

GLOUCESTER CITY COUNCIL MEETING

Tuesday, July 26, 2011 – 7:00 p.m.

Kyrouz Auditorium – City Hall

-MINUTES-

Present: Chair, Councilor Jacqueline Hardy; Vice Chair, Councilor Sefatia Theken; Councilor Bruce Tobey; Councilor Paul McGeary; Councilor Joseph Ciolino; Councilor Anne Mulcahey; Councilor Steven Curcuro; Councilor Greg Verga; Councilor Robert Whynott

Absent: None.

Also Present: Mayor Carolyn Kirk; Linda T. Lowe; Jim Duggan; Kenny Costa; Mike Hale; Sarah Garcia; Gregg Cademartori; Fire Chief Phil Dench; Jim Caulkett

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

Flag Salute & Moment of Silence.

Oral Communications: None.

Presentations:

1 of 3: Harbor Walk, Final design plans presentation – Community Development Director, Sarah Garcia

Mayor Carolyn Kirk gave a brief introduction to the Harbor Walk by stating in the Harbor Plan there was community input to preserve the waterfront and observe and participate in it as a visitor. The requests for public access are what they now call the Harbor Walk. They're moving forward with implementation plans from the Seaport Advisory Council. **Chris Muskopf**, Cambridge Seven Associates, Inc. designer for the Harbor Walk made a Power Point presentation to the Council (documentation received after the meeting and on file). Goals on what the designers heard through formal and informal meetings were to make it local; moving people in and around Gloucester; providing access to previously inaccessible areas and make it out of what already exists here not to impose something new. The path of the walk starts at St. Peter's Square Park, and follows that to the water to Fisherman's Wharf, heads along towards Latitude 43, to Gus Foote Park, then along to I4-C2 and loops around and heads to Fitz Henry Lane Park, which ends at the stairs there. He touched upon the 40 story moments spread out along the walk. The walk is designed to be expanded and more stories could be told at that time. Some stories are 'place specific', like the Fiesta at St. Peter's Park. There will also be map moments to be used as way finders. There will also be smart phone ap's to help tell the story. He showed an example of a story moment which would be mounted on a granite bollard on a black and white plaque. Each of the markers have a number to let the visitor know how far along they are on the Walk. He described some of the design elements of the plaque for the bollard and showed a picture example. At the bottom of the marker they're providing additional space with more information, directions to another institution, other resources, etc. The smart phone ap can make use of existing resources, and for those without a smart phone they could be accessed on the internet from home. The Harbor Walk will use a Gloucester Paver (shown to the Councilors) – mixture of granite and glass, poured like asphalt, which is good for stormwater management as it is porous. They will use granite along the walk for benches, markers. Cobbles will be used but not on the path itself. There is granite on some parts of the walk presently in use. Where they interface with existing boardwalks they will use wood. Sprinkled throughout will be some plantings, able to be easily sustained, all native plantings. Primary lighting elements are wood poles curved at the top which will provide area lights. Stretched between them will be linear lights at St. Peter's Park. They will increase seating under three newly planted trees. After leaving Gus Foote Park they're proposing a lighted path, using some of the sidewalk, along the "Linquata anchors". This can be accomplished by the loss of just three parking spaces in the Gloucester House/Rogers Street lot; one at either end of the row and one at the island. As you leave that area you come to a paved path at I4-C2. This will all be wheelchair accessible with a gateway of lighting elements, some plantings and also new granite benches.

Councilor Mulcahey noted at the Latitude 43 Restaurant there is a brick walkway across Rogers Street to Boyton Way to Main Street which was supposed to be a flow to the waterfront and asked if there would be use made of it. **Mr. Muskopf** stated it will be useful; that sidewalk aligns perfectly with the pedestrian path. There is a pergola already there announcing the Harbor Walk. **Councilor Ciolino** thought it is a nice plan but asked what was the plan to maintain the green space to keep it pristine and visitor ready. **Mayor Kirk** noted they challenged the

designers to recommend materials that can be maintained. This will be the responsibility of the DPW. They are making sure the materials for pavers, for example, are strong and maintainable. With the path to Main Street from the Harbor Walk, it will require moving the cross walks to different areas for visual purposes. The Rogers Street crosswalks don't currently align with the new Harbor Walk. **Mr. Muskopf** noted the lighting is all LED with 50,000 hour life. The plantings are also designed to be low maintenance as possible. He stated the materials are "as tough as they come". **Councilor Ciolino** stated they need to be careful with the funds they spend needing to keep it pristine once built. He thought it a great idea. **Councilor Tobey** appreciated the presentation; but echoed the maintenance concerns. With an understaffed DPW they can't handle gardens. They need sensitivity to that as well as high durability, low maintenance lighting and construction materials. He asked what the plan was to keep the signage from becoming static. **Mr. Muskopf** noted these are interactive markers and linked to the web and to cultural institutions. They're meant to be valid for a long time. **Councilor Tobey** noted the legacy of the City is so rich and wondered was there a way to mix and match stories. Further, technology changes rapidly; was there a potential for adaptability. **Mr. Muskopf** thought there was. If they black the URL code there would be no loss to the graphic. He added the system is expandable; it is possible to add signage, and they could be changed out. **Councilor Tobey** noted in looking at the plan they see people traversing a working lobster marina and at Fishermen's Wharf they're going through a working waterfront and the bulkhead at I4-C2. He assumed they've reached out to those working waterfront 'communities' so as not to interfere with their livelihood; and they've met with property owners. **Mr. Muskopf** responded they've met with Vito Giacalone (owner of Fisherman's Wharf) and Tony Gross (lobsterman and Waterways Board chairman), especially with regards to St. Peter's Park. **Councilor Tobey** stated ownership of Fisherman's Wharf is private; and they've agreed to this project, which **Mr. Muskopf** confirmed and also admitted they have not talked to lobstermen at the marina there. **Councilor Tobey** thought it was important they talk to the lobstermen. **Sarah Garcia** noted at O&A last Monday they discussed parking at Beach Court, and she did meet with a fisherman from that marina. They will try to keep the brick there so heavy traffic doesn't trample down plantings; and she heard concerns expressed regarding the unloading and loading. They met with the Fiesta Committee as well. **Councilor Tobey** urged the Administration to do all the outreach they can in that area to come to consensus. **Councilor Theken** noted O&A did hear the issues with the Harbor Walk, adding this will come before O&A again on Monday, August 1st at 7 p.m. At that Committee meeting they can look at some of the questions especially with the integration with the fishermen. She also noted Harbormaster Jim Caulkett in the audience, and how he has also been participating. They should work with the community first [before making changes]. **Councilor Curcuru** noting the meetings with the property owners but only a few with the lobstermen and fishermen; and expressed concern that not everybody in that area has been spoken with yet. He also asked when the anticipated start date was. **Mr. Muskopf** noted they are finishing drawings in mid-August. **Mayor Kirk** hoped to break ground in September and complete Phase 1 before it snows. **Councilor Curcuru** asked if the City will have to pay for any of this. **Mayor Kirk** stated funding is by State grants. Phase 2 will encompass additional lighting components also. **Councilor Curcuru** confirmed with the Mayor the Harbor Walk is expandable. **Mayor Kirk** thought that Parson's Street needs definition. There is no lighting scheme for that or to make it completely pedestrian pointing to it as an example of an investment for Phase 2. Having the Harbor Walk go out towards Cruiseport would be another possibility making it more inclusive of the downtown. **Councilor Curcuru** asked if there were thoughts of expanding it to the Boulevard. **Mayor Kirk** stated at Pavilion Beach there would be two story moments to direct people to the Man at the Wheel and to the Fishermen's Wives Memorial. She thought there could be a marker directing visitors to that loop wanting to be able to direct people in both directions. **Councilor Theken** also pointed out also Stage Fort Park, and their Visitor Center there. She felt it needed to be intertwined, some kind of integration there. **Mayor Kirk** thought that it could be one of the remaining six markers and appreciated the Councilor's suggestion. **Councilor Tobey** noted the walkway on the I4-C2 is a piece of the I4-C2 parcel. Were there any concerns that any use of a piece of land before it is disposed for redevelopment would either place an encumbrance on the land or be inconsistent with uses that might take place there and are they diminishing the marketability of the parcel. **Mr. Muskopf** stated from a design point of view it takes the least amount of space and could work with future development. **Councilor Tobey** asked him to show the existing right of way for the lobstermen to access the existing bulkhead which was noted to be right on the edge of the parcel. **Councilor Hardy** was concerned about the possible loss of five parking spaces at St. Peter's Park. **Ms. Garcia** said they have now decided no spaces will be lost at St. Peter's Park. They backed off that idea after concerns were expressed at O&A and at the Traffic Commission meeting. **Councilor Hardy** asked if money was provided in the current budget or in FY13 budget for maintenance. **Mike Hale**, DPW Director noted the FY12 budget holds no operational expenses to maintain it. They would not anticipate any maintenance costs in the fall, with final touches in the spring. **Councilor Hardy** asked if the lighting would be shined down. **Mr. Muskopf** stated the proposed fixtures are in full compliance with the local ordinance. The granite is all Cape Ann Granite and

is at the DPW yard. **Mr. Muskopf** would check to see if it was, at **Councilor Hardy's** request, Gloucester granite. They believe what is stockpiled there will be all that is needed. However, if supplemental granite is needed, they've talked to a local quarry as a source. **Councilor Hardy** asked what kind of wood will be used. **Mr. Muskopf** responded they are looking at marine pressure treated wood, Douglas fir. He showed the Councilor an example of a light box to be used on 20 ft. poles. They are reviewing it with their structural engineer for durability. **Councilor Hardy** asked if any of the story moments would be voice activated. **Mr. Muskopf** stated the marker would not have that capability. **Councilor Hardy** asked about Phase 2. **Mr. Muskopf** stated they've been contracted to Phase 1 and would then consider Phase 2. **Councilor Ciolino** expressed further concern about the Walk at I4-C2 with **Mr. Muskopf** noting the I4-C2 path is temporary. The walk would be completed in response to the I4-C2 design. **Councilor Hardy** asked with regard to I4-C2 when the Council could expect a copy of the RFP for their review. **Mayor Kirk** promised it would be submitted a week from Friday in her packet to the Council. **Councilor Hardy** thanked the Mayor, Ms. Garcia, and Mr. Muskopf.

The City Council recessed at 8:03 p.m.

The Council reconvened at 8:08 p.m.

2 of 3: Status Report on Sewer Work – Lower Essex Avenue – DPW Director, Mike Hale

Councilor Verga heard from the City's Legal Department that day that there are matters of litigation that the City is involved with relating to the sewer project and have asked for an extension on the time to report to the Council with this presentation to August 23rd. The Councilor expressed while he was disappointed in the delay since this report came out in April he understood the reasons. **Councilor Hardy** thanked Councilor Verga for his responsiveness and concerns regarding the litigation as well.

This presentation is continued to August 23, 2011.

3 of 3: Report on Adequacy of Public Water Supply in the Becker Lane Area – Fire Chief Phil Dench and Mike Hale, DPW Director

Councilor Verga explained this matter was brought to his attention by a resident in the area of Becker Lane as there had been a fire there and wanted to know what the City's official view was of the situation. The resident questions the quality of the water not just the drinkability but the adequacy of the pressure, etc. So the Councilor had asked that the DPW Director and the Fire Chief give a report on the matter.

Mike Hale, DPW Director noted with regard to the infrastructure at Becker Circle and Becker Lane, the City has no public water lines there. The public water system ends at Concord Street. There is a fairly new 10 inch water main on Concord Street was installed around 1999. There is a series of small services off of Concord Street serving the neighborhood. It is undersized but is not public infrastructure and too small to support a fire hydrant. The public water system within Concord Street is more than adequate to supply the neighborhood if the mains leading to that neighborhood were sufficient. Some private neighborhoods on their own have worked to extend public water systems into their area successfully. The City doesn't have a mechanism to better a public water projects in the Code of Ordinances. MGL c. 40, §42G (through §42K) allows the Council to adopt measures which would give the City the authority to better water projects to both public and private ways and could be one of the ways the Council could do it. Currently within the Code of Ordinances there is no method to better water projects that he could find. He also referenced Appendix B which has the State law references and did not find acceptance of the State law by the City there either. **Fire Chief Phil Dench** expressed there is no public water system "up there," and is not adequate. There are several places in the City that have no water. The issue is his department's strategies; they deal with that along with the decreased manpower and outlying stations closed. In the past they had back up that they relied on coming in to a fire in one of the outlying stations. They had pumpers that would come in from Bay View, West Gloucester, Magnolia, and at one point, East Gloucester. They'd use all the hose on those fire apparatus for relay pumping. **Councilor Verga** commented the next step is to talk to the neighbors to see what some of the options are going forward. He also noted the Council had a memo on file from Max Schenk, Interim Director of the Health Department regarding sanitary codes related to water, and that he had asked for Mr. Schenk's feedback as well. **Councilor Tobey** reminded the Fire Chief and the community at large of a number of fires in the '90's that were worse than it might have been because of lack of fire hydrants and inadequate water mains. That led to City-wide improvements in water mains. He reminded the Chief also of two fires on Eastern Point, one next door to Beauport at the same time, and another further out to a house next to the Eastern Point Yacht Club. Both were

exacerbated by lack of fire hydrants and adequate mains. New mains were put in by the City from Bass Avenue into East Gloucester saw the construction cost paid for on the water rate. He urged there be water system planning in order to come forward with a plan to put in a water system for fundamental service as the City has done did for other comparable neighborhoods. **Councilor Ciolino** pointed out they can't put out a fire on Becker Court and Becker Lane as the situation currently stands. He echoed Councilor Tobey's suggestions recalling when sewer construction was done in another area of East Gloucester; they put in hydrants and appropriate water mains. **Councilor McGeary** asked as a percentage or in miles of pipes how much of the City is affected by this low pressure service. **Mr. Hale** didn't have a numbers on that but pointed out some of the examples given were relays of water mains the City installed 70-80 years ago. This particular area is different. They should look at all the neighborhoods deemed to have inadequate water supply. **Councilor McGeary** inquired if there was a report that existed or was it feasible to create a report highlighting the trouble spots. **Mr. Hale** remarked they just forwarded, as part of the most recent water loan authorization, a water master plan. Within that water master plan they took a look at source water, distribution mains as well as the treatment facilities, all of which should be fleshed out in the water facilities master plan. **Councilor McGeary** asked what strategies and options would they adopt at the Fire Department. **Chief Dench** noted West Gloucester was open that day, and the pumper housed there would get to Becker Lane first and lay lines. If they responded from headquarters they'd be responding with a pump and ladder truck. Time would be taken for more staff and equipment to come in to minimize damage. They would need two pumpers. The Chief stated this is why he pushes for the West Gloucester station to be opened. They need people to lay line to fight these fires in areas such as these. **Councilor Theken** heard one solution was to make sure West Gloucester Fire Station is up and running. The DPW Director says they need an ordinance (for water betterment). She asked for the matter to be referred to O&A in order to work on an ordinance. She felt this was an urgent matter. She also asked the Mayor to make sure that West Gloucester remains opened. **By unanimous consent, the City Council referred the matter of the distribution of water and payment of costs by special assessment to the O&A Committee.**

This matter has been referred to O&A Committee and would be discussed at their August 1st meeting.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed that the Administration prepare an estimate to install adequate water line in the Becker Lane neighborhood.

Councilor Verga thanked the Council for their support to move this matter forward to resolution. It is something that needs to be fixed and seems to have traction.

Consent Agenda:

- **MAYOR'S REPORT**
- 1. Memorandum, Grant Application and Checklist from Police Chief re: FY11 Bulletproof Vest Program (Refer B&F)
- 2. Memorandum, Grant Application and Checklist from Police Chief re: grant fund through Office of Grants and Research Section Of MA Executive Office of Public Safety and Security (Refer B&F)
- 3. Memorandum, Grant Application and Checklist from Police Chief re: Grant for Portable Breath Test Devices (Refer B&F)
- 4. Memorandum, Grant Application and Checklist from Harbormaster re: acceptance of grant funds in the amount of \$9,500 for the On-going Pump Out Boat Program (Refer B&F)
- 5. New Appointment: Planning Board (TTE 02/14/16) Joseph M. Orlando, Esq. (Refer O&A)
 - **COMMUNICATIONS/INVITATIONS**
 - 1. Response from General Counsel to Council request of June 28, 2011 meeting re: Outside Legal Counsel (Info Only)
 - **COUNCILORS ORDERS**
 - 1. 2011-032 (Verga/Hardy) Charter Sec. 9-7 Advisory question for November ballot re: Reuse Fuller School (Refer P&D)
 - **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
 - 1. City Council Minutes 07/12/11 (Approve/File)
 - 2. Standing Committee Meetings: O&A 07/18/11, P&D 07/20/11, B&F 07/21/11 (under separate cover) (Approve/File)

Items to be added/deleted from the Consent Agenda:

Councilor Tobey wished to remove Item #CC2011-032 Advisory Question on the Ballot.

Councilor Tobey stated that this order for the advisory a question on the November ballot on the future of Fuller School deserves to be spotlighted. **Councilor Verga** pointed out he put this order forward in response to the Mayor's recent memo regarding some of the options for Fuller. One option was not using Fuller as a central City office. He was on the facilities committee; and they were told they wouldn't make recommendations. He was not convinced that the conclusion to keep a downtown campus was a consensus. There were only 24 people at the listening post; and this is a big question. Which ever way they go, it will cost millions. They need input from the

public. This is a non-binding question. Whether they support the downtown campus or the centralized municipal center, there should be no fear on the part of voters to vote one way or the other. They need the input to make sure what the community's wishes are. These options won't be free or overnight but guidance is needed. **Councilor Hardy** joined with Councilor Verga's call for a larger representation from the community expanding on the possibility as to what to do with this location; and the more input the better. She was in support of the order. She has also asked the Mayor to report back to the Council for the plans that the City is engaged in related to negotiating new leases for office space or parking space with private entities downtown without looking at all of the options first. She hoped this acted as a seed to get the conversation started. She thanked Councilor Tobey for shedding light on the subject. **By unanimous consent the Advisory Question for the November ballot re: Reuse of Fuller was referred to P&D.**

By unanimous consent the Council agenda was accepted as amended.

Committee Reports:

Ordinances & Administration: July 18, 2011

Councilor Theken expressed some of their motions will be for public hearing later that evening. They did finalize the proper wording for the ballot question summary and did some school zoning items. She thanked the Chief of Police for obtaining grant funds to buy a JAMAR speed recorder. It has made the speed study process much quicker without using valuable police officers' time. The Traffic Commission has worked closely with the Police Chief to get these studies done and off to the State and thanked them all for their efforts. She also thanked WHO DECIDES for their patience and to finally have it on the November ballot. It is important to answer ballot questions and she urged the community to take the time to vote on them; and to come out to vote – even if it is just on these questions.

Planning & Development: July 20, 2011

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to permit YuKan Sports, LLC to have runners on City streets on October 23, 2011 for their 26.2 Mile Marathon which enters the City of Gloucester from Rockport on Thatcher Road estimated to be on or around 9:00 a.m. and exits the City on or around 3:00 p.m. returning the runners to Rockport on Thatcher Road for their finish. A complete race route is on file. All routes through the City are to be clearly marked with signage removed off the race route by 6:00 p.m. the same day. Water stations are to be off the race route also by 6:00 p.m. the same day. YuKan Sports LLC is responsible for the removal and proper disposal of all trash generated by the water stations and along the race route at their expense. Memorandums of endorsement from the Police Chief or his designee and Fire Chief or his designee are on file in the City Clerk's office. EMS coverage in the City will be provided by local emergency services provider and written proof of contract will on file in the City Clerk's office by the close of business October 14, 2011. A Certificate of Insurance naming the City of Gloucester as the certificate holder is on file. There is the following condition:

1. A letter is to be sent to the hotels, motels and catering establishments along the race route advising them of the race route, date and time runners are on the route.

DISCUSSION:

Councilor Ciolino stated that the hotels and inns will be aware of this race and urged his fellow Councilors to vote for it.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to permit YuKan Sports, LLC to have runners on City streets on October 23, 2011 for their 26.2 Mile Marathon which enters the City of Gloucester from Rockport on Thatcher Road estimated to be on or around 9:00 a.m. and exits the City on or around 3:00 p.m. returning the runners to Rockport on Thatcher Road for their finish. A complete race route is on file. All routes through the City are to be clearly marked with signage removed off the race route by 6:00 p.m. the same day. Water stations are to be off the race route also by 6:00 p.m. the same day. YuKan Sports LLC is responsible for the removal and proper disposal of all trash generated by the water stations and along the race route at their expense. Memorandums of

endorsement from the Police Chief or his designee and Fire Chief or his designee are on file in the City Clerk's office. EMS coverage in the City will be provided by local emergency services provider and written proof of contract will on file in the City Clerk's office by the close of business October 14, 2011. A Certificate of Insurance naming the City of Gloucester as the certificate holder is on file. There is the following condition:

1. A letter is to be sent to the hotels, motels and catering establishments along the race route advising them of the race route, date and time runners are on the route.

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to permit the Magnolia Road Race Committee to hold their 35th Annual Magnolia 5K Road Race on Thursday, September 1, 2011 to start at 6:30 p.m. The race route and written approvals from the Fire Chief and the Police Chief are on file. A contract is in place for EMS services, also on file. The race route must be clearly marked for runners, and all posted signage are to be removed from the race course by 9:00 p.m. the same day. A Certificate of Insurance with the City of Gloucester named as the Certificate Holder must be on file by the close of business on Friday, August 26, 2011 in the City Clerk's office. Road closures for this 5K race are:

Lexington Avenue: Hesperus Avenue to Norman Avenue from 4:00 p.m. to 8:00 p.m.

Magnolia Avenue: Magnolia Square to Western Avenue from 6:50 p.m. to 7:20 p.m.

Discussion:

Councilor Ciolino stated this is the 35th annual race and the organizers do a good job running the race.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted 9 in favor, 0 opposed to permit the Magnolia Road Race Committee to hold their 35th Annual Magnolia 5K Road Race on Thursday, September 1, 2011 to start at 6:30 p.m. The race route and written approvals from the Fire Chief and the Police Chief are on file. A contract is in place for EMS services, also on file. The race route must be clearly marked for runners, and all posted signage are to be removed from the race course by 9:00 p.m. the same day. A Certificate of Insurance with the City of Gloucester named as the Certificate Holder must be on file by the close of business on Friday, August 26, 2011 in the City Clerk's office. Road closures for this 5K race are:

Lexington Avenue: Hesperus Avenue to Norman Avenue from 4:00 p.m. to 8:00 p.m.

Magnolia Avenue: Magnolia Square to Western Avenue from 6:50 p.m. to 7:20 p.m.

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to permit the Magnolia Road Race Committee to hold a "Fun Run/Walk" on Thursday, September 1, 2011 to start at 6:00 p.m. and to end on or around 6:20 p.m. The race route and written approvals from the Fire Chief and the Police Chief are on file. A contract is in place for EMS coverage and also on file. The race route must be clearly marked for runners/walkers, and all posted signage is to be removed from the race course by 9:00 p.m. the same day. Road closures are in conjunction with the 35th Annual Magnolia 5K Road Race of the same date. The Certificate of Insurance with the City of Gloucester named as the Certificate Holder to be on file for the Annual Magnolia 5K Road Race and is deemed sufficient to cover this race, and is to be on file by the close of business on Friday, August 26, 2011 with the City Clerk's office.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed, to permit the Magnolia Road Race Committee to hold a "Fun Run/Walk" on Thursday, September 1, 2011 to start at 6:00 p.m. and to end on or around 6:20 p.m. The race route and written approvals from the Fire Chief and the Police Chief are on file. A contract is in place for EMS coverage and also on file. The race route must be clearly marked for runners/walkers, and all posted signage is to be removed from the race course by 9:00 p.m. the same day. Road closures are in conjunction with the 35th Annual Magnolia 5K Road Race of the same date. The Certificate of Insurance with the City of Gloucester named as the Certificate Holder to be on file for the Annual Magnolia 5K Road Race and is deemed sufficient to cover this race, and is to be on file by the close of business on Friday, August 26, 2011 with the City Clerk's office.

Budget & Finance: July 21, 2011

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to pay Invoice #050611 (undated), prior to an approved purchase order being in place, to Pauline's Gifts for \$3,225.60 for Memorial Day flags purchased by Veterans' Services.

DISCUSSION:

Councilor Curcuru noted this was one of three invoices without P.O.'s that they were asked to authorized to pay. The Veteran's Agent, Jeff Williams was before the Committee to explain the reason they weren't authorizing payment the first time around. And that moving forward he was told a Purchase Order had to be in place, which he was unaware of. B&F motioned to have the Administration have new employees be made aware of this procurement process. **Councilor Hardy** stated not only did the P.O. need to be in place, but that the Administration had also needed to approve it first before a purchase could be made.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to pay Invoice #050611 (undated), prior to an approved purchase order being in place, to Pauline's Gifts for \$3,225.60 for Memorial Day flags purchased by Veterans' Services.

Scheduled Public Hearings:

1. PH2011-036: SCP2011-001: Decatur Street #14, GZO Sec. 5.2 Earth Fill and Removal Regulations (Cont'd From 07/12/11)

Linda T. Lowe, City Clerk, the City Council has a letter of an agreement of the applicant's representative, Frederick Geisel for a continuance to continue the matter to August 23rd by agreement with Council President Hardy. Councilor Hardy noted this public hearing will be readvertised at the expense of the applicant according to chapter 40A. She opened and continued the public hearing to August 23rd.

This public hearing is continued to August 23, 2011.

2. PH2011-043: Proposed increases in Municipal Lien Fees and Demand Fees

Those speaking in favor:

Jim Duggan, CAO stated that this is a request to increase Municipal Lien and Demand Fees last increased in 2002. This expected revenue is \$48,000 which will put back the position of Principal Supervising Clerk and they would have a principal duty to do these Certificates.

Those speaking in opposition: None.

Communications: None.

Questions:

Councilor McGeary asked was if there was a provision in the law if someone had hardship they could waive the fees. **Mr. Duggan** didn't know that answer and would find that out for the Councilor. **Councilor Ciolino** noted they've raised fees and kept a job and then another budget cycle sees the loss of that same employee. **Mr. Duggan** was on record at B&F and this evening that with the passage of these fee increases, that position will be reinstated in the Treasurer's Office. It did affect the operations of that office because of the importance of that position.

Councilor Ciolino asked if these fees were comparable to the surrounding communities. **Mr. Duggan** stated it was the intent with the research on these fees of the current fee structures. The comparison was structured on those first four fees. Andover charges \$50, Duxbury, Essex is \$25; Hamilton is \$50. They are in line with other communities.

Councilor Curcuru noted the increases for Land with Commercial, Industrial or public utility concern structure.

Mr. Duggan noted those categories are taken out of MGL. That would be looking at a substation owned by Tennessee Gas, a switching station for Verizon, for example. **Councilor Curcuru** expressed that these fees didn't have comparisons. Only the first four were done for comparison under Certificate of Liens. **Mr. Duggan**

determined the emphasis is on the first four fees. **Mr. Towne** wanted to be consistent to raise fees across the board.

Councilor Curcuru stated the ultimate goal is to get the person back to work. The first four fees would do that.

Mr. Duggan noted to be consistent that all the fees would be raised not just the first four. He had been asked if it was more difficult to issue a certificate on the higher priced fee properties, and found it was not. With regards to

mixed use land, that is a structure such as retail on the bottom, residential on top. They do have some of those structures around the City. **Councilor Curcuru** noted the person they put back to work that this would be their job to issue these Lien Certificates; and if they don't raise those fees the work still needs to be done. **Councilor Hardy** recalled asking at B&F what other communities are comparable on land with commercial, industrial or public utility concern structure. **Mr. Duggan** again reiterated the focus was on the first four fees. It was the attempt to be consistent with increases across the board. **Councilor Hardy** stated she would like to see the comparative fees before she votes on this matter or the rest of the fees. **Mr. Duggan** stated there would need to be much more research on the matter. **Councilor Hardy** asked if the Council continues this matter to August 9th would it give Mr. Towne enough time to gather this information for comparison. **Mr. Duggan** stated he would rather they could at least postpone the balance, he'd like to see the first four fees accepted. **Councilor Hardy** asked if it was the will of the Council as to whether they could split the vote or continue the matter. **Councilor Curcuru** looked at the other five fees - the remaining four categories do not have many parcels that fit into these categories and that the increases are not that great. The only one that seemed out of line was the residence with four or more families. **Councilor Hardy** noted if they don't have the comparative analysis on the last five they won't be voting with full knowledge. **Councilor Whynott** would vote the first four fees and then readvertise the rest at another time. **Councilor Theken** added the next Council meeting is in two weeks. She didn't see the point of separating the matter out and wished the matter to be continued also. **Mr. Duggan** stated they need a revenue source in order to hire to a person while he understood the Councilor's point, there are 1,100 certificates issued annually. **Councilor Curcuru** reiterated they had asked for information at B&F to come forward for the public hearing; and before they vote the Council needed that comparative research.

MOTION: On Councilor Theken, seconded by Councilor Curcuru, the City Council voted 8 in favor, 1 (Whynott) opposed to continue the public hearing on the proposed increases in Municipal Lien Fees and Demand Fees to August 9, 2011.

This public hearing is continued to August 9, 2011.

3. PH2011-044: Amend GCO §22-242 "Parking Prohibition, Towing, Immobilization, Signs" re: Magnolia Woods

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

Councilor Theken noted O&A did go on a site visit to Magnolia Woods with the DPW Director, a consultant, interested parties and they have come to the Committee meetings and due diligence had been done.

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND §22-242 "Parking Prohibition, Towing, Immobilization, Signs" by ADDING sub-part (14), "No Parking at Magnolia Woods east and south of the turnaround on the entrance road. This prohibition extends to all playing fields and surrounding slopes and to all paved walkways, with parking allowed only in designated parking areas.

Discussion:

Councilor Theken was in support of this ordinance; that it was necessary to protect the cap over the now closed landfill at Magnolia Woods. They are trying to expand the parking area. There was an acceptance by Mr. Cooke and Ms. Porter, two long standing activists for the Magnolia Woods. This is a work in progress. **Councilor Verga** thanked Councilor Tobey for moving this forward and this is to make sure the cap is protected and maintained.

Councilor McGeary stepped away from the dais.

MOTION: On motion by Councilor Theken, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (McGeary) temporarily absent to AMEND §22-242 "Parking

Prohibition, Towing, Immobilization, Signs” by ADDING sub-part (14), “No Parking at Magnolia Woods east and south of the turnaround on the entrance road. This prohibition extends to all playing fields and surrounding slopes and to all paved walkways, with parking allowed only in designated parking areas.

Councilor McGeary returned to the dais.

4. PH2011-045: GCO Article IV, Repair of Private Ways, §21-83 and §21-84 re: Petition for Road Repairs, Crowell Avenue

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Questions: None.

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 recommend to the City Council to allow the City of Gloucester to move forward with the resurfacing of Crowell Avenue having determined that the construction and/or repair is required of this private way by public convenience and necessity under the Gloucester Code of Ordinances, Article IV. Repair of Private Ways, Sec. 21-80 through 21-85.

Discussion:

Councilor Curcuru stated Crowell Avenue is in his ward and with the neighborhood and the Administration they are doing a split venture, which is a good benefit to the City and residents of that road. They've waited for years for this. It is a good sign that the City is working to see a petition from the residents to take this as a public way. Currently this is a private road. **Mr. Hale** stated it was \$22,900. **Councilor Curcuru** continued half will be paid amongst nine families by five-year betterments on their properties with the City paying the other half.

MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted 9 in favor, 0 opposed to allow the City of Gloucester to move forward with the resurfacing of Crowell Avenue having determined that the construction and/or repair is required of this private way by public convenience and necessity under the Gloucester Code of Ordinances, Chapter 23, Article IV. Repair of Private Ways, Sec. 21-80 through 21-85.

Councilor Hardy reminded the DPW Director that the B&F heard that there was a mound of dirt and trash at the end of the road. **Councilor Curcuru** stated he, Mr. Hale and the City Engineer will be visiting the area prior to the paving of the road.

5. PH2011-046: Amend GCO §22-270 “Parking Prohibited at all Times” re: Eastern Avenue

6. PH2011-047: Amend GCO Sec. 22-291 “Tow Away Zone” re: Eastern Avenue

These public hearings are opened.

Those speaking in favor: None.

Those speaking in opposition:

John Wheeler, 42 Hartz Street asked what the actual address is – was it from the corner of Hartz Street.

Councilor McGeary stated this is from Williams Court to Rte. 128 not up towards Hartz Street. Mr. Wheeler asked in future they put exact addresses on the public hearings. His concern was the one in front of Jeff's Variety. **Ms. Lowe** noted the advertisements do state exactly where these are situated but that the agenda was not as specific.

Communications: None.

Questions:

Councilor McGeary noted that after discussion with Mr. Ryan of the Traffic Commission and the residents of Neptune Court and that it is a busy area and this orders, in consultation with the Traffic Commission were made.

These public hearings are closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO §22-270 (Parking Prohibited at All Times) by ADDING “Eastern Avenue, southerly side, in an easterly direction, from the intersection of Route 128 to the intersection of Williams Court”.

Discussion:

Councilor Theken observed she was not at this meeting but this amendment to the Code of Ordinances was recommended highly by the Traffic Commission.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to Amend GCO §22-270 (Parking Prohibited at All Times) by ADDING “Eastern Avenue, southerly side, in an easterly direction, from the intersection of Route 128 to the intersection of Williams Court”.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO §22-291 (Tow-away zones) by ADDING “Eastern Avenue, southerly side, in an easterly direction, from the intersection of Route 128 to the intersection of Williams Court”.

Discussion: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to Amend GCO §22-291 (Tow-away zones) by ADDING “Eastern Avenue, southerly side, in an easterly direction, from the intersection of Route 128 to the intersection of Williams Court”.

FOR COUNCIL VOTE:

1. 2011-031 (Tobey) (Emergency Order) re: Invitation to Dr. Howard Grant, Pres/CEO of Lahey Clinic to Attend 08/09/2011 Meeting

Councilor Tobey believed for some years many have been immersed with much concern for the welfare and longevity of its community hospital. Big things are happening now; there is much concern in the community. He brought this order forward to express real concern that gives rise to an emergency concerns that need to be expressed. **Councilor Hardy** asked if they must insist on August 9th for Dr. Grant, CEO of Lahey Clinic to appear before them to which Councilor Tobey agreed to the ‘or as soon as possible thereafter’ and would speak to it on the main motion.

Adoption of Preamble:

MOTION: On motion by Councilor Tobey, seconded by Councilor Hardy, the City Council voted 8 in favor, 0 opposed, 1 (Theken) present under City Charter Sec. 2-11(b) an emergency exists inasmuch as the possible loss of Addison Gilbert Hospital, including but not limited to its emergency room services, should an affiliation agreement between Northeast Health Care Systems and the Lahey Clinic not provide for its continued operation, poses an immediate threat to the public health and welfare of the community.

Councilor Tobey appreciated the sensitivity of this matter to the two corporate bodies involved (Lahey Clinic and Northeast Health Care System). He appreciated the letter from Mr. Hanover (to the Council prior to the meeting). He wished Mr. Hanover no disrespect but in the emerging scheme of corporate governance that will occur with the new Lahey organization as the governing parent, “Mr. Hanover is a lame duck.” The Council and the community need to hear from the CEO of this corporation that is in effect doing the acquiring. He respects Mr. Hanover’s letter as well, his reiteration of a three year commitment the facility to remain open with the ER and the 8 essential services that support it; but he didn’t know when the three years begin or end. In 2014 the baby boom generation in Gloucester will be greater and demands of services greater. They need assurances on the longevity of this facility now if they’re going to plan for a community that is viable. Sharing a personal anecdote with the Council regarding

the immediate need for those services now and in the immediate future, he and his wife took one of their daughters to AGH just this past weekend. They were expecting her to have an emergency appendectomy but in the end she did not. The ER was extremely busy. That ER requires surgical capabilities behind it to be open. His daughter was going to have to go to Beverly [Hospital for surgery], and stated, "that is not right". They need to address this situation now. He also appreciated Mr. Hanover's discussion of the associates, a group with no corporate standing in their corporate governance, hosting community discussions. He expressed his abiding respect for these good citizens of the community lending their names to this institution. Rather it should be the CEO of the acquiring institution coming to them, introducing himself, introducing the institution he represents, and to initiate a meaningful dialog including sharing of documents for intelligent informed dialog to begin. The Councilor asked for their votes to have the conversation to begin. **Councilor Ciolino** noted his question to Dr. Grant would be what government agencies need to approve this merger? Whatever happens – they want an agreement in perpetuity; and if they combine with Rockport Essex, and Manchester they can block this merger until they get it. What was the original endowment when Beverly took over? Here they, the community, are left "holding the bag" once again. He warned in a matter of a few years that ownership and management of the institution could change again. They need a commitment that the AGH is open in perpetuity. If not, they have to advocate the blocking of this merger. **Councilor McGeary** proposed a friendly amendment for the phrase "or a special or regular meeting of the City Council" to be added to the motion which the Council assented to. **Councilor Hardy** encouraged the Council to submit their questions to the City Clerk's office in advance of Mr. Grant's appearance. She asked Councilor Tobey to work with the City Clerk to word the letter to Mr. Grant.

MOTION: On motion by Councilor Tobey, seconded by Councilor Hardy, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Theken) present, to invite Dr. Howard Grant, President and CEO of Lahey Clinic to attend the August 9, 2011 City Council meeting (or a special or regular meeting of the Council to be held within a reasonable time thereafter) so he and his institution can be introduced to the community and a productive dialogue be immediately begun.

Upon passage of the Council motion, **Council President Hardy** instructed Linda T. Lowe, City Clerk to forward a letter of invitation immediately to Dr. Grant.

2. (A) Motion to Reconsider (Hardy): The City Council vote of July 12, 2011 re: SCP2011-004: Gloucester Crossing #1 and #341, GZO §2.3.2(9) Animal Hospital (PETCO)

Councilor Hardy stated for the record on July 12, 2011 she voted against granting the Special City Council Permit 2011-004 for Gloucester Crossing #1 and #341 regarding PETCO. That motion required six votes; and the motion failed on a roll call vote of 4 in favor and 3 opposed; she had voted on the prevailing side. As in accordance with City Charter 2-11(e) Council Reconsideration: "The clerk of the city council shall hold every measure adopted by the city council to the end of the next business day, with no exceptions, and if during said time notice of an intent to file a motion to reconsider the matter is filed with the clerk of the council by any member entitled to make such a motion, the measure shall be returned to the city council for further action. If no such statement of intent is filed with the clerk of the council he shall, at the end of that next business day forthwith present the matter to the mayor." She did submit her intent to file the motion to reconsider within the timeframe outlined in Sec. 2-11(e) under the City Charter. The Councilor then moved to reconsider the vote taken after the public hearing on July 12, 2011 on the City Council Special Permit 2011-004 Gloucester Crossing #1 and #341 regarding PETCO's request for a permit as in accordance with the Gloucester Zoning Ordinance Sec. 1.8.3 and Sec. 2.3.2(9) (Animal Hospital). The motion was seconded by **Councilor Ciolino**. **President Hardy** reminded the Council that this motion to reconsider requires a majority vote of the City Council. She then asked for discussion on the motion to reconsider, of which there was none by the Council. **President Hardy** then explained that a "yes" vote means that they will reconsider the motion; and it will come immediately before them exactly as it was if it was after the public hearing was closed on 7/12/11, and then the motion will be open to discussion – between the Council only. A "no" vote means that the Council will not reconsider the motion; and they move on with the Council's agenda.

MOTION: On motion by Councilor Hardy, seconded by Councilor Ciolino the City Council voted BY ROLL CALL 8 in favor, 1 (Mulcahey) opposed, to reconsider the vote for Special Council Permit (SCP2011-004) Gloucester Crossing #1 & #341, GZO §2.3.2(9) (Animal Hospital) (PETCO) vote taken by the City Council on July 12, 2011.

President Hardy announced that the motion to reconsider is adopted and the motion is to be reconsidered. Before turning to the Planning & Development Chairman, Councilor Ciolino, she asked City Clerk, Linda T. Lowe to explain the process that is required under the Mullin Act which enables the Councilors who were not present at the July 12, 2011 public hearing to be able to participate in the discussion and on the vote they are about to make.

Ms. Lowe explained that in order for the two Councilors who were absent from the July 12th City Council public hearing when this matter was first heard and voted on to participate in this discussion and take a vote on the matter following the motion to reconsider, what is necessary under what is known as the Mullin Act, a law locally adopted by the City of Gloucester, Sec. 2-400 of the Code of Ordinances. Councilors Theken and Tobey must review either an audio or video recording or a written transcript of that particular public hearing on July 12th; they must certify in a sworn statement of having done so and have that notarized. Both Councilors Theken and Tobey on July 21st did review a CD created by CATV of that hearing and have completed the necessary certification forms under MGL c.39, §23D (Mullin Act) and under §2-400 of the Gloucester Code of Ordinances. They have complied with those requirements and are qualified to participate (Mullin Act documents signed and notarized attesting to Councilors Theken and Tobey's ability to participate in the discussions and votes on the PETCO SCP application are on file in the City Council Special Permit file.).

Councilor Ciolino then moved the main motion to grant a Special Council permit, SCP2011-004 pursuant to §1.8.3 and §2.3.2(9) to Petco Animal Supplies Stores, Inc. dba Petco Supplies and Fish at Gloucester Crossing Shopping Center, building C as shown on Assessors Map #262, Lot 13, to operate an animal hospital. The motion was seconded by **Councilor Whynott**.

President Hardy reminded the Council that the public hearing was closed on July 12th.

Councilor Ciolino mentioned this application meets the six criteria under Special Council Permits which he read into the record at the July 12, 2011 hearing; and therefore did not read the six criteria at this time. The Councilor explained he had voted for this originally when the matter was before P&D and at the City Council on 7/12/11. He believed it was a good opportunity for Gloucester. This will create 24 jobs; more taxes for the City and is what the Gloucester Crossing was created for. He urged his fellow Councilors to vote for the project. **Councilor Whynott** noted when he originally voted for this the arguments he heard, other than some of an anecdotal nature from veterinarians, that most of the arguments were about competition. Today the Council received a memorandum from the City Solicitor, Suzanne Egan (memo on file) which stated the Council can't take competition into consideration, which he knew prior to receipt of that memo and was what he originally based his vote on. The Councilor then read the last paragraph of the memo as follows: *"A special permit granting authority is limited to the standards contained in the ordinance and chapter 40A. There are no standards which require a denial of a permit because the proposed project will have a more competitive position than existing business. No part of the ordinance is to protect business from competition. Circle Lounge & Grill v. Board of Appeals of Boston, 324 Mss. 427 (1949). Therefore, the special permit grating authority may not base its decision to grant or deny the special permit on concerns over the competitive business climate created by the new use."* His reason for voting for this matter remains the same.

Councilor Theken noted she and Councilor Tobey watched the video together; and Councilor Tobey, himself an attorney, did submit a request to the City Solicitor for a legal opinion if an applicant meets the six criteria (of a Special Council Permit). This is only for dog grooming and veterinary services, shots. It is not for the building which can be there by right. **Councilor Ciolino** stated the applicant can open the store by right; this is permission to have a veterinary clinic. **Councilor Theken** stated they can't deny something based on competition. She needed the legal opinion and understood what can be done by right. Her concern was some of the [alleged] violations and those were answered. Local veterinarians would be the first choice by the applicant for their veterinary clinic.

Councilor Ciolino stated, "Yes". The applicant's first choice is to employ a local veterinarian which is a condition of this permit; but they would do rabies shots and [micro-chip] identification. They don't do "heavy duty" veterinary services. On inquiry by **Councilor Theken**, **Councilor Ciolino** confirmed Petco must turn in copies of the rabies shots certifications to the City Clerk's office which is also a condition of the permit. As a Council their purview is to give them permission to run the clinic; but they are under State laws as to how they operate the clinic, and that is not the Council's purview. **Councilor Theken** expressed her understanding of what was now in front of the Council. **Councilor Mulcahey** voted against this application because when they were told about veterinarians doing 25 animals a day once a month, she expressed her discomfort that it was not enough time to examine an animal before it is given a shot; likening this to more of an assembly line. Her vote against the application, she stated, did not have to do with competition. She is going how she personally feels about how an animal is treated, also expressing her concern at the lack of [alleged] record keeping on each animal examined by the Petco veterinarian. **Councilor Tobey** stated his recollections and understanding over a period of multiple councils when

necessary permits were given to Gloucester Crossing to be built. He recalled this was a commitment by Mr. Park; the developer of Gloucester Crossing, that he would not be a competitor with the traditional Main Street, but a compatible adjunct. He understood well that DeMoulas competes with Shaw's and Stop and Shop; he understood that Ace Hardware competes with businesses in the community and the liquor store does the same. But they didn't have to come before the Council for permits. They took their chances. This is the first instance where uses of the sort that feature prominently in the service-oriented downtown district of Main Street are being "poached". He asked the Council to think about economic activity; about a model of a local property owner collecting rents from a local entrepreneur employing local people and that money circulating within the community. That, he argued, was the ultimate model for realizing a sustainable community. He likened it to family fishing boats are important and need to be maintained rather than corporate owned factory ships taking over in their place. Petco is the result of two private equity firms, taking the money off island, providing some jobs at what cost they don't know; at what lost rent to existing landlords; what adverse impact on existing entrepreneurs – they don't know. The Councilor didn't want to vote for this feeling it was a step backwards if they're going to realize a sustainable community, sustainable economy – and believed that what they all want when they talk about economic development. Yet having said that, Councilor Theken was correct, the preeminent concern is what are they as decision makers under the zoning ordinance obligated to do. They are obligated to follow the six criteria (§1.8.3) and one of them is not adverse economic impact on existing businesses. He expressed his regret, but the Council has to do what the zoning ordinance says. He hoped that word goes back to Mr. Park to "do a better job". The Councilor could name three successful local entrepreneurs who have gone to Mr. Park's real estate agent wanting to open businesses there, with successful records as business owners in this community have been turned away from tenancy at Gloucester Crossing because they didn't meet his financial standards that have been set. He expressed his feeling that is not the way to build a community presence and become a partner in the creation of a sustainable community. He hoped that Gloucesterites remember they are a community; and that they need to stick with the people on their Main Streets to see them in the long term. **Councilor Curcuru** noted a few weeks ago at the City Council meeting, it was about the competition with the dog groomers and pet stores. He also read the legal opinion; and now, unfortunately he feels badly. He recalled that Mr. Park was not going to possibly make duplicates of current business in the community at Gloucester Crossing. This situation hit home with him, but the Council has to vote accordingly with the legal opinion before them. **Councilor Theken** stated that Councilor Tobey summed it up. When they approve any projects perhaps there needs to be affordable retail space taken into consideration if an applicant is going to build a like project in this community. They can't tell PETCO what to do, but she reminded them that they have a dog park that needs support. **President Hardy** reminded the Council this is a zoning matter and requires six votes.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 8 in favor, 1 (Mulcahey) opposed, to grant a Special Council Permit (SCP2011-004) pursuant to §1.8.3 and §2.3.2(9) to Petco Animal Supplies Stores, Inc. dba Petco Supplies and Fish at Gloucester Crossing Shopping Center, building C as shown on Assessors Map #262, Lot 13, to operate an animal hospital (veterinary clinic) as shown on Site Plan #MP10-02.2 as rendered by LandStrategies, LLC of Boston MA dated 06.January.11 also shown as "SITE PLAN" and is in harmony with the general purpose and intent of the ordinance with the following conditions:

1. A copy of the rabies shots given shall be sent to the City Clerk's office for all Gloucester dogs;
2. The applicant shall actively recruit on Cape Ann for all open staff positions;
3. The applicant shall make such efforts as advertising jobs in the local Gloucester newspapers and have a job fair in Gloucester for Cape Ann residents to be hired by this Petco store location;
4. The applicant shall have a Board of Health review for their sign off on the method by which animal waste is held and disposed of and completed review shall be filed in the City Clerk's office with the Special Council Permit.
5. Gloucester Board of Health additional requirements:
 - That any animal illnesses or deaths that are found to be due to communicable disease be reported in writing immediately to the Director of the Board of Health and Animal Control Officer;
 - That any wet-cleaning of cages occur within the premises and not take place outside of the building;
 - That the Animal Control Officer will be contacted immediately should there be an accidental release of animals exterior to the building;

- **Should conditions change such that, animals not listed in the current protocol are introduced for sale, the Health Department and Animal Control Officer are notified and a revised protocol document is submitted.**
6. **Petco Animal Supplies Stores, Inc. D/B/A Petco Supplies & Fish (“Petco”) Animal Waste Disposal Protocol for Retail Store at Gloucester Crossing:**
- **Animal waste is collected daily from the animal cages of the small animals that are housed at the Petco store. Petco houses small companion animals, such as ferrets, mice and hamsters, as well as, reptiles, amphibians, fish and birds. No cats or dogs will be housed or sold out of the Petco store in Gloucester Crossing;**
 - **The waste from in-house animals is deposited into a trash receptacle that is then placed into a dumpster located outside of the store. The dumpster is covered and is emptied, at a minimum, on a weekly schedule;**
 - **Animal Waste cleaning stations are located throughout the store for the use by staff and customers. Each station includes paper towels, pet waste disposal bags and a cleaning disinfecting spray. If an animal defecates or urinates while in the store, the customer and staff have supplies ready to clean the floor immediately. The same supplies are available in the grooming facility and during the vet clinic operations. Upon cleaning, the waste is deposited in trash receptacle and then deposited into the dumpster by staff;**
 - **The floors of the Petco store are cleaned by a floor care service contractor on a weekly basis. Store personnel are responsible for spot cleaning as needed in the interim.**
 - **Petco also partners with a Massachusetts licensed veterinarian to care for its in store animals. Its preference is to hire local veterinarians if they are interested. Deceased animals are handled in consultation with the veterinarian and a third party contractor is hired to collect and appropriately dispose of deceased animals. The contractor holds all necessary licenses and disposes of deceased animals in accordance with all federal, state and local laws.**

(B) Motion to Reconsider (Hardy): The City Council vote of July 12, 2011 re: SCP2011-004: Gloucester Crossing #1 and #341, GZO §2.3.4(6) Grooming Facility (PETCO)

Councilor Hardy stated for the record on July 12, 2011 she voted against granting the Special City Council Permit #2011-004 for Gloucester Crossing #1 and #341 regarding PETCO. That motion required six votes; and the motion failed on a roll call vote of 4 in favor and 3 opposed; she had voted on the prevailing side. As in accordance with City Charter 2-11(e) Reconsideration: “The clerk of the city council shall hold every measure adopted by the city council to the end of the next business day, with no exceptions, and if during said time notice of an intent to file a motion to reconsider the matter is filed with the clerk of the council by any member entitled to make such a motion, the measure shall be returned to the city council for further action. If no such statement of intent is filed with the clerk of the council he shall, at the end of that next business day forthwith present the matter to the mayor.”

Therefore, having voted on the prevailing side she moved to reconsider the vote taken after the public hearing on July 12, 2011 on City Council Special Permit 2011-004 Gloucester Crossing #1 and #341 regarding PETCO’s request for a Special Council Permit as in accordance with GZO Sec. 1.8.3 and Sec. 2.3.2(6) (Animal Grooming).

Councilor Ciolino then seconded the motion. **President Hardy** explained this motion to reconsider requires a majority vote of the Council. There was no discussion by the Council on the matter before them. **Councilor Hardy** then explained that a “yes” vote means that they will reconsider the motion; and it will come immediately before them exactly as it was if it was after the public hearing was closed and then the motion will be open to discussion – between the Council only. A “no” vote means that the Council will not reconsider the motion; and they move on with the balance of the Council’s agenda.

MOTION: On motion by Councilor Hardy, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to reconsider the vote for Special Council Permit (SCP2011-004) Gloucester Crossing #1 & #341, GZO §2.3.4(6) Grooming Facility (PETCO) vote taken by the City Council on July 12, 2011.

President Hardy noted before turning to P&D Chair, Councilor Ciolino, to ask **Ms. Lowe** to review the Mullin Act process to enable the Councilors to participate in the discussion and vote who did not attend the July 12, 2011 City Council meeting where the public hearing on this matter was opened and closed. **Ms. Lowe** explained as previously

stated, that the City has adopted under Gloucester Code of Ordinances Sec. 2-400, from the State statute known as the Mullin Act, MGL c.39, §23D; if a member of a special permit granting board such as the Council did not attend the hearing, they may participate in the vote on the hearing if they view a video recording, listen to an audio recording or a read a complete written transcript. On July 21st Councilors Theken and Councilor Tobey under her supervision, viewed a CATV video recording (CD) of the July 12th public hearing and have signed a sworn statement attesting they have done so. This Mullin Act signed and notarized statements are on file in the City Council Special Council Permit file.

Councilor Ciolino then moved that the Council grant a Special Council Permit (SCP2011-004) pursuant to §1.8.3 and §2.3.4(6) for an animal grooming facility. The motion was seconded by **Councilor Whynott**. There was no further discussion offered by the Council. **President Hardy** reminded the Council this was a zoning matter and needed six votes of the Council in order to pass.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 9 in favor , 0 opposed, to grant a Special Council Permit (SCP2011-004) pursuant to §1.8.3 and §2.3.4(6) to Petco Animal Supplies Stores, Inc. dba Petco Supplies and Fish at Gloucester Crossing Shopping Center, building C as shown on Assessors Map #262, Lot 13, to operate a grooming facility as shown on Site Plan #MP10-02.2 as rendered by LandStrategies, LLC of Boston MA dated 06.January.11 also shown as "SITE PLAN" and is in harmony with the general purpose and intent of the ordinance with the following conditions:

1. A copy of the rabies shots given shall be sent to the City Clerk's office for all Gloucester dogs;
2. The applicant shall actively recruit on Cape Ann for all open staff positions;
3. The applicant shall make such efforts as advertising jobs in the local Gloucester newspapers and have a job fair in Gloucester for Cape Ann residents to be hired by this Petco store location;
4. The applicant shall have a Board of Health review for their sign off on the method by which animal waste is held and disposed of and completed review shall be filed in the City Clerk's office with the Special Council Permit.
5. Gloucester Board of Health additional requirements:
 - That any animal illnesses or deaths that are found to be due to communicable disease be reported in writing immediately to the Director of the Board of Health and Animal Control Officer;
 - That any wet-cleaning of cages occur within the premises and not take place outside of the building;
 - That the Animal Control Officer will be contacted immediately should there be an accidental release of animals exterior to the building;
 - Should conditions change such that, animals not listed in the current protocol are introduced for sale, the Health Department and Animal Control Officer are notified and a revised protocol document is submitted.
6. Petco Animal Supplies Stores, Inc. D/B/A Petco Supplies & Fish ("Petco") Animal Waste Disposal Protocol for Retail Store at Gloucester Crossing:
 - Animal waste is collected daily from the animal cages of the small animals that are housed at the Petco store. Petco houses small companion animals, such as ferrets, mice and hamsters, as well as, reptiles, amphibians, fish and birds. No cats or dogs will be housed or sold out of the Petco store in Gloucester Crossing;
 - The waste from in-house animals is deposited into a trash receptacle that is then placed into a dumpster located outside of the store. The dumpster is covered and is emptied, at a minimum, on a weekly schedule;
 - Animal Waste cleaning stations are located throughout the store for the use by staff and customers. Each station includes paper towels, pet waste disposal bags and a cleaning disinfecting spray. If an animal defecates or urinates while in the store, the customer and staff have supplies ready to clean the floor immediately. The same supplies are available in the grooming facility and during the vet clinic operations. Upon cleaning, the waste is deposited in trash receptacle and then deposited into the dumpster by staff;
 - The floors of the Petco store are cleaned by a floor care service contractor on a weekly basis. Store personnel are responsible for spot cleaning as needed in the interim.
 - Petco also partners with a Massachusetts licensed veterinarian to care for its in store animals. Its preference is to hire local veterinarians if they are interested. Deceased animals are handled in

consultation with the veterinarian and a third party contractor is hired to collect and appropriately dispose of deceased animals. The contractor holds all necessary licenses and disposes of deceased animals in accordance with all federal, state and local laws.

3. Decision to Adopt: 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

MOTION: On motion by Councilor Hardy, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, opposed to adopt SCP2011-002 decision for Eastern Avenue #53 pursuant to §2.3.1.6, §1.10.1, §3.1.6 and §3.2.2(a).

Unfinished Business: None.

Individual Councilors' Discussion including Reports by Appointed Councilors to Committees: None.

Councilors' Requests to the Mayor:

Councilor Whynott thanked the DPW for fixing broken concrete on Stacy Boulevard, but that there another portion in the vicinity of the Fisherman's Wives Memorial statue and asked if they would take care of that matter.

Councilor Verga expressed there have been reports by residents of Woodward Avenue regarding speeding issues there and asked the matter to be referred to O&A and the Traffic Commission to have a JAMAR speed study done, as well as have the signage, speed limits reviewed in order to make a recommendation to O&A. **The Council referred the matter of speeding on Woodward Avenue to the O&A Committee and Traffic Commission by unanimous consent.**

Councilor Theken reminded the community of the Harbor Loop concerts on Sundays. She thanked the sponsors of that concert series.

A motion was made, seconded and voted unanimously to adjourn the meeting at 10:11 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Power Point presentation by Chris Muskopf of Cambridge Seven Associates, Inc. on the Harbor Walk
- Copy of Mullin Act documentation, signed and notarized, to enable Councilors Theken and Tobey to participate in PETCO Motions to reconsider votes and discussions filed in the City Council Special Permit File 2011-004