

GLOUCESTER CITY COUNCIL MEETING
Tuesday, February 22, 2011
7:00 p.m. – Kyrouz Auditorium – City Hall
Council Meeting – 2011-005
-Minutes-

Present: President, Councilor Jacqueline Hardy; Vice President, Councilor Sefatia Theken; Councilor Joseph Ciolino; Councilor Bruce Tobey; Councilor Robert Whynott; Councilor Paul McGeary; Councilor Anne Mulcahey; Councilor Steven Curcuru; Councilor Greg Verga

Absent: None.

Also Present: Linda T. Lowe; Jim Duggan; Kenny Costa; Gregg Cademartori; Rick Noonan

The meeting was called to order at 7:01 p.m.

Flag Salute and Moment of Silence.

Oral Communications: None.

Presentations:

1 of 2: David Paleologos, Consultant to the Office of the Secretary of State, Elections Division Re: Elections & Re-Precincting Program

David Paleologos, Consultant to the Office of the Secretary of State explained they're three weeks away from getting official 2010 U.S. census figures. At that time every city and town in the Commonwealth will be required to rebalance their precincts. Re-precincting is the important link between the census and redistricting. They'll be looking for the City's plan for reapportioning the precincts and wards. They've been working very closely with City Clerk, Linda T. Lowe, whom he congratulated, as one of the first City Clerks to respond to Secretary Galvin's offer for free assistance for re-precincting in November of 2010. Because of her being on top of the situation, Gloucester will get their immediate attention. A three member board made up of the Governor or his designee, the Secretary of State and his designee or the Attorney General (AG) Local Election District Review Committee (LEDRC) will determine if their plan under Chapter 54 meets with the requirements which are: does the plan reflect contiguous, compact communities of interest; are the precincts balanced within the law. The law allows for -5%. Their technical assistance is gearing for a much finer margin, which is +/- 3% (and in many cases less than that). Once the City determines where their "communities of interest" are, and where they want the lines drawn, their office provides free mapping, a list of the blocks which are requirements of LEDRC and assists with the legal description. They are not involved with local approval. He urged they try to get the plan approved very soon as the LEDRC has a small window for approval of all cities and towns in order to send it electronically to the legislature, so between mid- to late March; and to have the local approval wrapped up by June 1st. He assured heir office will be timely in turning around the real map based on the real data, and the map, and the real blocks.

Linda T. Lowe, City Clerk asked Mr. Paleologos to go into the votes which the Council must do.

Mr. Paleologos stated it is one vote on the approval of the new map. His office has provided a dry run based on the best available numbers they had from 2009 federal census on the block level by the Donahue Institute. They were about 95-96% accurate on where populations were occurring. They have done the process here in Gloucester. The real numbers in three weeks could be significantly different, but they'll likely need to rebalance and notify those whose precinct has changed. The plan shows preserving what they have in each ward, the bulk of the streets and neighborhoods will stay the same, but the boundaries may shift. Due to population shifts they tried to minimize the shift of people from one ward to the other.

Councilor Whynott stated when he was City Clerk they worked hard to make sure no ward councilor got moved out of their ward.

Mr. Paleologos stated he agreed; and there is a way to program longitude and latitude of specific addresses to determine whether a plan is acceptable to the City Council.

Councilor Mulcahey asked if they'll be able to look at their own wards to expand or decrease it in any way.

Mr. Paleologos stated one of the components of the dry run, they've met with City Clerks and other interested parties whether they anticipate what already happened in census in 2010. For instance, if they had an assisted living facility coming in where an increase of population would occur four or five years from now, they could low end that estimate; so that when they go in, they'd still be balanced.

Councilor Hardy noted on the City map showing precincts and wards (on file), the delineations are color and by solid black line is where the precincts are now.

Mr. Paleologos explained the solid line is the precincts now; and the color is the proposed new precincts. The population totals are in the lower left corner and the colors indicate the balancing for the City. Having done these 10 years ago, before the LEDRC, it is their belief, that the finer they get their precinct deviation, the higher the probability the LEDRC will approve it and overlook issues of compact contiguous or communities of interest.

Councilor Hardy noted in looking at the estimated populations as they project now, with a total population of 30,532, the delta from the highest to the lowest is only 117. She thought they were well within that limit.

Mr. Paleologos stated it would be under 3%.

Councilor Hardy thought the hardest chore would be to define the borders. The descriptions of the streets will be time consuming. She suggested the Councilors work with Ms. Lowe who has a very large map received from the Secretary of State Elections Division in her office, to start the comparisons.

Mr. Paleologos stated regarding the visible boundaries, when they use a street to delineate between a ward and precinct, keep in mind they can use visible boundaries – power lines, rivers, railroad tracks – anything that is visible. You may want to use a different visible boundary if they want to use both sides of a street in one precinct. They hope that the real numbers come in similarly to the estimates.

Councilor McGeary asked when they get the real numbers in they will be apportioned against the proposed boundaries; was that how they do it; and was there any skew they have to account for.

Mr. Paleologos stated they'll look at the existing boundaries and want to minimize the movement as people are used to being in the precinct they're currently in. If in the estimates they're outside of that they'll do their best to keep it between +/- 3%. The data will be on a block-by-block basis. He also noted the federal government has been releasing the block level data files by 4 to 5 states per week reiterating the State is hopeful to receive the data between mid- to late March.

Councilor Hardy thanked **Councilors McGeary** and **Whynott** for their work on the census in the City of Gloucester to get that vital information in.

2 of 2: Kenneth Hanover, President & CEO of Northeast Health System – AGH – Update

[**Note:** A complete copy of Mr. Hanover's statement is on file in the City Clerk's Office].

Kenneth Hanover, President and CEO of Northeast Health System (NEHS) thanked the Council for affording him the opportunity to come before them for an update. He lauded the commitment of the Gloucester volunteers, the generosity of the donors, the community leadership from City Hall, the State House and the dedication of their Gloucester-born employees. He noted the changing dramatic pace of the national healthcare changing scene. He made clear that NEHS is in the early stages of discussions with several large health care organizations about entering to a partnership, merger or being acquired. A Request for Proposal (RFP) was distributed on February 7th to interested parties: Lahey Clinic, Beth Israel Deaconess Medical Center, Vanguard Health Systems and Steward Health Care System. He felt they were looking for the best possible partner to move forward. This decision to seek a partner was made, he stated, after considerable study and analysis about long-term needs and anticipated changes in the health care delivery system. He reviewed the many changes that will take place within the way in

which payment systems will change from fee-for-service to global payment; with scale of service being increasingly important. There will be a substantial need for investment to upgrade information technology. They will need to develop a broad continuum of care to ensure that patients receive the right care in the right place at the right time. He heard the community when they say they want to keep the Addison Gilbert Hospital (AGH) open; and to continue providing the eight essential services required for their hospital license. They hear they want the AGH to add primary care doctors and more general surgeons and surgical subspecialists as well. He noted NEHS has made an investment of millions of dollars in infrastructure at the AGH over the last 10 years; built a state-of-the art cancer and specialty center; expanded and improved AGH's emergency services. They have already added one new primary care physician. He stated "we are committed to keeping the eight essential services that define a community hospital in place...and will continue to do it." While they are still in a process to come to a Board recommendation, once a term sheet is completed, at that time he would be pleased to meet with Gloucester's local and state officials to review the key components of a proposed transaction as well as to conduct two community forums with members of the public.

Councilor Whynott expressed concern upon hearing the word "partnership" and wondered if NEHS would be the "big dogs" or the "little dogs", that is, would they be swallowed up by the bigger entity or not in this proposed transaction.

Mr. Hanover stated they're the "little dog". All of the organizations they're in talks with it is likely they will be a part of something larger but felt it was too soon to go further into it.

Councilor Whynott noted the proximity to Beverly hurt the City as there is two hospitals that compete; and AGH always loses.

Mr. Hanover disagreed; that what has transpired is a reflection of changes in the health care delivery system. He posed if they stand together two to five years from now, the health care delivery system will look different; and dependent on how the community seeks care, as to how it is delivered. "It is about change."

Councilor Tobey thanked Mr. Hanover and Cindy Donaldson, Vice President of AGH. He asked how the community's interest was captured and reflected in the membership of the affiliation committee to review the proposals.

Mr. Hanover stated they're all members of the Board. He couldn't say which specific communities are represented. He was sure not all the communities served by them are necessarily represented.

Councilor Tobey asked if they're folks from Gloucester or Rockport on that committee.

Mr. Hanover stated he didn't know and would get the names to **Council President Hardy**.

Councilor Tobey asked about the regulatory aspects this potential partnership would come under.

Mr. Hanover stated the Attorney General (AG) and the Commonwealth must make a recommendation to approve prior to instituting any final partnership. The AG is not bound specifically by any process in order to render any such opinion. The process the AG takes is reflective of the nature of the transaction and concerns expressed surrounding it.

Councilor Tobey asked regarding the actual RFP as to whether it will or has contained benchmarks the proposals will be measured by, as he assumed that to be the case here.

Mr. Hanover stated within the RFP is a series of questions which are dependent on descriptive answers; but there are series of questions that ask the suitor to define the type of relationship they would seek to implement if they were part of the organization.

Councilor Tobey stated presumably that will guide the Board as to what is the vision for the future characteristics of AGH.

Mr. Hanover responded that other than describing character of the current organization in the RFP, they have not articulated a vision as to how any of those component parts and their desire in a future relationship should come to fruition. As they pursue discussions they will be talking specifically about what type of plans for all their component parts, but are not there yet.

Councilor Tobey continued if the RFP doesn't have benchmarks and no visions behind it, what are assurances the community can have as a result that there is a future for AGH that will come forward from this affiliation.

Mr. Hanover stated they are committed to the AGH eight essential services and in all discussions they have done that. With all the entities, none have indicated they would close, dismantle, or re-characterize the hospital. As they go forward, that may change. In every instance, they have been pretty clear that they like their assets, and wish to see how they can grow those assets rather than re-characterize or close them. When they come back with a term sheet, the questions they're posing, it would be his expectation they can answer them definitively.

Councilor Mulcahey understood the reason for this joining another organization is because the finances are strained now.

Mr. Hanover as the health care delivery system is changing as a result of health care reform; they're going to have to get larger to take on the risk to manage the care of patients. This means significant investments in infrastructure and technology to care for patients and have a larger footprint to serve a larger number of patients. The industry as a whole will undergo significant consolidation.

Councilor Mulcahey stated this is a hot topic in the City. Their Primary Care physicians are sending them for procedures out of town to Salem. Why is this happening?

Mr. Hanover stated there are a number of physicians in town that are affiliated with that particular partnership that steers them to their facilities there. They're interested in having their own assets so as to refer their patients to the North Shore Medical Center, for instance.

Councilor Hardy at this time acknowledged State Senator Bruce Tarr's attendance.

Councilor Theken disclosed she was an employee of AGH; and that there is no conflict. Working in health care, she works with Sen. Tarr's office and Rep. Ferrante's office. She noted networking, whether they go with the companies he mentioned, that they have to because they're paying high co-pays. She described the intricacies of insurance. She asked when they network that they send their physicians Cape Ann's way. This is about the networking, every day necessities. They have to work together and "go after" the insurance companies.

Senator Bruce Tarr commented he appreciated being a part of a community-wide conversation on the disposition of AGH. This focus is to make sure it is to see the best benefit to the citizens of Gloucester. He appreciated the open communication from Mr. Hanover and Ms. Donaldson. Noting it is good to have Council communication but also that the President of NEHS have an honest communication with the people of Cape Ann and remains committed to assure it happens. He took Councilor Theken's suggestions seriously. He noted there will be major changes. They are at 98% of the population covered by health insurance in the State. They have not succeeded in cost containment so that the coverage doesn't cause all levels of financial difficulty. Post-employment benefits are a weight on municipalities. That is one reason to be concerned with cost containment. They are moving toward payment reform; is that medicine will no longer be a cost plus payment system; there would be some incentive for good management of care. The difficulty is when a payment is made to a provider for a fixed sum needs to represent many factors. Until they can fine tune how they adjust those payments for the population that they should proceed slowly. There needs to be competition in the marketplace but also there needs to be cost controls. He wished that he still would like to see a written communication on essential service and maintenance of AGH as a fully licensed hospital from the Board. The comfort level in the community would rise substantially if they had that written communication that they would define a full service community hospital.

Consent Agenda:

- **CONFIRMATION OF REAPPOINTEES: None.**
 - **MAYOR'S REPORT**
1. Memo from Police Chief Re: Gloucester Police Patrolmen's Association acceptance of City Contract (Info Only)
 2. Appropriation request to fund first year of Police Contract and additional appropriation requests from free cash (Refer B&F)
 3. Memo from Health Director re: reapplication process for a Drug Free Communities Support Grant (Refer B&F)
 4. Memo from Health Director re: Tobacco Control Mini-Grant (Refer B&F)
 5. Special Budgetary Transfer Request (#2011-SBT-14) from Assessor's Department (Refer B&F)
 - 6: Re-appointments:

Affordable Housing Trust	TTE 02/14/13 Ruth Pino, Michael Luster
Board of Health	TTE 02/14/14 Claudia Schweitzer, Fred Cowan

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| Board of Registrars | TTE 02/14/14 Lucia Sheehan | |
| Cable TV Advisory Committee | TTE 02/14/14 Margaret Lecco, Briggs Longbotham, Robert McGillvray | |
| Conservation Commission | TTE 02/14/14 Arthur Socolow, Robert Gulla | |
| Downtown Development Commission | TTE 02/14/14 John Orlando, Douglas Cook, Katherine Cuddyer | |
| Historic District Commission | TTE 02/14/14 Robert Burke, David Porper, Nancy Goodick | |
| Historical Commission | TTE 02/14/14 David Rhineland | |
| Mariners Medal Commission | TTE 02/14/14 Paul Frontiero | |
| Open Space Commission | TTE 02/14/14 David Crowley, Susan Hedman | |
| Shellfish Advisory Commission | TTE 02/14/14 David Roach, Bruce Maki | |
| Tourism Commission | TTE 02/14/14 Lorre Anderson, Samenfink, Peter Jenner, Jeanne Boland | |
| Traffic Commission | TTE 02/14/14 Larry Ingersoll | |
| Waterways Board | TTE 02/14/14 Anthony Gross | |
| Zoning Board of Appeals | TTE 02/14/14 Virginia Bergmann, David Gardner (Alternate)
Francis Wright | (Refer O&A)
(Info Only) |
7. Response from Building Department to Council Request #10-95 Whynott/Verga re: 9 Foster Street (Info Only)
- **COMMUNICATIONS/INVITATIONS**
1. Request from St. Peter's Fiesta Committee for use of City land (Refer P&D)
2. Response from office of Senator Tarr concerning status of the special act proposing charter amendment on Ownership of the water system (Info Only)
3. Letter from Kenneth Hanover, President and CEO, Addison Gilbert Hospital (Info Only)
- **APPLICATIONS/PETITIONS**
1. Group Petition for reconsideration and amendment of GCO Sec. 22-220(c) "Anti-Shuffling" ordinance (Refer O&A)
- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL & STANDING COMMITTEE MEETINGS**
1. City Council Meeting: 02/08/11 (Approve/File)
2. Special City Council Meeting: 02/15/11 (Approve/File)
3. Standing Committee Meetings: O&A 02/14/11; P&D 02/16/11; B&F 02/17/11 (under separate cover); Special Joint Meeting B&F and School Committee B&F Sub-Committee (under separate cover) (Approve/File)

The Council recessed at 7:50 p.m.

The Council reconvened at 7:54 p.m.

Items to be Added/Deleted from Consent Agenda:

Councilor Verga wished to remove the minutes from the Special Joint B&F Meeting of February 17, 2011 from the Consent Agenda.

Councilor Verga stated that he was at the meeting and was not shown as having attended. Further that at the bottom of page 3, during the discussion about needed repairs to the schools that were done by the DPW, the minutes state, "Ms. Clancy acknowledged those things had needed to be done "for years." He stated while this is correct, it did not represent the "spirit" in which this was said. Ms. Clancy also indicated that the School Committee had requested funding for a capital budgets to address these issues and the answer from the Administration/City had been no. He asked that this be inserted following Ms. Clancy's statement on Page 3.

By unanimous consent the minutes to the Special Joint B&F Meeting of February 17, 2011 were amended.

By unanimous consent the Consent Agenda was accepted as amended.

Standing Committee Reports:

- **Ordinances & Administration: February 14, 2011**

Councilor Theken reported there were no action items for the Council.

- **Planning & Development: February 16, 2011**

Councilor Ciolino reported there were no actionable items this evening for the Council. There is a public hearing this evening on one matter from that meeting.

- **Budget & Finance: February 17, 2011**

Councilor Curcuru stated there were no motions to come forward to the Council for action from the regularly scheduled meeting of February 17, 2011. However, from the January 20, 2011 meeting of B&F there was a motion that could now come forward to the Council:

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to accept under M.G.L. c44 §53A an Emergency Management Performance Grant in the amount of \$11,000.00 with 100% in-kind (soft) match.

Discussion:

Councilor Curcuru explained that the MEMA grant was not brought forward from the January 20th meeting of B&F as a signed contract with the State had not been received in by the City Auditor's office, but has now been filed.

The grant would be directed towards the following approved emergency management program goals and objectives as set by MEMA's grant criteria:

- Comprehensive Emergency Management Plan: Updating the City's outdated Community Emergency Management Plan (every community is required to have this plan);
- Volunteerism and Community Outreach: Continued expansion of the Community Emergency Response Team (CERT);
- Multi-Disciplinary Coordination: Creation and improvement of the City Emergency Operations Center (EOC);

Emergency Planning and Community Right to Know (EPCRA): Continued involvement in the regional emergency management planning process through the Cape Ann Emergency Response Team (CAERT).

MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to accept under M.G.L. c44 §53A an Emergency Management Performance Grant in the amount of \$11,000.00 with 100% in-kind (soft) match.

The Council recessed at 7:59 p.m.

The Council reconvened at 8:02 p.m.

Public Hearings:

1. SCP2010-001: 79-99 Essex Avenue, Sec. 2.3.1(12) Hotel/Motel 30 or more guest units; Section 5.7.3 Major Project; Sec. 3.1.6(b) height excess; Sec. 5.5 lowlands; Sec. 3.2.6 lot area per two guests

This public hearing is open. By unanimous consent the Council allowed for a 30 minute presentation by the applicant and opening opposition speaker.

Speaking in favor for Gloucester Hotel LLC:

Attorney Ralph Pino, 46 Middle Street representing the applicants, Gloucester Hotel LLC stated that Jim Duggan, Chief Administrative Officer would like to address the Council.

Jim Duggan, Chief Administrative Officer, City of Gloucester stated they have had discussions with the developer over the past two and a half years. He highlighted the Administration felt this is a good project to the City to increase revenue to the commercial tax base; establish new jobs from entry-level to senior was to make sure they were local jobs. The applicants will “look strongly” to utilize local vendors. The hotel also offers another venue to support the City’s visitor-based economy. He hoped the Council would vote in favor this evening.

Attorney Pino stated the property is 79-99 Essex Avenue, the former site of the Yankee Fleet. Pointing to a “blown up Assessor’s map”, he noted it is a large parcel (+/- 50 acres) from the marina to the train bridge. They will develop a 4 acre parcel, the previously developed site. There will be no development in the marshland. The site is zoned Extensive Business. They are seeking to permit a 92 room hotel. The height will be 49 ft., 9 in. using the measure under the zoning ordinance because it would be filled up approximately 3 feet. That has come up slightly from their site visit by a couple of feet. The reason for the increase in height is a design of the building has more detail along the roof area. They could drop it more but then they’d lose the detail. Since there is no loss of view near the top; they thought it the better proposal. He thought the Councilors at the site visit thought that also. The increase in rooms from 90 to 92 is a function of realignment of interior space only not as a result in changes to the footprint or mass of the building. With the addition of the two rooms, they are still compliant with the parking. There is no TIF being asked for. The permits they are seeking is under Sec. 2.3.1(12) hotel over 30 rooms; for which the criteria is under GZO Sec. 1.8.3 and 1.8.4, where in the application they detailed why they meet that criteria. As a Major Project under Section 5.7 they meet those criteria and are laid out in the Planning Board’s recommendations to the Council. The reason why the building height has to go up is that it can not go broader (i.e. no footprint increase). The building, the parking, the roadways are all on non-chapter 91, non –historic tidelands. They designed the building around that. There is no move to change the footprint. They built where they could. All the way from Essex Avenue, he noted the whole strip down to the river next to the marina has a parking lot included with the Chapter 91 area which is unpaved with pathways, natural plantings, which he termed “a window onto the river”. No other developer, he contended, would give such a thing (required under M.G.L. c.91). On the dimensional aspect, he pointed out they have a 50 acre parcel and easily comply with the 5,000 square footage per two guest room. The ordinance is unclear because it talks about in definitions if you create a new lot then they can’t count the marshland. Are they creating a new lot? He contended they aren’t. They’re taking three existing lots, combining them to have their site. He believed that provision was a actually passed so that if you did a subdivision and divided up a big piece of land, you couldn’t have a little piece of upland “stick” on the marsh. He also believed they’re “sort of the reverse of what it was intended to be safe. They have a vast piece of land. He pointed to an aerial photograph of where the project is situated upon the lot. Speaking generally, the City has wanted a national chain hotel for at least 20 years, to his memory. This location will provide a gateway downtown, to the boulevard easily accessible on foot. They will have shuttles to the downtown. Noting “critically” after discussions with Varian, with fish plants, numerous clients of his in the business area, there are many businesses with thousands of guest nights a year and meetings per year almost of all of which go to Peabody and Danvers. They do not stay in Gloucester. The Hilton chain generates its own business with its national and international marketing (of which the Hampton Inns are a part of). David Hill (applicant) has three other hotels that Jim Padgett has built and would speak to the confidence of pent up demand. “If this hotel is permitted it will get built.” The neighborhood is a mixed neighborhood appropriate with the Cape Ann Marina a very large complex with intensive use next door; a movie theater, a gas station, a restaurant, to name some businesses there. He contended the hotel “fits perfectly.” The Chapter 91 park is “a wonderful feature”. Mr. Duggan touched upon the benefits to the City. There will be approximately \$250,000 annually for real estate taxes and fees; \$109,000 is estimated for initial one-time permitting fees. There will be 25 to 30 employees which should add another \$500,000 of salaries to the community. It will mean millions of dollars to the downtown. The construction of the project will bring in the range of \$4.5 million in terms of building supplies and jobs locally. In every case, the developer uses local sourcing and hires locally. In the December 2nd recommendations by the Planning Board to the Council, they stated this major project met the criteria under major projects; and

they're "happy" with the recommended conditions. ConCom issued Orders of Conditions, though currently under appeal to the DEP, but he expressed that the applicant is confident of success. With regards to the water line agreement (provided to the Council that evening), Mr. Hill will pay \$350,000 over a ten year period to the City. There is also a letter on file from National Grid showing electricity is sufficient. There is a memo (on file) from Mike Hale, DPW Director regarding sewer adequacy. There is also a letter (on file) regarding gas supply for the site.

Charles Wear, Meridian Associates, Civil Engineer showed a site map to the Council (color version); noting the hotel is approximately using 10% of the site. He described the site as flat from Essex Avenue with the lowest part at elevation 8. It is subject to flooding. FEMA predicts it will flood to elevation 9. He noted the historic tidelands and is subject to Chapter 91; and under that they don't want non-water related uses on that site. They've kept the improvements associated with the hotel out of that area. They've only done the stormwater management there. It will be gravel public parking area with walking trails to the water. The site is accessible through Julian Road. They have parking on three sides of the building. There is a fire lane at the back, a one way direction. The intention is for good traffic flow, minimizing traffic in the residential area. Because of the flooding, they will be filling the first floor to elevation 12. That is about 3 ft. above the existing grade of the site. The exterior of the parking slopes down to elevation 10. The drainage for the site is by Low Impact Development (LID) techniques with bio-filter swales. Stormwater is directed to these swales which provides pre-treatment. There are interior catch basin which direct rooftop water to pretreatment and goes to underground infiltration base for primary treatment and then goes to a constructed pocket wetland basin as there are clam flats and provides the best protection as preferred by the DEP. That empties into a level spreader and empties into the Annisquam River. They went through a one year review with ConCom and the ConCom consultant, John Crowe Associates; after many public hearings there is now an Order of Conditions with 107 conditions and believe they are in full compliance with the stormwater regulations. He believes they will be successful in the DEP appeal and is confident of the design. The water line is constructed and will connect to that water line on Essex Avenue and they intend to tie into that sewer line. A gas main runs through the site, a low pressure line is what they will connect to and electric and telephone utilities available in the area. They have lighting on the site, and conform to the lighting ordinance. It is to take care of light spillage to the neighbors and the Annisquam itself. In the stormwater management provisions, the parking lot runoff directly runs into the Annisquam and polluting it. The introduction of this design will significantly increase the quality of the stormwater run off into the Annisquam. The map he discussed was the *Presentation Plan Conceptual Landscaping Traffic Control in Gloucester MA dated November 17, 2010*. [It is the only copy in color and will become part of the record.]

Mike DeRosa, Meridian Associates spoke to the Chapter 91 lands using the *Proposed Rating Plan in Gloucester MA dated August 23, 2010 (placed on file)*. They started with a compacted gravel parking lot with not a lot of vegetation. They wanted to be consistent of the "window on the Annisquam River" and didn't want to obstruct views to it with a low profile planting concept of a coastal plain. They proposed to create upland islands, 2-4 ft. high to create visual relief. They're proposing a meadow habitat intersected with trails and walking paths to the river. There is a diverse planting plan including red fescue and switch grass and number of wildflowers. The bio-retention basin is the "powerhouse" of all the treatment of runoff. They propose high and low marsh with ornamental grasses there. The idea was to keep it a visual corridor and keep it as open space.

Attorney Pino stated in the landscaping plan submitted this evening; P&D requested the screening be "beefed up" between the building and the neighbors which the plan indicates.

Gary Larson, Registered Landscape Architect and Senior Landscape Architect with Meridian Associates working from the *Site Planting Plan for Gloucester MA dated December 8, 2010 drawn by revision date 2/21/2011* noted the entrance drive is defined by deciduous trees; most of the rest of the site will be planted with foundation plantings near the building and areas disturbed by the construction and those not developed. There will be an additional visual buffer with varieties of pine to adjacent properties. That plan was taken in by the Council (color version).

Jim Padgett, developer and general contractor stated he built the last three hotels for Dr. Hill. Over the last two years they've refined the design of the building that he believed everyone liked. They also raised the elevation of the building because of the tidal elevations around the building. The increase in the elevation was because of the visual design. The front and back elevation are identical. There is no canopy in the rear of the hotel. The canopy will have pavers. Whatever you see on one end is identical to the other. Mr. Padgett pointed to the Hampton Inn front elevation rendering in color noting what he termed as color A (a grayish color scheme) and Hampton Inn rear view color rendering showed Color B (a beige-y sort of color scheme).

Chris Costello, President Timberline Enterprises, 4 Pond Road Gloucester spoke to the architectural components, the building and how fits to Gloucester's cityscape. The mansard roof detail, changed from flat roof pitch, which allows asphalt shingle (pointed to mock up of it) to be used, and is most common roofing in the area. The base material architectural shingle is most widely accepted as aesthetically pleasing and gets away from a flat roof allowing for dormers and is critical to the height exception. Moving down the building in Color A, which could be up for discussion, the shingle siding application is important in this region; that in conjunction with the Cape Cod casing gives a New England feel and is typical of buildings in New England and on Cape Ann. The efface is a stucco siding material. This was used successfully at Cruiseport in creating economical but fitting buildings for a commercial development. The canopy has Tuscan columns. He made note of the \$4.5 million in construction costs for the local building industry. That, he believed, is an extremely important aspect. This gets into what national chains can and do contribute to a city's "vitality." He personally contributes to the City in many ways; all those contributions come from construction dollars. He contended there was nothing more important to the construction community than the opportunity to succeed, and the opportunity to access those dollars.

Dr. David Hill Principal, Gloucester Hotel LLC and Caulk Management showed a picture of the interior of a hotel in Wells, ME they recently built. Like they believe there is in Gloucester, there was a lot of latent demand with no national chain in Wells, ME. They believe the situation to be similar here where people will "wake up" to how wonderful Gloucester is. Their proposal is a limited service hotel – no convention centers or restaurants. They can focus on putting capital into the rooms. This is a Hampton Inn and Suites, and most will be the larger suites. Gloucester has not many people coming from Boston and surrounding areas because there is no chain hotel. Most importantly, in his meetings with companies and small businesses, he knew various business people are staying out of town and millions in dollars are spent up the line, not in Gloucester because of this. He believed Gloucester is emerging. People are discovering what an incredible community they have here with "wonderful beaches" and restaurants. Their hotel would have a relationship with these restaurants. They will have transportation for their guests to these amenities. He understands the charm of Gloucester and believed there were so many things to discover here. There were many aspects to many businesses they can engage with. It is about the rooms and the transportation to and from the restaurants that will create dollars spent in Gloucester. Room tax, real estate tax – it is an enormous opportunity. He stated emphatically he will fight the DEP appeal. He believed ConCom did a thorough job with over 100 conditions which they will abide by. They believe in Gloucester and will stay and do whatever it takes to complete this project.

By unanimous consent the City Council extended the proponent's time before them by 10 minutes.

Attorney Pino stated there was a significant traffic study that was submitted as part of the application. This hotel will cause "no adverse effect" to traffic. He noted the 101 parking spaces for the hotel v. the 400 spaces for Yankee Fleet. In terms of the dangers of crossing of the street, that was going with the Yankee Fleet then, and there were no issues. They submitted a letter to the Council today that the applicant has engaged a traffic engineer to go to MassHighway and see what they will allow to remediate that situation including a crosswalk. Traffic flow and safety will improve with compliant parking. They will redo the street coming in with sidewalks to ADA compliancy. The Chapter 91 twelve parking spaces will be unpaved. There will be no new highway cuts. He noted the "conclusive" traffic study done by the applicant's consultant was during when the A. Piatt Andrew bridge was down to one lane so there was much more traffic going down Essex Avenue while it was under construction. Availability of utilities is

adequate; water, sewer, gas, electricity. As to neighborhood character and social structure, he noted it is a mixed use neighborhood. There is already a very heavily developed marina with a restaurant/hotel next door, cinema, gas station, restaurant across the street. The area's largest housing between the Heights and LePage's up the street. There is an isolated area of residential, but it is mixed character of the neighborhood. There is an adjacent street with only one house being served. They meet the criteria under Major Projects. With the natural environment, they're taking a 50 acre site so that the water is being discharged when the project is done will be superior to what it is now going into the river and clam flats. The project will have an open space park for a "window onto the river and marsh". The economic benefits are \$250,000 in recurring real estate taxes and hotel tax, \$109,000 one time building permits; \$4.5 million in construction to build it in terms of contractors and supplies every effort to do locally. They will have 25-30 total employees putting another \$500,000 into the economy. All of this is done with no cost to the City of Gloucester. They will take care of all their trash; plow all the roads on the site. Regarding the lowlands permit, the base of the building is at 12.5 ft., well above the requirements for the lowlands and well above flood. The roadways will be approximately at the lowest point one foot above flood. He contended there is no danger to health and public. He went to the site at the time of the highest tide this winter; and noting previous pictures (submitted earlier in the process and on file) of water on the site around the garage, that area will have approximately 9 ft. of fill once an old gravel pit. That is the deepest area of fill so it squares off with the rest of the property. The community will benefit. He quoted Councilor Ciolino, "If it's good for the community, it's good for the ward." The hotel will bring business in. The Sam Park hotel many believe, he stated, won't be built. The hotel in the Fort is gone. This will be the hotel that is built and of "enormous benefit" to the City.

Councilor Hardy acknowledged that the proponents' presentation took approximately 50 minutes; and therefore, the Council would allow, in fairness, the opponent's primary representative the same amount of time.

Those speaking in opposition:

Attorney Mark Nestor, 45 Middle Street representing a group of abutters and neighbors in opposition to the hotel project of Gloucester Hotel LLC before the City Council stated in order to receive a Special Council Permit two special standards have to be applied. The applicant must show that the project will be in harmony with the general purposes and intent of the ordinance; and, it will not adversely affect the neighborhood, the zoning district or the City to such an extent as to outweigh the beneficial effects of said use. He also noted the six factors under GZO Section 1.8.3: 1) social, economic and community needs that will be served by the proposed use; 2) traffic flow and safety; 3) adequacy of utilities and other public services; 4) neighborhood character and social structure; 5) qualities of the natural environment; and, 6) potential fiscal impact. He noted that the original application showed a request for a 90 unit hotel with a height of 48 feet; but that the revised request was a 92 unit hotel with an actual height of 49 ft., 9 in. He looked back through ConCom and Planning Board proceedings and findings; they all deal with a 90 unit hotel and 48 ft. height building. He thought the application before the Council was defective therefore. He then reviewed the six factors under GZO Sec. 1.8.3.

1) social, economic and community needs that will be served by the proposed use: He made note in 1999 former Mayor Tobey commissioned the Pinnacle Group to do a study on the idea that Gloucester didn't have a national chain hotel and was there a need for one in the City, and what kind of need. At the time of the Pinnacle Study, they talked about an environment then where the economy was flourishing. They listed industries that no longer exist; listed a median income now down; and listed an unemployment rate of 3.1%. Taking all those factors into consideration, Gloucester was a prime candidate for one national chain hotel of 60-80 rooms, with a winter vacancy rate of about 1/3 or 1/2 and summer 75%. There was a "to do" regarding the foundation permit pulled in December 2010 by the developer Sam Park (Gloucester Crossing) for a Holiday Inn Express noting that this hotel was a duplication and would create an over-abundance of room space that would be unable to be filled. This may be fine for the short-term, but in the long term would it be detrimental to hotels and to the City; if they compete against each other, he posed

who would lose in the end. This hotel goes into an environmentally sensitive area. If it doesn't go, who loses? He also cited that there was no 3rd party economic analysis. There were figures presented by the developer that night. When they were in front of P&D two weeks ago, instead of talking generally, they asked about local hiring and builders. Councilor Ciolino did put in the local option. This was the first time in 2-1/2 years they saw the "local option". Other entities have had to contribute to the local development groups. He stated perhaps in addition to the local hiring the applicant should also contribute to the local tourism board annually.

2) *Traffic flow and safety*: Attorney Nestor stated again there was a lack of a 3rd party review of traffic of the immediate area. The analysis was done when the A. Piatt Andrew Bridge was down to one lane; however, if they look at the actual traffic analysis it was done in the summer during the week, and done in the fall on a weekend. The bridge was open to two lanes on the weekends, and in the fall the bulk of the tourism was gone. There was an incorrect comparison to prior use that of the Yankee Fleet as the fleet usage of the property was seasonal; that the clientele arrived and left at set times, not at all times of the day. Their entrance and exit was "down the street" from where the proposed exit and entrance is for the hotel. It was not a "24/7" traffic. Here, more than one neighbor will have to deal with 24/7 traffic, noise of the cars, and lights of cars into their homes. Further, there was missing parking delineation for: tour buses, employee parking. Referring to the tour buses, he expressed concern that idling tour buses would cause noxious fumes to the area and that there was no delineation of where they would idle. He made the point that none of the Boards or Commissions dealt with the issue of pedestrian traffic across Essex Avenue and the lack of pedestrian crossing on Essex Avenue to access across the street to the amenities offered by Causeway Liquor, the Causeway Restaurant and the Gloucester Cinema. There will now be customers in 92 potential rooms trying to cross Essex Avenue. This is a straight "shot" across to the "Causeway". The recommendation by P&D was that the applicant applies to MassHighway. The applicant is creating the problem of an increase of foot traffic to the cinema, the restaurant and is a significant issue. All they have to do is apply to the State, and that is not adequate. He felt it is a danger and hazard. This is a congested busy street on nights and weekends in the summer; and that speeding vehicles are a factor as well. There is no protection for pedestrians. The back up when the bridge is up is great.

3) *adequacy of utilities and other public services*: There is a water line improvement contract between the City and the applicant that was signed. He was pleased the applicant was now contributing. As to sewer line problems, there was a chronic history of sewer back ups in that neighborhood. Mr. Hale's January 2011 memo acknowledges that the current system has issues. There may be a design or capacity issue. The DPW wants them to trust they and the developer will work out the problem somewhere in the future without input from his clients or the public. He showed real life photographs on poster board to the Council of sewer back up issues (also on file in materials distributed to Council 2/22/11). The 92 room hotel will add effluent to a system that already has problems. The DPW and developer are asking them to trust they'll fix it. He contended if nothing else, until the developer and DPW understood (while a 3rd party engineer had been hired to model the problem by the City) there had been no solution to date. Therefore how could the Council vote on a plan that would cause more issues to the neighborhood. Further, there was impact upon neighbors already affected if flow increases due to the installation of a hotel. It hasn't been fixed yet and no assurances that it will be fixed in the future. If it is voted tonight they will have no input. There is a major problem, and they don't know what it is. The citizens of that neighborhood should not have to deal with this. He reviewed the fact that the ConCom Order of Conditions are under appeal. The DEP conducted a site visit on February 16, 2011. The abutters' and neighbors' appeal to the DEP on the ConCom Orders of Conditions was pending additional information with concerns about stormwater management and conflicting issues, such as ConCom not dealing with the Julian Road paving; and the Planning Board has Julian Road being paved – what will the impact be; snow storage and removal, flooding, etc. There is an issue with contaminated soil also on the property which hasn't been resolved. Because of the appeal, a superseding order of conditions could change the whole dynamics with the DEP appeal by the neighbors and abutters, his clients. He showed photos of flooding in the area that is occurring now. . He noted the recent flooding of the indoor pool and

bathrooms at Cape Ann Marina with 6" of seawater raises, to him, serious concerns; and most importantly, that a building cannot be constructed until all DEP appeals are completed.

4) *neighborhood character and social structure*: He recounted for the Council that this hotel would have a significant impact upon the structure and character of the neighborhood. He described that the mass and visibility impact is not responsive to the Gloucester architectural character, style and materials. There are single family homes and lots. A large hotel is not consistent with an area of small businesses and single family homes, especially with this influx of guests. Imposing a 49 ft. 9 in. high, 17,000 Sq. Ft. building is also not consistent. P&D looked at the screening plan where there were various bushes some up to 7 ft. high and would do no help his clients there. He understood the City was looking for money. If they have two hotels and one fails what is the long term fall out going to be. He also believed there has been no attempt to minimize light or noise; there was a light study but no night sky obscuring or real mitigation of night spill study done.

5) *qualities of the natural environment*: Attorney Nestor spoke of the stormwater management proposed believing it inadequate. That river front activity is potentially impaired; that there should be a \$50,000 bond/cash surety for adequate protection against bankruptcy of the applicant.

6) *potential fiscal impact*: Attorney Nestor referred back to his comments on 3rd party economic study, giving the example of the "Magnolia Reach" project (an incomplete housing development left fallow).

Lowland Permit: The attorney stated under MGL Ch. 131§40 this permit cannot be issued while there is a ConCom appeal unresolved with the DEP.

Reduction of minimum lot area: He referred back to the number of rooms first proposed of 90, and is now 92 rooms. He contended the developer has offered no reason for the exception to be granted and reiterated there would be a detrimental impact on the neighborhood.

Height exception: The owners are seeking a 66% increase in the height of the building over the current limits (49 ft. 9 in. v. 30 ft.). The application, he believed, must be corrected, including written material and plans, to reflect an accurate height request,] as now 49 ft. 9 in. is being sought v. 48' originally. He then stated that the developer should be required to complete a light and shadow study by its architect to assess how much shadow is created, during what times, and the impact on the neighbors in that abutters feel it is too high, too much of a mass that will severely obstruct views of other neighbors and does not meet requirements of the applicable ordinances. He provided to the Council out a model of the Hampton Inn he commissioned and described what they would look at every day [accepted into the record]. This is what tourists will see. Not the harbor, the seaport, the seaward vista nor a quaint bed and breakfast either. "They will see a monolith rising into the sky." Section 3.1.6(b) of the City's Zoning Ordinance is to grant abutters and neighbors the ability to raise objections about the blocking of their views by proposed new buildings. As such the developer is not entitled as a matter of right to construct a building, especially one of this mass. The protection of the abutters and neighbors as well as the citizens of Gloucester "should not be held hostage" to the final demands, to the fiscal demands, of the applicant. "This is not a cry from a few individuals." He had in his possession a petition he would submit to the Council upon the completion of his remarks signed by 221 citizens of Gloucester who "collectively raised their voices in opposition to the project" [accepted into the record]. He asked the Council to listen to their opposition. His clients understand the significant shortfall of dollars to the City. They understand the potential flow of tax dollars that might come into the City if this hotel is allowed to be constructed and mindful of the financial disaster if the financial projections of the hotel aren't met. "But at what cost." "A smaller hotel, yes; a different commercial enterprise, yes. But not a "behemoth: that will "swallow up the neighborhood; create serious traffic problems, cause a further deterioration of the sewer system in the neighborhood and destroy the fragile riverfront and marshland environment. These, he contended, were all attributes and strong point so the City. "For the above reasons, his clients request that the current Council Special Permit for Gloucester Hotel LLC not be approved.

Councilor Hardy noted that all Attorney Nestor showed or used before the Council that evening would be made a part of the record and placed on file.

Citizens Speaking In Favor of Gloucester Hotel LLC:

Bob Hastings, 196 Main Street, Chamber of Commerce Executive Director stated there is a long standing policy the Chamber does not get involved in site specific zoning issues. But the City is critically short of hotel rooms in this City. They can't handle group tours nor that of the big function rooms. It is a real problem. The chamber's tourism sites are up 20%. Compared to 1999 (Pinnacle Study) it doesn't compare to the current reality. He urged the City Council give strong consideration to this application.

David Anderson, 16 Middle Street stated that the attorney for the opposition states tourists will find the hotel happily because there aren't enough rooms. He had a petition from 63 businesses (submitted to the Council and on file) from Rogers Street, and Main Street businesses and their surrounding area, representing 312 full and part time employees. They are "desperate" for something like this. He pointed out the same development in Wells, ME is next to Ogunquit ME which has many hotel rooms. Wells, ME hotel is "doing exceedingly well." He reminded them of the corporations in Gloucester, like Varian and Gorton's; that all of their hotel business and much of their restaurant business goes to Danvers or Peabody and that local business is lost to that. Unless the City of Gloucester gives the amenities to these corporations, they can move. They need the jobs as well.

Citizens speaking in opposition to Gloucester Hotel LLC:

Sam Frontiero, 11 Stuart Road noted that Gloucester is a unique place to live. He believed the traffic in area will be saturated in the area of the Essex Avenue, especially in summer. He spoke of the area businesses and their volume of traffic; of the LePage's development, as well as the Heights development and all the vehicles they generate. This, he contended was 500-700 cars from those businesses and developments not including the residents and then add in the Cape Ann Marina as well. The cut bridge is open frequently. In August 2009 they were told their own surveyor came up with zero efficiency in traffic. They don't need another 70-90 cars. Many times he has to go via Rt. 128 to get into town and sometimes that doesn't even work. He noted several instances of traffic issues in his neighborhood. They have dealt with the sewer plant as well there. He noted many other problems encountered by the neighbors that they have had to endure. The hotel, he believed, will affect them all for many years. His neighbors will lose their enjoyment of their back yards to the hotel and their views. Further, he contended that this was all going to be "rubber stamped" anyway.

Jill McGlashan, 64 Bond Street asked the Council to vote no. She felt it is their obligation to preserve the City. Gloucester's harbor and waterfront area is the key to tourism. The Hampton Inn will not define Gloucester. The impact and conflict will be wrought on their neighborhood. The skyline will have a concrete wall. The neighbors and abutters will be changed by the mass and height of the Hampton Inn, and it will stick out from every view point in Gloucester. There are certain height restrictions to protect the City. View corridors and height restrictions protect the views. She believed property values will go down. They will reduce economic gain to those who are long-time residents. The bio-filter swales own guidelines do not recommend them next to a critical area – which is directly next to the marsh. It is negligent; and without the manufacturer's merit. She asked the Council to be mindful of the long-term affects of this decision. She noted the DEP review. She asked for fiscal responsibility. This hotel will permanently alter the abutters and the surrounding neighbors and noted many other reasons for the hotel not to be approved by the Council.

Sandy Favaloro, 111 Essex Avenue stated there are many people against this project beyond the abutters and neighbors. They are against this site for the hotel but not against a hotel. She started a petition (submitted to the Council and on file as part of this record) and only worked a couple of hours to gain many signatures. Those who signed had the same concerns of the neighbors and abutters. It was felt there was a better place for a hotel in Gloucester. She didn't want it to be in her backyard, literally. She asked the Council give consideration to the neighbors and abutters and to see that a hotel go elsewhere.

Michael Favaloro, 111 Essex Avenue stated he had sent an email to the Council previously. Conforming to the neighborhood and the location, he felt common sense dictates it doesn't conform and dwarfs all buildings until you get to the high school. It will wipe out his family's privacy in their backyard. There would be no sunlight. The size and closeness of a 92 room hotel is "mind blowing" what they will look at and sharing that cup of morning coffee with 42 rooms of folks (his yard faces the rear of the proposed hotel). There is not enough screening to block a building of 49 ft. 9 in. He asked the Council not to allow

the hotel to be built, a building that belongs in a more industrial setting. They are taking away their family's view.

Diane Sperry, 133 Essex Avenue spoke to traffic stating the stretch on Essex Avenue is a "speedway". She asked the Council to be mindful that 90%+ of all aquatic life has a connection to the salt marsh. She understood systems are to be put in place. It will still get into the water and if it gets into the marsh it will ruin it. She agreed with all the people who were in opposition.

Susan Taormina, 115 Essex Avenue who has lived there since 1974 who has experienced many sewer back ups in her home. Although the house had two check valves, the first two were in the 70's and 80's. After LePage's moved, they continued to have problems with sewer gas. She expressed her concern for her family's health. The City's health department was not concerned, she felt, and installed filters. Occasionally her tub filled with water for no reason. She was told the rain from two days prior could be finding its way from the higher elevations to her house or perhaps tree roots had cracked her sewer lines and many other reasons why. In 2004 when the new sewer line went in she had another sewer back up. She noted that installation when in front of her home she experienced yet another sewer issue in her home. She recounted the process she had to go through to correct this problem. She finally got a settlement from the DeRosa Company for damages caused by DeRosa. If they construct the Hampton Inn she believes she could experience the same problems. She had little reason to trust the Hampton Inn to be permitted until all the problems with the sewer system be rectified.

Communications:

Susan Taormina, 115 Essex Avenue relating to sewer, traffic and environmental impact, against the hotel.

Katarina Taormina, 115 Essex Avenue to sewer issues, against the hotel.

Joanne McKinnon, email 7:09 p.m. 2/22/11 communicated her support to the Council in favor of the hotel, as noted by **Councilor Tobey**.

Rebuttals:

Attorney Pino spoke to the traffic study. The traffic analysis states the hotel will have no adverse affects. The Planning Board reviewed that traffic report and unanimously approved their traffic plan. He noted briefly the details of the A. Piatt Andrew Bridge construction and how it did impact the volume of traffic during the time of the traffic study. Referring to the "24/7 traffic" going by the houses. There is only one house off Julian Road. Contamination on the site is being taken care of and the Order of Conditions says it must be remediated. Mrs. Taormina's issues have nothing to do with their issues. The Inn's sewer line will handle their sewer. They are downhill of her. They understood prior to their building the City is to have the issue fixed. Blocking views, this is Extensive Business up to 30 ft without relief. That blocks the view. No one sees past the height of 30 ft. Essex Avenue view, other businesses could build there. There is nothing to keep a water dependent use to go there, or a restaurant. This is the proposal with the least impact on that site. Any use anyone builds it will block some neighbors' views. This is a great use, huge benefits to the City. The notion of shadow and shade is only in the summer will have a little bit of shade in the morning.

Attorney Nestor stated that their own traffic study level of service is "5". The mass of the building is 17,000 sq. ft. Shadow is part of the factors and not addressed. The DPW's own memo of 29 January (on file), which he quoted, stated they don't know what's going on. Until that problem is resolved no other hook ups to the City's sewer line should be allowed until the issues are resolved.

Questions:

Councilor Tobey asked about the "window on the river" as shown in the DeRosa design. He asked what assurances will the "window to the river" be maintained in perpetuity; and who will maintain it.

Attorney Pino stated the property owner will maintain it. They have a two year requirement from ConCom. They have no objection to a continuing obligation and that the hotel would maintain it. (natural conditions as shown in the DeRosa plan).

Councilor Tobey asked if the applicant was willing to commit to the maintenance in perpetuity.

Attorney Pino stated as long as it is a hotel, they would agree to it.

Councilor Curcuru stated the project is under the appeal process he asked for elaboration.

Attorney Pino stated it is an appeal to the DEP for a superseding order. The site visit is done. That process will take three months, maybe six months at the most. Mr. Wear who was at the site visit saw no reason why the ConCom Order of Conditions wouldn't stand. This was an exhaustive process; there are 107 ConCom conditions. The first engineers went off the site to get a bigger sophisticated engineering company to do the work.

Councilor Curcuru asked if this goes through when construction would begin.

Attorney Pino responded if the permitting goes through tonight, it would be an 11-12 month construction timeframe maybe spring of 2012. More likely it would be begun this time next year so on line for the following March/April 2013.

Mr. Duggan on inquiry about sewers from Councilor Curcuru could only speak to general issues. He outlined a meeting with the City Engineer. The City has contracted with a company to inspect the manholes on Essex Avenue and the West Gloucester water treatment plant and also analyzing data including flow data. Wesson and Sampson which was the company when the line was put in is reviewing the files from five to ten years ago. They're in the investigation and design stage with permitting for spring and summer anticipated for this year. They're looking for construction over the 2011/2012 winter; and roadway reconstruction in 2012, and coordinate with the construction of the hotel if it is in position. They need to do the right thing. They are committed to it. The City Engineer, when signing off on the utilities, did not feel comfortable and felt the right thing to do is to address the problem of the neighborhood, and is what they will do going forward. As a condition, until the City Engineer, feels comfortable they won't sign off on the utilities.

Councilor Curcuru stated they're talking 30-60 days to find out the problem with a possible fix sometime in the fall.

Mr. Duggan agreed with construction in 2012.

Councilor Curcuru stated with these looming issues he asked rhetorically to the Council why they are taking a vote on this when these issues aren't settled.

Attorney Pino stated it needs to move forward. This special permit can be appealed. If it is appealed, it will take a year to get through the courts. They could prevail, but it would take a year, and still put them on schedule in 2012 spring.

Councilor McGeary noted in Ms. McGlashan comments she stated the bio-swales are not recommended next to a wetland.

Mr. DeRosa didn't know why they wouldn't be approved next to a wetland.

Mr. Ware stated the bio-filter swales are not recommended as *primary* treatment where there are clam flats. This is a *pre-treatment* situation. Primary treatment is the pocket wetlands. The swale cleans up the stormwater initially. The concern with the bio-filter swale could contaminate infiltration to the ground water. The uptake of the vegetation of the swale provides the cleaning. He was confident it would provide an added level of treatment. If it is disapproved by the DEP, they would change it to a regular swale.

Councilor McGeary noted one of the proposals of the opponents was that they make a contribution to the City's Tourism Commission or to another tourist agency.

Dr. Hill expressed he would be willing to do it; but not as to how much at this juncture.

Councilor Ciolino stated the sewer is a big component in this project and at issue. He expressed he would read shortly the motions. Noting a current total of anticipated 22 conditions, he felt Condition #16: "The applicant SHALL submit designs for approval for a permanent sewer connection for the project and obtain a sewer connection permit from the Department of Public Works PRIOR to the issuance of a building or foundation permit." He counseled they should "rest assured"; that there will be a solution to the sewer issue; and it will be a part of the terms and conditions.

Councilor Theken asked which permit the applicant is waiting for.

Attorney Pino stated they designed the project so they would not put anything on the Chapter 91 land. That is why the building is where it is. They can't move it because then it would be on the Chapter 91 land.

Councilor Theken understood that. Noting the Chapter 91 land can be designated water use she asked if the applicant had any plans to add a marina or docks.

Attorney Pino stated “absolutely no”; “no plans, no desire to be in that business.” That lot has very limited deep water access. The back corner there is a small basin area. This is why Yankee Fleet never built there. The park area is all part of the project. On inquiry from **Councilor Tobey** who asked if the applicant would be amenable to permanent upkeep of that particular area, **Attorney Pino** stated his applicant would agree, he assured the Councilor, “so long as it is being used as a hotel that this piece would not be used for anything else.”

Councilor Hardy noted seeing for the first time tonight a water line fee agreement between Gloucester Hotel LLC and the City of Gloucester. It has been signed by the developer. She asked if the Administration was going to sign this document.

Mr. Duggan stated “absolutely”.

Councilor Hardy would look to make the Water Agreement and the Administration’s promise to sign it part of the conditions.

This public hearing is closed.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, to GRANT a Special City Council Permit to Gloucester Hotel LLC, (applicant), Alan G. Hill, Trustee of 79 Essex Avenue Realty Trust u/d/t dated 6/1/89 and 99 Essex Avenue Trustee u/d/t dated 6/1/89 (owner) for a Major Project Special Permit under Gloucester Zoning Ordinances Section 2.3.1(12) to construct a hotel for 30 or more guest rooms to be located at 79-99 Essex Avenue as shown on Assessors Map numbered 281, Lot 1; Map 218, Lot 126 and Map 218, Lot 17, EB zoning classification as shown on drawing number 1-12 as revised on December 8, 2010 by Meridian Associates, pursuant to section 5.7 and 1.8.3 of the Gloucester Zoning Ordinances, subject to the Condition set forth by the DPW Director in his memorandum dated January 29, 2011 as well as the following conditions:

1. The applicant SHALL coordinate with CATA and/or private shuttles to link guests with Gloucester destinations prior to issuance of occupancy permit.
2. Documentation associated with cleanup activities SHALL be forwarded to the Community Development and Health Departments.
3. All operations and maintenance system reports of the stormwater and wastewater shall be forwarded to the Community Development and Engineering Departments.
4. Utility upgrades and repaving of Julian Road shall comply with all applicable road opening and paving requirements of the Department of Public Works.
5. All site lighting shall be in compliance with the lighting provision of the Code of Ordinances. Details shall be provided to the Building Inspector prior to installation.
6. That any action by the City Council includes specification of elements of the Project and responsibilities that will remain private. The City shall not have any legal responsibility for the operation, maintenance, repair or replacement of the same to the extent such features are located on the Site:
 - * All roadways and parking areas within the Project and Julian Road
 - * Stormwater management facilities, including detention basins
 - * Snow plowing of internal roads and parking areas
 - * Landscaping within the Project and Julian Road
 - * Trash removal
 - * Lighting within the Project

* Water and sewer services within the Project.

7. The Conservation Commission's Order of Conditions pursuant to 310 CMR 10.00, or any superseding order of the Department of Environmental Protection (DEP), if applicable, and an Order of Conditions issued under the Gloucester Wetland Ordinance regarding this property, SHALL be made a part of the special permit. If there is any inconsistency between the Record Plans, and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to City Council, and the Planning Board for review, and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another.

Conditions Pertaining to the Construction Phase of the Project

8. A preconstruction conference with City departments SHALL be held prior to the commencement of construction of the Project. The contractor SHALL request such conference at least fourteen BUSINESS days prior to commencing construction by contacting the Planning Director and Engineering Department in writing. At the conference, the Applicant, and municipal officials SHALL agree upon a schedule of inspections. The Applicant SHALL provide the City (including the following departments: Inspector of Buildings, Fire, Police, Engineering, DPW, Community Development and the Board of Health) with 24 HOUR emergency contact numbers as well as the name and telephone number of a designated owner's representative for all Project related communication.

9. During construction of the Project, the Applicant SHALL conform to all local, state and federal laws regarding noise and vibration. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Exterior construction of the Project shall not commence on any weekday before 7:00 a.m. and shall not continue beyond 6:00 p.m. except for certain operations such as concrete finishing and emergency repairs. Exterior construction shall not commence on Saturday before 8:00 a.m. and shall not continue beyond 5:00 p.m. with the same exceptions. The Building Inspector may allow longer hours of construction in special circumstances, provided that such activity normally is requested in writing by the Applicant, except for emergency circumstances where oral communication shall be followed by written confirmation. There shall be no exterior construction on any Sunday or state or federal legal holiday. Hours of operation shall be enforced by the Gloucester Police Department.

10. The City Council's agents SHALL BE ALLOWED ENTRANCE onto and view and inspect the Site during regular business hours to ensure compliance, subject to applicable safety requirements as established by the Applicant or its contractor, including signing in at the construction field office trailer.

11. Sedimentation and erosion controls, as shown on the Record Plans, must be maintained and inspected by an independent erosion control monitor on a weekly basis, or as directed by the Conservation Agent or Engineering Department.

12. Dust from outside activities SHALL be controlled. The Applicant and its contractors shall effectuate the following practices to minimize levels of dust:

- * Wetting soils that are excavated from unsaturated zones
- * Wetting equipment during excavation/loading activities
- * Minimizing dust generation from areas that have been excavated through the wetting of soils, or by other means of stabilizing dust particles.
- * Stockpiles left more than 30 days SHALL be stabilized
- * Restricting vehicle speeds and travel routes on the Site
- * Covering truck beds transporting soils off-site/on-site to prevent dust generation.

- * REGULARLY SCHEDULED sweeping paved areas AND INCREASED SWEEPING OF PAVED AREAS if a nuisance is created by blowing soil, dust, or debris.

13. The Applicant SHALL (AT THEIR OWN EXPENSE) be required to promptly repair any damage, which Applicant causes to sidewalks, street pavement, signs or other fixtures or features within the public right of way, after obtaining permission from the City.

14. The Project shall be connected to the City of Gloucester for domestic water and fire flow. Final fire flows in compliance with state and local regulations shall be certified by the Fire Department.

15. Following construction of the Project, the Applicant SHALL provide an "as-built" site plan to the Engineering Department, Building Department, and Community Development Department prior to the issuance of a certificate of occupancy for the Project in accordance with applicable regulations. The Applicant SHALL provide a separate as-built plan depicting the water mains and services and sewer mains and facilities to the Engineering Department demonstrating compliance with the Record Plans and installation specifications. These plans SHALL also be submitted in electronic format.

16. The applicant SHALL submit designs for approval for a permanent sewer connection for the project and obtain a sewer connection permit from the Department of Public Works PRIOR to the issuance of a building or foundation permit.

17. The applicant shall submit the presented safety improvements on the plan dated February 2011 at the intersection of Julian Road and Essex Avenue to the appropriate approving authorities including, but not limited to the Department of Public Works and Massachusetts Department of Transportation. If such improvements are approved the applicant will be responsible for their cost and construction prior to the issuance of any occupancy permit.

18. The applicant shall actively recruit in Gloucester for all open staff positions, including making such efforts as advertising jobs in the local Gloucester newspapers and having a job fair in Gloucester for Gloucester residents

19. The applicant shall use its best efforts to locally source construction related materials and jobs.

20. The applicant is to apply to Mass Highway for some kind of relief for a pedestrian access crossing and / or accommodations on Essex Avenue from their property.

21. All conditions of the Conservation Commission's Order of Conditions dated December 23, 2010 are hereby incorporated hereinto.

22. As in accordance with the Gloucester Zoning Ordinance Appendix A, rule 25 rules of procedure part II-5h: Construction must commence within 2 years of the granting of this special council permit.

23. The applicant shall execute a restriction to its title to the site to ensure the portion thereof identified as "Proposed Riverfront Area Restoration & Planting Plan" on the plan entitled Proposed Grading Plan Located in Gloucester, MA (Essex County) stamped December 8, 2010 and marked Sheet No. 7 of 12 as prepared by Meridian Associates will remain in the open space uses shown thereon for so long as the hotel use of the site is maintained in whole or in part.

24. That the water line fee agreement between Gloucester Hotel, LLC and the City of Gloucester is incorporated into this special permit and any violation would be grounds to revoke this permit.

Councilor Ciolino stated as follows regarding Zoning Ordinance §1.8.3:

“The Committee finds that the criteria under Section 1.8.3 have been met. 1) With regard to the social economic and community needs that will be served by the proposed use. A 92 room hotel will bolster the tourist economy and have a positive effect on the City.

2) With regard to traffic flow and safety, the traffic generated by the site will decrease from its previous use. The former business had 400 parking spaces; the hotel will have 105 for the guests and 12 for public use.

3) With regard to the adequacy of utilities, the DPW Director has submitted a memo to the Council noting that there have been improvements to the water line, with a line and hydrant brought down Julian Road. As requested by the Planning Board, the applicant has agreed to pay to the City \$350,000 over 10 years. The DPW Director has noted that currently the sewer is inadequate and that the City Engineer is investigating and intending to complete improvements sufficient for the connection of the hotel. He has recommended that the permitting process continue during the improvements. He has also recommended that the Council condition the permit on the DPW certifying that the sewer improvements have been made.

4) Neighborhood Character and social structure; the neighborhood is a mixed use area which caters to the tourist economy and recreational activities. A hotel use is consistent with the surrounding uses.

5) Qualities of the natural environment; the applicant proposes to make stormwater improvements, use low impact development technology and improve the wildlife inhabitants. The Conservation Commission has issued an Order of Conditions with numerous conditions which will improve the natural area within the site.

6) Potential fiscal impact - The applicant has submitted a fiscal impact statement outlining the financial benefit to the City.

As outlined by the Planning Board’s recommendations, the applicant meets the criteria of Section 5.7.5; streets accessing the project are adequate. Section 5.7.5 b that they will be connected to sewer; the DPW Director has sent a memorandum asking that any permit will be conditioned upon a certification from the DPW that the improvements are completed. 5c Site plan contains all the necessary information. The Planning Board recommends a condition that the clean up efforts must be completed prior to construction of the infiltration areas.”

Councilor Tobey saluted the P&D Committee for seeing this through as the regulatory agencies of the City spending 3 years to develop a concrete plan that could work to reach the best point they could reach. They didn’t come in with hurried plan and regrettably it was not a result with complete consensus with the abutters but acquiesced with the P&D Committee’s recommendations. He spoke to the study conducted in 1999 when he was Mayor. That study was not conducted to identify the limits of hotel business they could generate in the City. That study was conducted to cross a threshold to show some degree of demonstrable demand to use as “bait” to go to the hotel developers particularly to franchises to come to Gloucester to figure out what the business opportunity was from the perspective of an operator. They didn’t say no more but said at least this much. Happily they have two developers who are moving ahead. He was pleased and would vote for this.

Councilor Whynott, building on Councilor Tobey’s remarks stated when they were building Gloucester Crossing, he heard people say how another supermarket in the City wouldn’t survive. Every market works. People don’t usually build things that won’t work. He pointed to the many pizza parlors and nail salons thriving in the City.

Councilor Verga thought sewer was a stumbling block. However, he felt Condition #16 covers the City’s view on the sewer. The permit won’t be forthcoming if the report from the Engineering Department is negative. It is not a win: win here but is a somewhat a win the City will benefit from and would “reluctantly” support this.

Councilor Curcuru stated though they need a hotel, the fact that it is in his ward was concerning. He is concerned about the sewer line. He didn’t feel comfortable with this and would probably vote no and stand with his constituents.

Councilor McGeary saluted the Community Development staff and the P&D Committee commending them for their work. He will support the special permit. He appreciated it will impinge on the neighbors. The 49 ft. 9 in. box will be there. It is offset by the economic benefit and long term tourism and jobs. He was particularly pleased to the sensitivity to the environmental factors and the applicant's making that area available for everyone to enjoy and reiterated his support of the special permit.

Councilor Mulcahey expressed her dismay about the skimming over of the contamination to the site. She noted the traffic issues. Most importantly were the sewer problems and commiserated with the neighbors and abutters. Until those problems are fixed, she felt, and while Condition #16 would be in place, the issues should have been handled before now in her estimation. She wanted to wait and see what would happen before she would vote for the special permit.

Councilor Theken stated empathically nothing is "rubber stamped". She drives by the site and the neighborhood every day. No one wants it in their neighborhood. They have to make sure it is livable. She commended the P&D Committee and for Councilor Tobey reaching out three years ago to bring hotels to the City. She spoke to people about the height difference. Even if it was 30 ft., the view is gone. When people build homes, no one can buy their views. She noted Ms. Taormina's issues with the sewer and was pleased it was being resolved. She was pleased to see Condition #16 for the sewer issue. While the "box" will block some views, it is a box that will generate income, jobs. The Hampton Inn is a well maintained hotel inside and out. She appreciated Councilor Tobey's condition #24. She will vote for this. She was pleased with the conditions and that there was no TIF and no extra marina and would support it.

Councilor Hardy would support the hotel project. The statements from Mr. Duggan on behalf of the City, she noted, those comments become part of the document, the findings. The City is now obligated to do this if it is approved. Section 1.8.3 criteria have to be met. Anything would block the views. She didn't find any substantial detriment. It is a state highway, and because of that, one has to accept that it will have traffic. She has concerns on Julian Road and would pay close attention to the plantings and to put signage about to have drivers pay attention; to have a visual. She knew it would be addressed. She reiterated the six factors of Section 1.8.3 have substantially been met. **Councilor Hardy** thanked **Councilor Ciolino** and P&D Committee for their work. She gave credit to the proponent for sticking it out with the process over a three year period and to get some conditions they all could agree with.

Councilor Ciolino noted working on this project they had foremost in their mind the quality of the neighborhood. Something was going to be built there at some point of time; something by right at 30 ft perhaps. It is the lowest impact on that piece of property. It is over 50 acres of land. It is a small area being developed. They're guaranteed tonight that the marshland, that the river will always be there for them and is protected. Also, they have 24 conditions, a safety net, protection for the neighborhood and the City. The Cape Ann Marina is grandfathered in. This particular project will have the "window to the marsh", be green and maintained; the majority of the project is green space for all to go and enjoy. The lowest impact for that area is that hotel. He will vote for it tonight. This will be a hotel they'll be proud of.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 7 in favor, 2 (Verga/Mulcahey) opposed to GRANT a Special City Council Permit to Gloucester Hotel LLC, (applicant), Alan G. Hill, Trustee of 79 Essex Avenue Realty Trust u/d/t dated 6/1/89 and 99 Essex Avenue Trustee u/d/t dated 6/1/89 (owner) for a Major Project Special Permit under Gloucester Zoning Ordinances Section 2.3.1(12) to construct a hotel for 30 or more guest rooms to be located at 79-99 Essex Avenue as shown on Assessors Map numbered 281, Lot 1; Map 218, Lot 126 and Map 218, Lot 17, EB zoning classification as shown on drawing number 1-12 as revised on December 8, 2010 by Meridian Associates, pursuant to section 5.7 and 1.8.3 of the Gloucester Zoning Ordinances, subject to the Condition set forth by the DPW Director in his memorandum dated January 29, 2011 as well as the following conditions:

- 1. The applicant SHALL coordinate with CATA and/or private shuttles to link guests with Gloucester destinations prior to issuance of occupancy permit.**
- 2. Documentation associated with cleanup activities SHALL be forwarded to the Community Development and Health Departments.**
- 3. All operations and maintenance system reports of the stormwater and wastewater shall be forwarded to the Community Development and Engineering Departments.**
- 4. Utility upgrades and repaving of Julian Road shall comply with all applicable road opening and paving requirements of the Department of Public Works.**
- 5. All site lighting shall be in compliance with the lighting provision of the Code of Ordinances. Details shall be provided to the Building Inspector prior to installation.**
- 6. That any action by the City Council includes specification of elements of the Project and responsibilities that will remain private. The City shall not have any legal responsibility for the operation, maintenance, repair or replacement of the same to the extent such features are located on the Site:**
 - * All roadways and parking areas within the Project and Julian Road**
 - * Stormwater management facilities, including detention basins**
 - * Snow plowing of internal roads and parking areas**
 - * Landscaping within the Project and Julian Road**
 - * Trash removal**
 - * Lighting within the Project**
 - * Water and sewer services within the Project.**
- 7. The Conservation Commission's Order of Conditions pursuant to 310 CMR 10.00, or any superseding order of the Department of Environmental Protection (DEP), if applicable, and an Order of Conditions issued under the Gloucester Wetland Ordinance regarding this property, SHALL be made a part of the special permit. If there is any inconsistency between the Record Plans, and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to City Council, and the Planning Board for review, and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another.**

Conditions Pertaining to the Construction Phase of the Project

- 8. A preconstruction conference with City departments SHALL be held prior to the commencement of construction of the Project. The contractor SHALL request such conference at least fourteen BUSINESS days prior to commencing construction by contacting the Planning Director and Engineering Department in writing. At the conference, the Applicant, and municipal officials SHALL agree upon a schedule of inspections. The Applicant SHALL provide the City (including the following departments: Inspector of Buildings, Fire, Police, Engineering, DPW, Community Development and the Board of Health) with 24 HOUR emergency contact numbers as well as the name and telephone number of a designated owner's representative for all Project related communication.**
- 9. During construction of the Project, the Applicant SHALL conform to all local, state and federal laws regarding noise and vibration. The Applicant shall at all times use all reasonable means to**

minimize inconvenience to residents in the general area. Exterior construction of the Project shall not commence on any weekday before 7:00 a.m. and shall not continue beyond 6:00 p.m. except for certain operations such as concrete finishing and emergency repairs. Exterior construction shall not commence on Saturday before 8:00 a.m. and shall not continue beyond 5:00 p.m. with the same exceptions. The Building Inspector may allow longer hours of construction in special circumstances, provided that such activity normally is requested in writing by the Applicant, except for emergency circumstances where oral communication shall be followed by written confirmation. There shall be no exterior construction on any Sunday or state or federal legal holiday. Hours of operation shall be enforced by the Gloucester Police Department.

10. The City Council's agents SHALL BE ALLOWED ENTRANCE onto and view and inspect the Site during regular business hours to ensure compliance, subject to applicable safety requirements as established by the Applicant or its contractor, including signing in at the construction field office trailer.

11. Sedimentation and erosion controls, as shown on the Record Plans, must be maintained and inspected by an independent erosion control monitor on a weekly basis, or as directed by the Conservation Agent or Engineering Department.

12. Dust from outside activities SHALL be controlled. The Applicant and its contractors shall effectuate the following practices to minimize levels of dust:

- * Wetting soils that are excavated from unsaturated zones
- * Wetting equipment during excavation/loading activities
- * Minimizing dust generation from areas that have been excavated through the wetting of soils, or by other means of stabilizing dust particles.
- * Stockpiles left more than 30 days SHALL be stabilized
- * Restricting vehicle speeds and travel routes on the Site
- * Covering truck beds transporting soils off-site/on-site to prevent dust generation.
- * REGULARLY SCHEDULED sweeping paved areas AND INCREASED SWEEPING OF PAVED AREAS if a nuisance is created by blowing soil, dust, or debris.

13. The Applicant SHALL (AT THEIR OWN EXPENSE) be required to promptly repair any damage, which Applicant causes to sidewalks, street pavement, signs or other fixtures or features within the public right of way, after obtaining permission from the City.

14. The Project shall be connected to the City of Gloucester for domestic water and fire flow. Final fire flows in compliance with state and local regulations shall be certified by the Fire Department.

15. Following construction of the Project, the Applicant SHALL provide an "as-built" site plan to the Engineering Department, Building Department, and Community Development Department prior to the issuance of a certificate of occupancy for the Project in accordance with applicable regulations. The Applicant SHALL provide a separate as-built plan depicting the water mains and services and sewer mains and facilities to the Engineering Department demonstrating compliance with the Record Plans and installation specifications. These plans SHALL also be submitted in electronic format.

16. The applicant SHALL submit designs for approval for a permanent sewer connection for the project and obtain a sewer connection permit from the Department of Public Works PRIOR to the issuance of a building or foundation permit.

17. The applicant shall submit the presented safety improvements on the plan dated February 2011 at the intersection of Julian Road and Essex Avenue to the appropriate approving authorities including, but not limited to the Department of Public Works and Massachusetts Department of Transportation. If such improvements are approved the applicant will be responsible for their cost and construction prior to the issuance of any occupancy permit.

18. The applicant shall actively recruit in Gloucester for all open staff positions, including making such efforts as advertising jobs in the local Gloucester newspapers and having a job fair in Gloucester for Gloucester residents

19. The applicant shall use its best efforts to locally source construction related materials and jobs.

20. The applicant is to apply to Mass Highway for some kind of relief for a pedestrian access crossing and / or accommodations on Essex Avenue from their property.

21. All conditions of the Conservation Commission's Order of Conditions dated December 23, 2010 are hereby incorporated hereinto.

22. As in accordance with the Gloucester Zoning Ordinance Appendix A, rule 25 rules of procedure part II-5h: Construction must commence within 2 years of the granting of this special council permit.

23. The applicant shall execute a restriction to its title to the site to ensure the portion thereof identified as "Proposed Riverfront Area Restoration & Planting Plan" on the plan entitled Proposed Grading Plan Located in Gloucester, MA (Essex County) stamped December 8, 2010 and marked Sheet No. 7 of 12 as prepared by Meridian Associates will remain in the open space uses shown thereon for so long as the hotel use of the site is maintained in whole or in part.

24. That the Water Line Fee Agreement between Gloucester Hotel, LLC and the City of Gloucester is incorporated into this special permit and any violation would be grounds to revoke this permit.

The readings of the 24 conditions on the following motions to grant the Special Permits were unanimously waived by the City Council. However the conditions apply to each grant of each Special Permit.

Councilor Ciolino proposed, and **Councilor Whynott** seconded the following:

To Grant to Gloucester Hotel LLC, (applicant), Alan G. Hill, Trustee of 79 Essex Avenue Realty Trust u/d/t dated 6/1/89 and 99 Essex Avenue Trustee u/d/t dated 6/1/89 (owner) located at 79-99 Essex Avenue as shown on Assessors Map numbered 281, Lot 1; Map 218, Lot 126 and Map 218, Lot 17, EB zoning classification as shown on drawing number 1-12 as revised on December 8, 2010 by Meridian Associates, a dimensional waiver for dimensional requirements under 3.2.6(a) of the GZO, allowing less than 5,000 square feet per two guest rooms subject to the Condition set forth by the DPW Director in his memorandum dated January 29, 2011 with the 24 conditions applicable to the granting of the Special Permit for relief under §2.3.1.1 and §5.7.

Councilor Ciolino then stated that "the Planning & Development Committee determined that the criteria in Section 3.2.6(a) has been satisfied in that it finds that such lesser open space is in keeping with the neighborhood character and structural density."

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 7 in favor, 2 (Mulcahey/Curcuru) opposed to grant to Gloucester Hotel LLC, (applicant), Alan G. Hill, Trustee of 79 Essex Avenue Realty Trust u/d/t dated 6/1/89 and 99 Essex Avenue Trustee u/d/t dated 6/1/89 (owner) located at 79-99 Essex Avenue as shown on Assessors Map numbered 281, Lot 1; Map 218, Lot 126 and Map 218, Lot 17, EB zoning classification as shown on drawing number 1-12 as revised on December 8, 2010 by Meridian Associates, a dimensional waiver for dimensional requirements under 3.2.6(a) of the GZO, allowing less than 5,000 square feet per two guest rooms subject to the Condition set forth by the DPW Director in his memorandum dated January 29, 2011 with the following conditions:

- 1. The applicant SHALL coordinate with CATA and/or private shuttles to link guests with Gloucester destinations prior to issuance of occupancy permit.**
- 2. Documentation associated with cleanup activities SHALL be forwarded to the Community Development and Health Departments.**
- 3. All operations and maintenance system reports of the stormwater and wastewater shall be forwarded to the Community Development and Engineering Departments.**
- 4. Utility upgrades and repaving of Julian Road shall comply with all applicable road opening and paving requirements of the Department of Public Works.**
- 5. All site lighting shall be in compliance with the lighting provision of the Code of Ordinances. Details shall be provided to the Building Inspector prior to installation.**
- 6. That any action by the City Council includes specification of elements of the Project and responsibilities that will remain private. The City shall not have any legal responsibility for the operation, maintenance, repair or replacement of the same to the extent such features are located on the Site:**
 - * All roadways and parking areas within the Project and Julian Road**
 - * Stormwater management facilities, including detention basins**
 - * Snow plowing of internal roads and parking areas**
 - * Landscaping within the Project and Julian Road**
 - * Trash removal**
 - * Lighting within the Project**
 - * Water and sewer services within the Project.**
- 7. The Conservation Commission's Order of Conditions pursuant to 310 CMR 10.00, or any superseding order of the Department of Environmental Protection (DEP), if applicable, and an Order of Conditions issued under the Gloucester Wetland Ordinance regarding this property, SHALL be made a part of the special permit. If there is any inconsistency between the Record Plans, and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to City Council, and the Planning Board for review, and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another.**

Conditions Pertaining to the Construction Phase of the Project

- 8. A preconstruction conference with City departments SHALL be held prior to the commencement of construction of the Project. The contractor SHALL request such conference at**

least fourteen BUSINESS days prior to commencing construction by contacting the Planning Director and Engineering Department in writing. At the conference, the Applicant, and municipal officials SHALL agree upon a schedule of inspections. The Applicant SHALL provide the City (including the following departments: Inspector of Buildings, Fire, Police, Engineering, DPW, Community Development and the Board of Health) with 24 HOUR emergency contact numbers as well as the name and telephone number of a designated owner's representative for all Project related communication.

9. During construction of the Project, the Applicant SHALL conform to all local, state and federal laws regarding noise and vibration. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Exterior construction of the Project shall not commence on any weekday before 7:00 a.m. and shall not continue beyond 6:00 p.m. except for certain operations such as concrete finishing and emergency repairs. Exterior construction shall not commence on Saturday before 8:00 a.m. and shall not continue beyond 5:00 p.m. with the same exceptions. The Building Inspector may allow longer hours of construction in special circumstances, provided that such activity normally is requested in writing by the Applicant, except for emergency circumstances where oral communication shall be followed by written confirmation. There shall be no exterior construction on any Sunday or state or federal legal holiday. Hours of operation shall be enforced by the Gloucester Police Department.

10. The City Council's agents SHALL BE ALLOWED ENTRANCE onto and view and inspect the Site during regular business hours to ensure compliance, subject to applicable safety requirements as established by the Applicant or its contractor, including signing in at the construction field office trailer.

11. Sedimentation and erosion controls, as shown on the Record Plans, must be maintained and inspected by an independent erosion control monitor on a weekly basis, or as directed by the Conservation Agent or Engineering Department.

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13. The Applicant SHALL (AT THEIR OWN EXPENSE) be required to promptly repair any damage, which Applicant causes to sidewalks, street pavement, signs or other fixtures or features within the public right of way, after obtaining permission from the City.

14. The Project shall be connected to the City of Gloucester for domestic water and fire flow. Final fire flows in compliance with state and local regulations shall be certified by the Fire Department.

15. Following construction of the Project, the Applicant SHALL provide an "as-built" site plan to the Engineering Department, Building Department, and Community Development Department

prior to the issuance of a certificate of occupancy for the Project in accordance with applicable regulations. The Applicant SHALL provide a separate as-built plan depicting the water mains and services and sewer mains and facilities to the Engineering Department demonstrating compliance with the Record Plans and installation specifications. These plans SHALL also be submitted in electronic format.

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18. The applicant shall actively recruit in Gloucester for all open staff positions, including making such efforts as advertising jobs in the local Gloucester newspapers and having a job fair in Gloucester for Gloucester residents

19. The applicant shall use its best efforts to locally source construction related materials and jobs.

20. The applicant is to apply to Mass Highway for some kind of relief for a pedestrian access crossing and / or accommodations on Essex Avenue from their property.

21. All conditions of the Conservation Commission's Order of Conditions dated December 23, 2010 are hereby incorporated hereinto.

22. As in accordance with the Gloucester Zoning Ordinance Appendix A, rule 25 rules of procedure part II-5h: Construction must commence within 2 years of the granting of this special council permit.

23. The applicant shall execute a restriction to its title to the site to ensure the portion thereof identified as "Proposed Riverfront Area Restoration & Planting Plan" on the plan entitled Proposed Grading Plan Located in Gloucester, MA (Essex County) stamped December 8, 2010 and marked Sheet No. 7 of 12 as prepared by Meridian Associates will remain in the open space uses shown thereon for so long as the hotel use of the site is maintained in whole or in part.

24. That the Water Line Fee Agreement between Gloucester Hotel, LLC and the City of Gloucester is incorporated into this special permit and any violation would be grounds to revoke this permit.

Councilor Ciolino proposed and Councilor Whynott seconded the following:

MOTION: To GRANT a Special City Council Permit to Gloucester Hotel LLC, (applicant), Alan G. Hill, Trustee of 79 Essex Avenue Realty Trust u/d/t dated 6/1/89 and 99 Essex Avenue Trustee u/d/t dated 6/1/89 (owner) for a height exception of 19.9 feet (building height not to exceed 49.9 feet in height) differential pursuant to section 3.1.6 (b) of as it relates to the construction of a hotel for 30 or more guest rooms to be located at 79-99 Essex Avenue as shown on Assessors Map numbered 281, Lot 1; Map 218, Lot 126 and Map 218, Lot 17, EB zoning classification, as shown on drawing number 1-12 by Meridian Associates as revised on December 8, 2010 with the following conditions 24 previously noted.

Councilor Ciolino offered that: “the Planning & Development Committee has determined that the criteria in section 3.1.6(b) for greater building height have been satisfied in that it finds that such an increase in the allowable height is consistent with the neighborhood character and will not be substantially detrimental to the neighborhood because of obstruction of views, overshadowing of other properties, impairment of utilities or other adverse impacts”

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted **BY ROLL CALL 7** in favor, 2 (Mulcahey/Curcuru) opposed to **GRANT** a Special City Council Permit to Gloucester Hotel LLC, (applicant), Alan G. Hill, Trustee of 79 Essex Avenue Realty Trust u/d/t dated 6/1/89 and 99 Essex Avenue Trustee u/d/t dated 6/1/89 (owner) for a height exception of 19.9 feet (building height not to exceed 49.9 feet in height) differential pursuant to section 3.1.6 (b) of as it relates to the construction of a hotel for 30 or more guest rooms to be located at 79-99 Essex Avenue as shown on Assessors Map numbered 281, Lot 1; Map 218, Lot 126 and Map 218, Lot 17, EB zoning classification, as shown on drawing number 1-12 by Meridian Associates as revised on December 8, 2010 with the following conditions:

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- 5. All site lighting shall be in compliance with the lighting provision of the Code of Ordinances. Details shall be provided to the Building Inspector prior to installation.**
- 6. That any action by the City Council includes specification of elements of the Project and responsibilities that will remain private. The City shall not have any legal responsibility for the operation, maintenance, repair or replacement of the same to the extent such features are located on the Site:**
 - * All roadways and parking areas within the Project and Julian Road**
 - * Stormwater management facilities, including detention basins**
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 - * Water and sewer services within the Project.**
- 7. The Conservation Commission's Order of Conditions pursuant to 310 CMR 10.00, or any superseding order of the Department of Environmental Protection (DEP), if applicable, and an Order of Conditions issued under the Gloucester Wetland Ordinance regarding this property, SHALL be made a part of the special permit. If there is any inconsistency between the Record Plans, and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to City Council, and the Planning Board for review, and to**

the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another.

Conditions Pertaining to the Construction Phase of the Project

8. A preconstruction conference with City departments SHALL be held prior to the commencement of construction of the Project. The contractor SHALL request such conference at least fourteen BUSINESS days prior to commencing construction by contacting the Planning Director and Engineering Department in writing. At the conference, the Applicant, and municipal officials SHALL agree upon a schedule of inspections. The Applicant SHALL provide the City (including the following departments: Inspector of Buildings, Fire, Police, Engineering, DPW, Community Development and the Board of Health) with 24 HOUR emergency contact numbers as well as the name and telephone number of a designated owner's representative for all Project related communication.

9. During construction of the Project, the Applicant SHALL conform to all local, state and federal laws regarding noise and vibration. The Applicant shall at all times use all reasonable means to minimize inconvenience to residents in the general area. Exterior construction of the Project shall not commence on any weekday before 7:00 a.m. and shall not continue beyond 6:00 p.m. except for certain operations such as concrete finishing and emergency repairs. Exterior construction shall not commence on Saturday before 8:00 a.m. and shall not continue beyond 5:00 p.m. with the same exceptions. The Building Inspector may allow longer hours of construction in special circumstances, provided that such activity normally is requested in writing by the Applicant, except for emergency circumstances where oral communication shall be followed by written confirmation. There shall be no exterior construction on any Sunday or state or federal legal holiday. Hours of operation shall be enforced by the Gloucester Police Department.

10. The City Council's agents SHALL BE ALLOWED ENTRANCE onto and view and inspect the Site during regular business hours to ensure compliance, subject to applicable safety requirements as established by the Applicant or its contractor, including signing in at the construction field office trailer.

11. Sedimentation and erosion controls, as shown on the Record Plans, must be maintained and inspected by an independent erosion control monitor on a weekly basis, or as directed by the Conservation Agent or Engineering Department.

12. Dust from outside activities SHALL be controlled. The Applicant and its contractors shall effectuate the following practices to minimize levels of dust:

- * Wetting soils that are excavated from unsaturated zones
- * Wetting equipment during excavation/loading activities
- * Minimizing dust generation from areas that have been excavated through the wetting of soils, or by other means of stabilizing dust particles.
- * Stockpiles left more than 30 days SHALL be stabilized
- * Restricting vehicle speeds and travel routes on the Site
- * Covering truck beds transporting soils off-site/on-site to prevent dust generation.
- * REGULARLY SCHEDULED sweeping paved areas AND INCREASED SWEEPING OF PAVED AREAS if a nuisance is created by blowing soil, dust, or debris.

- 13. The Applicant SHALL (AT THEIR OWN EXPENSE) be required to promptly repair any damage, which Applicant causes to sidewalks, street pavement, signs or other fixtures or features within the public right of way, after obtaining permission from the City.**
- 14. The Project shall be connected to the City of Gloucester for domestic water and fire flow. Final fire flows in compliance with state and local regulations shall be certified by the Fire Department.**
- 15. Following construction of the Project, the Applicant SHALL provide an "as-built" site plan to the Engineering Department, Building Department, and Community Development Department prior to the issuance of a certificate of occupancy for the Project in accordance with applicable regulations. The Applicant SHALL provide a separate as-built plan depicting the water mains and services and sewer mains and facilities to the Engineering Department demonstrating compliance with the Record Plans and installation specifications. These plans SHALL also be submitted in electronic format.**
- 16. The applicant SHALL submit designs for approval for a permanent sewer connection for the project and obtain a sewer connection permit from the Department of Public Works PRIOR to the issuance of a building or foundation permit.**
- 17. The applicant shall submit the presented safety improvements on the plan dated February 2011 at the intersection of Julian Road and Essex Avenue to the appropriate approving authorities including, but not limited to the Department of Public Works and Massachusetts Department of Transportation. If such improvements are approved the applicant will be responsible for their cost and construction prior to the issuance of any occupancy permit.**
- 18. The applicant shall actively recruit in Gloucester for all open staff positions, including making such efforts as advertising jobs in the local Gloucester newspapers and having a job fair in Gloucester for Gloucester residents**
- 19. The applicant shall use its best efforts to locally source construction related materials and jobs.**
- 20. The applicant is to apply to Mass Highway for some kind of relief for a pedestrian access crossing and / or accommodations on Essex Avenue from their property.**
- 21. All conditions of the Conservation Commission's Order of Conditions dated December 23, 2010 are hereby incorporated hereinto.**
- 22. As in accordance with the Gloucester Zoning Ordinance Appendix A, rule 25 rules of procedure part II-5h: Construction must commence within 2 years of the granting of this special council permit.**
- 23. The applicant shall execute a restriction to its title to the site to ensure the portion thereof identified as "Proposed Riverfront Area Restoration & Planting Plan" on the plan entitled Proposed Grading Plan Located in Gloucester, MA (Essex County) stamped December 8, 2010 and marked Sheet No. 7 of 12 as prepared by Meridian Associates will remain in the open space uses shown thereon for so long as the hotel use of the site is maintained in whole or in part.**
- 24. That the Water Line Fee Agreement between Gloucester Hotel, LLC and the City of Gloucester is incorporated into this special permit and any violation would be grounds to revoke this permit.**

Councilor Ciolino proposed and Councilor Whynott seconded the following:

MOTION: To GRANT a Special City Council Permit to Gloucester Hotel LLC, (applicant), Alan G. Hill, Trustee of 79 Essex Avenue Realty Trust u/d/t dated 6/1/89 and 99 Essex Avenue Trustee u/d/t dated 6/1/89 (owner) for a lowlands permit under Gloucester Zoning Ordinances Section 5.5.4 at 79-99 Essex Avenue as shown on Assessors Map numbered 281, Lot 1; Map 218, Lot 126 and Map 218, Lot 17, EB zoning classification, as shown on drawing number 1-12 of Meridian Associates as revised on December 8, 2010. Said motion is conditioned subject to the Condition set forth by the DPW Director in his memorandum dated January 29, 2011 as well as the previous 24 conditions.

Councilor Ciolino stated, "The Planning & Development Committee has determined that the criteria in section 5.5.4 for a lowlands special permit have been satisfied in that the application meets the requirements of the Wetlands Protection Act as indicated by the Conservation Commission's issuance of an order of conditions and that such construction will not pose a hazard to health or safety and will be so executed as to conserve the shellfish and other wildlife resources of the City

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted by ROLL CALL 7 in favor, 2 (Mulcahey/Curcuru) opposed, to GRANT a Special City Council Permit to Gloucester Hotel LLC, (applicant), Alan G. Hill, Trustee of 79 Essex Avenue Realty Trust u/d/t dated 6/1/89 and 99 Essex Avenue Trustee u/d/t dated 6/1/89 (owner) For A lowlands permit under Gloucester Zoning Ordinances Section 5.5.4 at 79-99 Essex Avenue as shown on Assessors Map numbered 281, Lot 1; Map 218, Lot 126 and Map 218, Lot 17, EB zoning classification, as shown on drawing number 1-12 of Meridian Associates as revised on December 8, 2010. Said motion is conditioned subject to the Condition set forth by the DPW Director in his memorandum dated January 29, 2011 as well as the following conditions:

- 1. The applicant SHALL coordinate with CATA and/or private shuttles to link guests with Gloucester destinations prior to issuance of occupancy permit.**
- 2. Documentation associated with cleanup activities SHALL be forwarded to the Community Development and Health Departments.**
- 3. All operations and maintenance system reports of the stormwater and wastewater shall be forwarded to the Community Development and Engineering Departments.**
- 4. Utility upgrades and repaving of Julian Road shall comply with all applicable road opening and paving requirements of the Department of Public Works.**
- 5. All site lighting shall be in compliance with the lighting provision of the Code of Ordinances. Details shall be provided to the Building Inspector prior to installation.**
- 6. That any action by the City Council includes specification of elements of the Project and responsibilities that will remain private. The City shall not have any legal responsibility for the operation, maintenance, repair or replacement of the same to the extent such features are located on the Site:**
 - * All roadways and parking areas within the Project and Julian Road**
 - * Stormwater management facilities, including detention basins**
 - * Snow plowing of internal roads and parking areas**
 - * Landscaping within the Project and Julian Road**
 - * Trash removal**
 - * Lighting within the Project**

* **Water and sewer services within the Project.**

7. The Conservation Commission's Order of Conditions pursuant to 310 CMR 10.00, or any superseding order of the Department of Environmental Protection (DEP), if applicable, and an Order of Conditions issued under the Gloucester Wetland Ordinance regarding this property, SHALL be made a part of the special permit. If there is any inconsistency between the Record Plans, and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to City Council, and the Planning Board for review, and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another.

Conditions Pertaining to the Construction Phase of the Project

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10. The City Council's agents SHALL BE ALLOWED ENTRANCE onto and view and inspect the Site during regular business hours to ensure compliance, subject to applicable safety requirements as established by the Applicant or its contractor, including signing in at the construction field office trailer.

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- * **Stockpiles left more than 30 days SHALL be stabilized**
- * **Restricting vehicle speeds and travel routes on the Site**
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19. The applicant shall use its best efforts to locally source construction related materials and jobs.

20. The applicant is to apply to Mass Highway for some kind of relief for a pedestrian access crossing and / or accommodations on Essex Avenue from their property.

21. All conditions of the Conservation Commission's Order of Conditions dated December 23, 2010 are hereby incorporated hereinto.

22. As in accordance with the Gloucester Zoning Ordinance Appendix A, rule 25 rules of procedure part II-5h: Construction must commence within 2 years of the granting of this special council permit.

23. The applicant shall execute a restriction to its title to the site to ensure the portion thereof identified as "Proposed Riverfront Area Restoration & Planting Plan" on the plan entitled Proposed Grading Plan Located in Gloucester, MA (Essex County) stamped December 8, 2010 and marked Sheet No. 7 of 12 as prepared by Meridian Associates will remain in the open space uses shown thereon for so long as the hotel use of the site is maintained in whole or in part.

24. That the Water Line Fee Agreement between Gloucester Hotel, LLC and the City of Gloucester is incorporated into this special permit and any violation would be grounds to revoke this permit.

Councilor Hardy thanked the proponents for their patience and perseverance for seeing the project through the Council (public hearing) process.

By unanimous consent the Council meeting was extended by 15 minutes.

For Council Vote:

Decision to Adopt: Modification of Special Council permit granted December 14, 2004 re: 85-89 Bass Avenue

MOTION: On motion by Councilor Ciolino, seconded by Councilor Curcuru , the City Council voted BY ROLL CALL 9 in favor, 0 opposed to adopt the modification to the Special Council Permit for 85-89 Bass Avenue granted December 14, 2004 pursuant to Gloucester Zoning Ordinance Section 5.2.

Unfinished Business: None.

Councilors' Requests to the Mayor:

Councilor Verga stated that Monday March 7, 6:30 p.m. Magnolia Library he will hold a Ward 5 meeting on Wind Turbines at magnolia Woods as well as wind turbines elsewhere in the City.

Councilor McGeary stated that Dean and Nancy Harrison who have served this City in a distinguished fashion and moving to be closer to their grandchildren and thanked them for their long and illustrious service.

Councilor Mulcahey announced a Ward 2 meeting regarding open space looking at the Green St. playground and Fisherman's Park, March 10th at the library at 7 p.m.

Councilor Theken thanked for the community pulling together over the recent loss of young lives. She expressed her condolences as well.

A motion was made, seconded and voted unanimously to adjourn the meeting at 11:05 p.m.

Respectfully submitted,

**Dana C. Jorgenson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Copy of remarks made by Kenneth Hanover, President & CEO, North East Health Systems
- Petition of Businesses of the City of Gloucester presented to the Council by David Anderson, 16 Middle Street, Gloucester
- All presentation plans, maps, photographs and models presented at the Council meeting by Attorney Pino and Attorney Nestor during the Public Hearing regarding Gloucester Hotel LLC
- Petition presented by Mrs. Sandy Favaloro, 111 Essex Avenue, Gloucester