

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, November 26, 2019 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

**Present:** Chair, Councilor Paul Lundberg; Vice Chair, Councilor Steven LeBlanc, Jr.; Councilor Melissa Cox; Councilor Valerie Gilman; Councilor Kenneth Hecht; Councilor Jennifer Holmgren; Councilor Scott Memhard; Councilor Sean Nolan; Councilor James O’Hara

**Absent:** None.

**Also Present:** Joanne Senos; Jim Destino; Kenny Costa; Chip Payson; Bill Sanborn; Mike Hale; Paul Keene; Gregg Cademartori; Vanessa Krawczyk

The meeting was called to order at 7:00 p.m. The Council President announced that this meeting is recorded by video and audio in accordance with state Open Meeting Law.

**Flag Salute & Moment of Silence.** Council President Lundberg dedicated the Moment of Silence in memory of loved ones who passed away this year and won’t be with us physically but in spirit at Thanksgiving.

**Presentations/Commendations:** None.

**Oral Communications:**

**Name:** Karen Budrow  
**Address:** 33 Chapel Street  
**Subject:** Spoke to the renovations of the Harbormaster’s facility and that it is a building not owned by the city, and yet the city is making financial investment in it. She expressed concern that when she attended meetings where the renovations of the facility and its financing were discussed, she recalled no information conveyed that the building was leased.

**Confirmation of New Appointments:**

Clean Energy Commission Samuel Ziergiebel (fulfilling unexpired term) TTE 02/14/21

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Samuel Ziergiebel to the Clean Energy Commission, TTE 02/14/21.

**DISCUSSION:**

**Councilor LeBlanc** conveyed that Mr. Ziergiebel has a background in engineering and solar energy, saying that he’ll be a good fit with the Commission.

**MOTION:** On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed, to appoint Samuel Ziergiebel to the Clean Energy Commission, TTE 02/14/21.

Council on Aging Felicia Webb TTE 02/14/23

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Felicia Webb to the Council on Aging, TTE 02/14/23.

**DISCUSSION:**

**Councilor LeBlanc** explained that Ms. Webb is the new Executive Director for the Cape Ann Transportation Authority (CATA) assisting with transportation for seniors and handicapped persons. He conveyed she should be an excellent liaison between CATA and the Council on Aging. He noted they had touched on whether there was a conflict of interest, but determined there was not.

**Councilor Gilman**, noting she is the Council's liaison to the Council on Aging, expressed she was pleased to have Ms. Webb to the board.

**Councilor O'Hara** recounted Ms. Webb took over from Paul Talbot, a long-time manager of CATA, advising that she'll bring forward great ideas and positive changes.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed, to appoint Felicia Webb to the Council on Aging, TTE 02/14/23.**

Dogtown Preservation Commission	Charles Crowley	TTE 02/14/21
	Richard Quateman	TTE 02/14/22
	Christopher Leahy	TTE 02/14/23

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Charles Crowley to the Dogtown Preservation Commission, TTE 02/14/21.

**DISCUSSION:**

**Councilor LeBlanc** noted that Mr. Crowley was absent, saying he is well known to the Council and has been on the Dogtown Ad Hoc Advisory Committee for some time now. He recounted that Mr. Crowley told the Committee he wants to finish what he started.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed, to appoint Charles Crowley to the Dogtown Preservation Commission, TTE 02/14/21.**

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Richard Quateman to the Dogtown Preservation Commission, TTE 02/14/22.

**DISCUSSION:**

**Councilor LeBlanc** explained Mr. Quateman has a great background and is well suited to serve on the Commission. He pointed out that Mr. Quateman is another good fit to preserving Dogtown and keeping it as natural as possible.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed, to appoint Richard Quateman to the Dogtown Preservation Commission, TTE 02/14/22.**

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Christopher Leahy to the Dogtown Preservation Commission, TTE 02/14/23.

**DISCUSSION:**

**Councilor LeBlanc** conveyed that Mr. Leahy has 40 years' experience working for the Mass Audubon Society, and he'll bring his tremendous expertise to bear with the Commission.

**Councilor Gilman** noted she'd attended many of the meetings of the Dogtown Ad Hoc Committee, and advised that Mr. Leahy has been a driving force of updating the 1985 Dogtown Plan to 2020. This is a great opportunity to turn that research over to the new Commission to benefit the city, she added.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed, to appoint Christopher Leahy to the Dogtown Preservation Commission, TTE 02/14/23.**

Gloucester Cultural Council	Rebecca Nagle	TTE 02/14/23
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COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Rebecca Nagle to the Gloucester Cultural Council, TTE 02/14/23.

**DISCUSSION:**

**Councilor LeBlanc** pointed out that Ms. Nagle has a background in the arts and will be an asset to the Cultural Council with her expertise.

**Councilor Hecht** added he knows Ms. Nagle personally, agreeing she'd be a great addition to the Council.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed, to appoint Rebecca Nagle to the Gloucester Cultural Council, TTE 02/14/23.**

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Lillian Olmsted to the Gloucester Historical Commission, TTE 02/14/21.

**DISCUSSION:**

**Councilor LeBlanc** conveyed that Ms. Olmsted has renovated her historic home at Niles Beach even when it was proposed it would be easier to raze it. He pointed out her experience will be a good addition to the Historical Commission.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the voted 9 in favor, 0 opposed, to appoint Lillian Olmsted to the Gloucester Historical Commission, TTE 02/14/21.**

Human Rights Commission

Sarah Mitchell Peck

TTE 02/14/22

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Sarah Mitchell Peck to the Human Rights Commission, TTE 02/14/22.

**DISCUSSION:**

**Councilor LeBlanc** explained Ms. Peck has extensive first-hand experience in Human Rights and will be a great asset to the newly reconstituted Human Rights Commission.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed, to appoint Sarah Mitchell Peck to the Human Rights Commission, TTE 02/14/22.**

**Consent Agenda:**

- **CONFIRMATION OF REAPPOINTMENTS**
  - **MAYOR'S REPORT**
1. Human Rights Commission
 

	Toni Borge	TTE 02/14/22	
	Amanda Kesterson	TTE 02/14/21	(Refer O&A)
Gloucester Disabilities Rights Commission	Michael McDermott	TTE 02/14/23	(Refer O&A)
  2. Memorandum from General Counsel re: Essex Inter-Municipal Agreement for wastewater Collection, treatment & disposal (Refer O&A)
  3. Memorandum from General Counsel re: Sewer Force Main Easement for the Fuller Project (Refer P&D)
  4. Memorandum, Grant Application & Checklist from the Police Chief re: application for FY20 MED-Project Grant in the amount of \$650 (Refer B&F)
  5. Memorandum from Police Chief re: request City Council acceptance of a FY19 Bulletproof Vest Grant in the amount of 6,358.43 (Refer B&F)
  6. Flyer re: list of establishments offering free Thanksgiving Dinners on November 28, 2019 (Info Only)
  7. Flyer re: Breakfast with Santa and Friends at the Rose Baker Senior Center on December 15, 2019 (Info Only)
    - **COMMUNICATIONS/INVITATIONS**
  1. Letter from the Executive Director of PERAC re: Appropriation for Fiscal Year 2021 (for Information Only) (Refer B&F)
    - **INFORMATION ONLY**
    - **APPLICATIONS/PETITIONS**
    - **COUNCILORS ORDERS**
  1. CC2019-041 (Gilman): request amendment to GZO Appendix A – Rule 25: Rules of Procedure – Special Permit Procedures (Refer P&D &

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

- 1. City Council Meeting: 11/12/2019
- 2. Standing Committee Meetings: B&F 11/21/19 (under separate cover), O&A 11/18/19, P&D 11/20/19

& Planning Bd.)

(Approve/File)  
(Approve/File)

**Items to be added/deleted from the Consent Agenda:**

**Councilor Gilman** asked to remove Item #1 under Councilors Order CC2019-041 (Gilman): request amendment to GZO Appendix A – Rule 25: Rules of Procedure – Special Permit Procedures advising the Council that this matter doesn’t need to be referred to the Planning Board but to the P&D Committee solely as it is simply a matter of correcting scrivener’s errors. **By a unanimous vote of the Council this matter was referred solely to the P&D Committee.**

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

**Committee Reports:**

**Budget & Finance: November 21**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A, cash donations from members and business partners to the Cape Ann Office of Veterans’ Services for the purpose of supporting on-going efforts to serve Veterans and Active Duty military for a total of \$2,020.00 as follows:

<u>Name/Entity</u>	<u>Dollar Amount</u>	<u>Date Received</u>
Sgt. David J. Coullard Memorial Fund	\$2,000.00	10/15/2019
Giuseppe & Audrey Brancalone	<u>\$ 20.00</u>	10/21/2019
TOTAL:	\$2,020.00	

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A, cash donations from members and business partners to the Cape Ann Office of Veterans’ Services for the purpose of supporting on-going efforts to serve Veterans and Active Duty military for a total of \$2,020.00 as follows:**

<u>Name/Entity</u>	<u>Dollar Amount</u>	<u>Date Received</u>
Sgt. David J. Coullard Memorial Fund	\$2,000.00	10/15/2019
Giuseppe & Audrey Brancalone	<u>\$ 20.00</u>	10/21/2019
TOTAL:	\$2,020.00	

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, § 53A, accept cash donations totaling \$2,156.20 from the Gloucester Police Department’s Public Safety Day event for the purpose of the Gloucester Police Department disbursing those funds to the Cops for Kids with Cancer organization.

**DISCUSSION:**

**Councilor Cox** congratulated the Police Department for a successful fundraising event and that the department wants to put those donations directly towards Cops for Kids with Cancer.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, § 53A, accept cash donations totaling \$2,156.20 from the Gloucester Police Department’s Public Safety Day event for the purpose of the Gloucester Police Department disbursing those funds to the Cops for Kids with Cancer organization.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. §44, 53A a federal grant from the U.S. Department of Homeland Security/Federal Emergency Management Agency (FEMA) passed through the Massachusetts Emergency Management Agency (MEMA) Emergency Management Performance Grant (EMPG) in the amount of \$8,500.00. Funds are to be used for the purpose of providing training and equipment for active shooter/hostile events through the Gloucester Emergency Management Department. The grant period for the FFY2019 grant portion is from November 15, 2019 through June 30, 2020, and there is a 100% in-kind match for this grant.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a federal grant from the U.S. Department of Homeland Security/Federal Emergency Management Agency (FEMA) passed through the Massachusetts Emergency Management Agency (MEMA) Emergency Management Performance Grant (EMPG) in the amount of \$8,500.00. Funds are to be used for the purpose of providing training and equipment for active shooter/hostile events through the Gloucester Emergency Management Department. The grant period for the FFY2019 grant portion is from November 15, 2019 through June 30, 2020, and there is a 100% in-kind match for this grant.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under M.G.L. c. 44, §53A a federal grant passed through the Mass. Executive Office of Elder Affairs through SeniorCare, Inc., for a Title III-B Older Americans Act Grant for \$9,841.00 for FY2020. Funds are to be used to supplement the hours and part-time salary for an Outreach Coordinator Worker at the Rose Baker Senior Center. The grant period is from October 1, 2019 through September 30, 2020, and there is a minimum 10% local match for this grant.

**DISCUSSION:**

**Councilor Cox** advised that this is an annual grant from the state that partially supports the salary of the part-time Outreach Coordinator Worker at the Rose Baker Senior Center.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 9 in favor, 0 opposed, to accept under M.G.L. c. 44, §53A a federal grant passed through the Mass. Executive Office of Elder Affairs through SeniorCare, Inc., for a Title III-B Older Americans Act Grant for \$9,841.00 for FY2020. Funds are to be used to supplement the hours and part-time salary for an Outreach Coordinator Worker at the Rose Baker Senior Center. The grant period is from October 1, 2019 through September 30, 2020, and there is a minimum 10% local match for this grant.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Hecht, seconded by Councilor Memhard, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve 2020-SA-8 for \$56,300.00 (Fifty Six Thousand Three Hundred Dollars) from Account #7500-359000, General Stabilization Fund-Undesignated Fund Balance to Various City Department General Fund Salary accounts as presented in the Budget & Finance Committee packet, for the purpose of increasing budgets in 13 General Fund Salary Accounts to fund AFSCME B salary increases for funding the AFSCME B Contract for FY2020.

**DISCUSSION:**

**Councilor Cox** explained that the city engaged in a compensation and class study which included AFSCME B city personnel. The Classification Plan is part of the Personnel Ordinance which will require a public hearing for its adoption and is a separate matter. Even though this money is being brought forward now to the Council for appropriation, this money will not be disbursed until the Personnel Ordinance is amended and the Classification Plan adopted by the City Council. The Overlay Surplus funds, once released, will be utilized to replace the funds from the General Stabilization Fund, the B&F Committee was assured by the Chief Administrative Officer at its November 21<sup>st</sup> meeting.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve 2020-SA-8 for \$56,300.00 (Fifty Six Thousand Three Hundred Dollars) from Account #7500-359000, General Stabilization Fund-Undesignated Fund Balance to Various City Department General Fund Salary accounts as presented in the Budget & Finance Committee packet, for the purpose of increasing budgets in 13 General Fund Salary Accounts to fund AFSCME B salary increases for funding the AFSCME B Contract for FY2020.**

**Councilor Cox** called for a Reconsideration of the Vote on 2020-SA-8, seconded by **Councilor LeBlanc**.

**MOTION: On a motion by Councilor Cox, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 0 in favor, 9 opposed, to reconsider the vote on 2020-SA-8 for \$56,000.00 for the purpose of increasing budgets in 13 General Fund Salary Accounts to fund AFSCME B salary increases.**

**MOTION FAILS.**

**Councilor Cox moved, and Councilor Memhard seconded,** that the City Council approve the rescission of authorized to be borrowed but unissued debt in twenty-one completed projects in the amount of \$3,214,452 as presented in the Budget & Finance Committee packet of November 21, 2019. These funds are no longer needed for the purpose for which they were initially approved.

**DISCUSSION:**

**Councilor Cox** explained that the Committee neglected to vote on this matter at the conclusion of its discussion with the CAO, and described as follows: The city issued debt for projects that are completed but that what didn't go out for debt is left administratively on the books and this takes it off the books.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve the rescission of authorized to be borrowed but unissued debt in twenty-one completed projects in the amount of \$3,214,452 as presented in the Budget & Finance Committee packet of November 21, 2019. These funds are no longer needed for the purpose for which they were initially approved.**

**Ordinances & Administration: November 20**

There were no matters for Council action under this heading.

**Planning & Development: November 18**

**Councilor Memhard left the dais.**

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Holmgren, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council grant a perpetual easement to 206 Main Street Limited Partnership to construct and maintain bay windows, cornices and canopies which will be part of the mixed use building to be constructed at the Property at 206 Main Street over the easement area. It is the responsibility of the Grantee to file the granted easement at their expense with the Essex South Registry of Deeds.

**DISCUSSION:**

**Councilor Gilman** explained that the Community Development Director, Jill Cahill, at the November 20<sup>th</sup> meeting conveyed that 206 Main Street is known as Harbor Village by 206 Main Street Limited Partnership, c/o North Shore Community Development Coalition for low-income housing. The Land Disposition Committee through the Mayor is recommending an air easement. The ZBA had recommended a design review, and this was a recommendation that came out of the review because of bay window bump outs.

**MOTION: On a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted 8 in favor, 0 opposed, 1 (Memhard) absent, to grant a perpetual easement to 206 Main Street Limited Partnership to construct and maintain bay windows, cornices and canopies which will be part of the mixed use building to be constructed at the Property at 206 Main Street over the easement area. It is the responsibility of the Grantee to file the granted easement at their expense with the Essex South Registry of Deeds.**

**Councilor Memhard returned to the dais.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Holmgren, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council grant an easement at 32 Harbor Loop, Assessor's Map 9, Lot 24, Loop Realty Trust for the purpose of accessing the renovated building across a five (5) foot by eight (8) foot strip of city-owned land. This easement is granted on the condition that the easement shall expire if the building is no longer used for the purpose of housing the offices of a Chamber of Commerce. It is the responsibility of the Grantee to file the granted easement at their expense with the Essex South Registry of Deeds.

#### **DISCUSSION:**

**Councilor Gilman** advised that the city was approached by the Cape Ann Chamber of Commerce looking to relocate to Harbor Loop. In order to do so they needed handicap access to the building which requires space across public land to build out a ramp, which totals 48 sq. ft. The easement is conditioned that it will expire if the building is no longer used as a Chamber of Commerce. She reported that Ms. Cahill, at the same meeting, pointed out this easement has a public use in that it will see the addition of more public bathrooms to the downtown area, and have a centrally located visitor's center.

**MOTION: On a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted 9 in favor, 0 opposed, to grant an easement at 32 Harbor Loop, Assessor's Map 9, Lot 24, Loop Realty Trust for the purpose of accessing the renovated building across a five (5) foot by eight (8) foot strip of city-owned land. This easement is granted on the condition that the easement shall expire if the building is no longer used for the purpose of housing the offices of a Chamber of Commerce. It is the responsibility of the Grantee to file the granted easement at their expense with the Essex South Registry of Deeds.**

#### **Scheduled Public Hearings:**

1. **PH2019-058; SCP2019-008: Fuller Street #35, Map 168, Lot 14, GZO Sec. 1.8.3 "Standard to be applied," Sec. 2.3.1(7) "Conversion to or new multi-family or apartment dwelling, four to six dwelling units" and Sec. 3.2.2 "Dimensional requirements for multi-family dwelling and their accessory uses (other than signs)" by increasing the number of residential units from two 3 bedroom units to four 2 bedroom units and two 1 bedroom units for a total of 6 units (Cont'd from 11/12/19)**

**This public hearing is opened at 7:27 p.m.**

#### **Those speaking in favor:**

**Attorney Mark Nestor**, 45 Middle St., Gloucester, was present representing Beauport Shores LLC (partners Paul Caggiano, Frank Rossetti, Tom Ciulla and John Frassica), owner of 35 Fuller Street, for a Special Council Permit application to rebuild a structure located at Fuller Street #35 destroyed by fire. **Mr. Nestor** then conveyed the following information as to the three special permits comprising the Special Council Permit as follows:

- o Conversion to or new multi-family or apartment dwelling, four to six dwelling units (GZO Sec. 2.3.1(7) in order to increase the number of residential building units from two 3-bedroom residential units to four 2-bedroom residential units, and two 1-bedroom residential units with one 1-bedroom unit carrying a deed restriction as an affordable housing unit;
- o To decrease the minimum lot area per dwelling unit (GZO Sec. 3.2.2(a), and
- o To decrease the minimum open space per dwelling unit (GZO Sec. 3.2.2(a))

**Mr. Nestor** conveyed that this is all that is before the Council under the Special Council Permit application. He then showed three photographs:

1. The building prior to the October 24, 2014 fire noting it was built about 1900;
2. A view of the building engulfed by flames during the fire of 2014 which completely destroyed it;

3. A present-day view of the site showing current conditions of an empty overgrown lot with trash strewn about and an out building (282 sq. ft. shed on the side of the property).

**Mr. Nestor** then reviewed the following background information:

- On August 8, 2018 the Zoning Board of Appeals granted a Special Permit to exceed the height of 30 feet to 35 feet. It was noted initially the Applicant went before the ZBA for a height of 40 ft., but after speaking with some of the neighbors of the locus property, the ZBA application was amended and the height was reduced to 35 ft. which was allowed.
- The ZBA also granted a Special Permit to allow less off-street parking as well as a Special Permit to alter and expand a non-conforming structure or use to increase from two 3-bedroom apartments to four 2-bedroom and two 1-bedroom apartments/condominium units with one being a deed-restricted low-income housing unit. Also granted were certain dimensional setbacks.
- There will be six condominium (condo) units and one commercial unit to house Magnolia House of Pizza. The building will be sprinkled and have an elevator; and be managed by a Condominium Association. The six bedrooms of the prior building will be replaced with ten bedrooms. There will be a reduction in the building from three commercial units to one commercial unit. A 282 ft. shed will be removed to reduce the footprint.
- There will be 11 off-street parking spaces for the condo units. There will be a dumpster located in a fenced-off area based on conversations with City Councilors. It is located in what was previously identified as a handicap parking space in the lot plans. Because of the location of the dumpster, the handicapped parking space will be moved over by one space. Initially there were 12 off-street parking spaces, now there are eight full sized and three compact car parking spaces which is still two parking spaces over the (zoning) requirement of 1.5 spaces per residential unit.
- A new on-site wastewater system will be constructed, a system that was approved by Board of Health on January 22, 2019 (letter from BOH on file).
- There will be landscaped screening along the border of 35 Fuller St. and 33 Fuller St. It was noted the Applicant was mandated to either start out with "tall shrubs" or arborvitaes at least 12 ft. high. Additionally there is a 24 ft. space at the back of the building and the parking lot which is approved by the Planning Board. At the November 20<sup>th</sup> P&D Committee meeting the Planning Director acknowledged that the parking lot was approved by the Planning Board of the acceptable depth so that vehicles can turn around inside the parking area and not have to back out onto the street.
- There is a provision for stormwater run-off and drainage due to a new subsurface facility (on file; plans approved by the Conservation Commission).

#### REVIEW OF BUILDING PLANS:

An architect's rendering of the proposed building was shown from Fuller Street (main entrance to the building) and Norman Avenue, with a view of the side door for restaurant take-out (on file). It was noted that suggestions after a meeting with Magnolia residents were incorporated into the design of the building and that the Applicant wanted to keep the building's appearance in character with the neighborhood.

- The first floor plan of the building was shown (on file) depicting the commercial unit housing a 16-seat restaurant; a primary entrance for the restaurant is shared with the condo units. The restaurant was noted as also having an entrance on the side of the building strictly for take-out service from the restaurant (on Norman Avenue), and a rear building entrance/exit to the parking lot and separately a rear entrance to the restaurant's kitchen. The location of the two 1-bedroom units was also pointed out.
- The second floor and third floor plan (on file) was shown with a total of four 2-bedroom apartments comprising.
- Another view of the building's exterior was shown and the Council was advised its design is taken from input of residents of Magnolia, to create an appealing view for visitors and residents when entering Magnolia from either Magnolia Avenue or Raymond Street. It was noted that Magnolia Square is one of the first sights that visitors see when entering Magnolia from either the west or from the north. The front entrance and the side entrance were pointed out. The rear of the church (abutting 35 Fuller Street) will see additional screening.
- The proposal provides for stormwater management; trash and recycling; Fire Department/Ambulance access; a new sewerage disposal system that were all elements considered in the design.
- An issue encountered during the ZBA permitting process was a request by an abutter to move the HVAC system that at that time was going to be located on the right-hand side of the building on Fuller Street to its

rear. The HVAC system is now located on the top of the third floor, staying under the 35 ft. requirement, thereby addressing the concerns of the City Council and the abutter of the location of the HVAC system.

- A rear view was shown of the building with screening pointed out. An area with no voiced location was pointed out where grass and shrubs would be planted, with the dimensions noted of 35 ft. x 35 ft.

#### DIMENSIONAL COMPARISONS:

- Issues previously raised regarding the building footprint: The prior existing building footprint was 2,390 sq. ft. which included 2,108 sq. ft. for the building and 282 sq. ft. for the shed (outbuilding). The proposal is a 2,665 sq. ft. building footprint with the shed removed which is an increase of 11.5% or +275 sq. ft.
- The former volume of the building was 70,519 sq. ft. The proposed volume is 95,810 sq. ft. which is an increase of 36.8%.
- The original building height was estimated to be 35.8 ft.; the original proposal was a building height of 40 ft.; and 35 ft. is the final height of the building and was allowed.
- The previous building had commercial space totaling 2,350 sq. ft. and that space is now reduced to 1,084 sq. ft., a 54% reduction. Seating of the commercial unit (restaurant) was reduced from 32 seats to 16 seats. On the right-hand side of the building along Fuller Street are the two one-bedroom condominium units instead of commercial units. It was noted that previously the building had no off-street parking and now will have 11 off-street parking spaces.

**Mr. Nestor** then reviewed GZO Sec. 1.8.3 as follows:

1. Social, economic or community need served by the proposal: There will be six residential condominium units with homeownership insuring a higher level of maintenance, and increased housing opportunities for Gloucester. One 1-bedroom unit is to be a deed restricted unit as low-income affordable housing in perpetuity. This designation was voluntary on the part of the Applicant. The proposed retail space will bring back the Magnolia House of Pizza, and with it, employment opportunities. The design of the building will comport with the surrounding architecture of Magnolia.

Reference to Exhibit 7A, Revision 3 (on file): The location was always a non-conforming lot in a non-conforming building similar to those surrounding the locus property in the "Square." It is located in an area of multi-use. It was noted there is a church, apartments, a variety store, a health club, a garage, in addition to multi-family and single-family dwelling units. It was noted that almost every cited property encompassed in the Exhibit displayed for the Council were smaller than required with the exception of 3 Magnolia Avenue which is oversized. The lot size for an R-20 District (NB District conforms to the nearest residential district) is 20,000 sq. ft. The minimum lot area per dwelling unit is 10,000 sq. ft. The only lot that is different is 9 Norman Avenue because it is in the Village District. Almost all other dwellings within the District and surrounding 35 Fuller St. are undersized, including the additional properties of Revision 3 to Exhibit 7A. It was highlighted that the results are the same with the minimum open space requirements. These are approximately 23 different properties, it was pointed out, in the expanded Exhibit 7A.

**Mr. Nestor** then described an issue that was raised regarding the open space of the 35 Fuller St. property. He reported that when calculated to add additional comments to Exhibit 7A, the Applicant's project engineer, John Judd, advised that the open space calculation should be 1,368 sq. ft. as the actual open space and is requested that number be adjusted (letter from Mr. Nestor to the City Council dated November 26, 2019 regarding this matter is on file). The reduction for minimum open space per dwelling unit, he highlighted, is already before the Council; this is simply adjusting the number of square feet in that request.

Referencing back to Criteria #1 under Sec. 1.8.3, **Mr. Nestor** added that this was always a three-story building; and this project will create short-term construction jobs, eliminate current water flow onto Fuller Street and Norman Avenue, and bring a significant increase in real estate taxes.

2. Traffic flow and safety: There will now be off-street parking for all (building) residents where previously all building residents had to park on street. The off-street parking will enter and exit to Norman Avenue to the rear of the building. The parking lot approved by the Planning Board has enough space for turnaround of vehicles inside it preventing backing out onto the street. The dumpster will be screened in the corner of the parking lot in response to concerns about trash removal. Some businesses surrounding 35 Fuller Street were noted as Magnolia Variety and the Magnolia Health Center which don't have off-street parking nor does the church. A number of residences, especially the multi-families, have some off-street parking but not enough to meet the requirement, the same for single-family residences. The restaurant take-out service entrance will be on Norman Avenue which has parking, and was indicated as not impacting traffic or parking. It was pointed out that prior to 1986 a large restaurant, "The Surf" was located nearby, a liquor store and a café all of which are defunct. That was mentioned as significantly reducing the impact of traffic congestion to this area. The Applicant is reducing on street parking with on-site parking. Safety is enhanced by a fully sprinkled building and a fire station nearby that is open full time.

3. Adequacy of utilities and other public services: The utilities and other public services that serviced the prior building are considerably improved. There will be a new on-site wastewater system approved by the Board of Health; a Stormwater Management System approved by the Planning Board, as well as a sprinklered building and the nearby full-time fire station. The number of units and their composition will not have an impact on the local school system.

4. Neighborhood quality and social character: The building's exterior is designed to blend in with the historical nature of the surrounding buildings, contributing to the tone and tenor of Magnolia Village and in keeping with what was previously on the property. This will allow for an appropriate building to be erected on a now empty corner lot which is sited prominently in Magnolia Square. It was noted there were two community meetings as well as a meeting with some of the opponents with the Applicant. This proposal provides for six additional housing condo units, one of which is a deed-restricted, low-income affordable housing unit, thereby increasing the housing stock in the Village of Magnolia, as well as bringing more activity and social interaction to Magnolia Square.

**Mr. Nestor** advised that previously submitted to the Council this week was a petition and postcards signed by 192 residents (on file), and expressed his understanding that more emails are coming, saying that many residents aren't concerned that this building will have a negative impact on the neighborhood quality and social character which he asked be taken into consideration.

5. Qualities of the natural environment: With a new on-site wastewater system and a new Stormwater Management System, stormwater will now be collected on site rather than being allowed to flow onto adjoining streets. An issue was raised whether the site had no appropriate drainage due to subsurface dirt and granite. **Mr. Nestor** conveyed he was advised by the Board of Health and the individual who conducted the testing that the test pits showed that the site's subsurface is gravel.

6. Potential fiscal impact: There will be an increase to the real estate tax base and revenues to the city, and employment opportunities with the new restaurant.

**Mr. Nestor** noted that one of the reasons the property was sold was that the previous owners found it wasn't financially feasible to construct an attractive building with four residential units and two commercial units due to contract and construction costs. He advised that the Applicant seeks to increase the number of residential units from two to six for financial reasons -- with current construction costs only building four units in a quality manner make the development infeasible which in turn will have an impact on the character and quality of the business. There are increased costs due to the new stormwater and the on-site wastewater disposal system plus the addition of 11 off-street parking spaces and an elevator in the building. He explained that the Applicant isn't trying to maximize profits but wants to construct a building that is appropriate to the neighborhood and to make a reasonable profit.

Two dimensional permits as part of the Special Council Permit are being sought, **Mr. Nestor** pointed out. Minimum lot area per dwelling unit under GZO Sec. 3.2.2 (a) and minimum open space per dwelling unit, also under GZO 3.2.2(a) -- both can only be decreased by Special Council Permit. A review of criteria was touched on for minimum open space per dwelling unit and minimum lot area per dwelling unit through the Zoning Ordinance definitions. Citing the submitted Property Comparisons (on file), he advised as to the calculations for the property comparisons, the only property adjusted for parking and driveways on the chart was 35 Fuller Street, not the other cited surrounding properties which may reduce the available open space on them.

In conclusion, **Mr. Nestor** citing MGL Ch. 40B, advised that this site won't increase congestion, overburden the site or reduce light and air or create parking hazards. He asked that this Application for a Special Council Permit be approved.

**Council President Lundberg** noted that the Council received many emails and letters from folks in favor or against this Application. He assured these communications are a part of this record and on file so that if anyone had made such a submission and are now present they aren't obligated to come forward to speak but may do so if they wish. He acknowledged the letter received by the Council from Mr. Nestor correcting the clerical error in the Application, an error carried through to the Committee Recommendation, so when the Council comes to that part of the proceedings there will need to be a motion to amend the main motion to correct it.

#### COUNCILOR QUESTIONS:

**Councilor Hecht** asked for a clarification if the Applicant's representative was saying that in the comparison of open space, that isn't the project set, that he'd taken the land size, minus the building size and the result is the definition of the open space. **Mr. Nestor** offered that the Councilor was correct, that he did no deductions for parking areas or driveways. **Councilor Hecht** also confirmed that on the subject property Mr. Nestor had taken out the parking and paved area and so it wasn't an "apples to apples" comparison. **Mr. Nestor**, mentioning he didn't do that calculation for all the properties listed on the comparison chart, except for 35 Fuller Street, advised that the Magnolia Variety (Store) has no open space, the same for the Magnolia Health Center and the Magnolia Garage. **Councilor Hecht** pointed out that the calculations are showing less open space if open space is defined as land size

minus the footprint which is done for the “competitive set” then changed it land size minus pavement minus building footprint. **Mr. Nestor** highlighted it was only for his subject area – land size minus building minus building minus pavement minus driveway. Had he done that for all the other properties as he did for the locus property, it would have further reduced the open space for those listed properties, already below the minimum.

**Kiley Davis**, 22 Magnolia Avenue, offered her endorsement of the Special Council Permit application

**Those speaking in opposition:**

**Attorney Meredith Fine**, 46 Middle Street, representing Jerry McCarthy, owner of 31 and 33 Fuller Street conveyed in her opinion there are concerning material inaccuracies in each application and enumerated them as follows: The property will be built out on all four sides with a 21% larger footprint. Mr. Nestor always includes the shed being taken down. The volume/mass of the building will increase almost 40%, a significantly larger building than there before on a small lot. This is largely a residential neighborhood. The initial list of property comparisons was inaccurate as the majority of buildings are single family homes. The parking lot is too small and doesn't meet the requirements once they changed the layout at the last P&D meeting and doesn't have proper permits. There will be traffic congestion because of the location of the take-out entrance; adding 10 bedrooms and a take-out restaurant with no loading zone. The church has no parking; there's already four lanes of cars on the road, that is on either side is vehicular parking and two lanes of traffic; a parking lot with in and out vehicles; and because there's a new curb cut there is a loss of a (on-street) parking space – therefore traffic won't be lessened. The Applicant submitted no evidence that traffic will not increase. There has been strong public opinion for and against, from both sides, and postcards were presented as petitions. The new petitions says, “I support Beauport Shores LLC application to rebuild 35 Fuller Street...bring back the Magnolia House of Pizza.” There is no evidence that the Magnolia House of Pizza has a legal obligation to move into the (proposed) commercial unit. Profit has nothing to do with the Council's calculation it was noted. A bigger building doesn't mean more profit; and the Applicant hasn't presented evidence that this proposal is the only profitable proposal they can make.

It was noted that the Applicant in East Gloucester was looking for significantly less relief than this Applicant and briefly recounted the relief sought in that Special Council Permit. This Applicant is asking for almost no open space; this proposal is too dense for the neighborhood. There are plenty of other uses that can be made for this property. The applicant can build on the old footprint which is what Mr. McCarthy supports. The parking and traffic doesn't work and neither does the mass (of the building). Ms. Fine urged the Council to turn this permit down.

**Carol Dirga**, 7 Norman Avenue, objected to the size of the proposed building and expressing concern for the shape of the roof, the HVAC system, and the definition of “affordable housing” and who is to oversee that.

**John O'Hara**, 55 Lexington Avenue, expressed concern for environmental issues as to sewerage runoff and described issues with the local beach and the landing saying that the proposed six residential units and a commercial unit will add to the environmental impact of the proposal. He expressed concern for public safety given traffic considerations as well as parking. He also mentioned his concern that the building doesn't fit into the neighborhood and isn't characteristic of Magnolia. He also cited concern that the restaurant isn't obligated to open a restaurant at 35 Fuller Street.

**Tammy Mattus**, 19 Fuller Street, expressed safety concerns with increased traffic and a building she considered too big.

**Linda McCarriston**, 16 Quarry Street, spoke of a known objector to the proposal, Mary Lou Tierney (letters to the P&D Committee and City Council enumerating her objections on file) and recounted Ms. Tierney's objections who had submitted concerns against the proposal. **Ms. McCarriston** pointed out pages of signatures and accompanying narrative which enumerated objections. She contended that what is being built today must conform to the Zoning Ordinance. She also cited the fact that it was two days before Thanksgiving and the timing of the public hearing was difficult as people were already travelling, the reason why Ms. Tierney wasn't present.

**Councilor O'Hara invoked at 8:29 p.m. City Charter Sec. 2-11(c).**

**Council President Lundberg** announced that Councilor O'Hara invoked City Charter Sec. 2-11(c) which is his prerogative. He advised the Council will resume the public hearing on December 10, 2019. At that time it will take the vote of four Councilors to suspend the hearing again. This matter is recessed until December 10, 2019.

**For Council Vote: None.**

**Unfinished Business: None.**

**Individual Councilor's Discussion including Reports by Appointed Councilors to Committees:**

**Update on the Downtown Development Commission & Update of the Poet Laureate Selection Committee by City Council Representative, Councilor Melissa Cox:** The Poet Laureate Selection Committee wasn't able to hold a meeting due to a lack of a quorum. There is a request from the Administration to eliminate that from the city requirements in general and so they're unsure as to where this is going. The DDC hasn't had a meeting in five months. She has placed a request with the Administration to dissolve the DDC and incorporate it into the Tourism Commission.

**Councilors' Requests to the Mayor:**

**Councilor O'Hara** noted Sunday evening driving in the early evening he recounted there was a large pine tree blocking Western Avenue with the Police and DPW at the scene during a storm event with a section of Magnolia flooding. He pointed out was no access into Magnolia at that time. He also suggested there was limited communications between the city departments although commenting that everyone was doing a great job. He asked the Administration to consider a system for communication between all parties during such public emergencies. He further advised he has submitted numerous requests to ask the state to conduct a study on all of their rights of way. He again called for the state and the city to look at its trees left standing that are a hazard to the safety of the public and asked for a plan to remediate this problem.

**Councilor Holmgren** pointed out the large handstitched quilts hung on the Kyrouz Auditorium stage thanks to the work by the Director of the North Shore Health Project Susan Coviello; the Names Project which manages the thousands of AIDS quilts soon to be in Atlanta, GA; The Awesome Foundation; the Sisters of Perpetual Indulgence in Boston, and to Mayor Theken and City Hall staff. City Hall is hosting the Cape Ann portion of the AIDS quilts now through the end of December. The dedication ceremony for these pieces of art is this Sunday afternoon which is also World Aids Day.

**Councilor Nolan** expressed appreciation for the people of Magnolia for enduring the construction for the water work.

**Councilor Cox** announced that the first weekend of December the West Parish and Beeman Elementary Schools will hold their Christmas Craft Fairs, and that on Saturday, December 14<sup>th</sup> is the Middle Street Walk.

**Councilors LeBlanc, Memhard, Cox and Council President Lundberg** wished everyone a Happy Thanksgiving.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 8:38 p.m.**

**Respectfully submitted,**

*Dana C. Jorgensson*  
Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.**