

GLOUCESTER CITY COUNCIL MEETING

Tuesday, April 12, 2011

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

Council Meeting – 2011-007

-Minutes-

Present: President, Councilor Jacqueline Hardy; Vice President, Councilor Sefatia Theken; Councilor Bruce Tobey; Councilor Robert Whynott; Councilor Paul McGeary; Councilor Greg Verga

Absent: Councilor Ciolino; Councilor Curcuru; Councilor Mulcahey

Also Present: Linda T. Lowe; Mayor Carolyn Kirk; Jim Duggan; Kenny Costa; Jeff Towne; Suzanne Egan

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

Flag Salute and Moment of Silence.

Oral Communications:

Steven Malboeuf, 25 Overlook Avenue stated he had an issue with oral communications noting he had no response from the Administration on questions he had asked at the last Council meeting of March 22, 2011.

Councilor Hardy instructed the Clerk of Committees to contact the Mayor's office regarding the matter.

Presentations: 2 of 2

1 of 2: Ruthanne (Rufus) Collinson – Poet Laureate

Councilor Hardy introduced Ruthanne (Rufus) Collinson and gave a history of Ms. Collinson's life and work as a poet and writer.

Ruthanne (Rufus) Collinson – Poet Laureate: Noting she grew up in West Gloucester, she wrote her first poem at eight years old, called, "The Optimist." Had she ever heard of Poet Laureate when she was a child, she would have aspired to it then. She touched upon her work in the schools and various opportunities for poetry events upcoming in the next several months as well as an Arts Council event which would include a combination of arts and poetry. She expressed she is very busy because "Gloucester is poetry." She then read the poem she wrote for the Celebrate Gloucester event called "Celebrate Gloucester" to the Council encapsulating the spirit, sights, sounds and heart of the City.

Councilor Hardy thanked Ms. Collinson for her reading and invited her to bring another poem to the Council in the fall.

2 of 2: Judith Hoglander – Gloucester Committee for the Arts

Judith Hoglander of the Gloucester Committee for the Arts informed the Council she is with the Committee for the Arts and had Dale Brown, treasurer from the Committee with her. She noted the importance of the City Hall murals and that many of their Committee was in the audience this evening. They're attempting to put some paintings in safe positions in City Hall but needed the information this condition report provided. They applied and received a National Endowment for Humanities grant through a Preservation Assistance Grant to the City of Gloucester Committee for the Arts of \$2,500.

Dale Brown, 37 Beacon Street touched upon some of the highlights of a report entitled, "Conservator's Examination of Murals at Gloucester City Hall" in which a conservator, Peter Williams of Museum Services reviewed each of the murals in City Hall, prioritized those most in need of conservation treatment, giving an explanation of flaws that are correctable and uncorrectable and an estimate of what the cost of conservation work might be in the future (report on file). He did physical examinations and

tests. She then gave a brief power point presentation also entitled Stewardship of City Owned Art. That report gave them a baseline. The Committee does education outreach to assist in the protection and preservation of these assets through lectures, as an example. They open City Hall during the Trails and Sails event and give lectures. She remarked on the wall notes telling about the murals, and paintings, and some of the history of the building. The cost estimates will help them to move forward in pricing out preservation work. Then they're hoping this will lead to their applying for grants to enable them to do the further preservation work necessary. She reviewed a brief history of some of the murals noting some of the prominent artists who painted them. She also reviewed some of the photographs in order to point out the condition of the murals and what would be the results from cleaning them. A few of the murals are not in public areas, but in offices such as the City Solicitor and the Mayor's office, and they would have to do the work in a way so as not to disrupt the employees. The report concluded with detailed recommendations on each mural that all of the murals in Gloucester City Hall are "in good stable condition" with the exception of three (that are in place). She indicated all murals are in need of cleaning and can be safely undertaken with the exception of one. The total estimate of doing all the report suggested needed doing is \$109,000. They are now starting to look for grants and are doing grant writing. **Councilor Tobey** thanked the Committee for focusing on the murals and on the assessment, stating there is no finer way to celebrate these pieces of art than to preserve them. He recalled for 11 years of his time as City Solicitor and Mayor of viewing the 'education' mural and remembering when children and grandchildren would come in and point out their relatives. He mentioned that the murals in the Mayor's Office and the City Solicitor's office were found rolled up under the Kyrouz Auditorium's stage along with some others. Expressing these pieces of art as priceless; he hoped they don't lose sight of that and are worth preserving. He urged them to talk to the Community Preservation Committee (CPC). He also urged the public to come in and see how privileged they are to own these pieces of art as a community. **Councilor McGeary** reflected that these were works of another difficult time, the great Depression, of the WPA who was criticized for a wasting of money on such projects. These murals, he felt, express the idealism and thoughtfulness of their era; and they would do well to preserve the physical paintings and spirit; and urged Ms. Hoglander and Ms. Brown to seek the assistance of the CPC. **Councilor Whynott** recalled as City Clerk how he found a rip in one of the paintings when he first came aboard and went about seeing it repaired. He felt the murals were treasures. **Ms. Hoglander** added that because of Councilor Tobey some of the murals were taken out from under the stage and can now be considered for preservation; but there are more under the stage (in Kyrouz Auditorium). Some are in better condition than others but are pretty bad. She requested that until they are absolutely ready to make an official assessment that no one take them out from under the stage again as they will lose more. Two other murals in the O'Maley School had some condition issues but had not been included in this report. **Councilor Hardy** thanked Ms. Hoglander and Ms. Dale Brown for their presentation. She also thanked Councilor Tobey for going through the building when he was Mayor with the goal of restoration and preservation stating he had made a great contribution to the City with his "keen eye".

Confirmation of New Appointments:

Councilor Hardy noted **Councilors Theken** and **Tobey** had assented to appointments to the Fisheries Commission. She appreciated the Councilors for accepting the offer.

MOTION: On motion by Councilor Hardy, seconded by Councilor Tobey, the City Council voted 6 in favor, 0 opposed to appoint Councilor Sefatia Theken and Councilor Bruce Tobey to the Fisheries Commission, TTE 02/14/14.

Councilor Theken stated the O&A Committee questioned the appointees 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. She made note of the new system before the Council that all reappointees need only come before O&A and not appear before the Council, but that all new appointees must come before both O&A and the Council.

Councilor Tobey noted they had as of tonight appointed four members to the Fisheries Commission, and that four other members who have been given 90 day temporary appointments and will come before the Council soon and asked the Clerk's office coordinate a first meeting of the Fisheries Commission so they could all get to work. Councilor Theken responded the Mayor had already begun that process.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to appoint Capt. Joseph Orlando to the Fisheries Commission, TTE 02/14/14.

MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted 6 in favor, 0 opposed to appoint Capt. Joseph Orlando to the Fisheries Commission, TTE 02/14/14.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to appoint Mark W. Ring to the Fisheries Commission, TTE 02/14/14.

Mark Ring, 3 Prospect Street, a fisherman of 35 years expressed he was looking forward to attending the Fisheries Commission meetings.

Councilor Hardy thanked him for stepping forward.

MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted 6 in favor, 0 opposed to appoint Mark W. Ring to the Fisheries Commission, TTE 02/14/14.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to appoint Leonard A. Gyllenhaal to the Zoning Board of Appeals as an Alternate, TTE 02/14/14.

Mr. Gyllenhaal, 30 Rockport Road introduced himself as a summer resident for 43 years but a full time resident for two years. He noted people are coming back to Gloucester and restoring their homes. Prior to coming to Gloucester he was a chair of his town's Zoning Board in Pennsylvania; and recounted he had appeared before the Zoning Board five years ago in Gloucester and made a presentation. One of the members of the Board at that time commented when he came back to live full time would he please write a manual for those coming forward before that Board, which he will now undertake.

MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted 6 in favor, 0 opposed to appoint Leonard A. Gyllenhaal to the Zoning Board of Appeals as an Alternate, TTE 02/14/14.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to appoint Helen C.P. Farr to the Conservation Commission, TTE 02/14/13.

Helen Farr, 433 Essex Avenue expressed she is in coastal management and has great knowledge of wetlands law having worked for 23 years at the federal and State level on coastal management and looked forward to participating on the Conservation Commission.

MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted 6 in favor, 0 opposed to appoint Helen C.P. Farr to the Conservation Commission, TTE 02/14/13.

Councilor Hardy noted that **Councilors Curcuru** and **Ciolino** were away on vacation and that **Councilor Mulcahey** was recovering at home from day surgery and was also not in attendance. She also announced that the public hearing on a rezoning matter for 77 Langsford Street would be continued to the next regularly scheduled City Council meeting of April 26th.

Executive Session: Pending litigation concerning Charter School re: Peter Dolan et al and City of Gloucester Gloucester, Plaintiffs v. Mitchell D. Chester, et al Defendants.

Councilor Hardy stated in order for the City Council to go into executive session, the Council must adhere to strict Massachusetts Open Meeting Law in order to do so. "As Council President I declare that the April 12, 2011 meeting of the City Council has been duly posted and has been called to order. We are now in open session, and there is a quorum present. Before the Council can vote to go into Executive Session, the purpose of said Executive Session must be stated for the record:

I declare the purpose of the Executive Session is to discuss litigation strategy in a legal matter; and to discuss this in an open meeting may have a detrimental effect on the litigating position of the City. I further declare that it is the intent of the City Council to reconvene back into open session and to continue with the balance of our agenda after the Executive Session. Motions to go into Executive Session are by roll call vote and require a majority vote of the City Council. Therefore, I will entertain a motion: That as in accordance with the MGL c.30A, §21 as amended that the plaintiff City Council, its staff, the Mayor, and the plaintiff attorneys if present go into Executive Session to discuss legal strategy with respect to Charter School litigation regarding the Dolan et. al. v. Chester et. al. litigation."

MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the City Council BY ROLL CALL voted 6 in favor, 0 opposed to call the City Council (plaintiff), City Council staff, and Mayor Carolyn Kirk enter into Executive Session (in accordance with MGL Chapter 39, sec. 23B, sub-section 3) to discuss litigation strategy with respect to Charter School litigation regarding the Dolan et. al. v. Chester et. al.

Councilor Hardy announced, "I hereby announce that the roll call vote is 6 in favor, 0 opposed. We shall now convene into Executive Session and will reconvene to continue the balance of our agenda."

The City Council recessed from open session at 7:42 p.m.

By unanimous consent, the City Council voted to reconvene to open session at 8:22 p.m. in Kyrouz Auditorium.

Councilor Hardy stated that no other motions were entertained during the Executive Session other than to adjourn during Executive Session.

Consent Agenda:

- **CONFIRMATION OF REAPPOINTMENTS**

Open Space Committee	TTE 02/14/14	Susan Hedman
Lorre Anderson	TTE 02/14/14	Tourism Commission
- **MAYOR'S REPORT**

1. Memorandum from DPW Director re: City Council approval to reprogram a portion of CIP06 CSO Surface Improvements In the amount of \$750,000 to be used in the 2011 spring resurfacing program (Refer B&F)
 2. Memorandum from Community Development Director re: City Council acceptance of a Green Community Grant Award in the Amount of \$198,200 (Refer B&F)
 3. Memorandum from Community Development Director re: City Council acceptance of a Seaport Advisory Council Grant for an OAWRS study in the amount of \$200,000 (Refer B&F)
 4. Memorandum from Grants Administrator re: Program year 2011 CDBG & HOME grants – City Council acceptance of the Anticipated CDGB grant in the amount of \$805,289 and \$5,000 of Program Income and anticipated allocation of the HOME Grant in the amount of \$138,848 (Refer B&F)
 5. Special Budgetary Transfer Request (#2011-SBT-16) from Treasurer and Auditor Departments (Refer B&F)
 6. Special Budgetary Transfer Request (#2011-SBT-17 and 2011-SBT-18) from City Clerk’s Office (Refer B&F)
 7. Special Budgetary Transfer Request (#2011-SBT-19) from Assessors Office (Refer B&F)
 8. Special Budgetary Transfer Request (#2011-SBT-20) from Treasurer’s Office (Refer B&F)
 9. Special Budgetary Transfer Request (#2011-SBT-21) from Treasurer’s Office (Refer B&F)
 10. Special Budgetary Transfer Request (#2011-SBT-22) from Treasurer’s Office (Refer B&F)
 11. Memorandum from Community Development Director re: proposed amendment to GCO Sec. 12, Art. II “Wetlands” (Refer B&F)
 12. New Appointments: Fisheries Commission (TTE 02/14/14) Angela Sanfilippo, Accursio Sanfilippo, Al Cottone, Francesco Paolo Vitale (Refer O&A)
 - Historic District Commission (TTE 02/14/14) Stephen Miller – Alternate (Refer O&A)
- **COMMUNICATIONS/INVITATIONS**
 1. Request for use of Kent Circle for ADA’s 2011 Tour de Cure May 22, 2011 (Refer P&D)
 2. Request from American Diabetes Association re: Tour de Cure May 22, 2011 (Refer P&D)
 - **COUNCILORS ORDERS**
 1. CC2011-015 (Mulcahey) Amend GCO Sec. 22-293 “Bus Stops & Taxi Stands” re: Railroad Avenue (Refer TC & O&A)
 2. CC2011-016 (Mulcahey) Amend GCO Sec. 22-292 “Fire Lanes” re: Munsey Lane (Refer TC & O&A)
 3. CC2011-017 (Mulcahey) Amend GCO Sec. 22-287 “Disabled veteran, handicapped parking” re: Perkins Street #25 (Refer TC & O&A)
 4. CC2011-017 (Mulcahey) Amend GCO Sec. 22-287 “Disabled veteran, handicapped parking” re: Mt. Vernon Street #39 (Refer TC & O&A)
 - **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
 1. City Council Meeting 03/22/11 (Approve/File)
 2. Special City Council Meeting 04/11/11 (under separate cover) (Approve/File)
 3. Standing Committee Meetings: O&A 04/04/11, P&D 04/06/11, B&F 03/31/11, 04/07/11 (under separate cover) (Approve/File)
 - B&F 04/11/11 (under separate cover), (Approve/File)

Items to be Added/Deleted from Consent Agenda:

Councilor McGeary wished to remove Item #3 under the Approval of Minutes for the B&F meeting of 04/07/11 and to remove Item #3 under the Approval of Minutes for the B&F meeting of 04/11/11. He asked that the Council allow for the correction of the 04/07/11 minutes to show that he, not Councilor Ciolino was in attendance at the B&F meeting and that no one was absent from the Committee. By unanimous consent the Council allowed for the said stated corrections to the 04/07/11 meeting minutes of the B&F Committee. He also explained that the minutes of the Special B&F meeting were not completed in time for this meeting, and that they would be presented in the April 26th meeting of the Council.

By unanimous consent both items were approved.

By unanimous consent the Consent Agenda was accepted as amended.

Standing Committee Reports:

Ordinances & Administration: April 4, 2011

Councilor Theken stated there were no action items to come forward for the Council at this time.

Planning & Development: April 6, 2011

Councilor McGeary noted the St. Anthony’s Lane Acceptance as a Public Way public hearing may not officially happen until May 10th. Entertained a motion by Councilor Whynott and seconded by Councilor McGeary to have a public hearing on the matter of St. Anthony’s Lane.

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend to the City Council that the City of Gloucester, pursuant to Massachusetts General Law Chapter 79, for the purpose of laying out a public way upon a showing that it is for common convenience and necessity take in the name of the City of Gloucester a permanent easement in St. Anthony's Lane from beginning at the intersection of Grapevine Road up to and including the way which runs in front of Assessors Map 83, lots 113 and 55, as shown on the Street Acceptance Plan dated March 16, 2011 prepared by Jay Jarosz, PLS, 3 Mill Street, Manchester, MA. The easement shall extend along the full width of the private way and within the traveled way except for the portions of the way abutting lots shown on Assessor's Map 83, lots 55 and 107, where the retaining wall encroaches into the way. Further, that the easements shall be taken at the following described property locations against all who have an interest in said property as registered in land court and as shown on Gloucester Assessor's Map and as indicated and attached hereto:

Robert and Clarke Victorine, 2 Ocean View Drive, Map 76, Lot 102
Dana and Virginia Cohen, 1 Ocean View Drive, Map 76, Lot 103
Rosalie Militello, 2 St. Anthony's Lane, Map 83, Lot 56
Antonio and Geraldine Parisi, 6 St. Anthony's Lane, Map 83, Lot 117
Accursio and Laurie Sanfilippo, 14 St. Anthony's Lane, Map 83, Lot 108
Maryjane and John Carollo, 18 St. Anthony's Lane, Map 83, Lot 107
Rosemarie and Calogero Larocca, 22 St. Anthony's Lane, Map 83, Lot 55
Robert and Ethel Weeks, 28 St. Anthony's Lane, Map 83, Lot 113
Robert and Barbara Trenti, 32 St. Anthony's Lane, Map 83, Lot 114
Rolf and Cynthia Franke-Otten, 34 St. Anthony's Lane, Map 83, Lot 115
Andrew and Pamela Orlando, 36 St. Anthony's Lane, Map 83, Lot 116
Richard Fowler, 7 St. Anthony's Lane, Map 83, Lot 62
Marnoto, Armando and Filippena, 5 St. Anthony's Lane, Map 83, Lot 60
Joan Chatfield, 3 St. Anthony's Lane, Map 83, Lot 59
Mary Ciaramitaro, 1 St. Anthony's Lane, Map 83, Lot 57

Discussion:

Councilor Whynott related there were two motions by the P&D Committee regarding accepting St. Anthony's Lane as public way and that the process appeared as incomplete as only one motion for the acceptance of the way as a public way was advertised for public hearing but the following motion was not and wished the Council to do so at this time.

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the City Council voted 6 in favor, 0 opposed, that the City of Gloucester, pursuant to Massachusetts General Law Chapter 79, for the purpose of laying out a public way upon a showing that it is for common convenience and necessity take in the name of the City of Gloucester a permanent easement in St. Anthony's Lane from beginning at the intersection of Grapevine Road up to and including the way which runs in front of Assessors Map 83, lots 113 and 55, as shown on the Street Acceptance Plan dated March 16, 2011 prepared by Jay Jarosz, PLS, 3 Mill Street, Manchester, MA. The easement shall extend along the full width of the private way and within the traveled way except for the portions of the way abutting lots shown on Assessor's Map 83, lots 55 and 107, where the retaining wall encroaches into the way. Further, that the easements shall be taken at the following described property locations against all who have an interest in said property as registered in land court and as shown on Gloucester Assessor's Map and as indicated and attached hereto:

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Richard Fowler, 7 St. Anthony's Lane, Map 83, Lot 62
Marnoto, Armando and Filippena, 5 St. Anthony's Lane, Map 83, Lot 60
Joan Chatfield, 3 St. Anthony's Lane, Map 83, Lot 59
Mary Ciaramitaro, 1 St. Anthony's Lane, Map 83, Lot 57, AND FURTHER TO ADVERTISE FOR PUBLIC HEARING

Councilor McGeary noted although the public hearing is scheduled for the City Council meeting of April 26, 2011, and was informed by way of information the public hearing has been scheduled to be advertised for May 10th and all eminent domain documents must be completed for the May 10th hearing.

Budget & Finance: March 31, 2011, April 7, 2011 and April 11, 2011

- **March 31, 2011**

Councilor McGeary related there were no motions to come forward from the March 31st meeting of B&F for Council action.

- **April 7, 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 the transfer (2011-SBT-15) of \$25,800.00 (Twenty-Five Thousand Eight Hundred Dollars) from Water Additional Equipment, Unifund Account #610000.10.450.58500.0000.00.000.00.058 to Water Contract Services, Unifund Account #610000.10.450.52000.0000.00.000.00.052.

Discussion:

Councilor McGeary explained this transfer is required because it was for the Essex Avenue sewer project, and when they spec'd the contract, they left out money for a survey to have an as-built plan, so that in the future if they had to repair it they would have the plan. This is transferring funds from operating to capital to fund the creation of that plan for the City records.

MOTION: On motion by Councilor McGeary, seconded by Councilor Theken, the City Council voted **BY ROLL CALL 6** in favor, 0 opposed to transfer (2011-SBT-15) of \$25,800.00 (Twenty-Five Thousand Eight Hundred Dollars) from Water Additional Equipment, Unifund Account #610000.10.450.58500.0000.00.000.00.058 to Water Contract Services, Unifund Account #610000.10.450.52000.0000.00.000.00.052

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 waive the \$5.00 "Daily User Fee" at the Dun Fudgin Public Boat Ramp on Saturday, May 21, 2011 for those recreational boat owners who successfully complete the U.S. Coast Guard Auxiliary Recreational Motorboat Safety Inspection at that location on that day only.

Discussion:

Councilor McGeary noted this was proposed by the Harbormaster. By waiving the fee it gives incentive to people to have the Coast Guard Auxiliary Inspection of their recreational boats. This is a fairly rigid inspection and helps to ensure the safety on our waterways. Councilor Hardy added the Harbormaster also offered that the Dun Fudgin boat ramp would remain available to other boat owners that day.

MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the City Council voted BY ROLL CALL 6 in favor, 0 opposed to waive the \$5.00 “Daily User Fee” at the Dun Fudgin Public Boat Ramp on Saturday, May 21, 2011 for those recreational boat owners who successfully complete the U.S. Coast Guard Auxiliary Recreational Motorboat Safety Inspection at that location on that day only.

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 under M.G.L. c. 44, §53A, a donation of \$2,000.00 from Robert Elwell to the Archives Department for the purpose of documents preservation with a stipulation that said \$2,000.00 be spent in this fiscal year.

Discussion:

Councilor McGeary noted the Archives Department is asking the Council to approve the receipt of the donation which would be used towards their on-going task of document preservation to be placed in an account to be drawn off as needed. It was stipulated placed was that this money spent during this current fiscal year so that it doesn't carry over into a new year and fall to the General Fund. They can encumber the money if it is not spent in this fiscal year.

MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the City Council voted BY ROLL CALL 6 in favor, 0 opposed to accept under M.G.L. c. 44, §53A, a donation of \$2,000.00 from Robert Elwell to the Archives Department for the purpose of documents preservation with a stipulation that said \$2,000.00 be spent in this fiscal year.

- **April 11, 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 \$90,000.00 (Ninety Thousand Dollars) be appropriated from the General Fund Unreserved Fund Balance (“Free Cash”) and transferred to the Personnel Department budget line item “Personnel, Early Separation Incentive Program” Unifund Account #101000.10.152.57800.0000.00.000.00.057 for FY2011.

Discussion:

Councilor McGeary explained this matter is the Administration's effort to offer incentives for City workers to retire early (Early Retirement Incentive or ERI). There was much discussion about what conditions they would retire under. Each person who accepts it would receive a \$9,000 separation bonus. They would not be eligible for unemployment compensation. They would have to apply for their retirement at the time of their separation from the City.

Councilor Tobey noted at that meeting he had asked the Administration for information on how many hires or promotions had been made on the City side of the budget on the General Fund revenues as of January 1, 2011.

Mr. Duggan stated the research showed five full-time employees on the General Fund, four seasonal employees and four part-time or shared funding employees all hired since January 1st.

Councilor Tobey pointed out in a layoff scenario people hired most recently are last in and first to go.

Mr. Duggan stated they're through different unions and may not be accurate.

Councilor Tobey would oppose this tonight. He felt while a well-intended initiative by the Administration, by their own admission is a piecemeal solution to a bigger issue. The Administration shared last night the gap between revenues to be expected for the fiscal year beginning July 1st and expenses leave a gap of \$3.6 million feeling that the process should begin now. He expressed it was unfortunate they've been hiring since Jan. 1st when it was clear this wasn't going to be a good fiscal year. While it didn't make sense to the Administration to start a layoff program in a piecemeal manner now, he didn't think it made sense to try to begin cutting back with a piecemeal early retirement that is not targeted strategically to positions they may wish to see taken away. It is not, also, a program with a promise from the Administration that people who retire won't be replaced. If they're replaced in part or in whole, there is no assurance of a financial benefit to the City in FY12 from this program. Absent that promise that they could not make or would not make last night they shouldn't support it, feeling that would be the only reason to do it. Without that promise that the Administration would not or could make, he did not feel it made sense to support this. While well intentioned, he believed it was not a good use of funds, and urged his colleagues to vote no.

Councilor Whynott agreed with Councilor Tobey recalling this happened twice and it turned out lot of people who took the early retirement had to be replaced, regardless; and not at less money leading him to be concerned about this proposal. He asked were they sure they are giving this to people who were to be laid off anyway or was it being offered generally to anyone as he felt this only works to prevent a layoff so that so that a person doesn't apply for and collect unemployment insurance for an extended period of time. The \$9,000, he pointed out, would be less expensive. If people are going to take this and put departments in a position where they have to hire again anyway and wondered had this been thought out.

Mr. Duggan replied one of the messages he gave at B&F was that it is a "moving target". Any potential layoffs to City employees is the "last ditch scenario" they want to do. They still don't have firm confirmation of the local aid cuts, any concessions on health insurance, and how many people are going to take advantage of this incentive program. The unemployment insurance period is 30 weeks only; there are no further extensions, as had been in the last few years. On May 10th the Administration will provide the Council with a balanced budget with confirmation from those numbers he outlined and try to deliver City services. They are exercising as many scenarios they can. They were hoping this would stimulate people to leave the City's employ voluntarily. He couldn't promise, as Councilor Tobey indicated about not filling [positions]. If revenues come back at some point, he would not put them in a corner and say they're not going to refill/reevaluate job descriptions of these positions again either. By way of example, [the] Public Facilities Manager's position was in place for a long time (as an open position) and because of budget cuts wasn't filled in the School Department. They reevaluated that position when the maintenance function of the schools merged with the City and filled that position after January 1st. This, he felt, was a good example of reinstating a position after January 1st which they needed to do. **Councilor Whynott** continued by asking what happens if five employees from the DPW opt for this, and there are not enough people to do the work; they'd have to hire again right away.

Mr. Duggan responded if this creates too much of a strain on one particular department they could look at filling those positions again; but would work with the department head to assess the situation. He couldn't say right now if they will or won't but will look at the impact the retirees have on a specific department.

Councilor Theken asked last evening how this would affect pensions and was told in the long run it would save the City money.

Jeff Towne, CFO stated this will not hurt the pension system; these employees are eligible to retire and it will affect a slight savings because as people have more years of service and age, they get more out of the system every year, a fixed amount and increases based on COLA's (cost of living). If people retire earlier, it saves the City a per monthly cost for the duration of their retirement and doesn't affect the City's unfunded retirement liability but help it in the long run. Four employees are confirmed as of April 12th as taking the ERI; they were hoping for 10. **Councilor Theken** touched upon why only four employees had taken the City up on the program with **Mr. Towne** and asked if the City is looking at layoffs if they don't get 10 employees to take the ERI or look at someplace else.

Mr. Duggan repeated they have to look at the impact of the State aid cuts as well as health insurance numbers. And then they will be looking at layoffs. **Councilor Theken** reiterated there is no guarantee if they get 10 there won't be layoffs, which **Mr. Duggan** confirmed. **Mr. Towne** hoped for the State aid numbers the following day and expressed they will have a better understanding of their stance by Friday and then can start making decisions about what's next.

Councilor Verga thought there was too much in play at this time. While those four workers have taken this officially, it seemed to him as inevitable there will be layoffs and believed this program was not worth doing. Since they are unable to target where these layoffs come from, which he believed to be right since they are unable to tell employees who has to leave, they may have to backfill positions regardless. He felt if they had some of this information now than at the end of the week it would have been easier to make a decision; he couldn't support this now.

Councilor McGeary stated of the 9 people who were new hires, five full time, four part time, four seasonal employees, all on the general fund; it is 13 total which **Mr. Duggan** confirmed. He asked beside the Facilities Manager, were any of these new positions or were they filling positions that had been vacated. **Mr. Duggan** confirmed they're all filling [of vacated positions]. **Councilor McGeary** continued that among the four people signed up for the ERI, how many would have to be replaced on a full- or part-time basis. **Mr. Duggan** stated with one position there is discussions with the Personnel Director of filling that position from within, which is a shift of existing workforce for one of the four positions retiring through this program. The other three positions being vacated would be eliminated.

Councilor McGeary then expressed his support and thought it was saving the City money in unemployment compensation and was a start. He pointed out layoffs were an almost last effort not the last effort. They have set aside in the stabilization fund for a rainy day and should consider using it.

Councilor Tobey noted where they are is because over the last several years while tough management decisions have been made, like the communities and states around the country, they used one-time money to fill holes to maintain. If they spend free cash to do the same in FY12 it is putting off the inevitable for FY13. The budget is 55% personnel costs, the other 45% is debt service and pension contributions which they can't cut because the law won't let them. City workers are the only area they can turn to which has to be faced.

Councilor Theken stated a person who retires can come back. **Mr. Towne** explained a person can come back part time, working a maximum of 960 hours a year. There is also an earnings formula. **Councilor Theken** wondered if 10 go, for the \$90,000 what they are buying.

Mr. Duggan stated this situation is changing every day when meeting with each department. He reiterated that they will not fill in a part-time capacity the position they're speaking of. There could be some potential shifting of personnel within the City instead to fill that position. **Mr. Towne** noted they heard what the Councilor said last evening and spoke to that department head today and reconsidered to make it happen to have that person there at a lower rate of pay. What they get by offering an ERI, for every person that takes it, the unemployment cost is saved. If the unemployment cost maxes out at \$21,000, they have to layoff 1.8 people, or rather 2 people in actual for every one person they want to save in the budget. This helps by paying \$9,000 out, and they don't have to lay off two people in order to get one person to leave to maximize savings. He admitted they're lower than last year. Service will be reduced; they will lose workers in the City as there is nothing left in the operating budget. All they have left is personal, ordinary and capital. He heard and understood what they were saying that there are all these variables, which is not their fault. He thought the ERI a good and appropriate step. Twenty-five people went the last time, with the restoration of five positions in a 12 month period because they couldn't manage any other way. They won't have the same volume of numbers this year because they won't have the same volume of people as they added back two paramedics, a police officer and two non-"big three" department positions because they needed them. They also had to replace one person in Purchasing which is a two person department. One person retired so the replacement had to be done as the department can't operate with just one person. The other was the Facilities. He thought this was a necessary part of that step.

Councilor Hardy noted the \$90,000 they're proposing to take out of free cash doesn't cover all of it, which **Mr. Towne** confirmed; to which she posed how much additional money would be needed and would they be using the lag money in the salary accounts in addition. **Mr. Towne** responded that other benefits are vacation/sick leave and that account has \$49,157. He won't know if that is adequate until after the Friday deadline and would assess on a case-by-case basis.

Councilor Hardy then asked in the next budget was there any proposals of reorganization or reclassification to give current employees raises in pay or added benefits. **Mr. Duggan** responded, "Yes". Submitted and referred out to O&A and B&F is an amendment to the Personnel Ordinance for the DPW which he guaranteed would be incorporated into the FY12 budget. **Councilor Hardy** followed up by asking if that included reclassifying all people City-wide in pay grade M8 to M9. **Mr. Duggan** informed the Councilor it did not. He stated if it fell within the DPW amendment to the Personnel Ordinance, he was not aware of it and added, "no". **Councilor Hardy** reviewed that there was no proposal for the budget going forward or in FY11 for M8's to be changed to an M9. **Mr. Duggan** again reiterated they would submit a balanced budget on May 10th and that budget submitted to the Council will not include a reclassification. **Councilor Hardy** continued did the current budget hold monies that would substantiate making M8's to M9's clarifying how to explain to her constituents the City is laying off some people but potentially offering others raises and what that justification was. **Mr. Duggan** stated if they're speaking specifically about the personnel amendment for the DPW it will be articulated in O&A and B&F on the reclassification of the job responsibilities for that department. Nothing will be submitted as part of the budget [regarding M8's to M9's]. **Councilor Hardy** asked about the current budget since they're proposing laying people off in the current budget year or offering it. **Mr. Duggan** responded the Council will not get anything in this fiscal year. **Councilor Hardy** believed the Administration learned recently that before when they offered the ERI they hadn't come before the Council to get the appropriation for the monies to create the new line item to do so and now know to do that. **Mr. Duggan** noted they followed past practice; but the new City Auditor pointed out the necessity of an appropriation. **Councilor Hardy** didn't want the public to come away with the thought that the City Council is the "bad guy" if they don't pass this as it may fail this evening. She felt badly the Administration and the Council is in this position. **Mr. Duggan** noted one of the questions the Councilor asked last evening, was what was Plan B, which he stated would be layoffs if this doesn't pass. **Councilor Hardy** also noted the last time there were layoffs two years ago there was a \$10,000 buyout. **Mr. Duggan** added there were no layoffs, and they used ERI as a tool to present a balanced budget then. The Councilor noted at the time they didn't believe someone would collect unemployment. **Mr. Duggan** acknowledged it did happen in one instance but they have corrected it this time.

Councilor Hardy inquired what the difference in language was that made it more correct this time. **Suzanne Egan**, General Counsel stated this time the program is geared to the fact employees have to file an Intent to Retire. The situation the Councilor referred to was that particular person did not retire. This program specifically has an Intent to Retire thereby differentiating it from the last program. That must be submitted to the Personnel Department. It is a statement of intent that they are doing this voluntarily. That person didn't retire and they weren't required to sign an Intent to Retire document. **Councilor Hardy** stated it was a voluntary separation from employment. **Attorney Egan** noted in the previous situation the person left with the impression their position would be eliminated and was given an opportunity to take the retirement incentive with that knowledge. However, she personally wasn't involved with it and didn't wish to speak to it. She reiterated they have learned from that situation and are offering a retirement program where it is clear they must file the intent so they would not be eligible for unemployment.

Councilor McGeary clarified in raising the issue of the stabilization fund he was not talking about depleting it but to use it for its purpose, to see the City through a rainy day and that, "It is raining;" and this is what people do when they save money, to tide them over. He was suggesting they just use a portion of the fund to help get them through hard times. It is not a complete solution. They need to do other things, specifically to look at the revenue side of things. He felt binding them to a 2.5% increase when medical costs are going up 15% a year or more is very difficult; and suggested they, at some time,

look at an override, not just a debt exclusion, an actual operating expense override. In the meantime, he suggested that the rainy day fund was appropriate. It is about just having a good fiscal balance sheet, and while lauding the Administrations efforts to put the balance sheet in order; he concluded these are difficult times and requires difficult choices.

Councilor Tobey noted Mr. Duggan had stated earlier that if they do not pass this, Plan B is layoffs. He stated factually there will be layoffs in this scenario. At the B&F meeting he attended last evening, on the issue of the M8's to M9's (M=Management) that Councilor Hardy touched upon, the Administration's position which he read from his verbatim notes, "The Administration will be submitting that proposal to amend the Personnel Ordinance. Some of the M8's to M9's, with the team (that was a select group of the Administration) holding its implementation in abeyance until it feels the time is right. "We don't want to lose these people."" He believed something had changed or there was a need for an explanation.

Linda T. Lowe, City Clerk clarified at the request of **Councilor McGeary** concerning the requirements for an appropriation vote that under the Charter §2-5(b) states, "...The affirmative vote of the majority of the full council shall be necessary to adopt any appropriation order." She also clarified for him under the Charter §10-9(e) the "the full Council" means all nine members

MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the City Council voted BY ROLL CALL 3 in favor, 3 (Tobey, Verga, Hardy) opposed that \$90,000.00 (Ninety Thousand Dollars) be appropriated from the General Fund Unreserved Fund Balance ("Free Cash") and transferred to and transferred to the Personnel Department budget line item "Personnel, Early Separation Incentive Program" Unifund Account #101000.10.152.57800.0000.00.000.00.057 for FY2011.

MOTION FAILS.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted 3 in favor, 3 (Tobey, Verga, Hardy) opposed to RECONSIDER the vote that \$90,000.00 (Ninety Thousand Dollars) be appropriated from the General Fund Unreserved Fund Balance ("Free Cash") and transferred to and transferred to the Personnel Department budget line item "Personnel, Early Separation Incentive Program" Unifund Account #101000.10.152.57800.0000.00.000.00.057 for FY2011.

MOTION FAILS.

Public Hearings:

1. PH2011-009: 2011-001 Application to amend Gloucester Zoning Ordinance Sec. VI Definitions; Sec. 2.2.3 Mixed Uses; Sec. 3.2.1 footnote (g); Appendix to Section 3-2 re: 77 Langsford Street

Ms. Lowe explained this matter is to be continued until April 26, 2011 upon agreement of the applicant and their attorney.

This public hearing was opened and continued to April 26, 2011

2. PH-2011-014 re: Amend GCO §22-287 "Disabled Veteran, Handicapped Parking" re: Summit Street #4, one handicapped parking space

This public hearing is open.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

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 Amend GCO Sec. 22-287 (Disabled Veteran, Handicapped Parking) by ADDING one (1) handicapped parking space at 4 Summit Street.

Discussion:

Councilor Theken recounted that the Traffic Commission was in favor of the ordinance amendment.

Councilor Verga stepped way from the dais at 9:18.

MOTION: On motion by Councilor Theken, seconded by Councilor Hardy, the City Council voted BY ROLL CALL 5 in favor, 0 opposed to Amend GCO Sec. 22-287 (Disabled Veteran, Handicapped Parking) by ADDING one (1) handicapped parking space at 4 Summit Street.

Councilor Verga returned to the dais 9:20.

3. **PH2011-015: Petition to City Council under City Charter §9-1(b) concerning the enactment of an “Anti-Shuffling” traffic ordinance, §22-220(c) on November 23, 2010**

Those speaking in favor:

Shelly Gossom, 11 Ferry Street believed the Council had good intentions when it passed the “Anti-Shuffling” ordinance, but also felt was flawed. Two hours are not enough for some services at hair and nail salons or to shop and eat at a downtown restaurant. She claimed business owners were not aware the Council was planning this ordinance and were never notified. She believed a compromise of three hours would help the issues she felt the ordinance created yet still targeting people who park all day on Main Street that the ordinance appeared to be created for. She pointed out that the 10 hour meters on Rogers Streets are taken up seasonally by tourists going out on charter boats limiting the downtown experience for others. She noted some downtown businesses believe two hours is enough time due to the kind of business they conduct, citing book, jewelry stores and shoe stores but that many other businesses feel two hours isn't enough. The additional hour would be, she believed, a good compromise.

Councilor Hardy noting this was not a public hearing stated the Council would not be hearing opposing viewpoints.

Councilor Tobey appreciated the three hour proposal as a middle ground; stating when the process started there were two parts; one that fell away, getting rid of the parking meters all together; and having free parking but for a limited period. **Ms. Gossom** believed she had recommended that at one time.

Councilor Tobey noted the proposal was for free parking for a limited period, say, three hours which **Ms. Gossom** thought if it were free it would open it up to persons who have businesses there. If meters were limited to three hours, it would help her business. She had an elderly client who got tickets when coming to her for services which were creating a burden for her client.

Councilor Verga asked for unanimous consent to suspend the rules of the Council to allow anyone to speak in opposition. **By unanimous consent the Council suspended their rules of procedure.**

Those speaking in opposition:

Mark Adrian Farber, 28 Salt Island Road a retailer of many years on Main Street. He expressed there are those downtown businesses that are in favor of keeping things as is and felt while this petition is well intended, it was misguided. Changing the metered time to three hours would allow residents of the downtown, employers and employees, the opportunity to park legally for 1/3 of the business day, noting it will not gain anything except fewer spaces for everyone. He cited the Voorhees report from the late 1970's which recommended shorter term parking with meters for higher-demand spaces limited to one

hour. It included the Rogers Street parking limited to one hour but not to employees with no place to park; which the City extended to 10 hours on Rogers Street and the nearby lots. Each day he passes many of spaces on Rogers Street that are close to the salon that is asking for longer meter time on Main Street and pointed out handicapped spaces are on Main Street that patrons can avail themselves to them. Recalibrating the meters would cost a great deal of money to the City. The reports recommended the meters be no longer than one hour, although they're now two hours; and many retailers believe it should be kept that way.

Communications: None.

Councilor Hardy announced that completed the presentation at this time.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the matter of the Petition to City Council under City Charter §9-1(b) concerning the enactment of an “Anti-Shuffling” traffic ordinance, §22-220(c) on November 23, 2010 was referred back to the O&A Committee for further review.

Councilor Theken explained this matter was in front of her Committee for almost for a year. Noting that no person is notified personally of matters to come before them, notification was on the City's website and meetings were duly posted and all was on file in the City Clerk's office. They asked retailers to come; invited the Chamber of Commerce to their meetings. While this matter had been before O&A for some time and voted on by the Council, they will hear it one more time. They had, in their deliberations, received a great deal of information on the matter which she recounted for the Council. Further, she would not allow her Committee to come forward with names of parking disputes, or to put this forward as a personal agenda as the Councilors are there to serve the City.

[NOTE: At this time the Council voted unanimous consent to call Public Hearing #7 forward and then return to the order of public hearings starting with again with Public Hearings #4 and #5.]

4. **PH2011-016:** Amend GCO Sec. 22-270 (Parking Prohibited at All Times) be amended By ADDING Magnolia Avenue from under the train bridge to its intersection with Essex Avenue both sides
5. **PH2011-017:** Amend GCO Sec. 22-291 (Tow Away Zone) by ADDING “Magnolia Avenue from under the Train bridge to its intersection with Essex Avenue both sides

These public hearings are open.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Questions: None

These public hearings are closed.

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 Amend GCO Sec. 22-270 (Parking Prohibited at all Times) by ADDING “Magnolia Avenue from under the train bridge to its intersection with Essex Avenue, both sides.

Discussion:

Councilor Theken explained this is from the Little River, that corner of Magnolia Avenue. People are leaving their trailers on the narrow street in winter with the plowing; and it was causing traffic difficulties. The Traffic Commission agreed, and suggested a tow zone for enforcement.

MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 6 in favor, 0 opposed to Amend GCO Sec. 22-270 (Parking Prohibited at all

Times) by ADDING “Magnolia Avenue from under the train bridge to its intersection with Essex Avenue, both sides.

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 Amend GCO to Amend Sec. 22-291 (Tow Zone) by ADDING “Magnolia Avenue from under the train bridge to its intersection with Essex Avenue, both sides.

Discussion: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 6 in favor, 0 opposed to Amend GCO to Amend Sec. 22-291 (Tow Zone) by ADDING “Magnolia Avenue from under the train bridge to its intersection with Essex Avenue, both sides.

6. PH2011-018: Amend GCO Chapter 9 “Trash, Recycling and Litter”

This public hearing is open.

Those speaking in favor:

Rose LoPiccolo, Recycling Coordinator for the City stated their ordinance needed updating with no references the PAYT and to make this easier to enforce the ordinance.

Those speaking in opposition: None.

Communications: None.

Questions:

Councilor McGeary asked what kinds of plastics may not be recycled; which **Ms. LoPiccolo** explained were rigid plastics such as five gallon water jugs, and plastic totes. Hiltz has a facility where they can be recycled. These are not accepted for roadside pick up. The rule of thumb is food and beverage containers. Styrofoam is not acceptable, not even at the recycling center.

Councilor Theken asked about the flyers on what can and cannot be recycled. **Ms. LoPiccolo** identified the information as being on the City web site and any place that sells the PAYT bags.

This public hearing is closed.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Chapter 9 Trash Recycling and Litter as follows:

Amend Sec. 9-1 “Definitions” by ADDING new definitions as follows (alphabetically):

“Bulk Item Sticker”: Sticker required for curbside bulky item pick up.”

“Bulk Item”: Furniture predominantly non-metallic, weighing over 50 pounds not fitting into official PAYT bag”.

“Household”: The single residential unit within a single or multi-family dwelling.

“Municipal Collection Program”: The program that collects solid waste and recyclable materials including yard waste, white goods (Freon and non-freon bearing), all televisions and all computer displays from all eligible residents, all mixed use buildings, all municipal facilities or locations and City Schools.”

“PAYT (Pay as You Throw) Program”: is the City of Gloucester Pay as You Throw trash collection program whereby residential trash must be contained in an official PAYT trash bag or bear a bulky item sticker”.

“Residential Unit or Dwelling”: A dwelling within the corporate limits of the city occupied by a person or group of persons and comprised of not more than four (4) units.”

“Solid Waste”: Household trash generated within the home and bulky items such as furniture, not including recyclable material, construction materials, or hazardous waste material or construction and demolition materials from remodeling”.

AND AMEND SECTION 9-1 AS FOLLOWS:

- AMEND §9-1 “Definitions” by ADDING at the definition of “Plastic Containers”, after the words “HDPE High Density Polyethylene”, the words “plastic #1 through #7”.

- AMEND §9-1 “Definitions” by DELETING the definition of “Recyclables” and ADDING “Recyclables shall mean glass containers, plastics #1 through #7, “junk mail”, newspapers, clean corrugated cardboard, and tin/steel containers.”
- AMEND §9-2 “Trash/Recycling containers” by DELETING entire section and by ADDING as follows:

“All households who are eligible for the Municipal Collection Program are required to place solid waste in official PAYT (Pay as You Throw) bags, either in or out of barrels. Any bag and/or barrel weighing more than fifty (50) pounds will not be picked up by the contractor who holds a permit for the collection of trash from the Board of Health. Any owner of a building with five (5) or more residential units, any business, non-profit, and any private or charter school shall provide private trash collection. Official Gloucester PAYT bags, either in or out of a barrel shall be placed at the curb not later than 7 a.m. on the day of collection.”

Discussion: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 6 in favor, 0 opposed to Amend GCO Chapter 9 Trash Recycling and Litter as follows:

Amend Sec. 9-1 “Definitions” by ADDING new definitions as follows (alphabetically):

“Bulk Item Sticker”: Sticker required for curbside bulky item pick up.”

“Bulk Item”: Furniture predominantly non-metallic, weighing over 50 pounds not fitting into official PAYT bag”.

“Household”: The single residential unit within a single or multi-family dwelling.

“Municipal Collection Program”: The program that collects solid waste and recyclable materials including yard waste, white goods (Freon and non-freon bearing), all televisions and all computer displays from all eligible residents, all mixed use buildings, all municipal facilities or locations and City Schools.”

“PAYT (Pay as You Throw) Program”: is the City of Gloucester Pay as You Throw trash collection program whereby residential trash must be contained in an official PAYT trash bag or bear a bulky item sticker”.

“Residential Unit or Dwelling”: A dwelling within the corporate limits of the city occupied by a person or group of persons and comprised of not more than four (4) units.”

“Solid Waste”: Household trash generated within the home and bulky items such as furniture, not including recyclable material, construction materials, or hazardous waste material or construction and demolition materials from remodeling”.

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- AMEND §9-2 “Trash/Recycling containers” by DELETING entire section and by ADDING as follows:

“All households who are eligible for the Municipal Collection Program are required to place solid waste in official PAYT (Pay as You Throw) bags, either in or out of barrels. Any bag and/or barrel weighing more than fifty (50) pounds will not be picked up by the contractor who holds a permit for the collection of trash from the Board of Health. Any owner of a building with five (5) or more residential units, any business, non-profit, and any private or charter school shall provide private trash collection. Official Gloucester PAYT bags, either in or out of a barrel shall be placed at the curb not later than 7 a.m. on the day of collection.”

Ms. LoPiccolo promoted a collaborative “Celebrate and Be Celebrated” Earth Day event, a clean up at Stage Fort Park Saturday, April 23rd from 9 am - 12 noon (see City website) and expressed it was hoped the community would not just participate there, but in their own neighborhoods as well. The City is providing bags and trash pick up. After the event the Cape Ann Brewery on Rogers Street will host a thank you concert event from 6 p.m. to 8 p.m. that same day. She encouraged everyone to participate. **Councilor McGeary** noted the street cleaning has begun and the schedule is posted on the DPW site, and **Councilor Hardy** explained in Lanesville they’re hoping to do a clean up event at Lanes Cove also with a date to be announced. **Councilor Theken** noted that teens needing community service hours this would be an ideal opportunity. **Ms. LoPiccolo** stated she would sign their paperwork to confirm their participation.

7. PH2011-019: Amend GCO c. 23 “Utilities” §23-1 to 23-6 “Stormwater”

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition:

Steven Malboeuf, 25 Overlook Avenue was concerned that this answers possibly one legal question around the ordinance of its construction itself. He saw from the O&A minutes President Hardy asked a number of legitimate questions around the ordinance, such as fee vs. tax; discussion of private roads and how the ordinance applied to those roads. Councilor Hardy asked at the close of that meeting for a legal opinion on those questions. He had not seen that written answers to her questions. His concerns were they were amending this ordinance with still many questions unanswered backed with legal definition with citations. He was not opposed to the change but was neutral because of lack of knowledge.

Councilor Hardy stated they reached out to the DOR for some answers as well.

Attorney Egan expressed she did provide the Council an opinion and did cite cases and analyzed the statute differences between c. 83, sections 14 and 16; and after that discussion was when the Council decided to amend the ordinance to include c.83, sec. 14 et seq which brings back the authority for the ordinance to the entire chapter and sections contained within c. 83. The Councilors did have it at their last meeting.

Councilor Hardy inquired through the City Auditor’s office questions that were forwarded to the DOR, Bureau of Municipal Finance and received an email response from Chris Hinchey, Tax Counsel and read his email response dated March 17, 2011 regarding the definition of “fee” which expressed while the Bureau of Municipal Finance regarding the definition of “fee”. She then read a follow up response to another question sent forward to Mr. Hinchey via email, dated March 23, 2011 regarding the validity of the setting of the allocation of fees by ratepayers (emails on file).

This public hearing is closed.

Councilor Tobey expressed there appeared no harm would be done in broadening the statutory basis from a single section of c. 83 to its entirety; and pointed out this may not be as urgent as had been previously believed because it may be the fee would not go forward in FY12. **Mr. Duggan** stated timing had been an issue in trying to implement the stormwater utility; and the Administration, therefore, will exercise their right to postpone the utility until July 1, 2012 or FY13.

Councilor Verga noted when the prevailing side voted the stormwater utility regulations he indicated he thought there was the appropriate time to amend the ordinance and moved the following:

MOTION: To Amend Gloucester Code of Ordinances §23-1(b) as follows: before "that benefit" ADD "connected to the common sewer"; §23-6 (6) after "land within the municipality" ADD "that is connected to the common sewer".

Councilor Tobey seconded the amending motion.

Councilor Hardy wished to see a copy of the entire ordinance or suggested that they put it off until the next Council meeting. **Councilor Verga** noting the urgency is gone wanted to put forward the amendment into the public realm before it reaches the final adoption stage in the next fiscal year.

Councilor Whynott would not support the amendment believing it defeated the purpose of spreading it over all of the homeowners and was not in the best interest to the City. **Councilor Hardy** would not be willing to vote that evening without having read through the ordinance.

Councilor Verga would temporarily withdraw the amendment. **Councilor Tobey** withdrew his seconding of the amendment to the main motion, and the motion was withdrawn.

Mr. Duggan explained they are not implementing the Stormwater Utility fee now because the staff has to spend the time required; and the work priorities would have to be put aside temporarily. They also have to be realistic to look at this June and not being able to address this at year end with tax bills to produce, etc. Unifund would have to deliver the software which would have to be tested. If one element doesn't take place they would be in jeopardy and don't wish to be in that position.

Councilor Whynott noted there is no fair way of doing this but the least unfair way is to spread it out to everybody. They all have to help each other, and this is a way of doing this.

Councilor Theken asked for a clarification of what was voted on at the 03/22/11 City Council meeting regarding Stormwater. **Ms. Lowe** recounted the Council is voting on the Code of Ordinances re: Stormwater to change the reference rather than relying on MGL c.83, §16, this is to rely on MGL c. 83 in its entirety which is the hearing tonight. The vote on 03/22/11 was to adopt the Stormwater Fee.

MOTION: On motion by Councilor Tobey, seconded by Councilor Whynott, the City Council voted by ROLL CALL 6 in favor, 0 opposed, to adopt to AMEND c. 23 Utilities: §23(1) to §23(6) as follows:

- **AMEND §23(1) "Authority and Jurisdiction" and § 23(6) "Applicability" by DELETING "MGL c. 83, §16" and to ADD "MGL c. 83, §1 through §29.**

For Council Vote: 1 of 1

1. **MOTION TO RECONSIDER (Curcuro): The City Council vote of March 22, 2011 re: Approval of Stormwater Utility Regulations under City Charter §7-16(a) (b) and GCO §23(1) through §23(6) "The Stormwater Utility Ordinance" in general and §2-4(c) "Stormwater Utility Service Fees**

Councilor Tobey noted both Councilors Ciolino and Curcuro wished to be present for this both and asked to lay this matter on the table until the next regularly scheduled meeting of the City Council, to which Council President Hardy assented.

By unanimous consent this matter was voted approving "to lay on the table" until the April 26, 2011 City Council meeting.

Unfinished Business:

Councilor Hardy explained that the following two items were on the Unanimous Consent Agenda from the previous evening's Special City Council meeting and the Council voted to take the two matters up now for discussion.

1. **Communication from Newburyport Councilor at Large re: MBTA Commuter Rail Issues**

(Councilor Tobey left dais at 10:06 pm and returned after the following vote at 10:07 pm)

MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the City Council voted 5 in favor, 0 opposed to join with the Mayor and City Council of the City of Newburyport to

express their concern regarding significant delays on the MBTA Commuter Rail Service this past winter in asking for clarification from the MBTA.

Councilor Hardy directed the City Clerk's office to draft a response and a letter of support from the Gloucester City Council.

2. North Shore Regional Vocational School District Agenda for April 14, 2011 and Approved Minutes of February 10, 2011

The Council filed this matter.

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

Councilors' Requests to the Mayor:

Councilor Whynott asked that the DPW be advised Loman Drive is in need to be patched.

Councilor Tobey gave the Council a report apprising them of the work of the Commonwealth's Water Finance Commission, meeting on a monthly basis for a year now, of which he is a member. He would keep the Council posted as it gets closer to their bottom line.

Councilor McGeary alerted his constituents to ward meeting in City Hall at 7 pm the following evening on a number issues including a proposal to put additional wind power at Gloucester Engineering in the Blackburn Industrial Park, and other relevant matters.

Councilor Hardy thanked and expressed her appreciation for Councilor Theken who joined her at Poplar Park to speak about medical insurance, and expressed her appreciation, noting many people are going to save a lot of money because of her good counsel.

Councilor Theken noted she is not only a Councilor but a healthcare advocate. The MA Fishermen Partnership will no longer offer health insurance; 180 families will be left without and she encouraged them to come to her office. There are other organizations that she would be willing to go to and speak to them on such issues. She acknowledged it is confusing because everything in healthcare is changing and explained some of the complicated problems of the healthcare system especially as it relates to Medicare. Noting that many seniors have big delays in obtaining State Medicare premium buy-ins to the program, Medicare has hired a full time person who can be reached at 1-617-722-1600. If they can't get to Councilor Theken by telephone, she urged folks to come by her office except Tuesdays. People who work in City government are being mandated to take Medicare. When you go to apply at 65 they'll tell them they're not eligible. Once your spouse reaches age and they have worked in non-government they are eligible and may be liable to pay a penalty if they don't take it. She urged if you have a spouse who never worked in a municipality or State to check their Medicare eligibility.

A motion was made, seconded and voted unanimously to adjourn the meeting at 10:18 p.m.

Respectfully submitted,

**Dana C. Jorgensson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.