

GLOUCESTER CITY COUNCIL MEETING

Tuesday, June 14, 2011 – 7:00 p.m.

Kyrouz Auditorium – City Hall

-MINUTES-

Present: Vice President, Councilor Sefatia Theken; Councilor Bruce Tobey; Councilor Paul McGeary; Councilor Steven Curcuru; Councilor Greg Verga; Councilor Robert Whycott; Councilor Mulcahey

Absent: Councilor Hardy

Also Present: Linda T. Lowe; Jim Duggan; Kenny Costa; Bill Sanborn; Rick Noonan; Suzanne Egan

The meeting was called to order at 7:03 p.m. Some items were taken out of order.

Flag Salute and Moment of Silence.

Councilor Theken announced that **Councilor Hardy** was unable to attend due to illness and that **Councilor Tobey** was delayed would to arrive later in the proceedings.

Oral Communications: None

Consent Agenda:

• ***MAYOR'S REPORT***

1. Memorandum from CFO re: Appropriation Request from the CPA Fund of \$215,000 as recommended by Community Preservation Committee to pay for costs of remodeling and making extraordinary repairs to the Gloucester City Hall (Refer B&F)
2. Memorandum from CFO re: Rescission of Two bond Authorizations: \$800,000 (I4-C2) and for \$215,000 (CPA-City Hall Restoration) (Refer B&F)
3. Memorandum from Community Dev. Director re: 2011 Applications for CPA Funding (Refer B&F)
4. Memorandum from Fire Chief re: Permission to pay an invoice without a purchase order in place (Refer B&F)
5. Memorandum from Interim Health Director re: City Council acceptance of US Fish & Wildlife Service grant for Mill Pond For \$16,000 (Refer B&F)
6. Memorandum from Interim Health Director re: City Council acceptance of a Coastal America Grant for Mill Pond Tide Gate Project of \$4,500 (Refer B&F)
7. Special budgetary Transfer Request (#2011-SBT-41) from Fire Department (Refer B&F)
8. Memorandum from Community Dev. Director re: Request for City Council to Amend GCO §22-288 and §22-291 (Off Street Parking) – Harbor Walk and Harbor Parking Lot (Refer B&F)
9. Memorandum from Police Chief re: School Zone Speed Limit in the area of 384 Washington Street (Refer TC and O&A)
10. Request by the Purchasing Agent for the Appointment of a Building Committee for the School Roof Replacement Project under City Charter §5.5, City Building Committee (Refer O&A)
11. Appointment: Licensing Board TTE 05/31/2017 Michele Holovak Harrison (Refer O&A)

• ***COMMUNICATIONS/INVITATIONS***

1. Response to Oral Communications of May 10, 2011 City Council Meeting, re: Magnolia Woods (File)
2. Request from Talia DeWolfe to hold Breast Cancer Fundraising Walk on September 25, 2011 (Refer P&D)
3. Request from Habitat for Humanity for a 5K Road Race, October 2011 (Refer P&D)

• ***INFORMATION ONLY***

1. Memorandum from Community Dev. Director re: Year End Report for 2010 and Account Statement from the Affordable Housing Trust (Info Only)

• ***APPLICATIONS/PETITIONS (None)***

• ***COUNCILORS ORDERS***

1. CC2011-026 (Hardy) Set Speed Limit for Gee Avenue (Refer TC and O&A)
2. CC2011-027 (McGeary) Amend GCO §22-270 (Parking Prohibited at All Times) by deleting "Eastern Ave., southerly Side from Hartz Street, westerly for a distance of forty (40) feet (Refer TC and O&A)

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

1. City Council Meeting 05/24/11 (Approve/File)
2. Special City Council Meeting 05/31/11 (Approve/File)
3. Special City Council Meeting 06/07/11 (Approve/File)
4. Standing Committee Meetings: O&A 06/06/11, P&D 06/08/11, B&F 05/31/11 06/09/11 (under separate cover) (Approve/File)

Items to be added/deleted from the Consent Agenda:

Councilor Curcuru noted there were two late additions to the Consent Agenda by the Administration.

Jim Duggan, CAO provided two brief memos and stated the Administration is requesting that two matters be added to the Consent Agenda and be referred out to the Budget & Finance Committee: a declaration of overlay surplus

and appropriation for Snow & Ice to help cover that deficit; and an amended Loan Authorization with language for the school roofs project which is now to include the cost of the roof replacement for the Dorothy Talbot Rink.

By unanimous consent these two matters were referred to B&F.

By unanimous consent the City Council adopted the Consent Agenda as amended.

Standing Committee Reports:

Ordinances & Administration: June 6, 2011

No motions were brought forward from this meeting for Council action.

Planning & Development: June 8, 2011

No motions were brought forward from this meeting for Council action.

By unanimous consent of the Council the “For Council Vote” was taken up at this time.

For Council Vote:

1. CC2011-025 (Verga) Report on adequacy of public water supply from Fire Chief and DPW Director re: Becker Lane area

Councilor Verga explained he had brought this order forward assuming the Fire Chief and/or the DPW Director would make a presentation on the matter of the adequacy of the public water supply in the Becker Lane area. In speaking to the Council Chair today, Councilor Hardy pointed out this order is to vote to ask for the presentation. The Councilor noted a resident from the Becker Lane area was in attendance; and explained a recent fire in the area that brought to light a complaint he had heard from the beginning of his Council term that the water supply is “if-y” at best in the Becker Lane area; and so he would like to hear the opinions of the DPW and Fire Department as soon as possible as to the status of the water supply; the location of the nearest fire hydrant; and any remediation that needs to be made to remediate any possible deficit in the area and asked for the Council’s support.

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, that the Fire Chief and the DPW Director prepare a report on the adequacy of the public water supply in the area of the Becker Lane neighborhood, specifically for its use in firefighting, the nearest fire hydrants, and a plan to improve these capabilities should they be deemed insufficient to be presented at the July 12, 2011 City Council meeting.

Standing Committee Reports - Continued:

Budget & Finance: May 31, 2011 and June 9, 2011

No motions were brought forward from the May 31st meeting for Council action.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (2011-SBT-36) for \$200.00 from Software lease/purchases, Unifund Account #101000.10.155.62850.0000.00.000.00.052 to Wages – Full Time, Unifund Account #101000.10.155.51100.0000.00.000.00.051.

Discussion:

Councilor Curcuru explained that this is to fix an account deficit.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to transfer (2011-SBT-36) for \$200.00 from

Software lease/purchases, Unifund Account #101000.10.155.62850.0000.00.000.00.052 to Wages – Full Time, Unifund Account #101000.10.155.51100.0000.00.000.00.051.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (2011-SBT-37) for \$2,035.16 from Unifund Account #101000.10.121.51200.0000.00.000.00.051 to Tourism, Sal/Wage-Temp Pos., Unifund Account #101000.10.563.51200.0000.00.000.00.051.

Discussion:

Councilor Curcuru explained that this is to cover the salary for the Welcome Center Coordinator through the end of FY11 and the transition from the previous Welcome Center Coordinator and because there was so much to do at the Center to prepare it for the season.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to transfer (2011-SBT-37) for \$2,035.16 from Unifund Account #101000.10.121.51200.0000.00.000.00.051 to Tourism, Sal/Wage-Temp Pos., Unifund Account #101000.10.563.51200.0000.00.000.00.051.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (2011-SBT-38) for \$26,500.00, Public Services Permanent Position, Unifund Account #101000.10.470.51100.0000.00.000.00.051 to Public Services Electric, Unifund Account #101000.10.470.52110.0000.00.000.00.052.

Discussion:

Councilor Curcuru noted this transfer is for funds needed to replace the monies transferred to Facilities Heating Oil to correct a budgeting deficit in Public Services Electric. This is for Todd Oil bills. They transferred it out of electric, and this is to put this back in.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to recommend to the City Council the transfer (2011-SBT-38) for \$26,500.00, Public Services Permanent Position, Unifund Account #101000.10.470.51100.0000.00.000.00.051 to Public Services Electric, Unifund Account #101000.10.470.52110.0000.00.000.00.052.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (#2011-SBT-39) for \$21,000, from Engineering, Sal/Wage Perm Position, Unifund Account #101000.10.411.51100.0000.00.000.00.051 to DPW, Other, Street Light Power/Service, Unifund Account #101000.10.499.52130.0000.00.000.00.052.

Discussion:

Councilor Curcuru explained this transfer is for funds needed to replace the monies transferred to School Facilities under budgeted heating oil which is coming out of lag money from Engineering.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to transfer (#2011-SBT-39) for \$21,000, from Engineering, Sal/Wage Perm Position, Unifund Account #101000.10.411.51100.0000.00.000.00.051 to DPW, Other, Street Light Power/Service, Unifund Account #101000.10.499.52130.0000.00.000.00.052.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (2011-SBT-40) for \$91,553.50 from Treas/Collector, Debt Principal, Unifund Account #101000.10.145.59100.0000.00.000.00.059 to Unifund Account #101000.10.472.52103.4111.00.200.00.052.

Discussion:

Councilor Curcuru noted this transfer is to provide additional funding necessary for the remainder of FY11. They are holding invoices to be paid until this transfer is authorized for utilities, gas. There is still \$80,000 to \$90,000 that is still to come in year-end transfers; this is just to fill the gap.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to transfer (2011-SBT-40) for \$91,553.50 from Treas/Collector, Debt Principal, Unifund Account #101000.10.145.59100.0000.00.000.00.059 to Unifund Account #101000.10.472.52103.4111.00.200.00.052.

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 the payment of invoices for professional services rendered from April 12, 2011 to April 30, 2011 for the Green Repair Roof Project through the MSBA for the Beeman, East Gloucester, Veteran’s Memorial and Plum Cove Elementary Schools and the O’Maley Middle School to CGKV Architects, Inc. as Designer for \$115,578.00 as follows to be paid from Fund #300077- CIP10-09 Schools Roof Replacements:

Beeman Memorial Elementary School	Invoice #2-1 dated 5/10/11	\$11,343.25
East Gloucester Elementary School	Invoice #3-1 dated 5/10/11	\$10,510.25
Plum Cove Elementary School	Invoice #4-1 dated 5/10/11	\$ 9,150.25
Veteran’s Memorial Elementary School	Invoice #5-1 dated 5/10/11	\$12,448.25
O’Maley Middle School	Invoice #1-1 dated 5/10/11	<u>\$36,063.00</u>
	TOTAL	\$115,578.00

Discussion:

Councilor Curcuru explained this request is for the first part of payments of invoices as they pertain to services rendered by Owner’s Project Manager (OPM) (Kevin Buckley of KBA Architects) and the Designer (CGKV Architects, Inc.) for the Green Repair Project through the MSBA for the replacement of the roofs at the Beeman, East Gloucester, Veteran’s Memorial and Plum Cove Elementary Schools and the O’Maley Middle School. At **Councilor Curcuru’s** request, **Mr. Duggan** stated the rate of reimbursement [from the MSBA] is 48.27%. He clarified for the Council that there was an “extremely tight timeline” the MSBA had imposed for any municipality to apply to this green roof program in order to make the submissions into their approval process. The design team that was a part of the City, they had selected a state approved OPM; and that manager helped them select a designer. They had to put in 20% spec plans to the MSBA; and this is where all these services were accumulated prior to a contract being in place. On inquiry by **Councilor Theken**, **Mr. Duggan** explained the architect will be paid about \$400,000 overall for their services, and the OPM, which is the City’s representative, will be paid about \$230,000 for this size of a project, for five roofs. **Councilor Theken** noted she didn’t see West Parish School included in this school roof project. **Mr. Duggan** responded that roof was not spec’d and slated to be done because at the time there had been a discussion as to whether the school would be replaced all or in part. Referring to the timeline, Mr. Duggan stated they were comfortable in selecting the five schools and go forward with them. **Councilor Theken** understood that but wanted the public to know they are not forgetting about West Parish School and that they are looking at that school’s needs; their ward Councilor nor the Council has forgotten them. **Councilor Ciolino** wanted to know that with this money they would get bid documents prepared. **Mr. Duggan** stated bids are scheduled to be picked up the following day; and bids are due on the 28th and 29th for the five schools. The OPM prepared the bid documents and the architects prepared the technical aspects, and a “boilerplate” was prepared by the City’s purchasing agent. He confirmed the architect’s payment is out of these funds they’re approving now and the next motion is for the OPM.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to pay invoices for professional services rendered from April 12, 2011 to April 30, 2011 for the Green Repair Roof Project through the MSBA for the Beeman, East Gloucester, Veteran’s Memorial and Plum Cove Elementary Schools and the O’Maley Middle School to CGKV Architects, Inc. as Designer for \$115,578.00 as follows to be paid from Fund #300077- CIP10-09 Schools Roof Replacements:

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Veteran’s Memorial Elementary School	Invoice #5-1 dated 5/10/11	\$12,448.25
O’Maley Middle School	Invoice #1-1 dated 5/10/11	<u>\$36,063.00</u>
	TOTAL	\$115,578.00

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 the payment of invoices for professional services rendered from March 25, 2011 to April 23, 2011 for the Green Repair Roof Project through the MSBA for the Beeman, East Gloucester, Veteran’s Memorial, and Plum Cove Elementary Schools and the O’Maley Middle School to Knight, Bagge & Anderson, Inc. as Owner’s Project Management for a total of \$15,000.00 at \$3,000 per school, as invoiced on April 28, 2011 (all invoices annotated as Invoice Number 1). Funds are to be paid from Fund #300077- CIP10-09 Schools Roof Replacements.

Discussion:

Councilor Curcuru stated this motion also is the same circumstance; this is for the OPM. **Councilor Ciolino** asked if the work will be completed during school summer vacation period. **Mr. Duggan** was optimistic the work would be completed by the end of August; but that there may be a few small corrections, such as to flashing, to be done that may coincide with the start of school. With the assistance of the Superintendent, they have met with the teachers and principals at the affected schools and provided them with approximate start and anticipated completion dates. They expressed their concern of when they can come back to school to prepare and all concerned were satisfied.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to pay invoices for professional services rendered from March 25, 2011 to April 23, 2011 for the Green Repair Roof Project through the MSBA for the Beeman, East Gloucester, Veteran’s Memorial, and Plum Cove Elementary Schools and the O’Maley Middle School to Knight, Bagge & Anderson, Inc. as Owner’s Project Management for a total of \$15,000.00 at \$3,000 per school, as invoiced on April 28, 2011 (all invoices annotated as Invoice Number 1). Funds are to be paid from Fund #300077- CIP10-09 Schools Roof Replacements.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council that the Community Development Department be permitted to apply for a grant from the PARCs grant program from the MA Division of Conservation Services for up to \$500,000 for the purpose of paying a portion of the cost to purchase and install “field turf” as a part of the Newell Stadium Renewal Project.

Discussion:

Councilor Curcuru related to the Council there was a ward meeting on this June 20th. This project is still a year away. By applying for this grant it allows \$500,000 to go towards the fundraising for Newell Stadium. **Councilor Ciolino** asked if it is a matching grant. **Councilor Curcuru** stated yes, but it is with the money already bonded and with the money raised through fundraisers.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, that the Community Development Department be permitted to apply for a grant from the PARCs grant program from the MA Division of Conservation Services for up to \$500,000 for the purpose of paying a portion of the cost to purchase and install “field turf” as a part of the Newell Stadium Renewal Project.

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 that the Community Development Department be permitted to apply for grant requests from the PARCs grant program through the MA Division of Conservation

Services, and the Natural Resources Damages (NRD) Fund through the MA Department of Environmental Protection for the Community Revitalization and Restoration Projects in Essex County Projects for up to \$190,909 in order to fund focused recreational, accessibility and public safety improvements to Burnham's Field.

Discussion: None.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, that the Community Development Department be permitted to apply for grant requests from the PARCs grant program through the MA Division of Conservation Services, and the Natural Resources Damages (NRD) Fund through the MA Department of Environmental Protection for the Community Revitalization and Restoration Projects in Essex County Projects for up to \$190,909 in order to fund focused recreational, accessibility and public safety improvements to Burnham's Field.

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 under MGL c. 44, §53A a grant extension from Health Resources in Action for the funding of the City of Gloucester's Mass in Motion grant in the amount of \$30,000.

Discussion:

Councilor Curcuru reported this is to accept the grant extension funds of \$30,000 for the Mass in Motion grant. This funding supports the Get Fit Gloucester program, and supports the Senior Project Manager's position as noted by **Councilor Ciolino**. There is no match. **Sarah Garcia**, Community Development Director noted this is a continuation of funding for the past two years enabling the Get Fit Gloucester program.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to accept under MGL c. 44, §53A a grant extension from Health Resources in Action for the funding of the City of Gloucester's Mass in Motion grant in the amount of \$30,000.

MOTION: On motion by Councilor Hardy, seconded by Councilor , the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council under MGL c. 44, §53A to accept Seaport Bond Funds from the Seaport Advisory Council administered through the Executive Office of Environmental Affairs in the amount of \$50,000.

Discussion:

Ms. Garcia explained this is a continuation of the funding for the Harbor Plan Coordinator position which is half of the Community Development Director's position. This will continue the funding for half her salary as well as covering all their harbor planning and port activities. They were pleased the Seaport Advisory Council was firmly behind them. **Councilor Ciolino** asked if this is money that sponsors half her salary, which **Ms. Garcia** confirmed; and the Councilor continued that they're weaning off this for her salary in FY12 or FY13. **Ms. Garcia** responded the Administration is planning to do that for the following year as suggested by Councilor Tobey at her reconfirmation in February that they wean off this year but that since the budget was so tight and so many people affected, they were unwilling to do it for this next fiscal year, and that this will hold for FY12.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, that under MGL c. 44, §53A to accept Seaport Bond Funds from the Seaport Advisory Council administered through the Executive Office of Environmental Affairs in the amount of \$50,000.

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 under MGL c. 44, §53A to accept \$700,000 from the Seaport Advisory Council for the purpose of funding design and construction of the downtown and waterfront Harborwalk.

Discussion:

Ms. Garcia noted the Harborwalk designers are finishing up the design. This Seaport Advisory Council as awarded the City with an additional \$700,000 for the design and construction of the downtown and waterfront Harborwalk. \$250,000 will be spent on the initial downtown phase and will leave \$450,000 for next spring to allow for a connection to Cruiseport and the Boulevard. The initial \$250,000 is welcome because they were short on money to complete the Harborwalk. This has an in-kind match of 20%. **Councilor Theken** stated if they didn't apply for this money the Seaport Advisory Council could give the money to another port. She thanked Ms. Garcia for making the application because if our City didn't take advantage of these funds another community would. **Ms. Garcia** pointed out to the Council that Gloucester's Harbor Walk will not be like a Newburyport Harbor Walk with a boardwalk. This will come in and out through the waterfront which makes it challenging; this will get visitors on a clear materials surface with story moments that will take them along the harbor to Harbor Loop and guide people to Main Street and the Civic Center, City Hall, the Cape Ann Museum, down to the west end of Main Street making it a mile and a quarter. She described some ways as to how this would take advantage of what the City already has. **Councilor Curcuru** asked would any City money be used outside of the \$1.2 million, besides the in-kind match. **Ms. Garcia** stated no. They're working on the I4-C2 RFP for which the Council voted to bond half that cost; but the State has subsidized the other half and these two pieces are working hand in hand. They're hopeful this will help to attract investors because they are investing in a Harbor Walk. On inquiry by **Councilor Curcuru, Ms. Garcia** stated it is \$100,000 for design with the construction taking the remainder, \$650,000 with \$50,000 of that for supervision and is in line for normal design costs for something this detailed. **Councilor Curcuru** asked if they will be able to finish the project with these funds. **Ms. Garcia** stated this will be for the completion of Phase 1; the remaining \$450,000 would be for Phase 2 which is part of the \$1.2 million would be the. **Councilor Ciolino** noted this Council approved about two years ago for the Boulevard on the West Gloucester side to be improved and asked why it remains untouched. **Ms. Garcia** stated the downtown and central harbor has been a focus of economic development, buying I4-C2 and the Harbor Walk has been a part of the strategy. She agreed that the path is falling in on Stacy Boulevard. The Division of Conservation and Recreation did a study on this. There is a \$3.8 million cost to replace Stacy Boulevard with its seawalls. The State will not be looking to release money too soon; seawall repairs are not a priority; and that Stacy Boulevard's seawalls are just one of 100 up and down the Massachusetts coast in need. They have engineered plans but have not been able to pursue funding.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, that under MGL c. 44, §53A to accept \$700,000 from the Seaport Advisory Council for the purpose of funding design and construction of the downtown and waterfront Harborwalk.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council that the City Clerk draft a letter from the City Council in support of School Committee's Charter Funding Resolution.

Discussion:

Linda T. Lowe, City Clerk noted Council President and School Committee Chair are drafting a letter to go to State legislators. All the Council needs to do is to vote in support of the B&F vote on the matter to send a letter on the resolution expressing the agreement of the City Council joining together with the School Committee of how funding Charter Schools. **Councilor Verga** added that the essence of the Charter Funding resolution from the School Committee states that since it is a State initiative (to create and run charter schools), the State should pay for charter schools as a line item from the State budget.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to have the City Clerk draft a letter from the City Council in support of School Committee's Charter Funding Resolution.

Mr. Duggan requested the City Council to consider another matter not on the agenda by unanimous consent as the Consent Agenda had already been approved.

By unanimous consent the City Council allowed the Administration to present a matter not on the 6/14/11 Consent Agenda to be brought forward by the Administration.

Jeff Towne, CFO stated they had spoken about trying to figure out a way to restore the Collector's Principal Clerk supervisor's position in the budget was to look at the fees that are collected for the municipal lien certificates (MLC's) and demand fees that the City charges presently. They charge \$25.00 for almost all MLC's currently. Many communities have gone from \$25.00 to \$50.00 for MLC's and for demand fees they can go from \$5.00 to \$30.00. They're only proposing to go from \$5.00 to \$10.00. With those two changes, as they do about 1,100 MLC's a year, and the demand fees would be on top of this which he didn't calculate in when he was looking to restore this position. He asked that the matter of the increase to the MLC fee increase and the Demand Fee increase be referred out to B&F and O&A for review. They are attempting to create enough revenue in order to restore the Collectors Principal Clerk supervisor's position, which is the lead Collector that was laid off in April. He asked the Mayor to put this forward for consideration and was why they were bringing this forward tonight. He would have a list as to what other communities are charging for these fees for those Committee meetings. **Councilor Curcuru** asked how this would affect the FY12 budget as part of the revenue stream. **Mr. Towne** responded because of the way this was done and had originally talked of no fee increase in the budget; but that when initially speaking with the Mayor, the Mayor agreed this position was as important as any other position in the budget because it helps to collect revenue. He commented if they don't collect revenue they don't have cash to pay for everything else. **Councilors Theken** and **Curcuru** discussed the process of whether this had to go to a public hearing and if there was time to do so before the budget vote. **Mr. Towne** responded if they couldn't accomplish this before the budget vote, then it won't happen then. He felt this was something he wanted to do one way or another, even if they restore this position and implement the fee increases through a public hearing after year end and felt they were doing their best to support that position's restoration. **Councilor Theken** commented for an ordinance change they'd need a public hearing; and therefore wouldn't be included in this budget; and thought Mr. Towne could do a transfer after. **Mr. Towne** responded he would need an appropriation in the budget if they were to do it that way with the fee increase to come in even if it was after the beginning of the new fiscal year and thought they'd want to estimate the revenue on the other side as well.

By unanimous consent this matter is placed on the next O&A and B&F agenda.

Councilor Theken explained there was something in hand for Councilor McGeary and asked the City Clerk to explain the award. **Ms. Lowe** noted today the Council received an award from Colleen Harry of the U.S. Census Bureau in the Boston Regional Office which commends Councilor McGeary for running the local outreach program for the 2010 Federal Census. **Councilor Theken** presented the award on the behalf of the City of Gloucester to Councilor McGeary.

Scheduled Public Hearings:

1. **PH2011-027: Amend GCO §22-287 (Disabled Veteran, handicapped parking) by ADDING Mt. Vernon Street #39, one handicapped parking space**

This public hearing is open.

Those speaking in favor/Those speaking in opposition: None.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the GCO §22-287 (Disabled veteran, handicapped parking) by ADDING one (1) handicapped parking space in front of Mt. Vernon Street, #39.

Discussion:

Councilor Mulcahey noted that the Traffic Commission agreed with this installation of one handicapped space in front of #39 Mt. Vernon Street; the application was made by Former City Councilor Gus Foote who is aware that this is not a personal space but one to be used for anyone with a handicapped placard for their vehicle.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to AMEND the GCO §22-287 (Disabled veteran, handicapped parking) by ADDING one (1) handicapped parking space in front of Mt. Vernon Street, #39.

2. **PH2011-028: Amend GCO §22-287 (Disabled Veteran, Handicapped Parking) by DELETING: Mason Street #25, one handicapped space**

This public hearing is open.

Those speaking in favor/Those speaking in opposition: None.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to Amend GCO §22-287 (Disabled Veteran, Handicapped Parking) by DELETING Mason Street #25, one handicapped space.

3. **PH2011-029: Amend GCO §22-269.1 Yield Intersections by DELETING Raymond Street, on the southerly side, at its intersection with shore Road and DELETING Fuller Street, on the northerly side at its intersection with Norman Avenue**

This public hearing is open.

Those speaking in favor/Those speaking in opposition: None.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO §22-269.1 Yield Intersections by DELETING Raymond Street, on the southerly side, at its intersection with Shore Road and DELETING Fuller Street, on the northerly side at its intersection with Norman Avenue.

Discussion: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to Amend GCO §22-269.1 Yield Intersections by DELETING Raymond Street, on the southerly side, at its intersection with Shore Road and DELETING Fuller Street, on the northerly side at its intersection with Norman Avenue.

Councilor Theken explained that the O&A Committee fully reviewed and vetted these traffic issues as did the Traffic Commission and recommended them all unanimously to the Council (Public Hearings listed as #1, and #3-#8).

4. **PH2011-030: Amend GCO §22-269 (Stop Intersections) by ADDING a stop sign to the northeast corner Of Fuller Street where it meets Normal Avenue**

This public hearing is open.

Those speaking in favor/Those speaking in opposition: None.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the GCO §22-269 (Stop Intersections) by ADDING a stop sign to the northeast corner of Fuller Street where it meets Norman Avenue.

Discussion: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Tobey) absent, to AMEND the GCO §22-269 (Stop Intersections) by ADDING a stop sign to the northeast corner of Fuller Street where it meets Norman Avenue.

5. **PH2011-031 Amend GCO §22-269 (Stop Intersections) by ADDING a stop sign to the southwest corner of**

Raymond Street where it meets Shore Road

This public hearing is open.

Those speaking in favor/Those speaking in opposition: None.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the GCO §22-269 (Stop Intersections) by ADDING a stop sign to the southwest corner of Raymond Street where it meets Shore Road.

Discussion: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent, to AMEND the GCO §22-269 (Stop Intersections) by ADDING a stop sign to the southwest corner of Raymond Street where it meets Shore Road.

- 6. PH2011-032: Amend GCO §22-269 (Stop Intersections) by ADDING a stop sign to the northeast corner Of Lexington Avenue where it meets Hesperus Avenue**

This public hearing is open.

Those speaking in favor/Those speaking in opposition: None.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the GCO §22-269 (Stop Intersections) by ADDING a stop sign to the northeast corner of Lexington Avenue where it meets Hesperus Avenue.

Discussion: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent, to AMEND the GCO §22-269 (Stop Intersections) by ADDING a stop sign to the northeast corner of Lexington Avenue where it meets Hesperus Avenue.

- 7. PH2011-033: Amend GCO §22-269 (Stop Intersections) by ADDING a stop sign to the southwest corner of Hesperus Avenue and Lexington Avenue**

This public hearing is open.

Those speaking in favor/Those speaking in opposition: None.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the GCO §22-269 (Stop Intersections) by ADDING a stop sign to the southwest corner of Hesperus Avenue and Lexington Avenue.

Discussion: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent, to AMEND the GCO §22-269 (Stop Intersections) by ADDING a stop sign to the southwest corner of Hesperus Avenue and Lexington Avenue.

Councilor Verga stepped away from the dais at 8:02 p.m.

- 8. PH2011-034: Amend GCO §22-283 “Bus Stops and Taxi Stands” by ADDING Railroad Ave., northerly Side, three spaces at a point beginning at the east entrance to 33 Railroad Avenue for a distance of 80 ft.,**

And one space at a point 200 feet in an easterly direction for a distance of 30 ft. adjacent to the MBTA Train Station

This public hearing is open.

Those speaking in favor/Those speaking in opposition: None.

This public hearing is closed.

Councilor Theken noted as there was no one in the audience to speak in favor or oppose this and the other traffic matters for public hearing that she opened and closed the hearings because of it not asking for public comment; nor was there any communications received by the Council on those matters. She reiterated these matters were reviewed fully vetted by the O&A Committee and the Traffic Commission.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the GCO §22-283 (Bus Stops & Taxi Stands) be amended by adding Railroad Avenue, northerly side, three spaces at a point beginning at the east entrance to 33 Railroad Avenue, for a distance of 80 feet AND one space at a point 200 feet in an easterly direction for a distance of 30 feet adjacent to the MBTA train platform.

Discussion: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 6 in favor, 0 opposed, 3(Verga, Tobey, Hardy) to AMEND the GCO §22-283 (Bus Stops & Taxi Stands) be amended by adding Railroad Avenue, northerly side, three spaces at a point beginning at the east entrance to 33 Railroad Avenue, for a distance of 80 feet AND one space at a point 200 feet in an easterly direction for a distance of 30 feet adjacent to the MBTA train platform.

Councilor Verga returned to the dais at 8:04 p.m.

9. PH2011-009: 2011-001 Application to Amend Gloucester Zoning Ordinance §VI-Definitions, §2.2.3 Mixed Uses, §3.2.1 footnote (g), Appendix to §3-2 re: 77 Langsford Street and applicability to various areas in the City of Gloucester (Cont'd from 4/26/11)

This public hearing is open.

Those speaking in favor:

Attorney J. Michael Faherty spoke representing applicants Gregory Gibson and Ann Marie Crotty, owners of the property at 77 Langsford Street, Lanesville. The zoning ordinance and State statute provides that any property owner may apply for an amendment of the zoning ordinance. He felt it important to understand the Crotty's property as well as the "genesis" of this application but to also understand that the problem being solved by these small amendments to the ordinance are of long standing have an impact across the City. The property on Langsford Street is zoned Neighborhood Business District (NB); and there a number of NB areas in the City, which doesn't have any dimensional requirements of their own and depend on the abutting residential district for their zoning requirements; and in this case, it is R20 – the dimensional requirements within the NB district that abuts the R20 are R20. He gave the example if you abut an R4 or R3; they would be governed by those [dimensional requirements] and thereby have no independent dimensional requirements. On his client's property there was a commercial building of long standing, housing a book store and gallery. About 1-1/2 years ago, a tree fell from a neighbor's property onto his clients' building and crushed it. The Building Inspector determined the building had to be condemned. Consequently, his clients attempted to rebuild the building. At that time they looked to add an a two-bedroom apartment above the building previously there in the same approximate footprint with no other change except to have a residential use on the second story. He recalled when the City Council several years ago in an effort to expand housing in the City, particularly in the inner City, authorized as matter of right up to 3 units by right in buildings in the Central Business (CB) district and also eliminated parking requirements. In the NB district, where business is allowed and residences are allowed, he believed it was an "anomaly" that a residential use of a second floor should trigger such results; and that would be the trigger of a dwelling unit on top of a non-residential use on the first floor, is the multi-family definition. Multi-family is defined as three or more dwelling units and a catch all clause that states, "...or and any one dwelling unit above a non-residential unit on the ground floor." A line drawing of the property at 77 Langsford Street was handed out to the Council (same document as previously filed

and presented at the Planning Board public hearing and at the P&D Committee meeting during its initial deliberations on the matter). He explained the two lots shown on the plan are the entirety of the NB district on Langsford Street, 77 and 75. The boundary lines of the perimeter of the property are the dashed lines around 'the whole thing'. The green line on both lots represents the R2 requirements in that area with the savings provision. In 1999 the City Council made changes to the zoning in North and West Gloucester and sections of Magnolia, they inserted a provision that if you had a single family house or an accessory building in existence prior to March 1999, that alteration of those structures would be guided by dimensional requirements in place at the time the zoning was changed. Therefore, single family and two-family houses plus accessory buildings had a certain level of protection that wasn't otherwise afforded under the ordinance. If you had a single family dwelling or two-family or accessory the governing rules if the building was in place prior to March 1999, the green line on both lots represent what the setbacks from the boundaries are. The blue line inside of the green line represents the current R2 regulations. Because his clients had a commercial building on their property they were not afforded the protection of the savings provision but are governed by the blue line. The area of building is shrinking a great deal without the savings provision on both lots. They do not own both lots, but is the one shown on the left. The other is in the NB district but is exclusively residential. The yellow/orange lines are what the setbacks are once applied to the multi-family standard. They are contained in §3.2.2; this takes the regular dimension requirements for the R2 district and adds one foot for every foot that the building on the lot exceeds 15 ft. in height. An allowable height is 30 ft. That means 15 ft is added to the setback because it's called a multi-family dwelling even though the proposal is for one two-bedroom dwelling unit above an existing commercial unit on the first floor. This requires 55 ft. from the right hand property line. The rear yard line has to be 55 ft., and front yard of 40 ft – there is no place on this lot at all that could meet any spec for the dimensional requirements of a mutli-family dwelling on this lot. But both of the uses in this district (residential and business use) are allowable uses.

Councilor Tobey entered the meeting at 8:16 p.m.

Attorney Faherty continued that the adjacent lot which is bigger would have no place either where such dimensions could be accommodated. Their clients did apply to the Zoning Board of Appeals (ZBA) and were granted some variances. The decision was voted favorably; but before the decision was filed, the applicants withdrew due to a threat of litigation. This case, he believed, reinforces what has been going on for many years in the City regarding the definition of a multi-family dwelling. He related that as a regular practioner before the Council and the ZBA, it is significant the number of times an applicant must go to the ZBA to get zoning variance relief because of this requirement. For the application of this provision, he noted in 1984 the City Council voted on amendments to the Zoning Ordinances offered by the Planning Board. At that time, the key point was the idea of changing the definition of a multifamily dwelling was not discussed by the City Council and some discussion as to whether it was actually ever voted in because there is no specific vote on that definition. Three of the definitions, mobile home, yard sale and building height but none taken on the others. It is being enforced consistently in the City. He filed an application on behalf of his clients and also to have the changes made to the definition which would mean that a single unit above a non-residential unit would not be considered a multi-family. It would also clarify a mixed use; which he contended that when two uses are allowed there should not be something else in the ordinance that doesn't allow it to be done. Also, it is to seek protection similar to the other buildings in North and West Gloucester from the zoning change. Hearings were held at Planning Board & P&D. The Planning Board's principal concerns were to make sure this was "tight" and did not expand any uses that were not otherwise allowed in the ordinance. He noted it has been amended to reflect their concerns. It was a concern that the City Council retain jurisdiction over the permitting process. Even though a one-over-one would not be considered a multi-family dwelling, it would sill require the issuance of a Special Council Permit, just as it now for a multi-family hearing, and also remain with a hearing and no expansion of the uses. The amendments are before them as they were written. The definition of a dwelling, multi-family or apartment will be changed to read: "A structure containing 3 or more dwelling units whether for rental, condominium ownership or other form of tenancy including row or townhouse structures." This is currently in the ordinance so there is no change to the first clause. "...or a structure containing one or more permitted non-residential uses on the ground floor, or on the ground floor and other floors and also containing more than one dwelling unit above the ground floor." A one-over-one would not be a multi-family dwelling by definition and would not trigger those regulations but trigger the dimensional regulations for all other buildings other than single or two family. The second section is about mixed uses, "where a building or structure or land is proposed to be used for more than one principal use whether the uses are in separate buildings or in the same building either vertically or horizontally connected each of which use is permitted in the zoning district in question, neither of which is accessory to the other; such mixed uses shall be allowed." That is the only change being clarified is that

the vertical or horizontal location of the uses will not affect their dimensional requirements. He understood there would be an amendment offered to clarify that language; and as the applicants' representative, they have no objections on that amendment which was offered by Attorney Coakley. Lastly, "that the front, side and rear yard setbacks distances for building used as of right for any of the business uses as defined in §2.3.4 of this ordinance, or mixed use business as defined in the ordinance, which were in existence before March 1999 or for which a building permit was issued on or before March 1999 and are located in those portions of the R20 and R30 identified by the street listing in the Appendix to §3.2 of this ordinance shall be the same as the front, side and rear setbacks for single and two-family dwellings on the designated streets set out in the Appendix." He felt this meant that in order to qualify for the savings provision the use of the property has to have been allowed as a matter of right prior to the date of the change and in addition you have to be one of those streets otherwise identified. There is an amendment to the footnote which is added which becomes footnote (g) to the schedule. The Planning Board felt that the use table in §2.3.1 would have two lines; one would be conversion to or a new mixed use building with not more than one dwelling unit. That would still require the Special City Council Permit which would have the six criteria used for issuing Special Council Permits; (b) would be a conversion to a new multi-family or apartment dwelling up to two dwelling units which would also be a Special Council Permit and the rest of the schedule stays the same. The Council already has jurisdiction over three or more. This would not just impact his client's property but a number of properties throughout the City. It does not take away from the Council's jurisdiction to act on a case-by-case basis; it authorizes no new uses and no exceptions created by these definition changes. It does promote, in his opinion, in NB districts, to have an owner occupied dwelling above a ground floor.

Those speaking in opposition:

Bill Thoms, 1174 Washington Street asked the Council to imagine the owner of the Birdseye property came to them to take all business districts to allow a 12 story condo/hotel projects feeling that compared to what the Council was considering in this rezoning issue before them. He noted he had been to the Planning & Development Committee where they spoke of the Planning Board recommendations. He felt it affects 400 properties in the City with at least 800 abutters affected by these proposed changes. . He noted the dimensional requirements and claimed some of the plans submitted to the ZBA were not accurate. He felt this was asking for intensified use which was why they have a zoning ordinance which sets out greater dimensional requirements for intensified use. He noted Councilor Whynott had asked the City Solicitor if this constituted spot zoning; and Attorney Egan submitted an advisory memo that in her opinion this was not spot zoning because it doesn't apply to one parcel of land which he commended feeling she was technically correct. However, he believed, "This was worse." He further believed this was about intensified use being taken advantage of by neighbors in area consisting almost exclusively single family homes. He asked the Council to take a hard look as he didn't think it passed the "smell" test. Multi-family mixed use property on a six-sided lot, he contended, with these dimensions is inappropriate. He asked them to consider the other 400 parcels and the abutters of those properties. He felt the Council doesn't understand this proposal and urged them not to vote for these zoning amendments.

Rebuttal:

Attorney Faherty responded no one is stripping the Council of their Special Permitting process. Any one-over-one application would have to come before the Council. The intensification spoken about in this particular instance and anywhere else would be one dwelling unit over one business. They're not talking about anything else. If the Council doesn't accept this, they'll be saying housing in this City is not something they're not going to encourage in districts that are named Neighborhood Business. He didn't think it was 400 parcels as this will not affect existing buildings but rebuilds.

Rebuttal of Rebuttal:

Mr. Thoms noted the 2010 census figures showing the City's population has gone down 5% stating there is no housing shortage or crisis; and therefore there is no need of intensified use in Lanesville which is largely single family homes. They don't need greater intensified use in any Neighborhood Business district for that matter. They should not be seeking to intensify these parcels without the oversight of the City Council.

Communications: None.

Questions:

Councilor Mulcahey asked if the owner will live in the building; and if they have a business on the ground floor or is there some other plan by these owners. **Attorney Faherty** responded this particular facility permitted by the ZBA doesn't have an apartment in it now. This is a zoning amendment not an application for a zoning permit for relief with respect to this parcel. His clients own a home and live across the street. The "impetus" for putting the apartment above the building was to allow the couple to downsize; they were prevented from doing that and so this amendment came from that. They will be having a permit shortly for a commercial building which will have two stories on it. This is not an application for relief with regard to this parcel; but a general amendment to the ordinance

brought on by frustration and is an example of what happens. It was a commercial building until the tree from Mr. Thoms property fell and crushed the building. **Councilor Theken** noted this did not come in front of O&A but was in front of P&D because it is a zoning ordinance and not a Code of Ordinances amendment, and came forward from them, chaired by Councilor Ciolino. **Attorney Faherty** confirmed to **Councilor Theken** this went in before the ZBA as an application for relief with respect to this parcel; it as there twice. **Attorney Faherty**, in response to another question from **Councilor Theken** stated when the City Council amended the zoning ordinance to say in the Central Business (CB) district that if you had up to three dwelling units above commercial units on the first floor, they are allowed as a matter of right and don't have to meet the parking requirements. What the Council didn't do, and which he felt they should have done, was that they did not relieve those people from the requirement of going to the ZBA to seek variances required to do what they said could be done by a matter of right. He commented the Council should next also relieve those people of that requirement; as it was "silly to say" that while on one hand they are encouraging this, but when they go to see the Building Inspector about conversion, he has to instruct them to go to the ZBA to get dimensional relief for the exterior because by definition it is a multi-family. This change will not affect that but reiterated is something the Council should deal with. **Bill Sanborn**, Building Inspector was asked by **Councilor Theken** how many cases he comes across with this situation and responded it happens frequently – once you make an apartment with a business use it falls under a multi-family no matter the size. As it is a change of use, it needs to meet the dimensional requirements for a multi-family which has more stringent requirements than for a one or two-family; and if you get those from the ZBA then you have to go the City Council for relief also. **Councilor Theken** asked if this zoning amendment passes this evening, would this now be a simpler process. **Mr. Sanborn** believed this would take the business use with a dwelling above it and keep it in the same category as a one or two family therefore bypassing the first stage for dimensional relief to the ZBA and go forward instead just to the City Council. **Councilor Theken** followed up asking Mr. Sanborn if he believed 400 parcels were affected. **Mr. Sanborn** replied NB districts are spread throughout the City. There are a lot of NB districts that have commercial buildings converted to two or three families. He added they were looking at a number of issues that need correction in the zoning ordinances and would hope to put them forward soon.

This public hearing is closed.

Councilor Ciolino stated the P&D Committee made a site visit and explained to the Council that the situation cited on Langsford street is an example of a correction that needs to be made [to the zoning ordinance] and noted that someone who has an existing structure on a property, they rezoned them so they couldn't build with an apartment 'over'. The Committee looked at the surrounding structures; most are single but also there two and three families. He contended it would not be detrimental to the neighborhood. The Committee felt that the proposal for Langsford Street would also be good for the rest of the City especially with oddly shaped lots. These motions they are making will correct this problem which started when they first adjusted the zoning amendments. He felt the City needs to be consumer friendly; and this is a situation where now there will be an opportunity not only for Langsford Street but on other properties to build a structure appropriately.

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 AMEND the City of Gloucester Zoning Ordinances as follows:

Amend Section 2.3.1 Use table by deleting Section 5 and replacing it with:

Section 5(a) Conversion to or new mixed use building with not more than one (1) dwelling unit.

5(b) Conversion to or new multi-family or apartment dwelling, up to two dwelling units.

The uses permitted by right and by special permit for section 5 remain the same for sections 5(a) and 5(b).

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Hardy) absent, to AMEND the City of Gloucester Zoning Ordinances as follows:

Amend Section 2.3.1 Use table by deleting Section 5 and replacing it with:

Section 5(a) Conversion to or new mixed use building with not more than one (1) dwelling unit.

5(b) Conversion to or new multi-family or apartment dwelling, up to two dwelling units.

The uses permitted by right and by special permit for section 5 remain the same for sections 5(a) and 5(b).

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 AMEND the City of Gloucester Zoning Ordinances as follows:

Amend Section 3.2.3 by adding footnote g. to both VB and NB districts:

- g. The front, side and rear yard setback distances for buildings used as of right for any of the business uses described in Section 2.3.4 of this ordinance or mixed use business as defined in the Ordinance thereto which (1) were in existence on or before March 9, 1999 or for which are building permit was issued on or before March 9, 1999; and 2) are located in those portions of R-20 and R-30 districts identified by the street lists in the Appendix to section 3.2 at the end of Section 3.2 of this Ordinance shall be the same as front, side and rear setbacks for single and two-family dwellings on the designated streets as set out in the said Appendix.

Discussion:

MOTION: On motion by Councilor McGeary, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Hardy) absent, to AMEND the City of Gloucester Zoning Ordinances as follows:

Amend Section 3.2.3 by adding footnote g. to both VB and NB districts:

- h. The front, side and rear yard setback distances for buildings used as of right for any of the business uses described in Section 2.3.4 of this ordinance or mixed use business as defined in the Ordinance thereto which (1) were in existence on or before March 9, 1999 or for which are building permit was issued on or before March 9, 1999; and 2) are located in those portions of R-20 and R-30 districts identified by the street lists in the Appendix to section 3.2 at the end of Section 3.2 of this Ordinance shall be the same as front, side and rear setbacks for single and two-family dwellings on the designated streets as set out in the said Appendix.**

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 AMEND the City of Gloucester Zoning Ordinances as follows:

Amend Section 2.2.3 by deleting the current language and replacing it with the following:

2.2.3 Mixed Uses

Where a building or structure or land is proposed to be used for more than one principal use, whether the uses are in separate buildings or in the same building either vertically or horizontally connected, each of which use is permitted in the zoning district in question and neither of which is accessory to the other, such mixed uses shall be allowed. In the event that a provision of this ordinance applying to one of such uses is inconsistent with a provision applying to another, the more restrictive provision shall apply.

Discussion:

Councilor Ciolino stated there was a wish to have an amendment brought forward; that these amendments were vetted by the Planning Director, and by private attorneys in the City, not just that of the applicant for this motion and that it would be as follows:

“Amend Section 2.2.3 by deleting the current language and replacing it with the following:

2.2.3 Mixed Uses

Where a building or structure or land is proposed to be used for more than one principal use, whether the uses are in separate buildings or in the same building either vertically or horizontally connected, **all** of which uses **are** permitted in the zoning district in question and **none** of which is accessory to one **another**, such mixed uses shall be allowed. In the event that a provision of this ordinance applying to one of such uses is inconsistent with a provision applying to another, the more restrictive provision shall apply.”

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 7 in favor, 0 opposed to **amend the main motion:** Amend Section 2.2.3 by deleting the current language and replacing it with the following:

2.2.3 Mixed Uses

Where a building or structure or land is proposed to be used for more than one principal use, whether the uses are in separate buildings or in the same building either vertically or horizontally connected, **all** of which uses **are** permitted in the zoning district in question and **none** of which is accessory to one **another**, such mixed uses shall be allowed. In the event that a provision of this ordinance applying to one of such uses is inconsistent with a provision applying to another, the more restrictive provision shall apply.

Councilor Theken commented that this is to make more of the community to help with affordable housing; and this will clean up some of the issues with the zoning ordinance. Applicants still have to come forward and get their permits and come before the Council. This was advertised in the newspaper appropriately; and that it was changing the zoning and not simply one property. It was done also appropriately through a City Council public hearing. She thanked Mr. Thoms for expressing his opinion this evening.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted **BY ROLL CALL 8** in favor, **0** opposed, **1 (Hardy)** absent, to **AMEND** the City of Gloucester Zoning Ordinances as follows:

Amend Section 2.2.3 by deleting the current language and replacing it with the following:

2.2.3 Mixed Uses

Where a building or structure or land is proposed to be used for more than one principal use, whether the uses are in separate buildings or in the same building either vertically or horizontally connected, all of which uses are permitted in the zoning district in question and none of which is accessory to one another, such mixed uses shall be allowed. In the event that a provision of this ordinance applying to one of such uses is inconsistent with a provision applying to another, the more restrictive provision shall apply.

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 **AMEND** the City of Gloucester Zoning Ordinances Section VI Definitions by replacing the definition of Dwelling, Multi-Family or Apartment with the following:

Dwelling, Multi-Family or Apartment: A structure containing three (3) or more dwelling units, whether for rental, condominium ownership, or other form of tenancy, including row or town house structures; or a structure containing one or more permitted non-residential uses on the ground floor or on the ground and other floors, and also containing more than one dwelling unit above the ground floor.

Discussion: None.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted **BY ROLL CALL 8** in favor, **0** opposed, **1 (Hardy)** absent, to **AMEND** the City of Gloucester Zoning Ordinances Section VI Definitions by replacing the definition of Dwelling, Multi-Family or Apartment with the following:

Dwelling, Multi-Family or Apartment: A structure containing three (3) or more dwelling units, whether for rental, condominium ownership, or other form of tenancy, including row or town house structures; or a

structure containing one or more permitted non-residential uses on the ground floor or on the ground and other floors, and also containing more than one dwelling unit above the ground floor.

Councilor Ciolino appreciated Attorney Coakley's bringing these changes to the attention of the P&D Committee and the Council and that they were properly vetted.

Councilor Verga left the meeting at 9:00 p.m.

10. PH2011-035: Proposed increase of Licensing Board Fees by City of Gloucester Licensing Board for FY12

This public hearing is open.

Those speaking in favor:

John Rando, 34 Eastern Point Boulevard, Chair of the Licensing Board recommended the increased fees for the Licensing Board. In reviewing these fees, they found they had not been raised in close to 15 years and wished to put them in line with other cities noting they specifically looked at Beverly and Peabody. They did hold a public hearing which was poorly attended; as well as discussed it at their meetings. As a businessman he didn't believe these increased fees would be a detriment to local businesses, which he stated clearly that it was "the last thing" any member of the Board wished to do. They also recognized the need for revenue to the City. These licenses are a privilege and not granted "willy-nilly". The fees need to be commensurate with that. **Allison O'Conner**, 54 Grapevine Road, Licensing Commission member also recommended the fee increases. She read the changes to the fees to the Council (on file in City Council packet) at **Councilor Theken's** request. She supports the needs of the City in challenging fiscal times; and the Board has to consider the support and needs of a three-person Commission; and that they are required to often examine substantial licenses proposed for greater economic development vs. focusing on latent non-use. Along with Chairman Rando, she felt greater accountability by the applicants re: self-ownership of the information that is implied taking on a license and applying for it. She believed people will take greater responsibility in the process so they don't have to pay for a license twice.

Those speaking in opposition: None.

Communications: None.

Questions:

Councilor Ciolino asked how these fees compare to other communities.

Mr. Rando stated that they looked at Peabody and Beverly and the proposed increases are in line with theirs. These proposed fees are in the median. **Councilor Curcuru** asked what they would expect for additional revenue which **Mr. Rando** responded would be close to \$20,000; and this would take affect when the licensees reapply. **Ms. O'Conner** stated the fees are for any renewals and for any new applications. She commented right now with 30 annual licenses are for all alcohol for which they take in approximately \$35,000 and with the new fees would be \$45,000 with entertainment licenses taking in now \$9,000. The entertainment licenses take up a great deal of resources and time for the Board. **Councilor Theken** noted this would apply to any individual who has any kind of license, seasonal or year round. Answering another question from the Councilor, **Mr. Rando** stated the establishment pays the entertainment fee which is yearly. The Licensing Board didn't feel it was a burden on the businesses. **Councilor Theken** commented this fee increase will roll over to the customers of these establishments and wanted to make sure they were in line with other communities who are similar. They also discussed function halls and how Cruiseport is a mixed use situation as is the Gloucester House because the State does not yet allow the licensing for function halls. **Ms. O'Conner** also added they do have a new nominated commissioner, Michele Harrison, and as she would be unable to attend the O&A meeting, wished to lend her support at this time.

This public hearing is closed.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to adopt the License and Permit Fee adjustments as proposed by the Gloucester Licensing Board (on file) dated February 17, 2011.

Discussion: None.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted ROLL CALL 7 in favor, 0 opposed, 2 (Verga, Hardy) to adopt the License and Permit Fee adjustments as proposed by the Gloucester Licensing Board dated February 17, 2011 as follows:

Club-All Alcohol Beverage Including Common Victualler Fee	\$1,500.00
Club – Seasonal All Alcoholic Beverage Including Common Victualler Fee	750.00
Yearly General on Premise All Alcoholic License	2,250.00
Yearly Wine and Malt License with Common Victualler Fee	1,500.00
Yearly 7-Day All Alcoholic License with Common Victualler Fee	2,400.00
Seasonal 7-Day All Alcoholic License Include Common Victualler Fee	2,000.00
Seasonal 7-Day Beer and Wine License Over Quota Non-transferable	750.00
Yearly Retail Package Store All Alcoholic	2,250.00
Yearly Retail Package Store Wine and Malt	1,500.00
Lodging House	100.00
Entertainment Fee	300.00
Common Victualler License	75.00
Special One-Day Liquor License	100.00
Automatic Amusement Devices (per device)	150.00
Late Filing Fee	150.00

The following item remained from the B&F meeting of June 9th and was taken up here as follows with the Council waiving the reading of the body of the Joint Resolution:

MOTION: On motion by Councilor McGeary, seconded by Councilor Curcuro, the Budget & Finance Committee voted 3 in favor, 0 opposed to send the following Joint Resolution back to the full City Council as follows with no formal recommendation for their consideration:

WHEREAS the Administration has presented a balanced budget for Fiscal Year 2012 to the City Council for its acceptance;

WHEREAS the City Council may reduce any amount recommended by the Administration for particular budget line items:

WHEREAS, the City Council may not, without the recommendation of the Mayor, increase an amount for a particular budget line item or the total budget, with the exception of the School Department;

WHEREAS the Administration must consent to additions to revenues;

WHEREAS the City Council may increase the total amount appropriated for the School Department;

WHEREAS the School Committee may determine the amount to be placed in each of its line items within its budget although the total appropriation is set by the City Council;

WHEREAS the Public Employee Committee through negotiation and agreement with the Administration has authority to accept changes to health insurance offered by the City;

WHEREAS, the Administration, City Council, School Committee, and Public Employee Committee desire to exercise their individual statutory authority in the interest of working cooperatively and collaboratively to finalize the Fiscal Year 2012 budget

NOW THEREFORE, the Administration and the Budget and Finance Sub-Committee have put forward a revised budget plan that funds an additional 18 jobs which otherwise will be lost if these budget adjustments are not made

ACCORDINGLY, PROVIDED THAT

- 1. The Public Employee Committee agrees to negotiated changes in health insurance which yields at least a total savings in the currently balanced FY12 budget of \$428,000;*
- 2. The School Committee agrees to fund a line item in its budget for payment of health insurance deductibles for its school employees which is estimated at \$100,000;*

3. *The City Council agrees to fund a line items in its budget for payment of health insurance deductibles for its employees along with the cost of administering the program for the schools and city which in total is estimated at \$150,000;*
4. *The Administration recommends, and the City Council agrees, to utilize \$300,000 stabilization funds to pay off a portion of the FY11 snow and ice deficit thereby freeing up \$300,000 in FY12 operating revenues now held in reserve for same purpose;*
5. *Every effort will be made to utilize available Free Cash generated from FY11 to fully or partially restore the city's stabilization fund and to fund city and school contracts.*

MAY IT BE RESOLVED that the revised budget plan incorporates the following changes:

1. *Reductions in expenses totaling \$439,000 from the Department of the Mayor (\$49,000) and employee health insurance (\$390,000);*
2. *Increases in revenues totaling \$568,198 which is comprised of:*
 - a. *\$100,000 increase in Ambulance revenue*
 - b. *\$168,198 increase across a variety of other local revenues line items;*
 - c. *\$300,000 increase in available revenues for FY12 currently held in reserve for the FY11 snow and ice deficit.*
3. *Program changes amounting to \$1,007,198 which brings the budget back into balance:*
 - a. *\$350,000 to restore the School Dept. to level funding. . NOTE: In addition, the School Dept will realize its \$282,000 in savings from health insurance savings but will have to fund \$100,000 towards offsetting deductibles.*
 - b. *\$150,000 to modify the custodial privatization plan. NOTE: modifications are limited in scope and will not restore all positions.*
 - c. *\$150,000 to fund the city's portion of offsetting deductibles along with program administration;*
 - d. *\$248,198 to restore public safety positions (police and fire departments);*
 - e. *\$58,000 to restore the position of Assistant City Auditor;*
 - f. *\$10,000 increase in Tourism budget;*
 - g. *\$41,000 increase in the Legal budget for contract services.*

MAY IT BE FURTHER RESOLVED that time is of the essence and a final budget plan must be in place no later than June 15, 2011.

Discussion:

Ms. Lowe read a statement received by email prior to this meeting that conveyed Council President Hardy' support of the Joint Resolution of the Mayor (on file) as follows:

"I am unable to be with you this evening due to illness and wish to convey my support of the motion that comes to the council this evening through the B&F committee report as it relates to the Mayor's Joint Resolution.

At the last Council meeting, the resolution was referred by Council to B&F for review. B&F reviewed the matter and sent it back to Council for vote this evening.

At the last meeting I indicated that I needed time to review the document and I asked Mayor Kirk to include a reference in the Joint Resolution related to Chapter 44, Section 32 and 33. Mayor Kirk has done so, and I now offer my support "in principal" to the measure with the following understanding:

1. That the Administration continues to acknowledge (as they did at the previous meeting) that the document is non-binding.

2. That the administration continues to recognize (as they did at the previous meeting) that the budget is still a work in progress and the amounts referred to in the resolution are not etched in stone.

I believe that the recent public hearing on the proposed budget managed to bring the "human touch" to a budget which up until then had been simply reduced to numbers on a page.

Thank you Mayor Kirk for working with the Council on this very difficult budget, and for bringing all parties to the table.

Respectfully,
Jackie Hardy
City Council President"

Councilor Tobey supported this as a useful roadmap to move forward and that it is not binding. It is a statement of the body's sentiment not of nine individuals and expressed he would vote for it and sign it as it has gone through the charter process of referral to the [B&F] Committee and returns with a Committee recommendation. He explained they aren't nine individuals when they sign documents as nine who are elected by the community to do its work. When a document says their names and titles, they need to observe the charter. **Councilor McGeary** joined Councilor Tobey in support of the Joint Resolution observing he also felt it important to follow the Charter. He thought this was a useful document as a framework, which he had indicated previously, and supports it as outlined by Councilor Hardy's note to the Council.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Tobey, the City Council voted 7 in favor, 0 opposed, 2 (Verga, Hardy) absent, to approve the Joint Resolution put forward by the Mayor as follows:

WHEREAS the Administration has presented a balanced budget for Fiscal Year 2012 to the City Council for its acceptance;

WHEREAS the City Council may reduce any amount recommended by the Administration for particular budget line items:

WHEREAS, the City Council may not, without the recommendation of the Mayor, increase an amount for a particular budget line item or the total budget, with the exception of the School Department;

WHEREAS the Administration must consent to additions to revenues;

WHEREAS the City Council may increase the total amount appropriated for the School Department;

WHEREAS the School Committee may determine the amount to be placed in each of its line items within its budget although the total appropriation is set by the City Council;

WHEREAS the Public Employee Committee through negotiation and agreement with the Administration has authority to accept changes to health insurance offered by the City;

WHEREAS, the Administration, City Council, School Committee, and Public Employee Committee desire to exercise their individual statutory authority in the interest of working cooperatively and collaboratively to finalize the Fiscal Year 2012 budget

NOW THEREFORE, the Administration and the Budget and Finance Sub-Committee have put forward a revised budget plan that funds an additional 18 jobs which otherwise will be lost if these budget adjustments are not made

ACCORDINGLY, PROVIDED THAT

6. *The Public Employee Committee agrees to negotiated changes in health insurance which yields at least a total savings in the currently balanced FY12 budget of \$428,000;*
7. *The School Committee agrees to fund a line item in its budget for payment of health insurance deductibles for its school employees which is estimated at \$100,000;*
8. *The City Council agrees to fund a line items in its budget for payment of health insurance deductibles for its employees along with the cost of administering the program for the schools and city which in total is estimated at \$150,000;*
9. *The Administration recommends, and the City Council agrees, to utilize \$300,000 stabilization funds to pay off a portion of the FY11 snow and ice deficit thereby freeing up \$300,000 in FY12 operating revenues now held in reserve for same purpose;*
10. *Every effort will be made to utilize available Free Cash generated from FY11 to fully or partially restore the city's stabilization fund and to fund city and school contracts.*

MAY IT BE RESOLVED that the revised budget plan incorporates the following changes:

4. *Reductions in expenses totaling \$439,000 from the Department of the Mayor (\$49,000) and employee health insurance (\$390,000);*
5. *Increases in revenues totaling \$568,198 which is comprised of:*
 - d. *\$100,000 increase in Ambulance revenue*
 - e. *\$168,198 increase across a variety of other local revenues line items;*
 - f. *\$300,000 increase in available revenues for FY12 currently held in reserve for the FY11 snow and ice deficit.*
6. *Program changes amounting to \$1,007,198 which brings the budget back into balance:*
 - h. *\$350,000 to restore the School Dept. to level funding. . NOTE: In addition, the School Dept will realize its \$282,000 in savings from health insurance savings but will have to fund \$100,000 towards offsetting deductibles.*
 - i. *\$150,000 to modify the custodial privatization plan. NOTE: modifications are limited in scope and will not restore all positions.*
 - j. *\$150,000 to fund the city's portion of offsetting deductibles along with program administration;*
 - k. *\$248,198 to restore public safety positions (police and fire departments);*
 - l. *\$58,000 to restore the position of Assistant City Auditor;*
 - m. *\$10,000 increase in Tourism budget;*
 - n. *\$41,000 increase in the Legal budget for contract services.*

MAY IT BE FURTHER RESOLVED that time is of the essence and a final budget plan must be in place no later than June 15, 2011.

11. **PH2011-037: SCP2011-002: Eastern Avenue #53, GZO §2.3.1.6 conversion to or new multi-family Dwelling units; three dwelling units, 1.10.1 and 3.1.6 building height over 35', §3.2.2(a) decrease in the Minimum lot area and open space per dwelling unit**

This public hearing is open.

Those speaking in favor:

Attorney Robert Coakley representing the applicants, Ashley A. and Jackie L. Sanborn, with Jackie Sanborn who purchased an existing two-family house at 53 Eastern Avenue and disclosed they are the daughter and wife of Bill Sanborn Building Inspector. He explained prior to ever filing for the relief from the ZBA and the Council, because Mr. Sanborn is the City's Building Inspector, they petitioned Mayor Kirk because of a potential conflict of interest to appoint a special Building Inspector to pass upon the ZBA and City Council application and inspect the property. Councilor Hardy, as acting Mayor in December 2010, appointed Greg Cefalo of the Building Department as Special Building Inspector over this application. Attorney Coakley filed a letter with the State Ethics Commission to advise them of this, and indicated the situation to them. He did not hear back from the Commission. He did make this same disclosure before P&D last month, is an existing two family. In 1947 a special permit was issued by the City

for the introduction of a third unit. This was a form of a City sponsored housing effort at that time as it was to help out during the housing shortage after WWII for returning veterans. This structure has all the accommodations of having been prior a three-family dwelling, which was reduced back to a two-family dwelling. The applicants propose to re-introduce an additional dwelling unit on the third floor. They are asking to reintroduce a third unit into this property. Because they are changing the use, they need the relief only the Council can give for the height. The existing structure is 39.6' (rounded to 40') as calculated under the requirements of the zoning ordinance. This is the existing height of the building and will not change as a result of the application. The guidelines for granting the height relief are no view obstruction, no overshadowing. The existing roof line does not change. As was previously discussed in the rezoning public hearing which just took place this evening, all the relief they needed to obtain from the ZBA was granted. During that process they met with two neighbors, one who lives across from the building on Neptune Place and another who lives behind the building. As an accommodation to these neighbors' suggestions, they revised a parking plan to provide room for snow loading with a position of a curb to provide a wider curve. Neighbors pointed out there are habits of folks living in that immediate area of parking in front of 53 Eastern Avenue, in particular service vehicles. They petitioned the Traffic Commission which Councilor McGeary has done for a "No Parking" sign on the street to be imposed in front of the building on Eastern Avenue, and the suggestions of the neighbors and were made a part of the ZBA relief and changes were made to the plan appropriately. The ZBA saw they had more parking than was needed and suggested that they might want to take out one space, which they did. By reintroducing one additional unit, they actually decreased the intensification on this property. Historically this property had six bedrooms. The first and second floors were used as one unit and had a total of five bedrooms; and the third floor had one. Ashley Sanborn's plan is to live on the third floor and to have smaller units on the first and second floors which he believed then de-intensified the use. This then would create a one bedroom apartment on the first floor with a two-bedroom apartment on the second floor and a one bedroom apartment on the third floor. These are apartments which would attract younger couples or older couples looking to downsize. It is not suitable for young children as there is no yard and is on a busy thoroughfare. There is a new three story staircase with landing on the back of the building. That was issued with a building permit from the Building Inspectors Office by Greg Cefalo prior to this process starting. Multi-families in the City are inspected annually by the Building Inspector's office. However, one and two families are not. When the Sanborn family went through the building they could see that the existing structure did not comply with the State building code with egresses. The staircase on the back which provides legal means of egress from the rear of the property for two units was structured to allow access for a third unit if the Council approves. The last form of relief needed is a decrease in minimum lot area per unit and open space per unit. This is a small lot with a house on it that accommodates the existing use and the parking needed, even with the decrease in spaces that the ZBA requested they still have more than the number of spaces required. They believe this is good for the City, good for the neighborhood. Multi-families are indicative of the area. He asked for the Council support.

He then explained to the Committee that this application meets the conditions as set forth in §1.8.3 as follows:

- A) **Social, Economic or Community Needs:** This is an appropriate reintroduction of a third unit to an existing multi-family that except for the exterior staircase requires no exterior modification. All necessary relief was received from the ZBA.
- B) **Traffic Flow & Safety:** The applicants' have addressed neighborhood concerns as to on-site parking and snow removal; and they have petitioned the Traffic Commission through Councilor McGeary to provide for the "No Parking" in front of the building because if there was a vehicle parked in front of the building it impedes the view of a vehicle attempting to exit Neptune Place.
- C) **Adequacy of Utilities and Other Public Services:** The building is on City water and sewer and all the utilities are in place and so there is no overburdening.
- D) **Neighborhood character and social structure:** The proposed three-family is consistent with the uses in the surrounding neighborhood of multi-families and mixed use buildings. The proposal will not obstruct views and will not be a detriment to the neighborhood.
- E) **Qualities of the natural environment:** There will be no impact on the natural environment by this conversion. Nothing is being introduced as new except for the exterior staircase. The rear of the property had been paved by a previous owner leaving very little grass on the site except on the front and a bit on the side.
- F) **Potential fiscal impact:** The proposal will add one additional unit to an existing multi-family dwelling. The addition of this unit will not adversely impact schools or public safety and will provide additional tax revenue to the City.

Attorney Coakley noted the criteria for open space applies for open space and lot area per unit as well as for the height relief of which no overshadowing or obstruction of view will not happen in this instance.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the Planning & Development voted 3 in favor, 0 opposed to recommend to the City Council to grant to Ashley A. Sanborn and Jackie L. Sanborn a Special Council Permit (SCP2011-003) pursuant to §2.3.1.6 of the Gloucester Zoning Ordinance to convert an existing two unit multi-family dwelling located at Eastern Avenue #53, Gloucester, Massachusetts as shown on Assessors Map 49, Lot 1, to a three unit multi-family dwelling.

Discussion: None.

MOTION: On motion by Councilor Ciolino, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Verga, Hardy) absent, to grant to Ashley A. Sanborn and Jackie L. Sanborn a Special Council Permit (SCP2011-003) pursuant to §2.3.1.6 of the Gloucester Zoning Ordinance to convert an existing two unit multi-family dwelling located at Eastern Avenue #53, Gloucester, Massachusetts as shown on Assessors Map 49, Lot 1, to a three unit multi-family dwelling.

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the Planning & Development voted 3 in favor, 0 opposed to recommend to the City Council to grant to Ashley A. Sanborn and Jackie L. Sanborn the Special Council Permit (SCP2011-003), pursuant to §1.10.1 and §3.16 of the Gloucester Zoning Ordinance for building height in excess of 35 feet not to exceed the 40 foot height of the existing building located at Eastern Avenue #53.

Discussion:

Councilor Ciolino stated the height has not changed but this is triggered due to the conversion of a two unit to three unit dwelling; and on the basis of the application, the plans submitted, the representations of the applicant and their agents, the Planning & Development Committee found that the requirements of §1.8.3 for granting a special permit have been met in that the six criteria are satisfied and applies to both motions related to SCP2011-003.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Verga, Hardy) absent, to grant to Ashley A. Sanborn and Jackie L. Sanborn the Special Council Permit (SCP2011-003), pursuant to §1.10.1 and §3.16 of the Gloucester Zoning Ordinance for building height in excess of 35 feet not to exceed the 40 foot height of the existing building located at Eastern Avenue #53.

The Council recessed at 9:36 p.m. and reconvened at 9:38 p.m.

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the Planning & Development voted 3 in favor, 0 opposed to recommend to the City Council to grant to Ashley A. Sanborn and Jackie L. Sanborn the Special Council Permit (SCP2011-003), pursuant to §3.2.2(a) to decrease the minimum lot area per dwelling unit to 1,200 square feet per unit totaling 3,600 square feet collectively; and to decrease the required open space per unit to 800 feet per unit totaling 2,400 square feet collectively on a property located at Eastern Avenue #53.

Discussion: None.

MOTION: On motion by Councilor Ciolino, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Verga, Hardy) absent to grant to Ashley A. Sanborn and Jackie L. Sanborn the Special Council Permit (SCP2011-003), pursuant to §3.2.2(a) to decrease the minimum lot area per dwelling unit to 1,200 square feet per unit totaling 3,600 square feet collectively; and to decrease the required open space per unit to 800 feet per unit totaling 2,400 square feet collectively on a property located at Eastern Avenue #53.

Councilor Theken asked that the matter of the naming of the Harbor Patrol Boat (Order #CC2011-024) be returned to O&A

MOTION: On motion by Councilor Theken, seconded by Councilor Mulcahey, the City Council voted 6 in favor, 1 (Whynott) opposed, 2 (Verga, Hardy) absent, the City Council returned the matter of the naming of the Harbor Patrol Boat (Order #CC2011-024) back to the Ordinance & Administration Committee.

12. PH2011-036: SCP2011-001: Decatur Street #14, GZO §5.2 Earth Fill and Removal Regulations (TBC 07/12/11)

Ms. Lowe announced the Council was in receipt of a letter from the applicant's representative, Frederick J. Geisel, PE, asking for a continuation of this public hearing until July 12, 2011 because further testing needs to be done.

This public hearing was opened and continued to July 12, 2011.

Unfinished Business: None.

Individual Councilors' Discussion Including Reports by Appointed Councilors to Committees:

Councilor Tobey noted the first Fisheries Commission meeting will take place next Thursday, and would report back to the Council on it.

Councilors' Requests Other than to the Mayor:

Councilor McGeary congratulated Gloucester High School's Class of 2011 upon their graduation this past weekend.

Councilor Ciolino stated this Saturday the international dory races will take place. He suggested watching it at Gordon Thomas Park at the head of the harbor and take the opportunity to have breakfast which is a fundraiser for the dory races. The Rotary Club will do the cooking for the pancakes.

Councilor Mulcahey noted the Relay for Life Walk starts at 6 p.m. Friday, and ends 6 a.m. Friday. The luminaria starts at 9 p.m. and encouraged all to attend for this worthy cause.

Councilor Theken stated she would be participating also in the Relay for Life and that there is a new musical coming to town, "The Greasy Pole Musical" and she plays the role of Mama Calavata. It is for a good cause. She pointed out that Henry Allen has purchased the Blackburn Theatre, now renamed, "The Annie". She suggested they go onto "braincandyproject.org" to see about the program for childhood brain cancer.

Executive Session – Pending Litigation:

- 1. Charter School re: Peter Dolan et al and City of Gloucester, Plaintiffs vs. Mitchell D. Chester et al, Defendants**
- 2. Susan Taormina et al, Plaintiffs vs. Members of the Gloucester City Council and Gloucester Hotel LLC, Defendants**

Ms. Lowe stated in order for the City Council to go into executive session will now vote to go into Executive Session under MGL c. 39§23B, sub-section 3 to discuss litigation strategy.

MOTION: On motion by Councilor Theken, seconded by Councilor Mulcahey, the City Council BY ROLL CALL voted 6 in favor, 1 (Whynott) opposed, 2 (Verga, Hardy) absent, to call the City Council (plaintiff), City Council staff, and City Attorney 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. Further, that the City Council (defendant), City Council staff, and City Attorney enter into Executive Session (in accordance with MGL Chapter 39, sec. 23B, sub-section 3) to discuss litigation strategy with respect to discuss litigation strategy with respect to Susan Taormina et al, Plaintiffs vs. Members of the Gloucester City Council and Gloucester Hotel LLC, Defendants.

Councilor Theken stated, "I hereby announce that the roll call vote is 6 in favor, 1 (Whynott) opposed. We shall now convene into Executive Session and will adjourn the City Council at the close of the Executive Session from the First Floor Council Committee Room.

The City Council voted by unanimous consent to recess their meeting at 9:45 p.m. and stated that they would come back into full public session only to adjourn their meeting. They then entered into Executive Session at 9:50 p.m. The Executive Session ended at 10:10 p.m. During that Executive Session no motions were entertained or voted upon other than to adjourn that session; and therefore, upon the close of the Executive Session, a motion was made, seconded and voted unanimously returning the Council to open session at 10:10 p.m. and then a motion was made, seconded and voted unanimously to adjourn the City Council meeting at 10:12 p.m.

Respectfully submitted,

**Dana C. Jorgenson
Clerk of Committees**

DOCUMENTS/ITEMS RECEIVED AT MEETING: None.