

GLOUCESTER CITY COUNCIL MEETING

Tuesday, March 8, 2011

7:00 p.m. – Kyrouz Auditorium – City Hall

Council Meeting – 2011-006

-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; Jeff Towne; Nancy Papows; Mike Wells; Mike Hale; Jim Hafey; Police Chief Michael Lane

The meeting was called to order at 7:02 p.m.

Flag Salute and Moment of Silence.

Oral Communications: None.

Presentations:

Introduction of new Facilities Manager, Jim Hafey by DPW Director, Michael Hale

Michael Hale, DPW Director introduced Jim Hafey, newly hired Facilities Manager who will be responsible for the oversight of all City buildings and properties. He recounted the creation of the facilities manager position and the search. Mr. Hafey started working with the DPW on February 28th. **Jim Hafey**, Facilities Manager stating he has lived for about 11 years in Lanesville, Mr. Hafey noted his educational background leading to his engineering degree. He has been involved in a number of residential business ventures. Also, having worked for the State Department of Environmental Management for almost nine years, he noted there were many similar projects giving him a basis for understanding municipal work such as Gloucester is undertaking now. Both **Councilors Hardy and Ciolino** expressed their welcome to Mr. Hafey.

Executive Session:

Councilor Hardy announced that the Council received a communication from Attorney George Skelly, their pro bono attorney with Nixon & Peabody, LLC stating he was unable to attend this evening, and therefore the Executive Session will be rescheduled to the City Council meeting of 03/22/11.

Consent Agenda:

• **CONFIRMATION OF REAPPOINTMENTS**

Board of Health	TTE 02/14/14	Claudia Schweitzer
Cable TV Advisory Committee	TTE 02/14/14	Robert McGillvray
Downtown Development Commission	TTE 02/14/14	John Orlando, Douglas Cook, Katherine Cuddyer
Historic District Commission	TTE 02/14/14	David Porper
Historical Commission	TTE 02/14/14	David Rhinelander
Open Space Committee	TTE 02/14/14	Charles Crowley
Shellfish Advisory Commission	TTE 02/14/14	David Roach, Bruce Maki
Tourism Commission	TTE 02/14/14	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

• **MAYOR'S REPORT of February 22, 2011 City Council Meeting**

1. Reappointments: Clean Energy Commission TTE 02/14/13 Thomas Balf, Linda Brayton, John Moskal, Sam Cleaves **(Refer O&A)**
 - **MAYOR'S REPORT of March 8, 2011 City Council Meeting**
1. Memorandum to Council President Jackie Hardy requesting appointment of two City Councilors to Fisheries Commission **(Refer O&A)**

2. Grant Application, Checklist and memorandum from Health Director re: amendment to the award of the City's Opiate Overdose Prevention Grant (Refer B&F)
3. Memorandum from Police Chief requesting acceptance of a grant in the amount of \$22,362.20 for purchase of an automated License plate reader (Refer B&F)
4. - New Appointments:

Historical Commission Representative	TTE 02/14/14	Thomas O'Keefe, III	
Fisheries Commission	TTE 02/14/14	David Bergeron, Lawrence Ciulla, David Ellenton	
		Capt. Joseph Orlando	
Historic District Commission	TTE 02/14/14	Charles Nazarian	
Zoning Board of Appeals	TTE 02/14/14	Leonard A. Gyllenhaal	(Refer O&A)

 - Reappointments:

Archives Committee	TTE 02/14/14	Sarah Dunlap, Jane Walsh, Stephanie Buck, Priscilla Kippen	
Community Preservation Committee	TTE 02/14/14	Karen Gallagher (Planning Board Representative)	
		William Dugan (Gloucester Housing Authority Representative)	
		Scott Smith (at large)	(Refer O&A)
5. Quarterly Report of the Assessors' Office (October, November and December 2010) (Info Only)
 - **COMMUNICATIONS/INVITATIONS**
 1. Request from Downtown Block Party Committee for street closures re: Downtown Block Parties (Refer P&D)
 2. Request from Gloucester Downtown Group for street closure re: Gloucester Sidewalk Bazaar (Refer P&D)
 3. Response to Oral Communication of January 25, 2011 City Council Meeting to Shawn Kelly (Info Only)
 4. Response to Attorney Mark Lanza from Legal Counsel re: Oral Communication of February 8, 2011 City Council Meeting (Info Only)
 5. Letter from FEMA re: Digital Flood Insurance Rate Maps and Flood Insurance Study Program (Info Only)
 6. Letter from CPA Project Manager re: Beauport, Sleeper McCann House (File)
 - **COUNCILORS ORDERS**
 1. CC2011-009 (Mulcahey) Amend GCO 22-287 "Disabled Veteran, handicapped parking" re: 6 Oak Street (Refer O&A)
 2. CC2011-010 (Hardy) Amend GCO Chapter 22, subsection 22-93 by adding new subsection 22-93(c) "Crosswalks" (Refer O&A)
 - **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
 1. City Council Meeting 02/22/11 (Approve/File)
 2. Standing Committee Meetings: O&A 02/28/11, B&F 03/01/11, B&F 03/02/11, P&D 03/02/11 (Approve/File)

Items to be Added/Deleted from Consent Agenda:

Councilor Ciolino asked that Item #2 under the Minutes would pull the P&D minutes of 3/2/11.

Councilor Theken wished to remove Item #1 and #2 under Councilors Orders and Confirmation of Reappointments.

Councilor Ciolino noted a typographical errors in numbering of the conditions to race motions from the YMCA Fiesta 5K Road Race to the YuKan Sports LLC 13.1 mile Road Race showing the #1 in each mis-numbered due to "mechanical errors" and asked the Council to allow for their correction directly in the text of the meeting minutes of 03/02/11.

By unanimous consent the matter of the typographical errors were allowed for correction of the numbering of the conditions to race motions from the YMCA Fiesta 5K Road Race to the YuKan Sports LLC 13.1 mile Road Race to show #1 in each of the motions for the first of the conditions of same.

Councilor Theken asked the Council to refer the matters of CC2011-009 and CC2011-010 under Councilors Orders to be referred not only to O&A but also to the Traffic Commission so that they may obtain their recommendation on the two matters.

By unanimous consent the Council referred CC2011-009 and CC2011-010 to the Traffic Commission.

By unanimous consent the Consent Agenda was accepted as amended.

Standing Committee Reports:

- **Ordinances & Administration: February 28, 2011**

Reappointments:

Councilor Theken related to the Council that the Committee questioned the reappointees to their respective Committees, Boards and Commissions on their experience, background, professional affiliations as well as asking them to be familiar with the Open Meeting Laws and to file their proof of having taken the State Ethics Commission test with the City Clerk's office. Further, they were all asked to be sure their Committees, Boards and Commissions were turning in the minutes of their meetings to the City Clerk's Office to be in compliance with the Open Meeting Law. In addition, candidates were asked regarding whether they were members of another Board, Commission or Committee. She also stated that the Committee expressed their appreciation at each of the reappointees' willingness to step forward yet again and volunteer on behalf of their City and thanked them for their commitment.

Board of Health

TTE 02/14/14 Claudia Schweitzer

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Claudia Schweitzer to the Board of Health, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint Claudia Schweitzer to the Board of Health, TTE 02/14/14.

Cable TV Advisory Committee

TTE 02/14/14 Robert McGillivray

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Robert McGillivray to the Cable TV Advisory Committee, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint Robert McGillivray to the Cable TV Advisory Committee, TTE 02/14/14.

Downtown Development Comm.

TTE 02/14/14 John Orlando, Douglas Cook, Katherine Cuddyer

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint John Orlando to the Downtown Development Commission, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint John Orlando to the Downtown Development Commission, TTE 02/14/14.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Douglas Cook to the Downtown Development Commission, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint Douglas Cook to the Downtown Development Commission, TTE 02/14/14.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Theken, the Ordinances & Administration Committee voted 2 in favor, 1 (Mulcahey) opposed to recommend to the City Council to reappoint Katherine Cuddyer to the Downtown Development Commission, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint Katherine Cuddyer to the Downtown Development Commission, TTE 02/14/14.

Historic District Commission TTE 02/14/14 David Porper

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint David Porper to the Historic District Commission, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint David Porper to the Historic District Commission, TTE 02/14/14.

Historical Commission TTE 02/14/14 David Rhineland

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint David Rhineland to the Historical Commission, TTE 02/14/14.

Mr. Rhineland thanked the Council for the opportunity to serve the City.
Councilor Hardy in turn thanked Mr. Rhineland for his assistance in the CPA process.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint David Rhineland to the Historical Commission, TTE 02/14/14.

Open Space Committee TTE 02/14/14 Charles Crowley

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Charles Crowley to the Open Space Committee, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Mulcahey, the City Council voted 9 in favor, 0 opposed to reappoint Charles Crowley to the Open Space Committee, TTE 02/14/14.

Shellfish Advisory Commission TTE 02/14/14 David Roach, Bruce Maki

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint David Roach to the Shellfish Advisory Commission, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint David Roach to the Shellfish Advisory Commission, TTE 02/14/14.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Bruce Maki to the Shellfish Advisory Commission, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint Bruce Maki to the Shellfish Advisory Commission, TTE 02/14/14.

Tourism Commission

TTE 02/14/14 Peter Jenner, Jeanne Boland

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Peter Jenner to the Tourism Commission, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint Peter Jenner to the Tourism Commission, TTE 02/14/14.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Jeanne Boland to the Tourism Commission, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 to reappoint Jeanne Boland to the Tourism Commission, TTE 02/14/14.

Traffic Commission

TTE 02/14/14 Larry Ingersoll

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Larry Ingersoll to the Traffic Commission, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint Larry Ingersoll to the Traffic Commission, TTE 02/14/14.

Waterways Board

TTE 02/14/14 Anthony Gross

Councilor Theken noted for the record that there was no conflict with Mr. Gross being a member of the School Committee.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Anthony Gross to the Waterways Board, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to reappoint Anthony Gross to the Waterways Board, TTE 02/14/14.

Zoning Board of Appeals

TTE 02/14/14 Virginia Bergmann, David Gardner (Alternate) Francis Wright

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Virginia Bergmann to the Zoning Board of Appeals, TTE 02/14/14.

Councilor Ciolino noted that the ZBA has done a “fantastic job” in looking out for the best interest of the City and its neighborhoods. Relating it is a tough job, and urged the Board members to keep up their good work.

Councilor Hardy thanked Mr. Wright and Ms. Bergmann for their service, having worked with them in the past.

MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted 9 in favor, 0 opposed to reappoint Virginia Bergmann to the Zoning Board of Appeals, TTE 02/14/14.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint David Gardner (Alternate) to the Zoning Board of Appeals, TTE 02/14/14.

Councilor Theken made note of the “vigorous questioning” of the Zoning Board of Appeals reappointees and thanked them as well as Katherine Cuddyer who had her reappointment confirmed to the Tourism Commission earlier.

MOTION: On motion by Councilor Theken, seconded by Councilor Whynott, the City Council voted 9 in favor, 0 opposed to reappoint David Gardner (Alternate) to the Zoning Board of Appeals, TTE 02/14/14.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Francis Wright to the Zoning Board of Appeals, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted 9 in favor, 0 opposed to reappoint Francis Wright to the Zoning Board of Appeals, TTE 02/14/14.

- **Budget & Finance: March 1, 2011**

MOTION: On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council that \$51,396.00 (Fifty-One Thousand, Three Hundred and Ninety Six Dollars) be appropriated from the General Fund Unreserved Fund Balance (“Free Cash”) to the Police Department Budget for related personnel expenses for FY2011 resulting from the Gloucester Police Patrolman’s Association Contract settlement Accounts as follows:

<u>ACCOUNT</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
101000.10.211.51100.0000.00.000.00.051	Police-Uniform, Sal/Wage-Perm Pos	\$30,046.56
101000.10.212.51100.0000.00.000.00.051	Police-Investigation, Sal/Wage-Perm Pos	\$ 2,975.98
101000.10.211.51320.0000.00.000.00.051	Police-Uniform, Overtime E911	\$ 8,907.45
101000.10.211.51430.0000.00.000.00.051	Police-Uniform-Night Differential	\$ 2,518.84
101000.10.211.51450.0000.00.000.00.051	Police-Uniform, Holiday Pay	\$ 6,020.48
101000.10.212.51450.0000.00.000.00.051	Police-Investigation, Holiday Pay	\$ 926.21

Discussion:

Councilor Curcuru stated motion is to fund the first year of the new Police contract’s personnel expenses for FY11, retroactive to July 1, 2010.

Jim Duggan, CAO related the Administration believed it to be a solid contract and felt collectively proud of it. Speaking for the Police Chief and the Union President he urged passage by the Council.

Police Chief Lane expressed his belief this is a fair contract for the City and for the patrolmen, stating the Police led the City before in making sacrifices. He stated they provide a good product for the City and

thanked them for their work. Responding to **Councilor Theken's** inquiries he stated the patrolmen last raise had been in 2007. Before this contract, "they went three zeros." He explained that utility jobs are not paid for by the City; it is totally separate. The City is paid by the utility company and that goes into the City's account; the money is then redistributed to the patrolmen. He pointed out the City makes 10% profit for bookkeeping purposes.

Councilor Curcuru stated that this year's wages total of \$51,396 is retroactive to July 1, 2010 and asked what will be next year's wages.

Mr. Duggan stated it would be a \$17,000 increase next year from that number. They're funding \$69,407 in the FY12 budget. In FY13, Year 3 of the contract, it would be \$111,890 for the contract for a police budget of over \$5 million

Councilor Curcuru stated the last three years the patrolmen took zeros owing to an agreement of taking road details which was an agreement between the City and the union.

Councilor Tobey noted the difficulties of collective bargaining and saluted both sides for engaging in it under difficult circumstances. He hoped the Council votes yes to send a strong message to their public employees that they value their work and work they can't do without.

Councilor McGeary shared the statements of his colleagues and thought the City got good value for their dollar.

Mr. Duggan confirmed for the Councilor as to the percentage increases in the Police contract: Year 1: 1.5%; Year 2: 2%; Year 3: 2% in addition to a 3-step to 4-step increase in Year 3.

Chief Lane in response to **Councilor Ciolino** noted in Year 3 the patrolmen gave up three sick days but are acquiring two personal days.

Councilors Mulcahey and **Councilor Whynott** expressed their appreciation of the Police Department.

Councilor Verga agreed with Councilor Tobey and thought this was a fair contract.

Councilor Hardy noted this is the first time where the Administration invited the Council to ask questions about the contract itself and thanked the Administration for the spirit of cooperation and hoped to see this continue with other unions.

Councilor Ciolino observed many young police officers in the audience which he felt boded well for the City and the future of the Police Department.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Whynott, the City Council voted **BY ROLL CALL 9** in favor, 0 opposed that **\$51,396.00 (Fifty-One Thousand, Three Hundred and Ninety Six Dollars)** be appropriated from the General Fund Unreserved Fund Balance ("Free Cash") to the Police Department Budget for related personnel expenses for FY2011 resulting from the Gloucester Police Patrolman's Association Contract settlement Accounts as follows:

<u>ACCOUNT</u>	<u>DESCRIPTION</u>	<u>AMOUNT</u>
101000.10.211.51100.0000.00.000.00.051	Police-Uniform, Sal/Wage-Perm Pos	\$30,046.56
101000.10.212.51100.0000.00.000.00.051	Police-Investigation, Sal/Wage-Perm Pos	\$ 2,975.98
101000.10.211.51320.0000.00.000.00.051	Police-Uniform, Overtime E911	\$ 8,907.45
101000.10.211.51430.0000.00.000.00.051	Police-Uniform-Night Differential	\$ 2,518.84
101000.10.211.51450.0000.00.000.00.051	Police-Uniform, Holiday Pay	\$ 6,020.48
101000.10.212.51450.0000.00.000.00.051	Police-Investigation, Holiday Pay	\$ 926.21

Councilor Hardy noted for the record that she did not have any relatives on the Gloucester Police Department.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council that \$700,000.00 (Seven Hundred Thousand Dollars) be appropriated from the General Fund Unreserved Fund Balance ("Free Cash") for the purpose to transfer to the City's Stabilization Fund, Fund #294004.

Discussion:

Councilor Curcuru explained that the Administration came forward with a request that \$750,000 be placed in the City's Stabilization Fund, but the Budget & Finance Committee felt strongly that \$700,000 should be placed there and that \$100,000 should be dedicated to a Capital Projects Stabilization Fund, a new account to be established tonight. He believed it was a good place to start for assuring monies are available to fund capital items in cash instead of borrowing each time. Both **Councilors Verga** and **Tobey** expressed their support as well.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed that \$700,000.00 (Seven Hundred Thousand Dollars) be appropriated from the General Fund Unreserved Fund Balance ("Free Cash") for the purpose to transfer to the City's Stabilization Fund, Fund #294004.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the establishment of a new Stabilization Fund to be known as the "Capital Projects Stabilization Fund" pursuant to Massachusetts General Law (MGL) Chapter 40, Section 5B, for the purpose of funding necessary capital improvements.

Discussion:

Councilor Curcuru noted this was to establish the new account for the Capital Projects Stabilization Fund for capital improvements.

Councilor Hardy thanked the Administration for their cooperation and understanding in order to establish this fund.

Councilor McGeary added he had voted in favor of establishing this fund because they have revived the Capital Improvements Advisory Board and would vote in favor now.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Hardy, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to establish a new Stabilization Fund to be known as the "Capital Projects Stabilization Fund" pursuant to Massachusetts General Law (MGL) Chapter 40, Section 5B, for the purpose of funding necessary capital improvements.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council that \$100,000.00 (One Hundred Thousand Dollars) be appropriated from the General Fund Unreserved Fund Balance ("Free Cash") for the purpose to transfer to the Capital Projects Stabilization Fund, Fund #850000.

Discussion:

Councilor Curcuru explained this was to fund the newly created Capital Projects Stabilization Fund. This is a start to fund this account and hoped someday the City can purchase capital project items in cash or if there is an emergency they can use this money for capital items. He thanked the Administration for their cooperation.

Councilor Ciolino was pleased to see money being put away for the future.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 9 in favor, 0 opposed that \$100,000.00 (One Hundred Thousand Dollars) be appropriated from the General Fund Unreserved Fund Balance ("Free Cash") for the purpose to transfer to the Capital Projects Stabilization Fund, Fund #850000.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council that \$150,000.00 (One Hundred and Fifty Thousand Dollars) be appropriated from the General Fund Unreserved Fund Balance (“Free Cash”) for the purpose of reducing the City’s Snow & Ice deficit in Department 423 Snow & Ice Removal, Account # 101000.10.423.52970.0000.00.000.00.052 - DPW-Snow/Ice Removal, Snow/Ice-Contract.

Discussion:

Councilor Curcuru explained this is replacing monies that were taken out of the Snow and Ice Account in order to fund repairs to open the schools on time in August. This was always going to be put back.

Councilor Whynott asked for the update on the Snow and Ice account.

Jeff Towne, CFO replied that before the last snow storm it was over \$700,000 and are anticipating \$900,000 in total. This transfer in of free cash will reduce the total back to \$700,000. They’re already looking to take this amount down before year end and will be back before B&F to do that.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed that \$150,000.00 (One Hundred and Fifty Thousand Dollars) be appropriated from the General Fund Unreserved Fund Balance (“Free Cash”) for the purpose of reducing the City’s Snow & Ice deficit in Department 423 Snow & Ice Removal, Account # 101000.10.423.52970.0000.00.000.00.052 - DPW-Snow/Ice Removal, Snow/Ice-Contract.

Councilor Hardy noted because the Gloucester Contributory Retirement Board which her husband is a member of has no part in the following two motions, she will be able to vote.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to accept Massachusetts General Law (MGL) Chapter 32B, Section 20, which authorizes a local option to establish an Other Post-Employment Benefits Liability Trust Fund and a funding schedule for the fund.

Discussion:

Councilor Curcuru stated this is an account establishment that will allow planning for the Other Post Employment Benefits (OPEB) which is an unfunded liability to the City. This is mostly to be used to fund the City’s retired employees Medicaid benefits should they be eligible for them and on Medicaid. This program is administered by the City, not by the Gloucester Contributory Retirement Board. The following motion puts money into that Trust Fund.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to accept Massachusetts General Law (MGL) Chapter 32B, Section 20, which authorizes a local option to establish an Other Post-Employment Benefits Liability Trust Fund and a funding schedule for the fund.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council that \$10,000.00 (Ten Thousand Dollars) be appropriated from the General Fund Unreserved Fund Balance (“Free Cash”) for the purpose to transfer to the Other Post-Employment Benefits Liability Trust Fund, Fund #830000.

Discussion:

Mr. Towne stated this is a small amount of money. They talked with Moody's rating agency of what their plan was for the City's financial stability and to pay off some of these unfunded liabilities. This is the first step, and many communities are doing the same thing.

Councilor Whynott inquired if there was a conflict as he is retired City employee.

Mr. Towne felt there was not a conflict as this was State law.

Councilor Hardy noted that under Chapter 268A (Conflict of Interest) she knew of no reason why she should not vote on this.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed that \$10,000.00 (Ten Thousand Dollars) be appropriated from the General Fund Unreserved Fund Balance ("Free Cash") for the purpose to transfer to the Other Post-Employment Benefits Liability Trust Fund, Fund #830000.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to transfer (#2011-SBT-14) \$116.00 from Assessors In-state travel, Unifund Account #101000.10.141.57100.0000.00.000.00.057 to Assessors Sal/Wage – Perm Position, Unifund Account 101000.10.141.51100.0000.00.000.00.051.

Discussion:

Councilor Curcuru explained this transfer ties into a previous transfer the Council did for the Assessors Department. A vacation day was taken and so the calculations changed; and they need to correct it.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to transfer (#2011-SBT-14) \$116.00 from Assessors In-state travel, Unifund Account #101000.10.141.57100.0000.00.000.00.057 to Assessors Sal/Wage – Perm Position, Unifund Account 101000.10.141.51100.0000.00.000.00.051.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the full City Council to permit the Health Department to reapply for the Drug Free Communities Support Program for a total grant value of \$625,000 over a five year period.

Discussion:

Councilor Curcuru explained this is a federal grant, titled "Drug Free Communities Support Program" This is a reapplication of the grant which the City was unsuccessful in obtaining last year. There is a 100% match required. The match of \$125,000 is dollar-per-dollar per year; but it is made up of at least 80% by local volunteer residents, volunteer professionals from many local non-profits as well as School and City services (i.e., doctors, dentists, teens from the community based Youth Collaborative, community organizers, etc.). There is no match in dollars from the City at all. It is for five years.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to permit the Health Department to reapply for the Drug Free Communities Support Program for a total grant value of \$625,000 over a five year period.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the full City Council under M.G.L. Chapter 44, §53A to accept a tobacco control "mini-grant" from the Massachusetts Health Officers Association for a total of \$1,080.00.

Discussion:

Councilor Curcuru stated the Health Department is in receipt of a tobacco control mini-grant from the Massachusetts Health Officers Association for a total of \$1,080.00. These funds are to pay for their tobacco compliance officer to conduct retail inspections of all licensed tobacco vendors in Gloucester. There are no grant matching requirements for these funds. All mini-grant activities must be completed by April 30, 2011.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 8 in favor, 1 (Whynott) opposed to recommend to the full City Council under M.G.L. Chapter 44, §53A to accept a tobacco control “mini-grant” from the Massachusetts Health Officers Association for a total of \$1,080.00.

- **Planning & Development: March 2, 2011**

MOTION: On a motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to approve the Cape Ann YMCA in order to conduct the Backshore 5 Mile Road Race on Friday May 13, 2011 and that as deemed necessary at the discretion of the Gloucester Safety Officer assigned to the event and the Fire Chief or his designee as follows:

Road Closures: None Required.

Race Route with Schedule: As per schedule submitted and approved with this motion.

With the Following Conditions:

1. That a Certificate of Insurance, naming the City of Gloucester as an additionally insured party, be filed with the City Clerks Office no less than fourteen (14) days prior to the date of the race.
2. Signed memoranda from the Gloucester Police Department and the Gloucester Fire Department giving their approval of the plans for the race be on file with the City Clerks office 14 days in advance of the event;
3. That any substantial changes, as determined by the Chief of Police or his designee and the Fire Chief or his designee, to the route or related to safety issues come back to the Council for amendment and approval.
4. That the approved DPW application to use City Property (Good Harbor Beach Parking Lot) be on file with the City Clerks Office no less than fourteen (14) days prior to the date of the race.
5. The race organizers are to notify (in writing) the hotels, motels and catering halls on the Back Shore prior to the race.

Discussion: None.

MOTION: On a motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to approve the Cape Ann YMCA in order to conduct the Backshore 5 Mile Road Race on Friday May 13, 2011 and that as deemed necessary at the discretion of the Gloucester Safety Officer assigned to the event and the Fire Chief or his designee as follows:

Road Closures: None Required.

Race Route with Schedule: As per schedule submitted and approved with this motion.

With the Following Conditions:

- 1. That a Certificate of Insurance naming the City of Gloucester as an additionally insure party be filed with the City Clerks Office no less than fourteen (14) days prior to the date of the race.**
- 2. Signed memoranda from the Gloucester Police Department and the Gloucester Fire Department giving their approval of the plans for the race be on file with the City Clerks office 14 days in advance of the event;**
- 3. That any substantial changes, as determined by the Chief of Police or his designee and the Fire Chief or his designee, to the route or related to safety issues come back to the Council for amendment and approval;**
- 4. That the approved DPW application to use City Property (Good Harbor Beach Parking Lot) be on file with the City Clerks office no less than fourteen (14) days prior to the date of the race.**
- 5. The race organizers are to notify (in writing) the hotels, motels and catering halls on the Back Shore prior to the race.**

MOTION: On a motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to approve the Cape Ann YMCA in order to conduct the Fiesta 5K Road Race, Thursday, June 23, 2011 and that as deemed necessary at the discretion of the Gloucester Safety Officer assigned to the event and the Fire Chief or his designee as follows:

Road Closures: None Required.

Race Route with Schedule: As per schedule submitted and approved with this motion.

With the Following Conditions:

1. That a Certificate of Insurance, naming the City of Gloucester as an additionally insured party be filed with the City Clerks Office no less than fourteen (14) days prior to the date of the race.
2. Signed memoranda from the Gloucester Police Department and the Gloucester Fire Department giving their approval of the plans for the race be on file with the City Clerks office 14 days in advance of the event;
3. That any substantial changes, as determined by the Chief of Police or his designee and the Fire Chief or his designee, to the route or related to safety issues come back to the Council for amendment and approval.

Discussion:

Councilor Ciolino noted this is a well organized annual race.

MOTION: On a motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to approve the Cape Ann YMCA in order to conduct the Fiesta 5K

Road Race, Thursday, June 23, 2011 and that as deemed necessary at the discretion of the Gloucester Safety Officer assigned to the event and the Fire Chief or his designee as follows:

Road Closures: None Required.

Race Route with Schedule: As per schedule submitted and approved with this motion.

With the Following Conditions:

- 1. That a Certificate of Insurance, naming the City of Gloucester as an additionally insured party, be filed with the City Clerks Office no less than fourteen (14) days prior to the date of the race.**
- 2. Signed memoranda from the Gloucester Police Department and the Gloucester Fire Department giving their approval of the plans for the race be on file with the City Clerks office 14 days in advance of the event;**
- 3. That any substantial changes, as determined by the Chief of Police or his designee and the Fire Chief or his designee, to the route or related to safety issues come back to the Council for amendment and approval.**

MOTION: On a motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to approve the Cape Ann YMCA in order to conduct the Around Cape Ann 25K Road Race on Monday, September 5, 2011 and that as deemed necessary at the discretion of the Gloucester Safety Officer assigned to the event and the Fire Chief or his designee as follows:

Road Closures: None Required.

Race Route with Schedule: As per schedule submitted and approved with this motion.

With the Following Conditions:

1. That a Certificate of Insurance, naming the City of Gloucester as an additionally insured party, be filed with the City Clerks Office no less than fourteen (14) days prior to the date of the race.
2. Signed memoranda from the Gloucester Police Department and the Gloucester Fire Department giving their approval of the plans for the race be on file with the City Clerks office 14 days in advance of the event;
3. That any substantial changes, as determined by the Chief of Police or his designee and the Fire Chief or his designee, to the route or related to safety issues come back to the Council for amendment and approval.
4. That signage to be posted "Runner in the Road" on the morning of September 5, 2011 and be removed by 3:00 p.m. the same day.
5. That a letter to use Gloucester Public Schools property (O'Maley School) be on file with the City Clerks Office no less than fourteen (14) days prior to the date of the race.

Discussion:

Councilor Ciolino also noted this is also a well run race in place for some time.

MOTION: On a motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to approve the Cape Ann YMCA in order to conduct the Around Cape Ann 25K Road Race on Monday, September 5, 2011 and that as deemed necessary at the discretion of the Gloucester Safety Officer assigned to the event and the Fire Chief or his designee as follows:

Road Closures: None Required.

Race Route with Schedule: As per schedule submitted and approved with this motion.

With the Following Conditions:

- 1. That a Certificate of Insurance, naming the City of Gloucester as an additionally insured party, be filed with the City Clerks Office no less than fourteen (14) days prior to the date of the race.**
- 2. Signed memoranda from the Gloucester Police Department and the Gloucester Fire Department giving their approval of the plans for the race be on file with the City Clerks office 14 days in advance of the event;**
- 3. That any substantial changes, as determined by the Chief of Police or his designee and the Fire Chief or his designee, to the route or related to safety issues come back to the Council for amendment and approval.**
- 4. That signage to be posted “Runner in the Road” on the morning of September 5, 2011 and Be removed by 3:00 p.m. the same day.**
- 5. That a letter to use Gloucester Public Schools property (O’Maley School) be on file with the City Clerks Office no less than fourteen (14) days prior to the date of the race.**

MOTION: On a motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to approve the Cape Ann YMCA in order to conduct the Run the Goose 7K Road Race on Monday, September 5, 2011 and that as deemed necessary at the discretion of the Gloucester Safety Officer assigned to the event and the Fire Chief or his designee as follows:

Road Closures: None Required.

Race Route with Schedule: As per schedule submitted and approved with this motion.

With the Following Conditions:

- 1. That a Certificate of Insurance, naming the City of Gloucester as an additionally insured party, be filed with the City Clerks Office no less than fourteen (14) days prior to the date of the race.**
- 2. Signed memoranda from the Gloucester Police Department and the Gloucester Fire Department giving their approval of the plans for the race be on file with the City Clerks office 14 days in advance of the event;**
- 3. That any substantial changes, as determined by the Chief of Police or his designee and the Fire Chief or his designee, to the route or related to safety issues come back to the Council for amendment and approval.**
- 4. That signage to be posted “Runner in the Road” on the morning of September 5, 2011 and be**

removed by 3:00 p.m. the same day.

5. That a letter to use Gloucester Public Schools property (O'Maley School) be on file with the City Clerks Office no less than fourteen (14) days prior to the date of the race.

Discussion: None.

MOTION: On a motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to recommend to the City Council to approve the Cape Ann YMCA in order to conduct the Run the Goose 7K Road Race on Monday, September 5, 2011 and that as deemed necessary at the discretion of the Gloucester Safety Officer assigned to the event and the Fire Chief or his designee as follows:

Road Closures: None Required.

Race Route with Schedule: As per schedule submitted and approved with this motion.

With the Following Conditions:

1. That a Certificate of Insurance, naming the City of Gloucester as an additionally insured party, be filed with the City Clerks Office no less than fourteen (14) days prior to the date of the race.
2. Signed memoranda from the Gloucester Police Department and the Gloucester Fire Department giving their approval of the plans for the race be on file with the City Clerks office 14 days in advance of the event;
3. That any substantial changes, as determined by the Chief of Police or his designee and the Fire Chief or his designee, to the route or related to safety issues come back to the Council for amendment and approval.
4. That signage to be posted "Runner in the Road" on the morning of September 5, 2011 and Be removed by 3:00 p.m. the same day.
5. That a letter to use Gloucester Public Schools property (O'Maley School) be on file with the City Clerks Office no less than fourteen (14) days prior to the date of the race.

MOTION: On a motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to approve YuKan Sports LLC in order to conduct the Rockport 13.1 mile Road Race on August 14, 2011 for that portion of the race that travels onto Gloucester city streets and that as deemed necessary at the discretion of the Gloucester Safety Officer assigned to the event and the Fire Chief or his designee as follows:

Road Closures: None Required.

Race Route with Schedule: As per schedule submitted and approved with this motion.

With the Following Conditions:

1. That a Certificate of Insurance, naming the City of Gloucester as an additionally insured party, be

- filed with the City Clerks Office no less than fourteen (14) days prior to the date of the race.
2. Signed memoranda from the Gloucester Police Department and the Gloucester Fire Department giving their approval of the plans for the race be on file with the City Clerks office 14 days in advance of the event;
 3. That any substantial changes, as determined by the Chief of Police or his designee and the Fire Chief or his designee, to the route or related to safety issues come back to the Council for amendment and approval.
 4. That signage to be posted "Runner in the Road" or the like indicating the race route on the morning of August 14, 2011 be removed by 3 p.m. that same day.
 5. The organizers are to notify (in writing) the hotels and motels on the Back Shore prior to the race as well as function halls.

Discussion:

Councilor Ciolino stated this is a race organized by YuKan Sports LLC, an organizer of a series of races on the North Shore, one in April in the City.

MOTION: On a motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to approve YuKan Sports LLC in order to conduct the Rockport 13.1 mile Road Race on August 14, 2011 for that portion of the race that travels onto Gloucester city streets and that as deemed necessary at the discretion of the Gloucester Safety Officer assigned to the event and the Fire Chief or his designee as follows:

Road Closures: None Required.

Race Route with Schedule: As per schedule submitted and approved with this motion.

With the Following Conditions:

1. That a Certificate of Insurance, naming the City of Gloucester as an additionally insured party, be filed with the City Clerks Office no less than fourteen (14) days prior to the date of the race.
2. Signed memoranda from the Gloucester Police Department and the Gloucester Fire Department giving their approval of the plans for the race be on file with the City Clerks office 14 days in advance of the event;
3. That any substantial changes, as determined by the Chief of Police or his designee and the Fire Chief or his designee, to the route or related to safety issues come back to the Council for amendment and approval.
4. That signage to be posted "Runner in the Road" or the like indicating the race route on the morning of August 14, 2011 be removed by 3 p.m. that same day.
5. The organizers are to notify (in writing) the hotels and motels on the Back Shore prior to the race as well as function halls.

Public Hearings:**1. PH2010-118: SCP2010-016: New Way Lane #50, GZO Sec. 5.13 Personal Wireless Service Facilities (PWSF) (Cont'd from 01/25/11)**

This public hearing is open.

Speaking in favor:

Attorney Jacqueline Slaga, representing the applicant, T-Mobile of 50 Commerce Way, Norton, MA stated that they are seeking a special permit under GZO Sec. 5.13, Personal Wireless Service Facility (PWSF), and a variance 5.13.3.3(d) to exceed the height of the existing tower located at 50 New Way Lane, Map 221, Lot 46. The proposed installation calls for three antennas flush mounted to a pole extension on top of the tower. The entire installation would exceed the current height by 10 ft. The design of the proposed extension will be consistent to what is already on site. The existing carriers, as evidenced by the drawings and photos submitted with the application (on file) also has three flush mounted antennas at the top of the tower. Their design will be visually consistent to what is already there. They are also proposing to locate equipment cabinets at the base of the tower inside the existing 20' x 30' fenced compound that surrounds the facility currently. There is only one carrier on the pole now. There is more than sufficient room in the compound to accommodate T-Mobile's equipment and all of the cables that would connect their antennas to the ground equipment which will be located inside the tower. The property is in an R30 zoning district. While it is in a residential area, it is a remotely located site and surrounded by some dense woods. The added installation of the T-Mobile equipment will not add to the impact on the area as the site exists now. Because of that remoteness, it will not have a visual impact to the larger area. The need for the height extension is because the existing tower is only 68 ft. Also, because it is remotely located and because of the coverage objective T-Mobile is trying to achieve of the area's roadways, they have to clear the clutter (the trees) so their signal reaches the intended targeted coverage objective. She noted in their application package the inclusion of a radio frequency affidavit attesting to the need for the site; the gap it is intended to fill; as well as the site's compliance with all State, Federal and local guidelines relative to these facilities. The package also included detailed zoning drawings depicting how the proposed installation will work at that site. There were photos of the site and photographic simulations (all on file) showing what the site would look like upon completion of their installation. She noted this application was reviewed by the Planning & Development Committee on February 16th and was approved to move forward to the full Council. At the request of the P&D Committee, in working with City staff they obtained a Radio Frequency Analysis Report (RFR) done by Dr. Robert Weinstруп (on file). He did an analysis of the emissions of the site, factored in the proposed emissions of the T-Mobile installation and concluded even with the installation, the site would be well in compliance with radio frequency emission guidelines. Another question that came up at P&D by the Chair was whether or not conditions attached to prior approvals on this site previously were complied with. She had been working with the City Planner (Gregg Cademartori) on this and didn't know if she had a complete answer at this point. She did know some of the conditions had been complied with relative to fencing which is now mounted to the ground with no gaps. There is a lock at the gate. She knew the site complied with FCC regulations on signage; however she was unsure whether it complied with a condition that may have been imposed by the Council and would have to check; and it would be easily fixed if that were the case. She stated she would work with the City and the tower owner (not her client). Her client has a lease arrangement with the owner of the site. She noting having had this happen numerous times and has been able to work with tower owners to get those issues resolved. She knew the compound was cleared of trees and bushes as well as a large area surrounding the compound. She did not know for sure if this complied with a condition; but if more clearing was needed she would see it was complied with. Her client has approved the \$5,000 contribution at the conclusion of the permitting process. She noted all documentation included in the application covered all aspects of the GZO Sec. 5.13; and therefore asked the Council to approve their application.

Councilor Curcuru announced there appeared to be a conflict of interest (with the property owner) that had come to his attention. He recused himself from any further discussion and vote and left the dais.

Those speaking in opposition: None.

Communications:

Linda T. Lowe, City Clerk noted one communication in support from Glen Bresnahan of 514 Essex Avenue (on file) which she read to the Council in favor of the application.

Questions:

Councilor Hardy inquired as to whether or not the property owner, identified in the application as Mr. Pasquale Barletta, had signed off on the most recent application being put forward.

Councilor Tobey pointed out that there was a copy of the lease agreement between the property owner and the applicant in the file that was signed in 2002 and after review Councilor Hardy agreed that the lease was appropriate notice of the application before the council.

Attorney Slaga answering a query by **Councilor Theken** stated the site complies with FCC signage rules. Her understanding that signage was supposed to be on all four fronts of the fencing and that she would see it is done. Further she will be sure to see all conditions will be complied with from the prior application.

This public hearing is closed.

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant the Special Council Permit (SCP2010-016) under Gloucester Zoning Ordinance Sec. 5.13, Map 222, Lot 46, Zoning Classification R30, for antennas, side mounted Personal Wireless Service Facility (PWSF) located at New Way Lane #50 with the following FINDINGS AND CONDITIONS:

1. In accordance with the Gloucester Zoning Ordinance, Sec. 5.13.5(h), the RFR filing required by Sec. 5.13.5.4 (f) has been met;
2. That the applicant, T-Mobile Northeast LLC, a wholly-owned subsidiary of T-Mobile USA, Inc., has met the requirements of the Zoning Ordinance Sec. 1.8.3, and the proposed use will be in harmony with the general purpose and intent of the ordinance;
3. The applicant is allowed to meet the requirements of Sec. 5.13.12.1 by contributing \$5,000 to the Gloucester Fire Department for training purposes.

Discussion:

Councilor Ciolino stated that SCP2010-016 was filed in the City Clerks office October 28, 2010 under Sec. 5.13, PSWF; for collocations of antennas; applicant T-Mobile Northeast LLC, owner is Pasquale Barletta; location is 50 New Way Lane; Map 222, Lot 46, Zoning Classification R30. The \$350 fee was paid. The City Council received the application on November 9, 2010. It has been signed off by the Building Inspector on October 1, 2010 and the Planning Director on October 21, 2010. The application is signed by Attorney Jacqueline Slaga, 95 Indian Trail, Saunderstown, RI. The applicant has met the Zoning Requirements of Section 1.8.3 and the proposed use is in harmony with the general purpose and intent of the ordinance. He knew they read a letter about having another antenna in the town but also knew there were complaints about telephone service especially in West Gloucester. They have Dr. Weinstrup's report; and that with this antenna this will fill the gap with any holes.

Councilor Hardy asked if all the previous conditions are continued with this new antenna addition.

Councilor Ciolino stated, yes, it was his understanding.

Councilor Hardy added she would have the Building Inspector check on the signage and have him get in touch with Attorney Slaga to correct anything if necessary.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Curcuru) recused, to grant the Special Council Permit (SCP2010-016) under Gloucester Zoning Ordinance Sec. 5.13, Map 222, Lot 46, Zoning Classification R30, for antennas, side mounted Personal Wireless Service Facility (PWSF) located at New Way Lane #50 with the following FINDINGS AND CONDITIONS:

1. In accordance with the Gloucester Zoning Ordinance, Sec. 5.13.5(h), the RFR filing required by Sec. 5.13.5.4 (f) has been met;
2. That the applicant, T-Mobile Northeast LLC, a wholly-owned subsidiary of T-Mobile USA, Inc., has met the requirements of the Zoning Ordinance Sec. 1.8.3, and the proposed use will be in harmony with the general purpose and intent of the ordinance;
3. The applicant is allowed to meet the requirements of Sec. 5.13.12.1 by contributing \$5,000 to the Gloucester Fire Department for training purposes.

The Council recessed at 8:23 p.m.

Councilor Curcuru returned to the dais as the Council reconvened at 8:28 p.m.

2. PH2011-008: Approval of Stormwater Utility Regulations under City Charter Sec. 7-16(a) (b) and GCO Sec. 23(1) through (23) (6) "The Stormwater Utility Ordinance" in general and Sec. 23-4(c) "Stormwater Utility Service Fees"

This public hearing is open.

Those speaking in favor:

Councilor Hardy stated they would allow a certain amount of time to the Administration and would allow the same amount of time to those in opposition if there was a person representing their collective objections.

Jim Duggan, CAO stated that as a result of an ordinance passed in 2009 establishing a Stormwater Utility rules and regulations are to be established. With the help of O&A and B&F, he felt the rules before them are fair and equitable. He pointed out this is a whole new fee, a new way to provide a separate account which in the past had been historically through sewer enterprise fund. He introduced the Stormwater team of Michael Hale, DPW Director; Mike Wells, IT Director; Jeff Towne, CFO; Nancy Papows, Principal Assessor and himself. The team then reviewed a power point slide presentation (on file).

Michael Hale, Public Works Director spoke to regulations that govern stormwater management recounting the history of the Stormwater utility to reduce the negative impact of stormwater whether generated by a business, agency, city or town with best management practices. He reviewed the Phase II minimum control measures. The draft permit they're under now is the second iteration of this Phase II permit. It encourages green and low impact development. He noted the funding has been through the existing sewer utility. They were asked to develop a stormwater utility to cover operational and personnel expenses. All portions of the City would have this managed by the stormwater utility. He noted that the areas of the City that do not have a majority on City sewer still have stormwater runoff and catch basins. He reviewed definitions of stormwater, impervious surface, and impervious areas. (These definitions are contained in the proposed regulations and are on file.) He explained the ERU, or equivalent residential unit which is the representative average impervious area of single family residential property located in the City. This would be the basic measuring block. He noted the budget items included in the Stormwater utility fee of personnel (payroll and benefits; operational which includes permit compliance (including significant monitoring), materials, general maintenance, repairs, street sweeping, GIS data management and updates; capital. This budget will be presented each year during the City's budget process and voted on by the City Council.

Mike Wells, IT Director stated this will be billed under the utility billing module which will be a new service type added to existing accounts and create new accounts where needed. They will always bill to

the property owner. They expect about 3,000 new accounts. He made note of the Cost Allocation slide showing an area by parcel type of impervious area in the City. The largest piece is single family homes and the second largest is non-residential. The other graph on the same slide shows the amount charged to those categories and is similar. Therefore, if 60% of the run off is produced by single family homes then they would be charged 60% of the fee. The GIS system of mapping by computer now allows for this system of billing to be established. The Stormwater Fee calculation slide gave definitions for the calculations. He showed an example of an annual charge for a single family home which was based on a first year stormwater utility budget of \$800,000.

Those speaking in opposition:

Steven Malboeuf, 25 Overlook Drive gave the Council two handouts, one entitled CSO Debt Shift and another entitled Storm Water Fee (documentation received and on file) stated he represented himself and his neighbors of Overlook Avenue who know he is there representing their interest at the public hearing. He noted his document, "CSO Debt Shift" and then read to the Council the document entitled Storm Water Fee which questioned whether the fee was legal under MGL c.83, Sec. 16 and questioned whether it was a fee or a tax.

Joseph Grace, 75 Holly Street expressed this was a circumvention of Proposition 2-1/2 and doubted that this stormwater utility regulations would stand up in court. He believed there was a benefit only to some and not the whole City and urged the Councilors vote no.

Werner Paster, 29 Waterman Road believed that this may be good for an inner City area, in his neighborhood where it is a strictly private area and private roads, they pay for all their road work, plowing, etc. and are "being punished". He has a rainwater system that prevents run off to city streets. He felt there should be a program for exemptions for homes that are built that keep run off on the property and reimburse them for keeping it out of the City system.

Blake Gilson, 3 Becker Circle noted living behind Marshall's Farm stand and has run off down the hill over his property out across Concord Street. The City in the past said because the storm drain is on private property it will not touch the drain and he stated he would not get any help from the City with this issue. He has to hire a private company to deal with it. He also felt these fees were taxes.

Christine Rasmussen, 82 Woodward Avenue, a former City Councilor expressed this matter should not move forward until a lot of questions have been answered. She was concerned how public policy is made on something such as a fee charged to all property owners in the City. She noted they will be charged year after year without a cap without any understanding how the revenue is raised and used. What percentage of the money for complying with the permit, for instance for the new vector truck; and how would it be split between sewers and this proposed fee. She didn't believe this fee was legal under MGL c.83, Sec. 16. She asked could they cap it so that every year they would not be paying more. She wanted to know if the DPW budget was going to be reduced if the new fee was going to be enacted. She also asked how much it would cost to produce these bills the City would send out. She agreed that the two and three family homes are the same size but asked they look at the lot area. She believed there is no incentive to try to find ways to put in methods of reducing run off. She noted 3,000 residents on septic systems do not have opportunity to participate in the sewers. She stated work can't be done on private roads and not in private areas and asked how is this money was going to be used to benefit the people they're assessing the fee upon. She didn't feel they should consider this tonight. She urged they go out into the community; publicize it and educate the public and felt this needed to be thought through.

Philip Devlin, 7 Blossom Lane, former City Councilor noted the sewer and water rates will see a significant rate drop. They got to this point because of the CSO debt shift which has gone to a fee instead of paying down the debt and offering relief. West Gloucester has been particularly hard hit leaving them in "sewer limbo". This regulation, he asserted, needed an end date also. This stormwater utility would make a low priority in his area but a higher one to in-town areas. He disagreed with creating something new when this was supposed to be a debt shift and not to create a whole new utility. He would rather they pay the CSO off now than see the fee go up and put on the next generation.

Dorothy Martins, 23 Concord Street stated she was a retired school teacher and widow living on a modest income. She noted her last tax bill included the CSO debt to her real estate property taxes which

she paid, along with her bills, and now she will have a new item she will be billed for. She noted she has a septic system and that the City wouldn't pay if her system fails. She informed the Council she can't take on any new uncapped fees. She felt these new fees will make it prohibitive to stay in her home and asked the Council to reconsider this matter.

Communications:

Ms. Lowe read three communications all in opposition:

George Carter, 5 Megan's Way; Ann Jo Jackson, 21 Salt Island Road; Carol Martini and Jay Barry, 89R Wingersheek Road.

Questions:

Councilor Curcuru noted a question from the February 15th Special City Council meeting on the ordinance being legal and defensible.

Mr. Duggan answered it has been expressed by Legal it as fair, equitable and defensible.

Councilor Curcuru asked a series of questions related to the debt shift which he stated was a shift of the majority of the rate payers with a new fee for approximately 3,000 (from the sewer rate to a stormwater fee) who were not current sewer rate payers. Further, the ratepayers would be burdened by the cost if they don't do this.

Mr. Duggan confirmed the anticipated FY12 budget at \$800,000; these fees were generated in the sewer rate fee which historically was always done through the sewer enterprise fund. It is a shift. Further, he stated it would be approximately \$53 annual payment based on an \$800,000 budget.

Councilor Curcuru noted the budget will continue to rise as a federally mandating monitoring and **Mr. Duggan** added it would "fluctuate".

Mr. Towne stated the sewer budget is slightly over \$5 million and talking about little less than 10% on the rate, about \$1.60 per thousand gallons.

Councilor Ciolino noted the communication read by Ms. Lowe referred to modest homes on large acreage, and asked how the fee would affect them; how is that undeveloped acreage apportioned?

Nancy Papows, Principal Assessor explained the calculation is a median square footage impervious area. That fee is the same for all single family homes. They're charged one ERU whether it is 10 acres or a small lot downtown; they'd be charged the same.

Councilor Ciolino asked where the example of the calculation had come from.

Mr. Hale explained in developing the rules and regulations the team looked at a number of existing regulations in municipalities in and out of state. The regulations before them are based upon a 15-20 year regulation in place in a community in Florida. There wasn't a standard formula. They looked at successful examples and then fit it to their needs.

Councilor Tobey noted the enactment of the stormwater ordinance establishes a stormwater fee to pay the costs of stormwater management and the CSO abatement program. This was a conversation began in 2008 as to how to pay for CSO's which was put onto sewer rates and escalated. On one hand it was providing relief to the sewer system and taking stormwater away from the sewer plant. He expressed confusion how they could know what this would pay for. He wanted to know the thought process that the Administration would go through to develop the budget and what did they anticipate the budget would do to capture a CSO abatement program taking the cost of that program off in part of the 3,000 homes not on the sewer system. What is the Administration going to do in a process and the substance of what it will pay for?

Mr. Duggan responded that the Mayor recognized the inequity on the property taxes. He stated the Administration would commit to during the budget review process, examine shifting some of that debt over to, if this passes tonight, to a newly established stormwater fee, not a dollar or percentage point, but will examine and shift some of that debt off of property taxes.

Councilor Tobey stated if they vote for it and establish the framework they can be confident that some of the debt shift will be undone and moved onto the fee

Mr. Hale stated he submitted a draft budget for both utilities (water and sewer) plus his general account. When this is passed, he will have to develop a third utility with a budget of approximately \$800,000 and put in a stormwater utility fund. When the process began he noted he a percentage of DPW employees

for that particular division would have dedicated over the course of the year their benefits; the ordinary costs of equipment, tools, etc. They have an operating budget from the sewer fund to the utility. The Phase II permitting has a higher degree of monitoring and so he would have to increase his budget by \$100,000 to pay for the sewer or stormwater fund because he is required to commit to that higher level of monitoring. He can see things creeping onto the \$800,000. There are capital costs that will be shared by each utility and some will be used for the third utility.

Councilor Tobey asked would there be a more expansive approach to the stormwater management or will they still continue with concentrating on the inner city. He also thought that the regulatory requirements do look at streets across which stormwater runs as a conveyance.

Mr. Hale didn't think they concentrated on the downtown. They can't just be neighborly and do work on private property. They do a significant amount of stormwater work in outlying areas with the downtown having hard pipes are located there. Properties still discharge some form of water, no matter the conditions that exist. They all contribute to stormwater in some way. They have dry and wet weather monitoring requirements which haven't had much change but will require more enhancements under the 3rd iteration of the permit. If private property sheds into a brook that makes it way to a public way it becomes their problem. Stormwater is considered the most polluting of all the utilities.

Councilor Tobey felt one day they'll be told by federal regulators to put treatment at the end of the CSO pipes.

Mr. Hale noted the information the state and federal government is requesting on an annual basis is a sign they're looking to do more agreeing it is leading to treatment at the point of discharge.

Councilor Tobey asked Mr. Malboeuf about legal issues surrounding the debt shift; was he contending the CSO debt shift wasn't legal.

Mr. Malboeuf stated MGL c. 59, section 21C (n) was read to the Council, regarding additional taxes may be assessed on only "residential real property". He felt that businesses were then being taxed inappropriately.

In response to **Councilor Tobey**, **Mr. Towne** stated the DOR did approve the debt shift. The DOR is the responsible party to be sure the taxes they raise are appropriate. DOR information guideline #93-207 was quoted by him regarding raising all property taxes or just the residential. On inquiry from **Councilor Mulcahey**, he stated that \$53 fee in total is the estimated annual cost if the budget is \$800,000, but they would bill quarterly.

Councilor Theken stated they're talking about the stormwater fees and CSO debt was now a part of the conversation. Stormwater is part of the whole City. She believed everyone was willing to pay an equal amount. She admitted it is confusing. The CSO project is on the taxes. People asked for a stormwater fee. They agreed to give everyone a break by doing a one time shift. The next Council did vote on the shift and expected the stormwater fee, whether they have sewer and water or not and do it for themselves. This is to subdivide the DPW personnel's costs and to maintain the stormwater drains. It will be divided across the whole city to all homeowners. She then asked about non-profits.

Ms. Papows replied the non-profits could be liable for this fee. City of Gloucester owned properties are exempted. There are 129 non-profit properties that are tax exempt. They're not paying for the debt shift as they don't pay property taxes. They're talking 250-260 tax exempt for property taxes. They are billed for sewer and water however.

Mr. Malboeuf stated what is wrong is the way the fee was established noted that MGL c. 83, Sec. 16 and read from his document entitled, "Storm Water Fee" under "Why this motion is invalid" that under this chapter and section because it applies only to "every person who enters his particular sewer therein." It is not the same share that he as a business person at 32 Maplewood Avenue enters into the sewer versus his home in West Gloucester. He believed he should pay one rate at his place of business and a small rate at his home. He understood why the Administration moved away from this. But he contended that the MGL chapter this was voted under (MGL c.83 Sec. 16) does not authorize a fee for unsewered property. Rather, it should have been under c. 83, Section 14 which allows for proportionate charges to properties remotely beneficial. He is not opposed to a stormwater fee. He wanted all to be treated fairly but in proportion.

Councilor Whynott stated a fee is something that you can choose to use or not use; a tax is the opposite of that; and gave the example equating if he doesn't own a car he doesn't pay excise tax.

Mr. Duggan noted City Solicitor, Suzanne Egan who was not in attendance that evening (and a member of the Stormwater team) that in his conversation with her had been told this is not a tax. The fee is related to the service being provided. They believe they are providing a service mandated by the State. The fee covers the cost of the collection and treatment of stormwater.

Mr. Hale responded they're treating residences same as businesses. They did the average for a single family home to gain the rate of an ERU. They will calculate all the non-residential imperviousness and relate that to an ERU. If it is 10 times the size of a residence, the non-residential will pay 10 times the size of a single family home. The non-residentials will have a fee that is an actual. One, two and three family homes takes into account the roof area, parking, impervious walks or outbuildings; they are all very similar. They couldn't separate them any further. Non-residential will be calculated per lot through the GIS mapping system.

Councilor Verga asked about incentives for people who handle their own run off, have a green roof, or are working to reduce run off and was there a mechanism in place to give them the ability to give those homeowners or businesses an abatement.

Mr. Hale stated they didn't do that because they are difficult to measure. You may have a rain barrel or a green roof. Who would go out to assess what you're mitigating; and they don't have a group that can do that but thought it something they can revisit noting the Phase II permit wants them to look at it. A new subdivision could have a calculation to do that. Non-residential could reduce their impervious area by taking out a parking lot or taking out a building; they would revisit the calculation every several years. They'll be updating the non-residentials on a certain time period.

Councilor Verga asked that if someone comes to them with their improvements he hoped they'd look at it and not just say no and that it was something they could look into. He also asked about private roads; how do they make an effort to look at them. Some effort should be taken to take ownership of the drains. Also, if someone has no stormwater drain where does their come in.

Mr. Hale stated they have established protocols for accepting a roadway and with that there is an accepting of the utilities. Older subdivisions don't have maintenance on their stormwater systems. There is a long connection of how stormwater impacts and is received downstream. It is difficult to measure.

Councilor Verga agreed but if someone has no stormwater drain where does their fee come in. Further, improved properties convey stormwater off their properties. It doesn't just sit on a property. The stormwater regulations state it clearly. Sheeting off a road is no different in a pipe.

Councilor Verga was not comfortable moving ahead without those answers.

Councilor McGeary asked if the City's stormwater ordinance had been challenged in court.

Mr. Hale stated he was not aware of a challenge.

Councilor Curcuru asked if they're going to adopt this how quickly were they looking to get this done and asked for a 'drop-dead' date from the team.

Mr. Hale stated from an implementation standpoint they've put Unifund (to do billing) on notice. They need time to make sure data is functioning. They have a tight budget schedule.

Mr. Towne stated Unifund has to build a code; then they have to send it back to the City to create the FY12 stormwater fund, enter the accounts, and run data to test it to see that it will produce the results they anticipate. If the Council decides to change this in April it is in jeopardy to get it in for July 1 to get it for the first billing in August of 2011 and added the cost of the billing is all part of the operation budget.

Councilor Tobey commented Unifund would expedite it they were told to do so. He contended there has been no lawsuit yet because no one has been aggrieved as they've yet to be billed. They could then sue. It has been suggested previously c. 83 Sec. 16 to authorize the fee wasn't the right way and noted General Counsel has said she is not concerned about c. 83, Sec. 16. He believed the proper section of c. 83 was Section 14. That is not the statutory basis for the ordinance and wished to ask General Counsel if the City Council amended the ordinance to use MGL c. 83 sec. 14 would that regulation withstand a legal challenge.

Mr. Hale stated the team was willing to put in the time; but it has to be something the majority can agree on. He didn't want to have a revenue deficit next year.

Councilor Tobey asked is it legal as it should be.

In response to Councilor Tobey's question **Mr. Hale** stated it would be tight to make their July 1st deadline but it is better to wait to not get into a situation where a brand new fund falls short.

Councilor Tobey and **Councilor Hardy** discussed how the Council could move forward on the regulations while also needing to have a question answered about amending the ordinance to include c. 83, Sec. 14 from General Counsel. They spoke of a consideration that has to be made as to the formula. Also, **several members of the Council** expressed their concern that General Counsel was not present to address their needs on legal inquiries.

Councilor Hardy also noted she had submitted questions for legal counsel regarding c. 83, Sec. 14 and legal definition of fee. She felt this was the fairest formula brought forward. She also heard this is all for the benefit of people in the downtown. She noted the DPW coming out to the far reaches in Ward 4.

Councilor Hardy discussed with **Mr. Hale** the assessing of fees to individuals on private ways as it related to the cleaning of drains on private roads if they re being assessed a fee which was noted by **Mr. Hale** as being a more complex issue, that stormwater is discharged not only to public ways and properties but private properties as well. She asked the will of the Council whether they wanted to continue the public hearing or vote.

Councilor Whyntott thought they could continue the hearing.

There was a discussion amongst the Council as to the timing and process with the continuance of the public hearing, combined with the need for answers from General Counsel as to how they would proceed.

Mr. Duggan expressed concern on the timing and how they would move the budget forward, reiterating their trying to present fair and equitable rules and regulations already established by the ordinance. In all their combined meetings the timing was to establish this for July 1st.

With regard to the timing, **Councilor Theken** asked what would happen if they don't meet the deadline where would it go.

Mr. Hale stated it would remain in the sewer enterprise fund for the draft budget for FY12.

Mr. Wells added that Unifund indicated that they could first deliver (for billing) in 6 weeks. If they order mid-April and the software package would come in the beginning of June and reminded the Council June is when they prepare the tax bills and would put them in a difficult position.

Mr. Duggan, on inquiry from Councilor Tobey stated the FY12 budget would be presented on May 4th.

Councilor Tobey, stating he wanted to the vote on the matter given the commitments that have been made and the progress achieved; however, once he knew it was completely legal and defensible; that General Counsel says they don't need c.83, sec. 14, then the Council can resume on March 22nd and the team can move forward. Meanwhile, they'll have two versions with these costs covered by the sewer rate to the extent of the \$800,000 with the CSO on the tax rate; and another with some on the CSO debt and some on the tax rate.

Mr. Towne responded the operational portion stays in the sewer. They could do the two versions.

However, he noted the technical difficulties in doing so, but they could do it. What they would lose is the cost to do the Unifund software changes if they had them start on a plan that then doesn't get enacted.

MOTION: On motion by Councilor Tobey, seconded by Councilor Hardy, the City Council voted 9 in favor, 0 opposed to continue the public hearing to the March 22, 2011 City Council meeting and that at its March 14, 2011 meeting the Ordinances & Administration Committee to receive advice from General Counsel on the need to amend the Stormwater ordinance so that it relies additionally on c. 83 section 14 of the General Laws.

Councilor Theken noted the O&A Meeting is Monday March 14, 2011 at 6:30 p.m. in Kyrourz Auditorium and would the matter of the Stormwater ordinance so that it relies additionally on c. 83 section 14 of the General Laws would be taken up at that meeting.

The Council requested to receive a written opinion from General Counsel in advance of the O&A meeting.

Unfinished Business: None.

Individual Councilor's Discussion Including Reports by Appointed Councilors to Committees: None.

Councilors' Requests to the Mayor:

Councilor Whynott thanked the DPW for the sign up at 198 Concord Street and attending to the trash barrel at the of the Good Harbor Beach bridge.

Councilor Verga requested through the DPW Director to check out the corner of Lexington and Flume as there is a missing stop sign there and noted a Council Order submitted by him today to have that corner looked at for additional signage. He thanked everyone who attended his ward meeting the previous evening where they took up the matter of wind turbines.

Councilor Mulcahey noted the need for paving on Middle and Perkins Street and Fort Square.

Councilor Curcuru stated on March 17th at next B&F meeting they will take up the wind turbine grant.

Councilor Theken thanked the stormwater team over the long process as well as Councilor Curcuru as well. She noted with the snow melt the pot holes are appearing. She asked if there was a schedule to fill them; that they're getting worse as the snow melts. She also wanted to know how they can deal with the dog waste on the Boulevard and urged dog owners to clean up after their dogs.

Councilor Hardy read a note from Rose LoPiccolo, Recycling Coordinator regarding Christmas Tree Pick up (see City web site).

A motion was made, seconded and voted unanimously to adjourn the meeting at 10:46 p.m.

Respectfully submitted,

**Dana C. Jorgensson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **From Steven Malboeuf, 25 Overlook Drive two documents: "Storm Water Fee", a two page document; and "CSO Debt Shift", a one page document**
- **DOR Information Guideline #93-207**