

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, April 26, 2011

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

Council Meeting – 2011-008

**-Minutes-**

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

**Absent: Councilor Whynott**

**Also Present: Linda T. Lowe; Mayor Kirk; Jim Duggan; Kenny Costa; Sarah Garcia**

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

**Flag Salute and Moment of Silence.**

**Councilor McGeary** explained all Councilors and Council staff this evening were wearing a red ribbon from Mothers Against Drunk Driving. He had attended a forum for alcohol prevention in underage drinkers sponsored by the Healthy Gloucester Collaborative whom he thanked. At this time of year, prom season, the hope is to raise awareness with these red ribbons as a reminder to teens to have a good time but to be safe and stay away from alcohol. Councilor McGeary noted ribbons would be available in the City Clerk's office for the public.

**Oral Communications: None.**

**Presentations: 2 of 2**

**1. Peg O'Malley, R.N. – Partners for Addison Gilbert**

**Peg O'Malley, R.N.** spoke to the Councilors of Northeast Health Systems' (NHS) pursuit of a merger or to sell their assets, including the Addison Gilbert Hospital (AGH) (A full copy of the text of Ms. O'Malley's speech to the Council was submitted prior to the meeting and is on file). She made note of the decline of in-patient services, in particular staffed beds; lack of surgical activity. She made reference to the diversion of patients to Beverly Hospital with certain conditions, as well as some outpatient services. In addition she pointed to the loss of many nursing positions. Further, that the Dept. of Public Health requires that eight essential services be present in the building including a fully licensed emergency room, medical/surgical beds, ICU, and 24/7 availability of emergency surgery which requires anesthesia. NHS could have a deal with a new "partner" concluded within weeks, she speculated. She expressed that the closure of the AGH would put Cape Ann residents at risk due to the topography; the types of occupations of its residents; a larger proportion of older residents; only two bridges off and on the Cape, one of which is a draw bridge and other reasons as well. She reviewed for the Council some of the AGH's financials that favors Beverly Hospital and NHS overall. She pointed out that of the "millions Northeast claims" they've spent at AGH is likely about \$3 million yet the community raised the \$1 million plus needed for a new AGH cancer center by themselves. She further stated in Beverly there has been a heavy capital investment in the hospital there of about \$91 million. She stated 36,000 lives depend on the AGH. While Beverly Hospital has been adding doctors consistently she stated it appears that NHS struggles to attract even one physician to the AGH. She urged the community to fight for the AGH. As a non-profit, tax-exempt public charity they have a legal and ethical duty to include the community in decision-making about the future of AGH and its assets. They must insist that their rights are respected. She felt a hands-on intervention by the State's Attorney General, the Governor and the Commissioner of Public Health would help greatly. She stated, "AGH is our hospital. It's a symbol of this community's commitment to take care of each other. We cannot let it go."

**Councilor Tobey** thanked Ms. O'Malley for the presentation. The Council enacted a resolution that it is in the critical interest of the City that the 8 essential services be fully preserved. Other services continue to erode, that they should continue to be vigilant and that communication of their resolution was complete and full; and that it would be appropriate to do follow up particularly with the Attorney General's office, whom he has communicated with directly.

**Councilor McGeary** joined Councilor Tobey in thanking Ms. O'Malley. Stating the AGH is critical to the future of Cape Ann to have this service close by, he applauded her on her efforts.

**Councilor Ciolino** thanked Ms. O'Malley highlighting her understanding of the subject matter; to keep up the good work and to keep the Council posted to let them know what she sees happening. He appreciated the work she does keeping the citizens and the City government informed.

**Ms. O'Malley** thought the work was coming to a close, and the matter of who will be the new NHS "partner" will be decided by early summer. This is a tough load to carry for everyone expressing her disappointment and discouragement, much the same as the community.

**Councilor Mulcahey** related her personal experience as a patient and know it is true that patients are being sent to Beverly and that patients have to insist they be treated in Gloucester. The elderly don't have the resources to go to these appointments off Cape.

**Councilor Theken** noted she and Ms. O'Malley go far back. She thanked her but also expressed it is up to everyone to do something. She noted an editorial in the Gloucester Daily Times on this subject. She pointed to the difficulty to attract physicians. Insurance companies are networking. They can't control where an ambulance goes to what hospital for services. People have to demand local services. She also pointed to times both bridges were blocked. AGH, she felt, does need some changes; but much was lost to "up the line", like rehabilitation. If they are to keep an existing facility running, it has to be used.

**Councilor Verga** thanked Ms. O'Malley for her presentation and for the information she brought forward. He asked she stay the course and help them through it.

**Ms. O'Malley** noted once it is in the hands of Harvard Vanguard or the Stewart Corporation (two potential buyers of NHS previously named), it will be out of the community's hands. She did expect the community to "fly the flag for the AGH."

**Councilor Curcuro** thanked Ms. O'Malley for her long-time advocacy.

**Councilor Hardy** looked forward to the public meeting where they will sit down with the hospital with their finalists to be collectively heard. She thanked Ms O'Malley for making her presentation.

**Ms. O'Malley** asked the City Council to invite the Commissioner of Public Health and the Attorney General to allow the citizens of Gloucester to speak directly to them in a public forum.

**Councilor Hardy** noted the process for a public hearing under the City Charter and suggested she speak with the City Clerk the following day to assist her towards that goal.

## **2. Administration – Department of Commerce's plans to send their Economic Development Assessment Team to visit the City of Gloucester**

**Mayor Carolyn Kirk** explained to the Council that the Department of Commerce Economic Development Administration is sending their Economic Development Assessment team to visit the City on May 2, 3 and 4, 2011 (Memo, Agenda, Press Release and Fact Sheet on file). She noted this was prompted in part by Councilor Tobey's inquiries. There was about three weeks to prepare for the opportunity. They're still trying to finalize all of the details. She described the agenda with some meetings open and others closed to the public. The Mayor's office is the sponsor of these meetings, making as many open as possible. Private industry, she noted would be closed to allow for candor and frank speaking so that there would be no conflicts. Where there are early stage development ideas with some of their State partners that aren't ready to be made public will remain closed to the public. They do not have the full list of federal officials yet. She confirmed that the SBA, HUD, Dept. of Labor, USDA, EPA, US Dept. of Commerce as well. They're still waiting on Homeland Security and Treasury. It will be in a panel forum and listen for two days to the community. They've put together a mix of people; people who are knowledgeable of what is going on in the City, serve on a Commission or are a member of a group who are influencing public policy. There are over 100 people invited.

**Councilor Tobey** thanked the Mayor for coming before the Council. Noting the number of groups that were being called to participate in this visit, he reminded that they're all subject to the open meeting law. He felt the Mayor had resolved it by providing the information to the Council and speaking of the event but he cautioned that meetings held behind closed doors breed distrust; in particularly the fisheries meeting which he believed should be the one that is most open. The tourism meeting is open and yet the fisheries meeting is closed as is the maritime industry meeting and felt it related to perception. He also noted the USDA had grants and that small communities have gotten substantial financial assistance them. Fisheries are often considered a rural industry. The Dept. of Commerce, which isn't bringing any money forward now, if they want to help the port of Gloucester to become a stronger fishing port, they will help find the money through federal grants to build the secondary treatment to restore the fish processing industry in the City.

**Mayor Kirk** stated with the fisheries they wished to touch base with a couple of companies who will be attending to make sure they're comfortable to have the meeting open but haven't been able to speak with them and assured she will try to open the meetings to the public.

**Councilor McGeary** applauded the Mayor's efforts. He shared Councilor Tobey's concern about the closed meetings. He didn't wish to see great talent in the City kept out of the mix, or to be unable to read about it in the paper \ particularly regarding the maritime industry. He believed a full and frank dialog would serve the City even in a public place and pointed out the I4-C2 process as an example. He asked she reconsider the closure of some of the meetings.

**Councilor Mulcahey** added information regarding USDA grants.

**Councilor Theken** asked if Councilors could go to any of the closed meetings.

**Mayor Kirk** stated as long as there is not a quorum of the City Council present, Councilors were welcome.

**Councilor Theken** asked that all the meetings be open to the public and wondered why these agencies who they've asked for years to come to Gloucester are coming now. Further, they don't want to be observed as a community that doesn't want change.

**Mayor Kirk** stated the impetus for this visit were the federal regulations on the fishing industry. Gloucester was one of six coastal communities selected in this tour. This is to balance the approach of economic assessment – it is also the overall economic situation of the entire community. This is through the U.S. Dept. of Commerce.

**Councilor Theken** expressed that on Tuesday when they take up the topic of the maritime industry she urged the Mayor make sure the people, like Richard Gaines of the Gloucester Daily Times, and the people who fought for the rights of the fishermen, the fishermen themselves and their crews are allowed into these meetings.

**Councilor Hardy** thanked the Mayor for the presentation.

#### Consent Agenda:

- **MAYOR'S REPORT**

1. Memorandum from Police Chief re: Summarization of the agreement with the Gloucester Superior Officer's Association Contract (Refer B&F)
2. Memorandum from Licensing Clerk re: Proposed increases to Licensing Board Fees for FY2012 (Refer B&F)
3. Special Budgetary Transfer Request (#2011-SBT-23) from Fire Department (Refer B&F)
4. Memorandum from Chief Administrative Officer re: \Proposed amendment to GCO "Personnel Ordinance" (Refer O&A)
5. Mayoral Reappointment: Assessor TTE 02/14/2014 Beth Ann Godhino (Refer O&A)
6. New Appointments: Conservation Commission Rep to CPC TTE 02/14/2014 Steven Phillips (Refer O&A)
7. Reappointments: Licensing Board TTE 05/31/2017 Allyson O'Connor (Refer O&A)

- **COMMUNICATIONS/INVITATIONS**

1. Communication from Chairman of Essex Board of Selectmen re: support to City of Gloucester's Resolution of March 22, 2011 (File)
2. Council Support to City of Newburyport March 14, 2011 letter to MBTA re: Deterioration in Rail Service to North Shore (File)
3. Letter from Re-Precincting Coordinator of Secretary Galvin's Office re: Municipal Map from the 2010 Census (Refer O&A)
4. Communication from Downtown Development Commission re: I4-C2 Criteria (File)

- **APPLICATIONS/PETITIONS**

1. SCP2011-001: Decatur Street #14, GZO Sec. 5.2 Earth Fill and Removal Regulations (Refer P&D)
2. SCP2011-002: Eastern Avenue #53, GZO Sec. 2.3.1.6 conversion to or new multi-family dwelling units; three dwelling units, Sec. 1.10.1 and 3.1.6 building height over 35', Sec. 3.2.2(a) decrease in the minimum lot area and open space per dwelling unit (Refer P&D)

- **COUNCILORS ORDERS**

1. CC2011-019 (Tobey) Request City Auditor prepare analysis for presentation to Council re: Fire Dept. Paramedics (FCV 05/10/11)
2. CC2011-020 (Tobey/Hardy) Request compilation of documents previously posted on the old homepage of City website to Homepage of new City website (FCV 05/10/11)

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

1. City Council Meeting 04/12/11 (Approve/File)
2. Standing Committee Meetings: P&D 04/20/11, B&F 04/11/11, 04/21/11 (under separate cover) (Approve/File)

**A recess was called at 7:53 p.m.**

**The Council reconvened at 7:59 p.m.**

#### Items to be Added/Deleted from Consent Agenda:

**Councilor Tobey** asked to remove Item #1 under Councilors Orders and Item #4 under Communications.

**Councilor Hardy** wished to remove Item #4 from the Mayor's Report, Special Budgetary Transfer Request, and the P&D minutes of April 20, 2011.

**Councilor Tobey** stated the communication from the Downtown Development Commission is sharing the point of view of that body regarding the criteria for redeveloping I4-C2. It was noteworthy because no

one asked the Council for their views, and the Council has an important statutory role as to what happens at I4-C2. If a Request For Proposal (RFP) is issued in June for a developer for that site or for a long-term lease, the City Land Disposition ordinance and State procurement law is triggered; and the Council must approve any disposition of the property and the RFP. There is a legal need to be involved “yesterday”. If the notion is to get developers to respond they’ll want to know that they special permit granting authority is involved. He felt it needs to come before them now as well as the draft development objectives that are on the City website and noted that one word doesn’t appear in it, “jobs”.

**By unanimous consent the Council referred the matter to the P&D Committee.**

On the matter of Council Order 2011-019 that **Councilor Tobey** was asking the City Auditor to prepare an analysis for presentation to the Council regarding the Fire Department Paramedics then to be sent to B&F for a basic business plan of how much would it cost to open an outlying station and how much revenue is lost because the ambulance isn’t being run and what if a private ambulance was running that service. There is a sub-business element. He hoped the Auditor would engage this independently to have that before the Council by May 10<sup>th</sup> and believed through the EMS Coordinator the Auditor would be able to gain needed input as well. **Councilor Verga** asked what line items within the Fire Department are not being spent or tapped that would keep the outlying fire stations open. He expressed concern at the end of the fiscal year that money would fall to the bottom line and end up as free cash. He’d like a closer look taken at those possible line items. **Councilor Theken** asked when a budget comes through, what are the staffing criteria to keep an outlying station open. She wanted to be sure a station was fully staffed. **Councilor Tobey** noted there is a contract that has trigger levels of staffing in a substation. That is contractual. He didn’t wish to second guess that but to uphold the contract as it is law.

**Councilor Hardy** expressed that Item #3 of the Mayor’s Report, Special Budgetary Transfer #2011-SBT-23 for \$11,860.15 that there was a notation of the bottom of the transfer that she wished to have enlarged upon.

**Jim Duggan**, CAO explained that where it says “it was approved by Jim Duggan”, he believed that the Chief’s assistant put that there. That was the first time such a notation had been placed on a transfer. He and the Chief have regular conversations regarding any such transfers to be sure they’re appropriate.

**Councilor Hardy** noted night differential is done through the regular salary account; the FY11 budget approved 11 months ago approved a line item for night differential then. They can no longer take money from night differential but must go through salary. She asked why this money was not put back into the salary account line to keep the stations opened but instead it is this going into ordinary fixed vehicles.

**Mr. Duggan** would wish to have that conversation at the B&F Committee meeting as he did not have information before him at that moment. **Councilor Hardy** thought there may be another account they wish to transfer from an ordinary account to accomplish what they want to do which would negate the need to come to Council. She asked if Mr. Duggan would take the transfer back and reconcile the account and take it from a proper account as they could not track it as presented.

**By unanimous consent Item #3 Special Budgetary Transfer Request (#2011-SBT-23) from Fire Department was removed from the Consent agenda.**

**Councilor Hardy** noted on page 6 of P&D minutes of April 20, 2011, line 10 refers to, “be going from a 20 yard setback to a 10 yard setback in yards”. This was in error and should be corrected to reflect that the word should be “feet” for yard and “feet” for yards.

**By unanimous consent the minutes of the April 20, 2011 P&D Committee meeting were corrected and amended.**

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

**Standing Committee Reports:**

- **Ordinances & Administration: No meeting was held; April 18, 2011 was a public holiday**
- **Planning & Development: April 20, 2011**

MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council that the City of Gloucester accept ownership of and full responsibility for the approximately 340 linear feet (from the terminal flushing valve to existing sewer manhole) pressure sewer main and all existing laterals that lay within the streets known as Beachcroft Road which was constructed by J. Doyle Backhoe and as shown on the plan entitled "As-Built Plan in Gloucester Mass. Showing As-Built Locations of Water and Sewer Shutoffs "Beachcroft Road"" prepared by Jay Jarosz, P.L.S., 3 Mill Street, Manchester, MA dated April 20, 2011 with the following CONDITIONS:

1. That the existing, current rules and regulations pertaining to the City's acceptance of private Sewers are adhered to;
2. That the homeowners residing at #17, #28, #34, and #61 Beachcroft Road represented by Ronald Benjamin of 7 Finch Lane and the City of Gloucester by its appropriate Administrative Staff coordinates the execution and exchange of all documents deemed necessary by the City of Gloucester's legal office to effectuate the transfer of ownership and control of the Beachcroft Road pressure sewer project to the City of Gloucester.

#### **Discussion:**

**Councilor Verga** explained there was a memo from Mike Hale, DPW Director who was at the meeting expressing he had no objection. **Councilor McGeary** thought this was a good thing to do. **Councilor Hardy** asked if the City has the funds to maintain this roadway. **Councilor Verga** stated Mr. Hale endorsed the taking of this roadway. **Councilor McGeary** let the Council know that the City had been maintaining the street.

**MOTION: On motion by Councilor Verga, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 8 in favor, 0 opposed that the City of Gloucester accept ownership of and full responsibility for the approximately 340 linear feet (from the terminal flushing valve to existing sewer manhole) pressure sewer main and all existing laterals that lay within the streets known as Beachcroft Road which was constructed by J. Doyle Backhoe and as shown on the plan entitled "As-Built Plan in Gloucester Mass. Showing As-Built Locations of Water and Sewer Shutoffs "Beachcroft Road"" prepared by Jay Jarosz, P.L.S., 3 Mill Street, Manchester, MA dated April 20, 2011 with the following CONDITIONS:**

1. **That the existing, current rules and regulations pertaining to the City's acceptance of private Sewers are adhered to;**
2. **That the homeowners residing at #17, #28, #34, and #61 Beachcroft Road represented by Ronald Benjamin of 7 Finch Lane and the City of Gloucester by its appropriate Administrative Staff coordinates the execution and exchange of all documents deemed necessary by the City of Gloucester's legal office to effectuate the transfer of ownership and control of the Beachcroft Road pressure sewer project to the City of Gloucester.**

MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to allow the American Diabetes Association Tour De Cure ride to use the area near the intersection of Essex and Western Avenues as specified by the Gloucester Police Department on Sunday, May 22, 2011 from 10:30 a.m. to 3:00 p.m. as a rest stop for participants in their event. All items associated with the race and their personnel must be off City streets and the designated area for the rest stop by 3:00 p.m. that same day. It is expected that all trash is to be removed and disposed of appropriately by the race organizers at their expense on May 22, 2011 by 3:00 p.m.

**Discussion:**

**Councilor Verga** told the Council that at first the American Diabetes (ADA) Tour De Cure wished to use the area that the WWII memorial is sited on at Kent Circle. The organizers were willing to move the site of the rest stop and will work with Lt. Aiello of the GPD.

**Councilor Hardy** noted originally it was referred to Kent Circle is actually named in honor of a veteran and is actually known as McKinnon Triangle.

**MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to allow the American Diabetes Association Tour De Cure ride to use the area near the intersection of Essex and Western Avenues as specified by the Gloucester Police Department on Sunday, May 22, 2011 from 10:30 a.m. to 3:00 p.m. as a rest stop for participants in their event. All items associated with the race and their personnel must be off City streets and the designated area for the rest stop by 3:00 p.m. that same day. It is expected that all trash is to be removed and disposed of appropriately by the race organizers at their expense on May 22, 2011 by 3:00 p.m.**

MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to permit the American Diabetes Association to hold their Tour de Cure bicycle ride through City streets for their 100 mile and 60 mile routes as on file with the City Clerk's office on Sunday, May 22, 2011, starting at 7:00 a.m. with all riders off the City's streets by 3:00 p.m. All routes through the City are to be clearly marked and with signage removed off the route by 3:00 p.m. Certificate of Insurance listing the City of Gloucester as the co-insured, and memorandums of endorsement from the Police and Fire Chief are to be on file in the City Clerk's office by the close of business May 12, 2011.

**Discussion: None.**

**MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to permit the American Diabetes Association to hold their Tour de Cure bicycle ride through City streets for their 100 mile and 60 mile routes as on file with the City Clerk's office on Sunday, May 22, 2011, starting at 7:00 a.m. with all riders off the City's streets by 3:00 p.m. All routes through the City are to be clearly marked and with signage removed off the route by 3:00 p.m. Certificate of Insurance listing the City of Gloucester as the co-insured, and memorandums of endorsement from the Police and Fire Chief are to be on file in the City Clerk's office by the close of business May 12, 2011.**

**Councilor McGeary** clarified that the City did not yet maintain the private sewer on Beachcroft Road.

- **Budget & Finance: April 21, 2011**

MOTION: On motion by Councilor Hardy, seconded by Councilor Mulcahey, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council under MGL c. 44, §53A to accept the Green Community's Grant Award of \$198,200 from the Massachusetts Department of Energy Resources to be used for energy upgrades at the O'Maley School and the Dorothy Talbot Skating Rink.

**Discussion:**

**Councilor McGeary** explained this grant of \$198,000 for the O'Maley School and Dorothy Talbot Rink energy savings upgrade was for becoming a Green Community. This was as a result of the City becoming a Green Community. No match is required.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, opposed under MGL c. 44, §53A to accept the Green Community's Grant Award of \$198,200 from the Massachusetts Department of Energy Resources to be used for energy upgrades at the O'Maley School and the Dorothy Talbot Skating Rink.**

MOTION: On motion by Councilor Mulcahey, seconded by Councilor McGeary, the Budget & Finance Committee voted 2 in favor, 0 opposed to recommend to the City Council under MGL c. 44, §53A to accept the Seaport Advisory Council grant for an OARWS of \$200,000 for the purpose of conducting a ground fish study.

**Discussion:**

**Councilor McGeary** related this is technology used by Northeastern University from the U.S. Navy that they can detect that when it sees a school of fish it knows what kind of fish it is no matter the size of the school bringing a closer focus of fish stocks. The City will perform some administrative function only. The scientists will conduct the study and submit a report. It is a pilot program, and there is no match. **Councilor Theken** asked who is hiring the group. **Councilor McGeary** stated the City acts as a base and is not conducting the study; the City is providing administrative and logistical support and the \$200,000 is for that.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 7 in favor, 1 (Theken) opposed under MGL c. 44, §53A to accept the Seaport Advisory Council grant for an OAWRS (Ocean Acoustic Waveguide Remote Sensing System) of \$200,000 for the purpose of conducting a ground fish study.**

MOTION: On motion by Councilor Mulcahey, seconded by Councilor McGeary, the Budget & Finance Committee voted 2 in favor, 0 opposed to recommend to the City Council under MGL c. 44, §53A the acceptance of \$731,936.00 for the Community Development Block Grant Program from the U.S. Department of Housing and Urban Development for PY2011 and the anticipated HOME grant from the North Shore HOME Consortium in the amount of \$121,601.00.

**Discussion:**

**Councilor McGeary** explained for these annual federal grants to the City, there was a 16.5% reduction over last year's funding for the CDBG program and a 12% reduction for the HOME grant. At B&F, Grants Coordinator Sharon DuBois and Sarah Garcia summed up the programs status to the satisfaction of the Committee, some for housing, sidewalk improvements and a number of other programs. **Councilor Curcuro** asked if they got into the specific allotments at that B&F meeting asking specifically about housing rehab. **Councilor McGeary** noted \$152,000 for streets and sidewalks. **Sarah Garcia**, Community Development Director it is \$203,871 for housing rehab. The numbers have to be adjusted because of the greater percentage reductions from the federal government. **Councilor Curcuro** asked if housing rehab was reduced from last year. **Ms. Garcia** didn't have the multi-year numbers before her to answer the question. **Councilor Curcuro** expressed his belief too much money was shifted to economic development by the Administration and voiced his objection as did **Councilor Theken**. **Councilor Tobey** noted 15 years ago the City was criticized by HUD and their auditors on just such issues and expressed his concern that Ms. Garcia could end up with the same issues for putting small amounts of money to the same social services groups yearly. He felt they should be made to become financially independent. **Ms. Garcia** expressed the Grants Administrator has been very sensitive to that point the Councilor raised and gave some examples. Some of the repeat service agencies are funded for specific programs. They make the applicants aware that this is not a supplemental to their budgets. **Councilor Tobey** stated regarding CABI getting a large amount of money for the third year in a row and was concerned about dependence asking about what performance standards they are being held to. **Ms.**

**Garcia** replied the companies CABI is helping are low- to moderate income businesses. They're trying to strengthen the City's capacity for economic development. It is not a City only but a multi-institutional effort, including private companies. **Councilor Tobey** asked what this is based upon. How many jobs in each of the several years per year have been created? **Ms. Garcia** would get that information to the Councilor. **Councilor Theken** noted North Shore ARC received funds and was not local. **Ms. Garcia** stated they look at the number of people agencies service locally. **Councilor Theken** noted local groups went out of business in favor of agencies from out of town such as North Shore ARC. **Councilor Curcuru** asked when they would go through applicant lists for the social services. **Ms. Garcia** stated the program funds applications as they are received, vetted and awarded; that a pool of money that stays open through the year until the money is used up. **Councilor Curcuru** expressed he was not comfortable to take a vote on the acceptance of the grant at this time. **Ms. Garcia** noted they had a public meeting at the Library and that they have been proactive under Sharon DuBois for applicants; and after the applications are received, a public meeting is held where the applicants give presentations. Rather than refusing the grant money, she'd rather educate the grants office to make the process stronger for next year. **Councilor Curcuru** believed this is the third year for CABI receiving grant funds. They don't really have the information on how many jobs they've created and the actual benefit to the City. He would like to have that information and why that money is awarded yearly to them. **Councilor Ciolino** addressed concerns about CABI by stating he speaks with Erica Hansen (CABI director) regularly at their offices on Main Street and that they have space at 33 Commercial Street. Their mission statement is to incubate small businesses. He believed CABI was doing what they are supposed to. Whatever money they do give them is invested into the community and spoke highly of their efforts. On inquiry from **Councilor Verga**, **Ms. Garcia** stated it is the Mayor's program which helps to improve the quality of life in the community. It is not just housing but also economic development. They created the maritime business fund for the purpose of economic development. It is a quality of life issue for the community and, she stated, the Mayor's prerogative. There are very strict federal guidelines that must be followed for these local projects. **Councilor Verga** asked were the applicants simply given a check when they were told their application was accepted. **Ms. Garcia** stated they get the funds on July 1<sup>st</sup>. If the Council refuses to accept the grant she did not know what the process would be. **Councilor Tobey** asked that the discussion be continued to the next Council meeting and to have Ms. Garcia bring more information to them then. They're looking to exercise their prerogative for discretionary review. **Councilor Hardy** asked that the questions to Ms. Garcia be submitted through the Clerk of Committees.

**This matter is continued to the next City Council Meeting of May 10, 2011.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (#2011-SBT-16) of \$15,000.00 from Treasurer/Collector, Fin Serv-Bond Counsel, Unifund Account #101000.10.145.53170.0000.00.000.00.052 to Auditor, Contractual Services, Unifund Account #10100010.135.52000.0000.00.000.00.052 to fund an OPEB Actuarial Study.

**Discussion:**

**Councilor McGeary** stated this money will be used to fund an OPEB (Other Post Employment Benefits) Actuarial Study that the Auditor conducts. When they first did the OPEB it was valued as of 1/1/08. For FY11 they need a new actuarial study and can't issue the financial statements without it.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to transfer (#2011-SBT-16) of \$15,000.00 from Treasurer/Collector, Fin Serv-Bond Counsel, Unifund Account #101000.10.145.53170.0000.00.000.00.052 to Auditor, Contractual Services, Unifund Account #10100010.135.52000.0000.00.000.00.052 to fund an OPEB Actuarial Study.**



MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (#2011-SBT-17) for \$3,718.49 from Registration, Sal/Wage – Temp Pos, Unifund Account #101000.10.163.51200.0000.00.000.00.051 to City Clerk, Sal/Wage – Temp Pos, Unifund Account #101000.10.161.51200.0000.00.000.00.051.

**Councilor McGeary** explained the following two motions are to fund a substitute recorder for the FY12 budget meetings and/or any other special meetings related to the budget which the Clerk of Committees may not be available to record and transcribe the minutes. They intend to use this for Anne Marchand, a highly experienced recording clerk and a former Clerk of Committees who has agreed to fill in on an as needed basis by agreement of the B&F Committee.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to transfer (#2011-SBT-17) for \$3,718.49 from Registration, Sal/Wage – Temp Pos, Unifund Account #101000.10.163.51200.0000.00.000.00.051 to City Clerk, Sal/Wage – Temp Pos, Unifund Account #101000.10.161.51200.0000.00.000.00.051.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the full City Council the transfer (#2011-SBT-18) for \$1,285.68 from Registration, Sal/Wage Overtime, Unifund Account #101000.10.163.51300.0000.00.000.00.051 to City Clerk, Sal/Wage – Temp Pos, Unifund Account #101000.10.161.51200.0000.00.000.00.051.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to transfer (#2011-SBT-18) for \$1,285.68 from Registration, Sal/Wage Overtime, Unifund Account #101000.10.163.51300.0000.00.000.00.051 to City Clerk, Sal/Wage – Temp Pos, Unifund Account #101000.10.161.51200.0000.00.000.00.051.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Mulcahey, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (#2011-SBT-19) for \$10,900.00 from Assessors, Re-valuation Program, Unifund Account #101000.10.141.57840.0000.00.000.00.057 to Veterans Services, Fuel, Unifund Account #101000.10.543.57740.0000.00.000.00.057.

**Councilor McGeary** expressed that the following three motions are for Veteran Services transfers having to do with the Veteran's underfunded budget. Jeff Williams has been reaching out to as many veterans as he can. **Councilor Curcuru** asked if the next fiscal year these items will be budgeted for more money. **Councilor McGeary** stated CFO Jeff Towne stated they would be budgeting more. **Mr. Duggan** stated that it is 75% reimbursement which the City receives back from the State one year after submission.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to transfer (#2011-SBT-19) for \$10,900.00 from Assessors, Re-valuation Program, Unifund Account #101000.10.141.57840.0000.00.000.00.057 to Veterans Services, Fuel, Unifund Account #101000.10.543.57740.0000.00.000.00.057.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Mulcahey, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (#2011-SBT-20) for \$6,706.85 from Treas/Collector, Debt Service, Interest Temp, Unifund Account #101000.10.145.59250.0000.00.000.00.059 to Veterans Services, Medical, Unifund Account #101000.10.543.57720.0000.00.000.00.057.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to transfer (#2011-SBT-20) for \$6,706.85 from Treas/Collector, Debt Service, Interest Temp, Unifund Account**

**#101000.10.145.59250.0000.00.000.00.059 to Veterans Services, Medical, Unifund Account  
#101000.10.543.57720.0000.00.000.00.057.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Mulcahey, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (#2011-SBT-21) for \$21,222.38 from Treas/Collector, Debt Service, Interest Temp, Unifund Account #101000.10.145.59250.0000.00.000.00.059 to Veteran Services, OB, Unifund Account #101000.10.543.57710.0000.00.000.00.057.

**Councilor Hardy** noted the inquiry was made at the B&F meeting that the Veteran's Agent had been making timely reports to the State and were informed he has. She extended her thanks to Mr. Williams and his assistant Lucia Amero.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to transfer (#2011-SBT-21) for \$21,222.38 from Treas/Collector, Debt Service, Interest Temp, Unifund Account #101000.10.145.59250.0000.00.000.00.059 to Veteran Services, OB, Unifund Account #101000.10.543.57710.0000.00.000.00.057.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Mulcahey, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (#2011-SBT-22) for \$265.24 from Treas/Collector, Salary Wages, Temporary, Unifund Account #101000.10.145.51200.0000.00.000.00.051 to City Legal Dept, Sal/Wage-Perm Position, Unifund Account #101000.10.151.51100.0000.00.000.00.051.

**Discussion:**

**Councilor McGeary** stated as had been described previously to the Council, this transfer is to complete the budgeting issue for the Legal Department which has been on-going. This will zero it out for the rest of the fiscal year.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to transfer (#2011-SBT-22) for \$265.24 from Treas/Collector, Salary Wages, Temporary, Unifund Account #101000.10.145.51200.0000.00.000.00.051 to City Legal Dept, Sal/Wage-Perm Position, Unifund Account #101000.10.151.51100.0000.00.000.00.051.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Mulcahey the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the full City Council to accept the provisions of M.G.L. Chapter 44, §31D snow and ice removal, emergency expenditures not to exceed an additional \$150,000 in addition to the \$900,000 previously authorized.

**Discussion:**

**Councilor McGeary** explained that the Council may recall that they came to them recently for \$900,000 in authorizations for snow and ice which had been approved. This will allow for the payment of bills outstanding additional \$150,000 so they don't come back for more. They expect some MEMA money back and is expected however, in FY12. They believed the cap will be \$950,000.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to accept the provisions of M.G.L. Chapter 44, §31D snow and ice removal, emergency expenditures not to exceed an additional \$150,000 in addition to the \$900,000 previously authorized.**

**Councilor Tobey** observed the \$750,000 rescinding of CSO money at B&F on April 21<sup>st</sup> in order to do a new bond authorization for paving elsewhere in the City; and wanted to know when that public hearing would be held. Linda T. Lowe, City Clerk believed it would be May 10<sup>th</sup>. He asked the Administration through Mr. Towne to report if the City has ever done a similar bonding in the past, independent from another capital project and to provide a report from the CIAB on their recommendation as required by the charter.

**A recess was called at 8:57 p.m.**

**The meeting was reconvened at 9:04 p.m.**

**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**

**This public hearing is open.**

**Councilor Hardy** apprised the public of the format of public hearings as noted on the back of the City Council agenda.

**Those speaking in favor:**

**Attorney J. Michael Faherty** representing the applicants, Gregory Gibson and Ann-Marie Crotty of 77 Langsford Street stated that as point of information they appeared at P&D last week. At that meeting which concluded with the Committee recommending the approval, he was asked by Councilor Whynott if his clients would consider advertising this proposal in laymen's terms, although had been properly published twice in March, which they agreed with the Committee and would ask this evening for the Council to agree on the form of that advertisement should take and then to readvertise this matter. He understood that there would be a re-advertisement to avoid two hearings.

**Councilor Hardy** noted that her reading of the minutes of that meeting was that advertising was the way to go so a reasonable person would be able to understand the zoning change.

**Councilor McGeary** did recall the conversation. He thought they were not bound by a two week notice but that was an informational notice only.

**Councilor Hardy** thought it should be advertised for the usual zoning requirement of two weeks to which **Attorney Faherty** addressed some logistics of placing the ad.

**Councilor Verga** agreed with Attorney Faherty feeling correct thing is to readvertise. This amendment impacts City wide. He felt placing the ad would be appropriate and to postpone the hearing. **Councilor McGeary** concurred.

**Councilor Hardy** noted a legal opinion by Suzanne Egan, City Solicitor was received by the Council on spot zoning prior to the meeting, as requested by Councilor Whynott and the P&D Committee (on file). She added that she wished to make sure the language of the advertisement made it clear that the zoning amendment was inclusive to the City and not just the Lanesville property.

**Attorney Faherty** provided a copy to the Council of the proposed advertisement (received at meeting and on file). He noted the first paragraph is verbatim from the original advertisement published in March. He was asked to provide simple English to define and describe the four things affecting in the proposed change, to redefine the term multi-family, the concept of mixed use, the extension of the savings provision, certain existing business uses and the use table changes. The second paragraph is verbatim, and the last paragraph explains why this is being republished. **Ms. Lowe** read the text of the proposed language aloud. **Councilor McGeary** made a spelling correction in sixth line, third paragraph.

**Councilor Hardy and Councilor Theken** discussed the merits of the advertisement with **Councilor Ciolino** believing the matter should go back to P&D as Attorney Bob Coakley had suggested slight changes to one portion of the proposed zoning changes in the multi-family definition of Sec. 2.2.3, which he testified to at the Planning Board hearing.

**Attorney Faherty** noted Attorney Coakley spoke in favor of these amendments. At the Planning Board his suggestions relate to simple language changes and reflect the tenor of the plans and would come out in the hearing. That is incorporated in the advertisement.

**Councilor Hardy** expressed concern of sending the matter back to Committee. She felt they should continue the public hearing and work the matters through here rather than sending it back to Committee. Attorney Faherty stated the verbiage of the advertisement before them is what the City Clerk advertised in the original advertisements. This advertisement is just a slight simplification of the language. He noted they have been held up because of the Planning Board review. This had been no delay on the part of the applicant pointing out they filed in January feeling he was being responsive to a request made of him.

**Councilor Ciolino** noted that Attorney Coakley's proposed changes never went through the P&D process. He felt two more weeks was not much to ask for.

**Councilor Hardy** reiterated that it all can be worked out at the public hearing. She did not think it had to go back to P&D. She recognized Attorney Coakley but cautioned him the Council would not take up the merits of the rezoning matter this evening.

**Attorney Robert Coakley** stated while he did not have a vested interest in the amendments nor did he want to delay this matter, he wished to express his concern that the original ordinance said "all uses". When the process started, it then had two principal uses with a big dichotomy for business uses. He testified before the Planning Board and they rewrote the section he referred to take out the limitation of two principal uses; but what came out, as voted on by P&D last week, implies two. He believed Mr. Cademartori, Attorney Faherty and himself are in agreement. With the suggestions he had made, this confusion had been eliminated.

**By unanimous consent the City Council voted TO RE-ADVERTISE FOR PUBLIC HEARING for June 14, 2011 based on language presented to the Council on April 26, 2011 and after review of final advertisement language by Gregg Cademartori, City Planning Director.**

**Councilor Hardy** stated that under State and local zoning law the Council is also obligated to notify abutters. Under MGL c.40A, §5 and GZO §1.11.4(b) that the proposed changes to definitions of multi-family and mixed uses theoretically affect most zoning districts in the City, thereby making mailing individual notice to each abutter impractical. This motion expresses that the Council deems such notification impractical due to the large number of properties affected and allows that the advertisement will be placed in the newspaper to reach a broad spectrum across the City so that people will know that they may be part of this rezoning.

**MOTION: On motion by Councilor Hardy, seconded by Councilor Tobey, the City Council voted 7 in favor, 1 (Theken) opposed that the notice to each individual abutter be waived as in accordance with MGL c.40A, §5, and GZO §1.11.4(b).**

**This public hearing is continued to June 14, 2011.**

**For Council Vote:**

1. **Motion to Reconsider (Curcuro): The City Council vote of March 22, 2011 re: Approval of Stormwater Utility Regulations under City Charter Sec. 7-16(a) (b) and GCO Sec. 23(1) thru 23(6) "The Stormwater Utility Ordinance" in general and Sec. 23-4 (c) "Stormwater Utility Service Fees"**

**MOTION: On motion by Councilor Tobey, seconded by Councilor Theken, the City Council voted 8 in favor, 0 opposed to remove the MOTION TO RECONSIDER from the table for disposition.**

**Councilor Curcuro** noted that some of the issues raised the evening of the original vote have been answered and that he would now put the motion back on the floor for reconsideration.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 7 in favor, 1 (Ciolino) opposed to RECONSIDER the City Council vote of March 22, 2011 re: Approval of Stormwater Utility Regulations under City Charter Sec. 7-16(a) (b) and GCO Sec. 23(1) thru 23(6) “The Stormwater Utility Ordinance” in general and Sec. 23-4 (c) “Stormwater Utility Service Fees”.**

**MOTION TO RECONSIDER PASSES.**

**REVOTE:**

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 the matter of the “Stormwater Utility Fee Structure and Regulations” be adopted as presented and pursuant to City Charter Sec. 7-16(b) dated February 15, 2011 and incorporated into these minutes.

**Councilor Curcuru** stated this is regarding the Stormwater Utility fee structure and regulations. He realized that the Administration was not ready to put it forward; but will put it in place for FY13. **Councilor Tobey** would vote yes. Previously he voted no as he was not satisfied with General Counsel’s response to access to the sewer lines. The City Auditor reached out and got an explanation from the State, a DOR attorney, that made sense; the language was there for a reason that tax exempt properties do have to pay this fee.

**Councilor Hardy** would also vote yes as well, as Mr. Costa had obtained the information from the State which she had read into the record at a previous City Council meeting. She was given enough reason to vote yes by this explanation from the State.

**Councilor Verga** would not change his vote. He will vote no once again.

**Councilor Ciolino** would not change his vote and would continue to vote yes, that it is the fairest deal to pay for stormwater.

**Councilor McGeary** would vote yes agreeing it is the fairest way among the choices available to the Council.

**Councilor Theken** would not change her vote, again voting yes for the same reason she voted yes before. They all are affected by stormwater. It goes somewhere. This is fair.

**Councilor Curcuru** stated this is a federally unfunded mandate and that this is fair to all to keep the City’s waters clean and would vote for it.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 1 (Verga) opposed that the matter of the “Stormwater Utility Fee Structure and Regulations” be adopted as presented and pursuant to City Charter Sec. 7-16(b) dated February 15, 2011 and incorporated into these minutes.**

**MOTION PASSES.**

**Unfinished Business: None.**

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

**Councilors’ Requests to the Mayor:**

**Councilor Verga** wished former State Representative Tony Verga a Happy Birthday.

**Councilor McGeary** reminded the DPW this Saturday has electronics turn in day for a \$10 fee.

**Councilor Ciolino** also noted this Sunday is Pride Stride. He invited all to come and stop by after the walk to by say hello where he will be helping out by manning the grill.

**Councilor Theken** thanked the Chair for placing Councilors on committees. She reminded the public that the Councilor at a school function means you have the whole Council represented through that one Councilor. She thanked Councilor McGeary for the red ribbons. She noted she and Councilor Tobey will do their best for the City as members of the Fisheries Commission. She spoke to the seniors for submitting paperwork and getting letters regarding the termination of health benefits. The state legislative delegation will be meetings to try to alleviate this situation. She asked the Council to call the Governor's Office to let them know our seniors are going with no medications; their pensions are being cut; services are being terminated because they've been terminated from insurance. She looked to the Councilors for their assistance to intervene on the seniors' behalf.

**Councilor Ciolino** noted a fundraiser on Saturday, a dinner sponsored by the Gloucester Rotary Club at the Rose Baker Senior Center of fish cakes and beans thanks to a gracious donation from Gorton's. Tickets are available at the Rose Baker Senior Center.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 9:45 p.m.**

**Respectfully submitted,**

**Dana C. Jorgensson**  
Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- **Text of testimony before the City Council by Peg O'Malley, R.N.**
- **Language for proposed advertisement on the proposed rezoning matter by applicants at 77 Langsford Street through Attorney J. Michael Faherty**

Updated: 02/15/2011

## STORMWATER UTILITY REGULATIONS

### Sec. I - Purpose

Pursuant to the City of Gloucester Code of Ordinances section 23-2, the city has established a stormwater utility. These regulations are promulgated by the Director of Public Works under the authority of section 23-4(c) of the Code of Ordinances and the City Charter. The regulations establish the utility fees and the administration of the utility.

### Sec. II – Definitions

- (1) City: shall mean city government, including staff and elected officials.
- (2) Equivalent residential unit (ERU): The representative impervious area of single family residential property located in the city. The value of one ERU will be established based on the median impervious area size of the City's single family residences, as determined from aerial photography. It will be re-computed periodically as new data becomes available.
- (3) ERU rate: The charge per year for a single ERU. This to be calculated by dividing the budget of the Stormwater Utility by the number of chargeable ERUs.
- (4) Impervious area: Any part of any parcel of land that has been modified by the action of persons to reduce the land's natural ability to absorb and hold rainfall. This includes areas that have been covered with structures. Excluded are all lawns, landscape areas but not excluding any hardscaped area.
- (5) Impervious surface: any material or structure on or above ground that prevents water infiltrating the underlying soil. Impervious surface includes without limitation roads, paved parking lots, sidewalks and rooftops.
- (6) Director: The Department of Public Works Director or designee.
- (7) Multifamily property: All residential development not classified as single-family residential or accessory.
- (8) Nonresidential property: All property not zoned or used as residential property as defined in this article.
- (9) Single-family property: All single-family residential dwelling structures. All other residential development shall be classified as multifamily.

- (10) Stormwater: That part of precipitation that travels over natural, altered, or improved surfaces to the nearest stream or channel or impoundment and may appear in surface waters. Including stormwater runoff, snowmelt runoff, and surface water runoff and drainage.
- (11) Stormwater management plan: An approved plan for receiving, handling, and transporting storm and surface waters within the city stormwater management system.
- (12) Stormwater management systems: All natural and manmade elements used to convey stormwater from the first point of impact with the surface of the earth to a suitable outlet location internal or external to the boundaries of the city. The stormwater management system includes all pipes, channels, streams, ditches, wetlands, sinkholes, detention/retention basins, ponds, and other stormwater conveyance and treatment facilities, whether public or private.
- (13) Stormwater Management Utility (SMU): the utility created pursuant to the Gloucester Code of Ordinances chapter 23-2.
- (14) SMU director: The Department of Public Works Director or designee is responsible for implementing the SMU function.

### Sec. III – Stormwater management utility program established

A stormwater management utility (SMU) program is established to provide the operational means of implementing and carrying out the functional requirements of the stormwater management system. The SMU program shall be part of the overall utility systems of the city.

### Sec. IV - Customer base

All real property within the jurisdictional boundaries of the city shall be subject to SMU fees unless specifically exempted by the section 23-6 of the code of ordinances. The fees shall also apply to all tax-exempt properties, including properties of federal, state, and county agencies and nonprofit organizations, with the exception of properties owned by the City of Gloucester.

### Sec. V - Utility fee categories

The following utility fee categories are established for the purpose of calculating the stormwater fee.

- (1) Single-family property: Each single-family property shall be considered one ERU for billing purposes.



- (2) Multifamily: The Director of the Department of Public Works (Director) may establish the number of units in a single property above which properties will be charged as a multi-family unit. At or beneath this number a multifamily will be charged as a single-family property (a single ERU). Each multifamily unit shall be charged a fixed portion of the ERU rate.

NUMBER OF UNITS x MULTI-OCCUPANCY FACTOR x ERU RATE

The multi-occupancy factor will be established by the Director.

- (3) Residential lots with structures and or uses which are accessory to residential uses shall be charged as follows:

ERU RATE X MULTIT-OCCUPANCY FACTOR

- (4) Each condominium unit shall be charged as follows:

ERU RATE x MULTI-OCCUPANCY FACTOR

- (5) Nonresidential property: The annual utility fee for all nonresidential properties shall be billed and calculated in accordance with the following formula:

IMPERVIOUS AREA / ERU size = Number of ERUs

- (6) The Director may set a minimum and maximum number of ERUs for nonresidential or residential property.

#### Sec. VI - Fee schedule

- (1) ERU fees shall be billed and collected as a separate line item on utility account bills. Separate accounts for stormwater services may be established if other utilities are not furnished to property.
- (2) ERU fees shall be billed as often as other utility accounts are billed.

#### Sec. VII - Exemptions

Pursuant to section 23-6 of the Code of Ordinances, the following real property located in the city shall be exempt from the imposition of SMU fees:

- (1) Property that is owned by the City of Gloucester.

- (2) Property that is vacant and unimproved and with no impervious area, however, the Director may determine that the land may contain an amount impervious surface which is de minimus and therefore exempt.
- (3) Paved improved public or private right-of-way.

Sec. VIII – Remedies of aggrieved property owners

All requests to abate the stormwater utility fee shall be submitted to the Director of the Department of Public Works and shall be reviewed and processed in the same manner as an appeal of a sewer bill. The provisions of MGL c. 83, section 16E, and all available remedies under MGL c. 165, section 10, may apply. The petition for an abatement must be filed within the time allowed for an abatement of real estate tax, or for exempt properties the time within which a real estate tax would be filed if not tax exempt. If the DPW Director finds that the charge was for more than was properly due, an abatement shall be made. If the appeal is denied, the petitioner may appeal to the appellate tax board upon the same terms as a person aggrieved by the refusal of the assessors of a city to abate a tax.

Sec. IX - Enforcement and penalties

- (1) Bills shall be payable at the same time and in the same manner and subject to the same penalties as set forth in Massachusetts General Law chapter 83 section 16 for sewer bills. Nonpayment of any portion of the stormwater utility fee shall be considered as nonpayment of all other city utilities appearing on the bill and may result in the city's termination of all services appearing on the bill.
- (2) Pursuant to Massachusetts General Laws, the city shall have a lien for delinquent or unpaid stormwater management services charges, which lien shall be prior to all other liens on such property except for tax liens. Enforcement and foreclosure of said liens shall be as provided by law. Interest on the unpaid balance shall be the highest rate as authorized by state law.