms; E-Government; Debt (total debt principal and interest for the general fund, water and sewer has reached \$14 million). The CPA budget has not been submitted but will be coming under separate cover along with the appointments to the CPA Committee. In the enterprise accounts, the water rate is decreased by 3.3% from FY09 to \$7.57 but does not include any debt shift. The reason the rate is declining is due to consumption from FY09 and improvement in collections (run rate on collections is at 94%). The public debate can be furthered if the City Council took up a couple of different scenarios during the public hearing. One scenario would be keeping everything on the rate – that would represent a 7% increase bringing the FY10 proposed sewer rate of \$12.94; scenario two takes out the CSO debt and puts that across the tax base bringing the rate of \$11.18, a decrease over last year of 7.5%. Scenario three splits the rate but doesn't answer the fundamental question of who bares the responsibility for the CSO infrastructure. Waterways is self supporting and there are no issues there. Section three outlines resources needed to fully fund school and city services.

**MOTION: On motion of Councilor Grow, seconded by Councilor Romeo Theken the City Council voted 8 in favor, 0 opposed to refer the FY10 budget to Budget and Finance.**

**Councilor Grow** requested a brief discussion at Budget and Finance on the snow and ice accounts and expectations of what to expect for this year and next year.

**Council President Tobey** asked the Clerk's office to work with General Counsel and provide a ruling referring to Charter Sec. 7-16A and framing the public

hearing notice on sewer and water rates so the public is fully aware and the notice to be put in both newspapers. The budget public hearing is set for 6/2<sup>nd</sup>.

**PRESENTATIONS:**

1. Jack Vondras – Public Health Director provided a presentation on the Swine Flu Pandemic (H1N1 virus).

**Questions. Councilor Grow** asked what people should do if they feel sick.

**Mr. Vondras** asked people not to go to the hospital but to go to your primary care provider for testing

**Councilor Romeo Theken** asked what about companies located here that are receiving their materials from Mexico.

**Mr. Vondras** stated the virus is fairly fragile and we are not concerned with shipments - it is really human to human contact. Right now it is a mild influenza. This is phase I of this pandemic and there will be a second phase. The second wave is usually much more deadly and we expect it in the fall which gives us time to prepare. We are using a joint information center. **Councilor Hardy** asked who to refer people to.

**Mr. Vondras** replied 978-281-9771 and 978-282-8080 is the flu line.

2. Joe McGowan – Sheriff Cousin’s Office re: 911 Regional Dispatch Facility  
**Presentation to be rescheduled.**

3. Rubbish Disposal Procurement – Mike Hale, DPW Director

**Michael Hale, DPW Director** provided an overview of the new trash collection and recycling contract with Hiltz disposal. We based our decision on the quality of the service and have realized an overall savings with more services provided. Collection days are to remain the same but we are offering a dual stream weekly recycling and hopefully that will encourage people to recycle more. We are introducing an additional week of yard waste collection. This year the contract is \$1.6 million with an additional \$170,000 for recycling which is almost a \$400,000 savings.

**Council President Tobey** stated the approach is working well on recycling in reducing unit cost on that volume.

**Councilor Hardy** asked if they are thinking about reducing the size and cost of the bag.

**Mr. Hale** replied we have asked the bag vendor to give us different examples of a smaller bag to be offered at a lower price. We are down about 26% in tonnage for the last three months.

**Councilor Devlin** asked when the transition will occur

**Mr. Hale** replied the last full week of June will be the transition week.

**Councilor Ciolino** asked about building materials.

**Mr. Hale** replied there is pricing in the contract for roll offs.

**Councilor Ciolino** asked if there will also be a place for recyclables.

**Mr. Hale** replied yes, we will also be offering recycling bins at some of the beaches.

**Council President Tobey** referenced receipt of an interim letter on the public safety report and with no objection from the council asked that the specific matter of the concern for cell block safety be referred to the Mayor.

**Council President Tobey** referenced the CSO grant program legislative update with \$5 billion over a course of years to be distributed directly to cities and towns through the state. He asked the Clerk to prepare a letter to Senator Kennedy and Senator Kerry highlighting our concerns about unfunded mandates relating to the CSO.

### CONSENT AGENDA

#### ACTION

- **MAYOR'S REPORT**

1. Correspondence from Gerry Perry, Director of Accounts, DOR  
(Refer B&F)
2. Memo from Harbormaster re: Acceptance of grant  
(Refer B&F)
3. Comm. from Sander Schultz, EMS Coord. Fire Dept. re: Ambulance Policies  
(Refer O&A)
4. Appointments:
  - i. Robert Hastings – Downtown Development Commission (TTE  
02/14/2012) (Refer O&A)
  - ii. Ronn Garry - Tourism Commission (TTE  
02/14/2012) (Refer O&A)
- **APPROVAL OF MINUTES**
  1. Council Minutes 04/21/09  
(Adopt/File)
  2. Council Minutes 04/28/09  
(Adopt/File)
- **APPLICATIONS/PETITIONS**
  1. SCP2009-004: 7-9 Essex Ave., Sec 5.5 and Section 3.1.6(b)  
(Refer P&D)
- **Orders**
  1. CC2009-024 (Ciolino/Devlin) Set Speed Limit for Woodward Ave.  
(Refer TC, Police Dept. & O&A)
5. Invitation  
Memorial Day Service

In

### ITEMS REMOVED FROM CONSENT AGENDA

**Councilor Grow** removed item #3 from the Mayor's report.

**MOTION:** The consent agenda is adopted by UNANIMOUS consent of the full City Council with the exception of Mayor's report item #3.

**MOTION:** On motion of Councilor Grow, seconded by Councilor Romeo Theken the City Council voted UNANIMOUSLY to refer the communication from Sander Schultz, EMS coordinator regarding ambulance policies to both Budget and Finance and Ordinances and Administration.

**MOTION: On motion of Councilor Grows, seconded by Councilor Romeo Taken the City Council referred the fee compendium to both Ordinances and Administration and Budget and Finance.**

**MOTION: On motion of Councilor Grow, seconded by Councilor George the City Council voted UNANIMOUSLY to refer the supplemental appropriation of the \$250,000 donation from National Grid to Budget and Finance.**

**The City Auditor agreed to provide the necessary supplemental appropriation forms for the Budget and Finance Committee meeting.**

**MOTION: On motion of Councilor Ciolino, seconded by Councilor Devlin the City Council voted UNANIMOUSLY to put the following orders for speed limits forward together as a package: Councilor Grow's order for Beach Road, Councilor Devlin's order for Woodward Avenue and Councilor Hardy's order for Reynard Street all be referred to Ordinances and Administration.**

#### **SCHEDULED PUBLIC HEARINGS**

##### **Public Hearing #1**

08-049: GZO Sec. 1.5 Proposed Rezoning: The Fort **(cont from 01/13/09)**

**The public hearing was closed on 1/13/09.**

**Councilor Hardy** referred to and read into the record the Planning Board's memo to the Council dated 4/17<sup>th</sup>. *(copy in file)*

MOTION: The Planning and Development Committee voted three in favor, none opposed to recommend to the full City Council that all pending rezoning proposals for the Fort be withdrawn.

**Discussion. Councilor Devlin** felt we are heading in all different directions and questioned what we were voting upon. In his opinion the best way to handle this was to withdraw it and put something forward that reflects the conversation had over the months.

**Councilor Ciolino** added that after all the public meetings we all can agree there needs to be a change but we lost complete focus on what the change needs to be. He feels the year and a half we have spent has not been wasted because we do realize what will work and what will not work down there.

**Councilor Grow** feels there was a failure to communicate and mistakes were made early on, he agrees this should go back. We are looking forward to the economic study being done along the harbor and Main Street to look at uses.

**Councilor Hardy** also believes the harbor plan will soon be on its way to Boston and believes something good will come out of that for the FORT as well. She thanked the neighbors for coming out to the meetings.

**Councilor Curcuru** agrees something needs to be done down there. Most of the people that have showed up at the meetings were against. The public process is all about both sides voicing their opinions and asked when this comes back before us he hopes to hear both sides.

**Councilor Romeo Theken** feels we learned a lot from the Charrette and supports this going back to Planning Board.

**Council President Tobey** stated we have gathered enormous knowledge of what people want and don't want and the basic questions of infrastructure and design, to synchronize with the harbor plan to be consistent with the neighborhoods and the future of the city. He feels this is something this council should act upon. He feels it is appropriate for the Planning Board and P&D to communicate jointly to come up with an action plan.

Councilor Hardy noted from the 4/29/09 P&D minutes that outside the framework of a putting a motion on the table we took a voice poll of the councilors present asking whether they would join her in recommending to the full city council a unified recommendation that the full council consider drafting a new and separate request to the Planning Board regarding the Fort rezoning issue. All 4 Councilors present (Hardy, George, Devlin and Ciolino) agreed with the recommendation.

**MOTION: On motion of Councilor Hardy, seconded by Councilor Romeo Theken, the City Council voted 8 in favor, 0 opposed that all pending rezoning proposals for the Fort be withdrawn.**

#### **Public Hearing #2**

09-008: SCP2009-002: 81Rocky Neck Avenue, Section 5.5.4 Lowlands  
**(cont from 04/21/09)**

**The public hearing is opened.**

**Speaking in favor. Viking Gustafson, Manager of Railways on Rocky Neck** provided two historical pictures and a map from 1884 of the property. This project aims to rebuild the northwest section of the railways that was demolished in 2004. The project is to rebuild the pier footprint and a small extension out to the harbor line. That section doesn't currently have a Ch. 91 license but from historical pictures it did exist, just not at the time we took it down. We need to maximize a small one acre piece of property. There is stimulus money available for a grant and could be funded 75% by the federal government. The application had to go in since this was delayed.

**Doug Parsons, Mt. Pleasant Avenue** worked at the railways in 1977 and at that time the old carpentry shop, stock room and office was on pilings at the end of the property and a section that went parallel to the railways and they had a finger pier used as a public access to Rocky Neck at the time. Historically he feels it would be a good idea to build up some of the historic character of the railways.

**Speaking in opposition.** No one spoke in opposition.

**Communications.** None.

**Questions.** None.

**The public hearing is closed.**

**MOTION: The Planning and Development Committee voted 2 in favor, 0 opposed to recommend to the full City Council the granting of a SCP for 81**

Rocky Neck Avenue, (applicant) Gloucester Marine Railway Wharf Removal/Repair & Extension, (owner) Grace Morceri, President, Map 128, lot 40, zoning classification Marine Industrial for a lowlands requirement pursuant to Sec. 5.5.4 of the Gloucester Zoning Ordinance.

**Discussion. Councilor Hardy** stated Mr. Dave Sargent is in full support of the project.

**Councilor Ciolino** is seeing investment in the harbor that benefits the working waterfront. He applauded the railways for investing in the harbor and fishing industry in this community.

**Councilor Grow** is pleased as the Ward Councilor of the investment in this property.

**MOTION: On motion of Councilor Hardy, seconded by Councilor Devlin the City Council voted by ROLL CALL 8 in favor, 0 opposed the granting of a SCP for 81 Rocky Neck Avenue, (applicant) Gloucester Marine Railway Wharf Removal/Repair & Extension, (owner) Grace Morceri, President, Map 128, lot 40, zoning classification Marine Industrial for a lowlands requirement pursuant to Sec. 5.5.4 of the Gloucester Zoning Ordinance.**

**MOTION: The SCP for 81 Rocky Neck Avenue is referred to the Legal Department for a written decision by UNANIMOUS consent of the City Council.**

**Request the City Clerk send a letter of council support for the stimulus funding for this project.**

### **Public Hearing #3**

09-010: Amend GCO, Ch. 14 "Offenses and Miscellaneous Provisions"

Article 1 **(cont from 04/21/09)**

**The public hearing is opened.**

**Speaking in favor. Lt. Joe Aiello** speaking for Police Department is asking for the tools the Police Department needs to keep the community safe. The Chief Justice of the District Court ruled that cities can pass ordinances to prevent public smoking of marijuana and cities should pass an ordinance for the consumption of marijuana. He listed cities that have already passed such an ordinance and noted as it stands now there is no way to enforce this.

**Speaking in opposition. Attorney Steve Epstein, 55 West Street, Georgetown** has been involved in marijuana reform for most of his life. When question 2 passed with 68% of the vote, he doubts many read passed the summary. We were told marijuana possession would no longer be a crime but punishable by a fine. There is a provision that permits this type of ordinance. The vast majority of communities in Mass. aren't even spending time considering these things. This is a budget crisis year. The Chief Justice of the District court didn't say you should pass these ordinances. The Chief Justice has misinterpreted the statute which he provided copies of. Ch. 40, Sec. 21D Non criminal disposition of the ordinance, by-law, rule or regulation violations.

Police have always used discretion when it comes to marijuana laws. What the police department needs to do is to start enforcing this. They do not need an additional tool to do this. Only one citation has been issued to a teenager in the school, caught by a teacher. This can be enforced in small claims court. If it is a scoff problem it is for the great general court to correct. If the city council is

inclined to endorse this ordinance, he asked they look at Sec. 9-5 on the initiative and submit it to the people at the next election. After all 68% of the people in Gloucester voted in favor of this so let the people decide. Published in the Gloucester Daily Times between the time they started putting logs on line (about one year) the City of Gloucester arrested and prosecuted about 72 individuals, and only 12 of those were just for marijuana. He asked the council not to enact this legislation and asked it be made effective after the election, so the rest of the people can decide.

**Rebuttal. Lt. Aiello** referred to a memo sent out to all the district courts by the Chief Administrator. He referred to page 4, "Municipalities may adopt an ordinance and by-laws prohibiting public use. The new law specifically allows cities and towns the option of adopting one." He didn't come forward to debate the referendum. Marijuana is still against the law, it has only been decriminalized.

**Attorney Epstein** agreed marijuana is still illegal – it is subject to a \$100 fine but you have to possess it. State smoking law covers any material intended to be consumed by burning. He referred to an editorial in the GDT of 4/3 and noted the law passed in November does permit cities in towns to pass this. He asked the council not adopt this ordinance until it goes before the people.

**Communications. Darren Donovan in opposition.** (*copy in file*)

**Questions. Councilor George** asked Lt. Aiello why no tickets have been written.

**Lt. Aiello** replied we don't have the tickets.

**Councilor George** is the town clerk in Wilmington and her office has brought in \$4,000 in revenue on this since January. If a ticket is issued within the town limits the town gets the money. She feels this is a lost of revenue for the city and that these could be issued like a parking ticket. She has no opinion on the ordinance but wonders why the Police Department has not engaged in this to get more revenue.

**Lt. Aiello** replied one of the issues is the violation books. We have one for dogs and one for the harbormaster and those books do not have enough tracking information. There is also no policy as to where these should be paid. We need to have a standard violation form and he feels the administration should have started this back in January.

**Councilor Curcuru** asked Suzanne Egan if there is a citation issued in the city the money stays in the city and doesn't go to the state.

**Suzanne Egan, General Counsel** replied that is correct. This ordinance is the model ordinance and we are doing what we are authorized to do by the state. It was written to go into Sec. 14 of our local ordinance.

**Councilor Romeo Theken** asked Attorney Egan when this was brought forward at O&A wasn't it mentioned this was already in the state law. In the provision it already says we can collect a fine.

**Attorney Egan** replied yes, the referendum allows for a fine of \$100 for possession of less than one ounce of marijuana.

**Councilor Romeo Theken** asked is there anything in there for a second or third offense.

**Attorney Epstein** explained that question 2 prohibits the keeping the information for the purpose of calculating first and subsequent offenses.

**Attorney Egan** doesn't feel she can provide an opinion on that.

**Councilor Romeo Theken** stated this was brought forward by Lt. Aiello to protect the community and we asked for proper verbiage at the O&A meeting. If there is already a state law why are we doing this. We can't do second or third offense because you can't keep records. She will not vote for this because she feels we don't have the proper verbiage.



**Attorney Egan** believes what is before the council is proper. If that is what the Attorney General's office is suggesting for towns and cities. This ordinance gives the city more money. There is nothing in the referendum that says you cannot take that information. It is not in direct violation of the law. She is not advocating for enacting this or not but if you do, she suggested using the propose model by the Attorney General's office.

**Councilor Romeo Theken** asked Mr. Epstein what is his profession.

**Attorney Epstein** is a practicing criminal defense attorney and noted the model presented by the Attorney General does not have stepped up fines. He doesn't think the council should do this but asked that if you do, please make the fine one amount.

**Councilor Grow** asked what would happen during a civil violation.

**Lt. Aiello** would issue a citation and used an example of disturbing the peace which may be charged under the city ordinance. The City of Gloucester gets the money as opposed to the state court if charged under the state ordinance. He is asking for an ordinance that is for consumption. He is only asking for the same as for the consumption of alcohol.

**Councilor Grow** asked if all our civil citations are on those citation books.

**Lt. Aiello** stated the books as they exist don't have sufficient information on them for us to track. Without dates of birth and social security numbers we can't track it. We need to determine where this money is to be collected. Normally it would be collected at the district court.

**Attorney Epstein** stated this is why he has provided a copy of MGL Ch. 40, Sec. 21D.

**Councilor Grow** doesn't know why the citations are a problem.

**Councilor Hardy** asked what the going rate for an ounce of pot is.

**Lt. Aiello** replied the ounce of pot of today is not that of yesterday and he would not be surprised to see it go for \$300.

**Councilor Hardy** asked how many joints can be rolled out of an ounce.

**Lt. Aiello** replied around 28, one of the issues is measuring what is an ounce. He feels the intent was to stop criminal charges being brought against people for a small amount of marijuana.

**Councilor Hardy** asked if we issue citations do we have a means to make them pay.

**Lt. Aiello** stated the ordinance before you tonight for consumption and takes 30 days to go into effect. We have to decide who will be tracking this and where the citations will be paid.

**Councilor Ciolino** stated for those under 18, to ensure the parents would be notified, the police would hand deliver the citation to the parent. It puts into focus why you need special citations to make this work.

**Lt. Aiello** stated the statute says the parent much be notified. We have a dual responsible as citizens and as law enforcement. Notification of parents is an important part of the process.

**Councilor Ciolino** asked isn't it true to track a citation you need a social security number and a birth date.

**Lt. Aiello** replied that is correct.

**Councilor Ciolino** stated the reason our dog lease laws don't work is because when the dog officer issues a ticket people refuse to give him a name, etc.

**Lt. Aiello** stated the message here is that marijuana is still against the law. The penalty for possession has gone from criminal to civil.

**Councilor Ciolino** asked would it be agreeable to having one flat fine and no records are kept.

**Lt. Aiello** would agree with that. We are only talking about consumption. We have exactly such an ordinance for drinking.

**Councilor Ciolino** asked how big of a problem is marijuana in the city.

**Lt. Aiello** wouldn't say it is rampant. He feels the youth are starting to understand that these things can affect your life - kids are starting to see the social aspects of it.

**Councilor Ciolino** stated every year around graduation time; the beaches are flooded for drinking and what about marijuana use.

**Lt. Aiello** feels marijuana will be the same as drinking.

**Councilor Devlin** asked have we issued any citations just for possession.

**Lt. Aiello** replied yes, two citations.

**Councilor George** asked when you give citations at the beach where do they pay them.

**Lt. Aiello** replied district court.

**Councilor George** asked why they wouldn't go to the City Clerks office.

**Attorney Egan** replied it goes to the general fund but there is nothing that specifically states where they have to be paid and that is where we would make that determination.

**Councilor Curcuru** asked if we aren't keeping records how we keep track.

**Councilor Romeo Theken** asked for the distinction between possession and consumption.

**Attorney Egan** stated the ordinance only deals with public consumption, not possession.

**Lt. Aiello** stated the \$300 would be for consumption, not possession.

**Councilor Romeo Theken** asked how you appeal a citation.

**Lt. Aiello** stated a certified copy of the letter will be sent to the parents address. He doesn't know about an appeal process for this.

**Attorney Egan** explained that there is an appeal process and it is written in the law under Ch. 40, Sec. 21D. It could be compared with a citation from the Harbormaster.

**The public hearing is closed.**

MOTION: The Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council to amend GCO, Chapter 14, entitled "Offenses and Miscellaneous Provisions" Article 1, by ADDING Section 14-15, entitled "Public Consumption of Marijuana or Tetrahydrocannabinol Prohibited" 1) No person shall smoke or consume marijuana or tetrahydrocannabinol as defined in G.L. c. 94C section 1, as amended, while in or upon any public way, park, playground, public building or land owned or under control of the City of Gloucester or in any bus or other passenger conveyance operated by a common carrier or in place accessible to the public. 2) This ordinance may be enforced by any police officer through any lawful means including non-criminal disposition pursuant to G.L. c. 40 section 21D. The fine for a violation shall be one hundred dollars for the first offense, two hundred dollars for the second and three hundred dollars for each offense thereafter. Any penalty under this ordinance shall be in addition to any civil penalty imposed under G.L. c. 94C, Section 32L; and by amending Section 1-15, entitled "Penalty for violation of certain specified sections of Code" by ADDING the following paragraph: Chapter 14-15 Public Consumption of Marijuana or Tetrahydrocannabinol Prohibited: Penalty First Offense: One Hundred dollars (\$100.00), Second Offense: Two Hundred dollars (\$200.00), Third Offense: Three Hundred dollars (\$300.00) Enforcing Person: Police Officers.

**First Amendment to the Main Motion: On motion of Councilor Ciolino, seconded by Councilor Devlin the City Council voted by ROLL CALL 2 in favor, 6 opposed (Curcuru, George, Grow, Hardy, Romeo, Tobey) to change the fine to a flat fee of \$300 in all instances. MOTION FAILS.**

**Discussion on amendment. Councilor Ciolino** feels the problem of record keeping warrants one fine.

**Councilor George** will not vote for the amendment. There is already a law on the books that Gloucester hasn't even tested yet. The law put into effect by 68% of the voters and that hasn't even been tested yet.

**Councilor Romeo Theken** finds it hard to put all the fines at \$300 and feels kids and parents cannot afford that.

**Councilor Curcuru** also will not be supporting this change. He feels keeping track of this would be difficult.

**Councilor Devlin** agrees with the stiff \$300 fine but feels if they are just in possession that it should be \$100 fine.

**Councilor Ciolino** stated the reason he picked up the \$300 is that it costs \$300.

**Second Amendment to the Main Motion: On motion of Councilor Ciolino, seconded by Councilor Romeo Theken the City Council voted by ROLL CALL 4 in favor, 4 opposed (Curcuru, George, Grow, Tobey) to change the fine to a flat fee of \$150 in all instances. MOTION FAILS**

**Discussion on the Main Motion. Councilor Grow** spoke in opposition to the ordinance. He feels there is already a law on the books.

**Councilor George** also does not support this - there is a law on the books and she would like to give that a chance before putting a local ordinance into effect. She feels the whole purpose of this was to pay the fee and be done with it.

**Councilor Ciolino** will support this; he has always been a firm believer in giving our Police Department the tools they need to do the job. We all realize the law passed was lacking and he sees other communities around us adopting this. His concern is this will hamstring the Police Department because they don't have the tools to enforce the laws. We doubled the parking fines and he is amazed how we are defending the pot smokers.

**Councilor Romeo Theken** applauded Lt. Aiello for bringing this forward. She feels we need more police officers, vehicles and overtime, not more citations and she would like to see all smoking off all beaches. She is not going to support this because there is already a mechanism in place. Her biggest concern is how to deal with the parents. We need a proper citation in place. She doesn't agree there should be a stiffer fine on something we haven't even seen work.

**Councilor Devlin** agreed to let the voters decide. He looks at this as a separation, of consumption and possession. The way this ordinance is written, he believes we need one distinction for each violation or just one flat fee.

**Council President Tobey** will also not be supporting this ordinance. Sanctioning possession is thin slicing the distinction when that possession turns to use. More important to note, the voters have spoken. Folks are coming to the realization if we are going to focus on approaches that work in the 21<sup>st</sup> century, the notion of regulation and taxation is the point. He urged the Police Department to work on issuing a multiple use ticket and work with the Administration to engage the legal tools available, to put those to maximum use and move on.

**MOTION: On motion of Councilor Romeo Theken, seconded by Councilor George the City Council voted by ROLL CALL 1 in favor, 7 opposed (Curcuru, Devlin, George, Grow, Hardy, Romeo, Tobey) to amend Gloucester Code of Ordinances, Chapter 14, entitled “Offenses and Miscellaneous Provisions” Article 1, by ADDING Section 14-15, entitled “Public Consumption of Marijuana or Tetrahydrocannabinol Prohibited”**  
1) No person shall smoke or consume marijuana or tetrahydrocannabinol as defined in G.L. c. 94C section 1, as amended, while in or upon any public way, park, playground, public building or land owned or under control of the City of Gloucester or in any bus or other passenger conveyance operated by a common carrier or in place accessible to the public. 2) This ordinance may be enforced by any police officer through any lawful means including non-criminal disposition pursuant to G.L. c. 40 section 21D. The fine for a violation shall be one hundred dollars for the first offense, two hundred dollars for the second and three hundred dollars for each offense thereafter. Any penalty under this ordinance shall be in addition to any civil penalty imposed under G.L. c. 94C, Section 32L; and by amending Section 1-15, entitled “Penalty for violation of certain specified sections of Code” by ADDING the following paragraph: Chapter 14-15 Public Consumption of Marijuana or Tetrahydrocannabinol Prohibited: Penalty First Offense: One Hundred dollars (\$100.00), Second Offense: Two Hundred dollars (\$200.00), Third Offense: Three Hundred dollars (\$300.00) Enforcing Person: Police Officers. MOTION FAILS

**MOTION: On motion of Councilor Grow, seconded by Councilor George the City Council voted 1 in favor, (Tobey), 7 opposed for to reconsider. MOTION FAILS.**

#### **Public Hearing #4**

09-012: Amend GCO Sec. 22-287 re: 10 Orchard St. handicapped parking

**The public hearing is opened.**

**Speaking in favor.** No one spoke in favor.

**Speaking in opposition.** No one spoke in opposition.

**Communications.** None.

**Questions.** None.

**The public hearing is closed.**

MOTION: The Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council to amend GCO, Sec. 22-287, entitled “Disabled handicap/vet. parking by ADDING 10 Orchard Street, one space.

**MOTION: On motion of Councilor Romeo Theken, seconded by Councilor Ciolino the City Council voted 8 in favor, 0 opposed to amend Gloucester Code of Ordinances, Sec. 22-287, entitled “Disabled handicap/vet .parking by ADDING 10 Orchard Street, one space.**

#### **Public Hearing #5**

09-013: Amend GCO Sec. 22-287 re: 11 Pearl St. handicapped parking

**The public hearing is opened.**

**Speaking in favor.** **Margaret Sheehan, 11 Pearl Street** stated her daughter has cerebral palsy and needs a handicapped parking space in front of her house.

**Speaking in opposition.** No one spoke in opposition.

**Communications.** None.

**Questions.** **Councilor Romeo Theken** noted the parking even though in front of her house is for any handicapped person.

**Ms. Sheehan** concurred, saying she was in front of the Traffic Commission where she was made aware of that.

**The public hearing is closed.**

MOTION: The Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council to amend GCO, Sec. 22-287, entitled "Disabled handicap/vet .parking by ADDING 11 Pearl Street, one space.

**MOTION: On motion of Councilor Ciolino, seconded by Councilor Ciolino the City Council voted 8 in favor, 0 opposed to amend Gloucester Code of Ordinances, Sec. 22-287, entitled "Disabled handicap/vet .parking by ADDING 11 Pearl Street, one space.**

### **COMMITTEE REPORTS**

1. P&D 04/29/09

MOTION: The Planning and Development Committee voted three in favor, none opposed to recommend to the full City Council the following street names and numbers at Gloucester Crossing as referenced on Assessors Map 262, lot 13 and further by plan of Sam Park and Co., LLC entitled Property Address Numbering System, Gloucester Crossing, Route 128, Gloucester, Mass., #SP-4.1, dated 4/27/09

- Assisted Living Residence, be known as 100 Market Street
- Buildings within Gloucester Crossing will have an address of Gloucester Crossing Road and further identifies:
  - Building A as 101-199 Gloucester Crossing.
  - Building B as 201-299 Gloucester Crossing.
  - Building C as 301-399 Gloucester Crossing.
  - Building E as 401-499 Gloucester Crossing.
  - Building F as 501-599 Gloucester Crossing.
  - Building D as 601-699 Gloucester Crossing.
  - Building G as 701-799 Gloucester Crossing.

**Discussion.** **Councilor Hardy** noted the Engineering Department is in full agreement with the plan, as is Fire Chief Dench.

**MOTION: On motion of Councilor Hardy, seconded by Councilor Devlin the City Council voted 8 in favor, 0 opposed the following street names and numbers at Gloucester Crossing as referenced on Assessors Map 262, lot 13 and further by plan of Sam Park and Co., LLC entitled Property Address Numbering System, Gloucester Crossing, Route 128, Gloucester, Mass., #SP-4.1, dated 4/27/09**

- Assisted Living Residence, be known as 100 Market Street

- **Buildings within Gloucester Crossing will have an address of Gloucester Crossing Road and further identifies:**
  - **Building A as 101-199 Gloucester Crossing.**
  - **Building B as 201-299 Gloucester Crossing.**
  - **Building C as 301-399 Gloucester Crossing.**
  - **Building E as 401-499 Gloucester Crossing.**
  - **Building F as 501-599 Gloucester Crossing.**
  - **Building D as 601-699 Gloucester Crossing.**
  - **Building G as 701-799 Gloucester Crossing.**

MOTION: The Planning and Development Committee voted three in favor, none opposed to recommend to the full City Council granting permission for the Cape Ann Farmer's Market to close a section of Harbor Loop from the Building Center to the Coast Guard Station each Thursday, starting July 2<sup>nd</sup> and ending October 8, 2009, from 2:00 pm to 8:00pm with a parking restriction beginning at 12p.m. and further with the following conditions:

1. That the Building Center and Bank parking lots remain accessible.
2. That the back part of Harbor Loop remains accessible to the businesses located there.
3. That all businesses affected be notified in advance of the street closure.
4. That all vendors obtain pushcart vendor licenses from the Board of Health.
5. That adequate bathroom facilities be provided with proper directional signage to the comfort

stations.

6. That the City Clerk's Office be provided a copy of the Farmer's Market By-laws and insurance policy indemnifying and holding the city harmless.
7. It is the responsibility of the applicant to procure all other federal, state and local permits and approvals associated with this event.

**Discussion.** **Councilor Hardy** stated the applicants met with Board of Health and Lt. Aiello

**Councilor Grow** asked what the cost for vendor licenses per vendor are.

**Councilor Hardy** replied it depends upon the types of food, one is \$120 and one is \$160.

**Councilor Grow** stated the other issue is the comfort stations, something we only require for these types of events, yet we don't have that requirement for all businesses.

**Councilor Hardy** explained that in dealing with the Board of Health in the past and the Plumbing Inspector, basically the only ones we require are restaurants and anyone holding a Ch. 91 licenses.

**Councilor George** stated the main reason for the port-a-potty was for handicap accessibility.

**Councilor Grow** feels Farmer's Market is a great event and we should encourage its expansion.

**Councilor Ciolino** stated it is his understanding if a commercial building goes through major remodeling then you have to put in an handicapped accessible bathrooms to be ADA compliant.

**MOTION: On motion of Councilor Hardy, seconded by Councilor Romeo Theken the City Council voted 8 in favor, 0 opposed granting permission for the Cape Ann Farmer's Market to close a section of Harbor Loop from the Building Center to the Coast Guard Station each Thursday, starting July 2<sup>nd</sup> and ending October 8, 2009, from 2:00 pm to 8:00pm with a parking restriction beginning at 12p.m. and further with the following conditions:**

- 1. That the Building Center and Bank parking lots remain accessible.**
- 2. That the back part of Harbor Loop remains accessible to the businesses located there.**
- 3. That all businesses affected be notified in advance of the street closure.**
- 4. That all vendors obtain pushcart vendor licenses from the Board of Health.**
- 5. That adequate bathroom facilities be provided with proper directional signage to the comfort stations.**
- 6. That the City Clerk's Office be provided a copy of the Farmer's Market By-laws and insurance policy indemnifying and holding the city harmless.**
- 7. It is the responsibility of the applicant to procure all other federal, state and local permits and approvals associated with this event.**

MOTION: The Planning and Development Committee voted three in favor, none opposed to recommend to the full City Council granting permission for the retail division of the Cape Ann Chamber of Commerce to close Main Street from Duncan Street to Washington Street, including Hancock, Center, Porter and Short Streets to all vehicular traffic from 7:00 a.m. to 6:00 p.m., Thursday, July 30<sup>th</sup>, Friday, July 31<sup>st</sup> and Saturday, August 1<sup>st</sup> with the following conditions:

1. No vendor set ups on the sidewalk blocking either hydrants, crosswalks or handicap ramps. (The handicap access is at the crosswalks...this is where the curb cuts are)
2. No vendor set ups in front of the police station, other than the area designated by Lt. Aiello and as depicted in the photograph provided to the Chamber of Commerce by Lt. Aiello.
3. All vendor setups in the street are to allow for no less than a 10' unobstructed, drivable area along the entire bazaar route - slightly wider at the curve of Palazola's Sporting Goods to maintain adequate access for emergency vehicles. Failure to provide this 10' unobstructed margin of drivable area may necessitate the removal or relocation of the vendor at the discretion of either the Fire Department, the Police Department or the Chamber of Commerce.
4. The organizers shall allow the Fire Department drive thru access with a fire engine once each day of the event, on or about 9a.m., and one random drive thru to be decided by the Fire Department.
5. No parking or unloading of goods of any vehicles on any of the above mentioned streets after 8:50am until 5pm.

**Discussion. Councilor Hardy** stated this is the same as what was seen in past years except they have changed their theme to Gloucester Sidewalk Days.

**MOTION:** On motion of Councilor Hardy, seconded by Councilor George, the Planning and Development Committee voted three in favor, none opposed to recommend to the full City Council granting permission for the retail division of the Cape Ann Chamber of Commerce to close Main Street from Duncan Street to Washington Street, including Hancock, Center, Porter and Short Streets to all vehicular traffic from 7:00 a.m. to 6:00 p.m., Thursday, July 30<sup>th</sup>, Friday, July 31<sup>st</sup> and Saturday, August 1<sup>st</sup> with the following conditions:

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4. The organizers shall allow the Fire Department drive thru access with a fire engine once each day of the event, on or about 9a.m., and one random drive thru to be decided by the Fire Department.
5. No parking or unloading of goods of any vehicles on any of the above mentioned streets after 8:50am until 5pm.

**MOTION:** The Planning and Development Committee voted UNANIMOUSLY to recommend to the full City Council to send a letter of endorsement to accompany the Harbor Plan.

**Discussion.** Councilor Romeo Theken enacted Charter, Section 2-11c and asked this be referred to the next council meeting.

**The Clerk was directed to put this at the top of the 5/19 Council agenda under OLD BUSINESS and request Ms. Buck to attend to address the concern about appointed versus elected bodies making special permit determinations.**

2. B&F 04/30/09

**MOTION:** The Budget and Finance Committee voted 2 in favor, 0 opposed to recommend to the full City Council acceptance of the contract terms for the RFP for grinder, STEP and pump station maintenance services from 3 to 5 years (as required by MGL 30b) with an option for a 2-year extension.



**MOTION: On motion of Councilor Grow seconded by Councilor George the City Council voted 8 in favor, 0 opposed acceptance of the contract terms for the RFP for grinder, STEP and pump station maintenance services from 3 to 5 years (as required by MGL 30b) with an option for a 2-year extension.**

MOTION: The Budget and Finance Committee voted UNANIMOUSLY to recommend to the full City Council to accept the anticipated CDGB grant in the amount of \$782,760 and the anticipated HOME grant from the North Shore Home Consortium in the amount of \$122,484.

**Discussion. Mr. Duggan** stated this will be put into the housing rehab area. **Councilor Grow** stated it is worthwhile for businesses and non-profits to engage in this process and we need to do a better job at getting the word out. **Council President Tobey** asked about the one time supplemental boost to CDBG allocations.

**Mr. Duggan** explained we are receiving \$212,000 of those stimulus funds to be put forth to amend the existing years program and that will be before the council in the very near future for acceptance.

A friendly amendment was made to change the amount of the CDBG grant amount to \$799,198.

**MOTION: On a motion of Councilor Grow, seconded by Councilor Hardy, the City Council voted 8 in favor, 0 opposed to accept the anticipated CDGB grant in the amount of \$799,198 and the anticipated HOME grant from the North Shore Home Consortium in the amount of \$122,484.**

#### **COUNCILLOR'S REQUESTS OTHER THAN TO THE MAYOR**

**It was moved and seconded to adjourn the meeting at 10:45 p.m.**

Respectfully submitted,

June Budrow  
Clerk of Committees