

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, October 11, 2011 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

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

**Absent:** None.

**Also Present:** Linda T. Lowe; Jim Duggan; Gregg Cademartori; Suzanne Egan; Sarah Garcia; Kenny Costa

The meeting was called to order at 7:05 p.m. Items were taken out of order.

**Flag Salute & Moment of Silence.****Oral Communications:**

**Joe Orange**, 16 Taylor Street, reacting to recent statements by the Town of Rockport that they want a road through the Babson Reservoir area, stated there was a process that they could not compromise on the Babson Reservoir by an access road through it from Rockport to Gloucester. He contended the City cannot live without Babson Reservoir, a precious resource. He asked that the City not consider this matter again. The first quarter mile of Babson Reservoir is underwater. The other quarter mile comes within 50 feet of the brook. If they lose 50% of the City's water, the City would be compromised.

**Donna Grinnell**, 145 Prospect Street, spoke of the need for removal of obstructions placed along Main Street, and violations and neglect of compliance of City Code 21-9, State Law MGLA c. 82 – 17 & 25, Federal Regulations 28 CFR Part 36:210. She had experienced several times difficulty navigating along Main Street that she deemed potentially harmful to her person, as she is disabled. A full text of her statement and attendant documents were placed on file.

**Presentations/Commendations:**

**Councilor Whynott** introduced Bill Campbell the City Clerk of Woburn to speak on H1972 which will move both the State and Presidential primaries to the same month in June. Mr. Campbell noted H1972 addresses the military or overseas voters as there is not enough time between the primary and actual election to get them back in time for Election Day. Federal law dictates that ballots are sent to military and overseas voters at least 45 days before a state or federal election. There are 11,691 military from MA and 3,800 spouses and countless numbers of residents who might be abroad in some other capacity. Focusing on the military personnel, in 2010, only 400 were counted. The solution was fax and email. Only 70 were fax and email. This bill he drafted was submitted in January 2011 and at public hearing in May it was well received and would make a recommendation to come out of committee but with redistricting it was delayed. He has been reaching out to all the City Clerks in cities and towns to consider this issue and if within their judgment they would endorse it and support the change. When you address one issue you see others and so took a broader approach. If the State could combine that primary with the presidential primary it would save the State an enormous amount of money as New Jersey and California are now doing. In 2008 the September primary and State primary and presidential primary cost the City of Woburn about \$4,000 to program their voting machines alone. There is no streamlining of business and that is not fair to the candidates. The plan is also to reduce voter fatigue to encourage voters to come out to vote and to also reduce security issues with the schools. The main goal is to allow for the military and overseas voters to be able to have their votes count. A number of communities have already adopted the resolution he had proposed in the last several weeks. It is to send a message to the Statehouse that this community supports this. There is still time to do make these changes and train poll workers. **Councilor Tobey** stated the norm now for State primaries is September, and with this bill it would move it to the first Tuesday in June. **Mr. Campbell** stated it would move both the State Primary and the Presidential primary to June. **Councilor Tobey** noted nationally the presidential primaries are to move them to the year before the election he wondered what the dynamic will be to move the state's later. **Mr. Campbell** would like to see a national primary on one date, but in 2008 they moved from March to February; and it turned out it was much later than February. **Councilor Whynott** noted the Presidential primary has the lowest turnout in the City. If it was the same day as the State primary he felt there would be more voters participating and a cost savings. **Linda**

**T. Lowe**, City Clerk, along with **Councilor Whynott**, stated that she supports Mr. Campbell's efforts. It will save an enormous amount of money for municipalities, and personnel efficiencies in clerks' offices with less duplication of effort; and improve voter turnout where more are likely to turn out in early June and is a commendable piece of legislation. Council President Hardy invited Councilor Whynott to move to adopt the resolution in favor of H1972 regarding election primaries.

**MOTION: On motion by Councilor Whynott, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (McGeary) absent to adopt the following resolution:**

**RESOLVED: whereas, according to the Department of Defense Federal Voting Assistance Program (FVAP), there are 11,691 active military duty Massachusetts residents residing overseas; and Whereas, for the November 2010 election, Massachusetts requested a waiver from a requirement of the Military and Overseas Voter Empowerment Act (the MOVE Act) to send absentee ballots to Americans overseas at least 45 days before an election "due to a late primary"; and Whereas, a report by the Secretary of the Commonwealth revealed that in the November 2010 election only 400 ballots from Massachusetts active duty military personnel stationed overseas were counted; and Whereas, the General Court is considering H1972 "An Act Regulating State Primaries" a bill that moves the state primary to allow Massachusetts residents residing overseas to vote privately and securely, and combines the presidential primary with the state primary to save taxpayers at least \$8,000,000.00; and Whereas, a number of states have moved their primary dates earlier in the year to comply with the federal MOVE Act and to provide relief to taxpayers by reducing the cost of elections; and Whereas, the Massachusetts state primary scheduled for September 18, 2012 stands alone as the last state primary in the country in 2012; and Whereas, in written testimony the FVAP concluded "passing HB1972 will significantly improve voter success for many military members, overseas voters, and their families"; and Whereas, HB1972 simplifies the election process, decreases the opportunity for "voter fatigue", reduces the cost of elections for taxpayers, and establishes fairness among candidates; Now, Therefore, Be It Resolved by the City Council of the City of Gloucester that the City of Gloucester supports the adoption of HB 1972 "An Act Regulating Election Primaries" pending before the 187<sup>th</sup> General Court of the Commonwealth of Massachusetts and directs the City Clerk to transmit a copy of this action to the municipality's State Delegation and to the Joint Committee on Election Laws.**

*By unanimous consent FOR COUNCIL VOTE 3 of 3: CC2011-047 (Whynott) Commendation for GHS student Erin Pratt and Rebecca Lundy for her heroic rescue of several people caught in a rip tide was taken out of order.*

**Councilor Whynott** noted Erin Pratt, a life guard at the Bass Rocks Beach Club, heard a woman's cry of distress, ran across the street, was met by Rebecca Lundy, a life guard at Good Harbor Beach, and she saved not only that woman but two children. It is wonderful when you have people do the opposite of what human nature tells you to do, that is to run away rather than into a dangerous situation, but risk their lives to save people. [Ms. Lundy was not in attendance.]

**MOTION: On motion by Councilor Whynott, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 8 in favor, 0 opposed to offer its sincerest congratulations to Erin Pratt in recognition of her serving as a lifeguard for Bass Rocks Beach Club at Good Harbor Beach on September 2, 2011; and having assisted in the rescue of Cheryl Borrelli, followed by the rescue of two young girls which prevented three possible drownings.**

**Councilor Whynott** asked Erin Pratt and her mother and father to join him at the podium, and then read the City Council commendation aloud and presented it to Ms. Pratt. The Council then personally congratulated Ms. Pratt individually during a brief recess.

**Consent Agenda:**

• **MAYOR'S REPORT**

1. Memorandum from Principal Assessor re: Tax Classification
2. Quarterly Report of the Clean Energy Commission

(Refer B&F)  
(Info Only)

• **COMMUNICATIONS/INVITATIONS**

1. Letter from Gloucester Rotary Club and Gloucester Rotary Foundation re: gift to City Stage Fort Park Playground 100<sup>th</sup>

- Anniversary project (Info Only)
- **INFORMATION ONLY**
1. Letter from Senator Tarr to City Clerk re: House Bill 1769 "An Act Relative to Double Poles" (Info Only)
  2. Thank you letter from Gerolama "Gerri" Lovasco re: 10<sup>th</sup> Year Celebration of the Fishermen's Wives Monument (Info Only)
  3. Press Release from Mayor re: Formation of a Fire Chief Selection Committee (Info Only)
  4. FY2011 Annual Report from Council on Aging filed with the Executive Office of Elder Affairs (Info Only)
- **APPLICATIONS/PETITIONS**
1. SCP2011-012: Pearce Island (73 Fernald Street), GZO §5.5.4 Lowlands (Refer P&D)
  2. SCP2011-013: Dale Avenue#10, Amendment of City Council Special Permit granted on May 23, 1974 pursuant to GZO §1.10.1 And §3.2.2(a) (Refer P&D)
  3. SCP2011-014: Pearce Island (73 Fernald Street), GZO §5.13.7.2 (PWSF Modifications) (Refer P&D)
- **COUNCILORS ORDERS**
1. CC2011-051 (Verga) Review "island" at the entrance of Beechbrook Cemetery (Refer TC & O&A)
  7. CC2011-052 (Theken/Tobey) Re: Update listing on Fisherman's Memorial Cenotaph by August 2012 (Refer to CC & Administration)
- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
1. City Council Meeting: 09/13/11 (Approve/File)
  2. City Council Meeting: 09/27/11
  2. Standing Committee Meetings: B&F 10/06/11 (under separate cover) O&A 10/03/11, P&D 10/05/11 (Approve/File)

**Items to be added/deleted from the Consent Agenda and Unanimous Consent Calendar:**

**Councilor Hardy** made note of the matter on the Unanimous Consent Agenda regarding a proposed TIF for Gorton's Inc.

**By unanimous consent the Council agenda and calendar was accepted as amended.**

**Committee Reports:**

**Budget & Finance: October 6, 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 in accordance with MGL Chapter 44 Section 64, to pay National Grid/GDF Suez under DPW Central Services 101000104995213 National Grid Account #40497-75004 Heritage Way dated 06/23/11 for \$1,027.27 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION:**

**Councilor McGeary entered the meeting at 7:34 p.m.**

**Councilor Curcuru** explained that this motion and the following three motions are all services that were rendered to the City which the DPW had overlooked the invoices for, and therefore they must be paid out of the FY12 DPW budget. Mark Cole, DPW Operations Manager explained that this was due to shortages in the School budget and assured they had enough money to cover these expenses in the FY12 budget.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed, absent, in accordance with MGL Chapter 44 Section 64, to pay National Grid/GDF Suez under DPW Central Services 101000104995213 National Grid Account #40497-75004 Heritage Way dated 06/23/11 for \$1,027.27 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

**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 in accordance with MGL Chapter 44 Section 64, to pay National Grid under DPW Central Services 101000104725211 National Grid Account #40983-61001 40 Blynman Avenue dated 6/23/11 for \$8,073.95 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed in accordance with MGL Chapter 44 Section 64, to pay National Grid under DPW Central Services 101000104725211 National Grid Account #40983-61001 40 Blynman Avenue dated 6/23/11 for \$8,073.95 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

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 in accordance with MGL Chapter 44 Section 64, to pay Suez/GDF under DPW Central Services 101000104725211 Suez/GDF Account #8846705000 30 Cherry Street dated as of 7/11/11 for \$12,817.93 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed in accordance with MGL Chapter 44 Section 64, to pay Suez/GDF under DPW Central Services 101000104725211 Suez/GDF Account #8846705000 30 Cherry Street dated as of 7/11/11 for \$12,817.93 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

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 in accordance with MGL Chapter 44 Section 64 to pay National Grid under DPW Central Services 101000104725211 National Grid Account #42238-10330 40 Blynman Avenue dated June 21, 2011 for \$2,441.31 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION:**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed in accordance with MGL Chapter 44 Section 64 to pay National Grid under DPW Central Services 101000104725211 National Grid Account #42238-10330 40 Blynman Avenue dated June 21, 2011 for \$2,441.31 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

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 in accordance with MGL Chapter 44 Section 64 to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #73766034 dated 08-09-10 for the Rose Baker Senior Center Alarm Monitoring for \$214.71 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.

**DISCUSSION:**

**Councilor Curcuru** explained that the next two motions are for the alarm monitoring for the Rose Baker Senior Center. The contract with this company has subsequently been terminated now that a new wireless system for the City is in place which is why one is pro-rated to \$214.71. Both were for services rendered in FY11 without purchase orders in place and are to be paid out of the FY12 DPW budget. There was concern without the purchase order in place and did receive the bills.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to recommend to the City Council in accordance with MGL Chapter 44 Section 64 to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #73766034 dated 08-09-10 for the Rose Baker Senior Center Alarm Monitoring for \$214.71 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.**

**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 in accordance with MGL Chapter 44 Section 64, to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #7399062 for the Rose Baker Senior Center Alarm Monitoring for \$519.00 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.

**DISCUSSION:** None.

**MOTION:** On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to recommend to the City Council in accordance with MGL Chapter 44 Section 64, to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #7399062 for the Rose Baker Senior Center Alarm Monitoring for \$519.00 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.

**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 Graf Leasing under Central Services 101000104725211 for Invoice #38746 for storage unit leasing for \$60.00 with no purchase in place.

**DISCUSSION:**

**Councilor Curcuru** stated this invoice was for a leased storage unit and while the purchase order came through on July 20<sup>th</sup>, the invoice came in dated July 16<sup>th</sup>. This is to enable payment to the leasing company under these circumstances.

**MOTION:** On motion by Councilor Hardy, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to pay Graf Leasing under Central Services 101000104725211 for Invoice #38746 for storage unit leasing for \$60.00 with no purchase in place.

**Councilor Curcuru** explained to the Council that the following two motions are for the Affordable Housing Trust disbursements. The B& F Committee discussed these two disbursements with Sarah Garcia at their meeting and asked that representatives from each of the projects be available for questions from the Council.

**MOTION:** On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the funding of the request by the Affordable Housing Trust Committee for the Action Inc.'s Home Together Project at 26 Marsh Street for \$40,000 for architectural and engineering.

**DISCUSSION:**

**Sarah Garcia**, Community Development Director noted Peggy Hagerty-Steck and Tim Reilly both of whom were with Action, Inc., and stated the Affordable Housing Trust (AHT) had recommended this project for funding which reflects the AHT making new rental units available for people in Gloucester. They recommended \$10,000 for each unit to be built (a total of four) in show of local support. Residents of Marsh Street, where this proposed four-unit residence for homeless families will be located, met with Councilor Curcuru, and at that meeting they expressed their support. **Tim Reilly**, Executive Director of Action, Inc. noted the land on Marsh Street was purchased a year ago by them. This land was previously permitted with a Special Council Permit to be developed for five units but never came to fruition. Their purpose is to develop four units of affordable housing using the same footprint as the originally proposed five unit project, but decrease the number of units to two duplexes which is more of a family living type of setting on the property. Concern originally expressed with regard to the Special Council Permit was the screening of the dumpster. Each individual family will have their own trash receptacles. **Councilor Curcuru** explained he had a ward meeting where there was positive contact with the neighbors. **Mr. Reilly** continued Action, Inc. is appreciative of the support of the AHT for \$40,000. They have applied for HUD home funds for \$400,000 for construction and are already starting the foundation site work this week. This is for very low income families who are without homes. These are people likely to come from short-term subsidy situations to these two bedroom units

for a more permanent housing solution. There is a large waiting list for such units. **Councilor Curcuru** noted these are rental units which **Mr. Reilly** agreed. **Councilor Curcuru** asked how the AHT makes the determination to get the funds. **Ms. Garcia** stated they've funded new housing units and funded Central Grammar to recapitalize their units and make them affordable for another 30 years which the AHT felt made it worth the \$50,000 to subsidize them and significant enough that the State gave tax credits to make it work. They have not turned down anyone to do new units. They turned down a feasibility study as the preference is to create units. They've had some inquiries for projects proposing to buy homes and make them affordable housing. The AHT would listen to such applications but none have yet to come forward. They have encouraged affordable housing developers in the region to talk to the AHT as well as encouraged the affordable living component at Gloucester Crossing for assisted living. They try to stay in sync with the City's affordable housing plan. She spoke of the CDBG housing plan's recent study.

**Councilor Curcuru** asked when Action believes they'll begin construction for this project. **Mr. Reilly** stated he thought it would be next spring. The state funding should come through in January and be available in the spring also. This development is primarily for families. Councilor Curcuru commented in this economy everyone is one paycheck, one accident away from finding themselves homeless. **Councilor Tobey** understood this is not a 40B application or project, but noted in the AHT minutes some discussion of 40B, a consolidated and expediting permitting process favoring approval of projects that include dedicated affordable housing as the community has less than 10% in affordable category. He asked what constitutes an affordable unit. **Ms. Garcia** stated it is a deed restriction between 15 years and permanent in terms of counting for the State's inventory. What has hurt the City is that the State does not count Section 8 vouchers. **Councilor Tobey** stated it has to be dedicated in writing through a legal instrument, and asked what percentage of the City's housing stock has this element. **Ms. Garcia** thought it was around 800 units or 7.8%. She has looked at it in the recent past as has project manager, Sandra Shea.

**Councilor Tobey** noted Section 8 works very well and is an important economic driver. He then asked how many Sec. 8 units there are. **Ms. Garcia** stated it is hard to get an exact number from the Housing Authority as vouchers given out could be used in other communities and often are. She thought it was around 500. **Councilor Tobey** stated assuming around 500 and it came with a deed restriction, would that take the affordable stock over (the state percentage needed by the community) which **Ms. Garcia** stated it would. **Councilor Tobey** asked if they have reached out to landlords to see if they would do such a deed restriction which **Ms. Garcia** acknowledged she would look into. **Councilor Hardy** asked about the previous Special Council permit on the property; would the new owners of the property have to come in for a modification of the Special Council Permit as it was for five units with conditions. **City Solicitor Suzanne Egan** responded she'd have to look at the permit; a change in ownership would not trigger it; but any change in the construction plan could trigger that modification. They'd go to the Building Inspector and then the Planning Director for guidance. **Councilor Hardy** asked if a vote this evening would be appropriate without such a modification. **Attorney Egan** stated it would be appropriate whether or not an amendment to a special permit is needed. **Councilor Hardy** asked about the condition of the Special Council Permit that indicated the dumpster would go on the property; now that it is four units; the concern of the neighbors at the time was that it would be hidden. Another concern was the buffer of the trees between the highway and the housing is honored. **Mr. Reilly** stated they would honor that tree buffer. They did go to the building inspector on the redesign and was his opinion that as long as they didn't change the footprint of the plan that they were all right. Each unit would have its own trash receptacles. **Councilor Hardy** noted that another Special Council Permit condition related to the nearby boatyard, and that this property is not to be used as an extension of such; which **Mr. Reilly** stated they would also honor that condition. These families, he stated, would likely not own boats, regardless. **Councilor Hardy** also inquired about snow removal, and **Mr. Reilly** confirmed Action Inc. would be responsible for the snow removal within the boundaries of the property.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to fund the request of the Affordable Housing Trust Committee for the Action Inc.'s Home Together Project at 26 Marsh Street for \$40,000 for architectural and engineering.**

**MOTION: On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 1 in favor, 2 (Curcuru, Hardy) opposed to recommend to the City Council the funding Gardiner & Company – 10 Taylor Street Project for \$30,000 for Construction.**

#### **DISCUSSION:**

**Councilor Curcuru** expressed to the Council that he had voted last year at the CPA Funding public hearing against the Taylor Street project. At the time, he didn't believe it was a good project. It was supposed to have broken

ground in February 2011; and that there is a glut for this type of housing currently. He believed there are too many questions on the project itself and would vote no on the project's receiving the funding at this time. These units are for sale, which is different from Action, Inc.'s project. **Ms. Garcia** stated the AHT voted \$30,000 towards this project. The Gloucester Housing Authority (GHA) has been a proponent of this project and has a contract with Carl Gardiner, the developer, who **was** the sole bidder. They have sought funding from three sources. Right now it is a vacant lot, and is proposed for a three unit condominium unit and is the same project seen last year at the CPA. The AHT is new funding that was part of the pro forma given at the CPA. **Councilor Verga** asked about the units' market pricing now. **Carl Gardiner**, 9 Woods Lane, Ipswich, developer of the 10 Taylor Street project stated the \$30,000 was voted and approved by the AHT in February 2010 and were the first entity to step forward. There is a total of \$200,000 in subsidies. There is also a discount, for the lot, \$5,000. The pricing is aggressive – 60%-70% of median income. Two 2-bedroom plus units will be \$125,000 at 1,400 sq. ft. and the one handicapped unit will be \$90,000, at 932 sq. ft. The flooring will be hardwood in the first floor with tile baths and entry ways. These would be market rate unit construction as well as energy star rated construction with energy efficient windows and historical detail on the exterior. **Councilor Ciolino** noted the last time Mr. Gardiner appeared before the Council he had asked if for some reason Mr. Gardiner defaults, who then owns the property. **Mr. Gardiner** then stated it was the bank. **Councilor Ciolino** responded that the last time he answered it would be the GHA. **Mr. Gardiner** explained the GHA wanted a default return of property to them, but no bank would subsidize based on that agreement in place. There is an agreement called a "Disposition Agreement", or a "reverter" in place which says that BankGloucester will get title if there is a default, and that any funding not used will go to the GHA to finish the project to which the funding authorities agreed. The parties have agreed in advance to cooperate. Once he takes on the property a deed restriction will be in place for 99 years which can't be wiped out by foreclosure. **Councilor Ciolino** asked who has the document. **Mr. Gardiner** stated the document has been vetted and signed by the funding entities, North Shore Housing Consortium, the CPA. Mr. Gardiner stated they're not fully executed yet. **Councilor Ciolino** expressed his concern with this arrangement as it was now different than before, and now he is before the Council for more funding. **Mr. Gardiner** stated it is the project that gets the money. **Councilor Ciolino** asked if Ms. Garcia was comfortable with this. She stated the funding is contingent that the project obtains outside funding. The AHT, since this is privately owned, conditioned that the GHA will do an audit of the project and before the last 20% is put in they'll know it cost what they said it would. If not it would revert back to the Trust. For the \$30,000, specific pieces of the project are being paid for; and project managers on both sides are experienced, Deborah Laurie of the Community Development Department and Sandra Shea, of the GHA; and felt they've done all they could to support the GHA to get this property developed. She confirmed she was comfortable for the Council voting for this. George Sibley, Chair of the AHT apologized for his absence through Ms. Garcia. **Councilor McGeary** expressed concern at the great length of time it is taking to bring the project to fruition and asked why. **Mr. Gardiner** stated it couldn't go forward until everything was in place with the subsidies as far as the bank was concerned. They are awaiting this piece to come forward. The bank wants the subsidies to be spent first. He indicated he wanted to start in February 2011 but was naive about the timeframe to get all components in place. They had to come up with the alternative agreement with all the funding entities in place. The affordable housing restriction had to be modified and made compatible between HUD and the North Shore Consortium which he found out about only in late August. **Councilor McGeary** stated if in the worst case he defaulted, anyone who took over that property would have to build affordable housing. **Mr. Gardiner** stated if he closes on the property, then the deed restriction goes into place. If he was not there, the bank would have to work with the funding entities to get the project built. If he doesn't finish the project, but most of the subsidies will have been expended and then he defaults, then whatever remains of bank funding, the bank has agreed to disburse those funds to the Housing Authority to finish the project. **Councilor McGeary** asked him to outline other projects he'd been involved with. **Mr. Gardiner** described himself as self employed as a developer since 1987. He's done a four-unit project of affordable housing in Ipswich in early 2000's; in 2004 he did a two-unit project and finishing another in Groveland. He also listed a variety of luxury housing units he has done on the North Shore. **Councilor McGeary** asked Councilor Verga about the housing prices proposed (Councilor Verga being in the Real Estate business as a Realtor). **Councilor Verga** thought them questionable for fair market value. He didn't see the market recovering that quickly and thought the pricing off making it a questionable investment in his estimation. **Councilor McGeary** thought public funds make it more constructible. Part of this process is to guarantee a return on the labor and investment. The package he put together guarantees a reasonable return on his effort – he needs those prices even after all the subsidies to make what he said he needs. **Mr. Gardiner** stated he wanted to have the right to cut prices further if necessary. He has the right to defer income to sell it. As to the pricing, he felt it was "legitimate". The pro forma had them higher. The lower the price, the more people come into the market and meet the criteria. Appraisals were done in February last year and most recently in the last few weeks on the unrestricted units and didn't know those figures from BankGloucester's

most recent appraisal. **Councilor Curcuro** noted the project's receipt of \$110,000 CPA money, and \$30,000 from the AHT. He asked what Mr. Gardiner was getting out of the project as the Councilor believed the more subsidies, the more Mr. Gardiner can make on this project. **Mr. Gardiner** didn't know what he would make on this project at this time. The pro forma says \$55,000. **Councilor Curcuro** asked if this money comes off the top before being sold. **Mr. Gardiner** stated he would get the money up front. He is being paid for his time for building this project. **Councilor Curcuro** stated the bank is a new wrinkle. He had said that if the project goes "belly up", the bank would have had to take it on. **Councilor Curcuro** reiterated his concern and would not vote for this tonight. **Councilor Ciolino** would wish to continue this matter and have someone from the GHA and BankGloucester speak to the Council to explain the default situation. **Councilor Tobey** expressed confusion by the animosity he heard this project has drawn on several occasions, and stated if someone can't make payments, the bank forecloses. He didn't see the need for this to go back to B&F or postpone the vote. **Councilor Ciolino** responded in the first go around the GHA would end up with the property and now it is BankGloucester. He felt the matter could wait another couple of weeks. **Councilor Tobey** asked if this matter was continued would he be willing to have his attorney speak on his behalf. Mr. Gardiner stated he would not as he could not afford to do so.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Curcuro, the City Council voted BY ROLL CALL 3 in favor, 6 (Verga, Whynott, Hardy, McGeary, Mulcahey, Tobey) opposed to continue the matter of the 10 Taylor Street Project funding of \$30,000 from the Affordable Housing Trust to the next regularly scheduled City Council meeting.**

**MOTION FAILS.**

**MOTION: On motion by Councilor Curcuro, seconded by Councilor McGeary, the City Council voted 6 in favor, 3 (Verga, Curcuro, Hardy) opposed to fund the request of the Affordable Housing Trust Committee for the Gardiner & Company – 10 Taylor Street Project for \$30,000 for Construction.**

**Councilor Tobey** noted there is a crisis of confidence on this project. The Council can rescind their vote if there is a problem going forward; and therefore, he asked that the Community Development Director to keep her eye on the project. **Councilor Theken** also agreed in receiving the report even though she had faith in the people appointed to the AHT and the Housing Authority. She expressed her endorsement of affordable housing.

**MOTION: On motion by Councilor Tobey, seconded by Councilor Theken, the City Council voted 9 in favor, 0 opposed to have the Community Development Director through the Office of the Mayor submit bi-monthly reports on the progress or lack thereof on the 10 Taylor Street 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 City Council to accept under MGL c. 44, §53A a grant funding extension from Health Resources in the amount of \$30,000.**

**DISCUSSION:**

**Councilor Curcuro** stated this is the second half of the year's Get Fit Gloucester! funding which pays for the Project Manager's salary and that administrative cost are accounted for.

**MOTION: On motion by Councilor Curcuro, seconded by Councilor Theken, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to accept under MGL c. 44, §53A a grant funding extension from Health Resources in the amount of \$30,000.**

**Councilor Theken** requested an update on Get Fit Gloucester! from Stephen Winslow. Council President Hardy stated this request would be sent to the Office of the Mayor.

**Ordinances & Administration: October 3, 2011**

**There were no matters for Council action from this meeting.**

**Planning & Development: October 5, 2011**



**There were no matters for Council action from this meeting.**

**Councilor Ciolino** noted that there is a correction to a motion on one of the two motions passed by the Planning & Development Committee at their meeting of October 5, 2011 regarding a Special Council Permit for Prospect Street #27. The motion read as follows:

**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 grant Kayleen Reilly and Barbara Reilly Cohen a Special Council Permit (SCP2011-010) for the property located at Prospect Street #27, (Assessors Map 15, Lot 40) zoned R-5 (High Density Residential), pursuant to §1.8.3, §1.10.1 and §3.16 of the Gloucester Zoning Ordinance for building height in excess of 35 feet but not more than 36 feet, the height of the existing building.

The Councilor wished to clarify the height exception and offered one for that purpose. However, **Council President Hardy** noted that under the Gloucester Zoning Ordinance, the Zoning Board of Appeals grants height exceptions from 30-35 ft. The Council grants a height exception for anything over 35 ft. If the property comes to the Council, then the Council has to do the exemption from 30 ft. to whatever the actual height will be. She then offered another amendment in further correction making the one offered by Councilor Ciolino moot, by stating it should read, “an exemption of six feet [from the 30 ft. limit] not to exceed 36 feet.” This then became the main motion on the table to amend the P&D Committee’s motion on height exception and was voted upon by the Council.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to amend the P&D motion made regarding a Special Council Permit (SCP2011-010) by Kayleen Reilly and Barbara Reilly Cohen for the property located at Prospect Street #27, (Assessors Map 15, Lot 40) zoned R-5 (High Density Residential), pursuant to §1.8.3, §1.10.1 and §3.16 of the Gloucester Zoning Ordinance for building height with an exemption of six feet, not to exceed a building height of 36 feet, as voted by the City Council on October 11, 2011.**

**Scheduled Public Hearings:**

1. **PH2011-061: Amend GCO Sec. 22-287 (Disabled Veteran, Handicapped Parking) by ADDING “one (1) Handicapped parking space to be placed in front of Clifford Court #8**

**This public hearing is opened.**

**Those speaking in favor:**

**Sal Gilardi**, 8 Clifford Court expressed his support for the establishment of the handicap parking space as it was his wife who had made the request.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions: 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 (Handicapped Parking) by ADDING one (1) handicapped parking space in front of Clifford Court #8.

**DISCUSSION:**

**Councilor Theken** stated this had the unanimous support of the Traffic Commission.

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-287 (Handicapped Parking) by ADDING one (1) handicapped parking space in front of Clifford Court #8.**

2. **PH2011-062: Amend GCO §22-287 (Disabled Veteran, Handicapped Parking) by ADDING “one (1)**

**Handicapped parking space to be placed in front of Prospect Street #122**

**This public hearing is opened.**

**Those speaking in favor:** Cora Brown, #122 Prospect Street, the requestor, stated she is unable walk more than 20 yards. While her property has a small driveway, it is not big enough to get in or out of her car due to her handicap. She asked the Council for the spot to be created. The recommendation of the Traffic Commission was that it be established across the street from her home rather than in front of it.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions: 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 (Handicapped Parking) by ADDING one (1) handicapped parking space to be placed in front of Prospect Street #115.

**DISCUSSION:**

**Councilor Theken** related this creation of a handicapped parking space received the endorsement of the Traffic Commission

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-287 (Handicapped Parking) by ADDING one (1) handicapped parking space in front of Prospect Street #115.**

3. PH2011-063: Amend GCO §22-270 (Parking Prohibited at all Times) re: Leonard Street

4. PH2011-064: Amend GCO §22-291 (Tow Away Zone) re: Leonard Street

**These public hearings are opened.**

**Those speaking in favor:**

**Tom Hooper, 5 Arlington Street** representing the Annisquam Village Church referred to the three parking spaces off street and that the Traffic Commission supported this move to add the three spaces to be made available to their parishioners as parking in that area is difficult even in the best of circumstances.

**Those speaking in opposition: None.**

**Questions: None.**

**These public hearings are 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 §22-270 (Parking Prohibited at All Times) AND GCO §22-291 (Tow Away Zone) by DELETING Leonard Street westerly side from its intersection of Bridgewater Street north to its intersection of Nashua Avenue opposite the Village Church on Washington Street AND ADDING Leonard Street westerly side from its intersection with Nashua Avenue opposite the Village Church north to its intersection with Dennis Court and from a distance of 100 feet from Dennis Court to its intersection with Bridgewater Street.

**DISCUSSION:**

**Councilor Theken** expressed her support of the Traffic Commission's positive recommendation. **Councilor Hardy** explained that the neighborhood behind the Annisquam Village Church at the beginning of Leonard Street was looking for additional parking. The Traffic Commission visited the affected area along with the Fire Department and Village Church parishioners. The Commission could allow three additional spaces amounting to the measurements as noted in the Commission minutes. She asked for the Council's support with the two motions going forward.

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-291 (Tow Away Zone) by DELETING Leonard Street westerly side from its intersection of Bridgewater Street north to its intersection of Nashua Avenue opposite the Village Church on Washington Street AND ADDING Leonard Street westerly side from its intersection with Nashua Avenue opposite the Village Church north to its intersection with Dennis Court and from a distance of 100 feet from Dennis Court to its intersection with Bridgewater Street.**

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-270 (Parking Prohibited at All Times) by DELETING Leonard Street westerly side from its intersection of Bridgewater Street north to its intersection of Nashua Avenue opposite the Village Church on Washington Street AND ADDING Leonard Street westerly side from its intersection with Nashua Avenue opposite the Village Church north to its intersection with Dennis Court and from a distance of 100 feet from Dennis Court to its intersection with Bridgewater Street.**

**5. PH2011-065: Adoption by City Council regarding subparagraph 15 of MGL c. 138, §12 re: selling Liqueurs and Cordials**

**This public hearing is opened.**

**Those speaking in favor:**

**Christopher Sallah**, representing Sugar Magnolias and six other Common Victuallers (memo of endorsement signed by the six Common Victuallers and Mr. Sallah submitted and on file), 56 Hilltop Road stated they're requesting that the Council adopt a third or middle classification of alcohol license which would add cordial type or liqueur to the beer and wine grouping so restaurants could choose one of three types which would best suit their business and would add a new, limited income stream. In difficult economic times with Gloucester's "burgeoning" restaurant community, they believe this should be a logical and positive step for businesses wanting to expand but not be overwhelmed by a major expansion. From his limited research, he found no negative results in Essex County to those communities who adopted this. **Attorney Michelle Harrison**, Chair of the Licensing Board advised that the Licensing Board has taken a position in support of the requested acceptance of paragraph 15, of MGL c. 138, §12. The acceptance of this paragraph will allow a licensee who has a Common Victuallers license and who has a beer and wine license ("malt and wine") to then sell cordials and liqueurs. If the Council accepts this paragraph, the licensee, after public hearing notice/advertisement and public hearing before the Licensing Board, gets approval from the Licensing Board to add cordials and liqueurs to their beer and wine license, they'd also need approval by the ABCC. She assured the Council that it is very carefully permitted. The Board looked at other cities in the area that have accepted this portion of c.138. Beverly has six beer and wine licenses and only one has sought a cordials and liqueurs license; Salem has all eight year 'round beer and wine licensees and only two have sought a cordials and liqueurs license. She didn't feel the impact will be strong in that they're not increasing how much alcohol will be served in Gloucester, but to allow assistance to some licensees to improve their sustainability and encourage the downtown restaurant atmosphere. Gloucester has seven year 'round beer and wine licenses and three seasonal beer and wine licenses. Mr. Sallah has gotten support from at least seven of them. The Board, if the City Council chooses to adopt this paragraph of c. 138, is recommending there be a fee increase. Right now a year 'round beer and wine license is \$1,500. The Board is suggesting that be increased to \$2,000. A seasonal beer and wine license is \$750, and the Board suggests an increase to \$1,000.

**Those speaking in opposition: None.**

**Linda York-Robbins**, 132 Western Avenue asked if this request is prompting the increase for the year round liquor license, or was that instituted anyway. On inquiry by **Council President Hardy** as to whether the fee increases are in front of the Council at this time, **Attorney Harrison** stated the fee increases are not. However, seasonal and all alcohol licenses were increased by the City Council in June prior to this petition coming before the Licensing Board. The fees they're asking to be increased is for someone holding a beer and wine license who wishes to add cordials and liqueurs; but the Council has to decide to add the cordials and liquors first; and then B&F would have to decide an increase in those fees as recommended by the Licensing Board [to be adopted by the Council after a public hearing]. **Ms. Mocerri**, of Café Dolce asked a question of the Council which Councilor Theken interpreted in Italian. The Councilor noted for Ms. Mocerri the difference between a full liquor license; and a beer and wine license enhanced by liqueurs and cordials. The Councilor explained Ms. Mocerri has a full liquor seasonal license and informed Ms. Mocerri she doesn't have to apply for an extension for her license to serve cordials and liqueurs.

**Communications: None.**

**Questions:**

**Councilor Ciolino** asked about the difference of the definition of a liqueur and a hard liquor. **Attorney Harrison** named several cordials and liqueurs such as Sambucca, Crème De Menthe, and Lemoncello versus vodka or bourbon which are considered “hard” liquors. She noted the ABCC website has a whole list of all of the liquors and cordials that are permitted under this license. There is a control in place that defines this. She would provide it to the B&F Committee when the fees increase come up. The Licensing Board does not determine the kinds of liquors. **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 adopt MGL c. 138 §12, [paragraph 15] as follows:

“In any city or town which votes to accept the provisions of this paragraph, a common Victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all other licensing provisions of this chapter.

**DISCUSSION:**

**Councilor Theken** stated her belief that for some restaurants there might be some interest in pursuing an added liqueurs and cordials license and that it should be made available. You have to apply and go through a process through the Licensing Board and the ABCC. This isn’t automatic. It is not handed to someone with a liquor license. **Councilor Tobey**, at **Council President Hardy’s** prompting, recounted for the Council that he had requested at the O&A Committee, at the suggestion of Attorney Harrison, that the City Clerk’s office reach out to the holders of year round licenses to find out if there were any objections from that sector. **Council President Hardy** noted she and several Councilors did field telephone calls regarding this matter, but all, once cognizant of the facts, expressed their support. **Councilor Ciolino** expressed his support noting in hard economic times it is a good thing to help restaurateurs to thrive.

**MOTION:** On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted **BY ROLL CALL 9** in favor, 0 opposed to adopt MGL c. 138 §12, [paragraph 15] as follows:

“In any city or town which votes to accept the provisions of this paragraph, a common Victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all other licensing provisions of this chapter.

**The Council recessed at 9:14 p.m. and reconvened at 9:19 p.m.**

**6. PH2011-048: SCP2011-005: Dory Road #11, GZO §5.22 Commercial Land-Based Wind Energy Conversion Facilities**

**This public hearing is opened.**

**Those speaking in favor:**

**Rich Kleiman** appeared on behalf of the Gloucester Engineering Wind Energy Project, as well as Gloucester Engineering and Equity Industrial Partners. He noted the presence of CEO, Mark Steele, of Gloucester Engineering and senior partners from Equity Industrial Partners, the property owner of the site, Bruce Levine and Hunter Emerson and their attorney Jonathan Klavens.

*Project Goals:* This is a wind installation at the Gloucester Engineering site in Blackburn Industrial Park at 11 Dory Road for two wind turbines up to 2 MW each are proposed to be privately financed, built, operated and maintained on private land. The City’s role in this project as a partner would be limited to receiving net metering credits through National Grid, the electrical distribution company, consistent with the Green Communities Act and the net metering regulations and tariffs that go along with that. There would be no liability to the City associated to the development and operation with this wind project. The projects goals are to offset the City’s use of fossil fuels with green, renewable energy; provide the City with a new revenue stream and advance its clean energy mission; stabilize Gloucester Engineering’s energy costs to help increase local jobs and tax base; minimize the City’s level of effort and eliminate the city’s liability and risk as this project is on private land and privately financed, owned and operated.

*Benefits to the City of Gloucester:* This is a new revenue stream for 25+ years. The City would receive net metering payments on a monthly basis which would appear on the National Grid bills. The City receives new property tax revenues based on an assessment, or a PILOT (payment in lieu of taxes) that would be agreed to. The total project revenue as projected is greater than \$2.1 million based on the current net metering rate. The City would start out with \$118,000 in Year 1 that includes the property tax portion, and ramping up to approximately \$219,000 per year in the out years.

*Benefits to Gloucester Engineering:* Gloucester Engineering will experience reduced energy costs stabilizing its balance sheet; helping the company retain/increase local jobs and contribute to the local tax base; stabilize their energy supply during peak usage such as when rolling “brown-outs” have occurred, affecting productivity. They have had numerous community consultations to date (as shown below). They have met with and discussed the project with Mayor Kirk and her Administration; City Council; Jim Duggan; Suzanne Egan; Sarah Garcia; Jeff Towne; Gregg Cademartori; the Clean Energy Commission and the EDIC.

- April 13 Councilor McGeary hosted a neighborhood meeting. The response was very positive.
- Late April: Councilor McGeary canvassed the neighborhoods around the project site to very positive responses.
- April 27: the Clean Energy Commission voted unanimously that the City further its investigation into the project.
- May 10: City Council held its Pre-Application Conference.
- July 20: P&D Committee began its review of the Special Council Permit application. During that process the City hired a third party review consultant, HMMH. It was noted that Stephen Barratt from HMMH was present at the Council public hearing.
- August 13: A balloon test was conducted as a helicopter test (photos on file) took place with the helicopter hovering at the blade tip height of approximately 404 ft. high and noted the tower will be approximately 259 ft. high. There was proper public notice of that helicopter test.
- August 17: ConCom issues a negative determination on a Request for Determination of Applicability. In this case, a negative determination is in essence an “approval” of the project.
- August 18: Planning Board approved a Watershed Protection special permit for the project under the GZO.
- October 5: P&D Committee completed its review of the project and recommended the project to the full Council with conditions.

*Review of some key technical analyses:*

- *Visual:* The visual photo simulations were conducted by Saratoga Associates using scaled and geo-referenced images used to simulate appearance of the turbines from different select vantage points selected in advance by the P&D Committee and the Council (on file). The result was that the turbines were difficult to see from most vantage points; not more than a blade from most residential areas.
- *Shadow/flicker:* This is a phenomenon where the sun shines through the spinning turbine blades usually at the very early morning hours or end of the day when the sun is at a certain angle in a certain season. An assessment was conducted by the Cadmus Group using specialized analytical software. HMMH reviewed their results, the City’s review consultant and affirmed by them. The potential shadow/flicker is limited largely to the industrial park. Using the control equipment included with the proposed turbines, the turbines will be programmed to shut down during times when there is potential for impact to residential units. Therefore, no residential areas should be affected by shadow/flicker which is their goal. They have worked with the P&D Committee on a condition which addresses it.
- *Sound assessment (noise):* Conducted by Epsilon Associates, and reviewed by HMMH, the sound levels were monitored at representative locations to determine background sound conditions. Turbine sound levels were modeled using specialized computer software to estimate worst case sound effects above background. These sound levels were then compared to both City and DEP regulatory standards/regulations and were found to comply with the City noise ordinance and State regulations. The City’s Planning Director and City Solicitor confirmed this at the P&D Committee meeting on October 5<sup>th</sup>.
- *Recap:* This project would substantially benefit both the City and a significant local employer and taxpayer, Gloucester Engineering. The City’s participation in the wind project will result in generation of green, renewable energy that roughly matches the City’s use of fossil fuel-generated energy. Potential impacts are considered a minor and (other than some off-site views) limited to the industrial park.

**Mark Steele**, CEO of Gloucester Engineering (copy of statement submitted at meeting and on file) stated on behalf of Gloucester Engineering, its employees, many of whom are community residents, are happy to partner with the City to host a wind generation project at their facility. They are pleased to be able to work with City officials as the project proceeds. They are grateful for the opportunity to support Equity Industrial Partners who have worked diligently to help keep Gloucester Engineering in the community, and who have worked tirelessly to advance this project. He believed Equity Industrial played a valuable partner role with their investors at Blue Wolf Capital and has continued to demonstrate their support of Gloucester Engineering. The project helps to aid Gloucester Engineering's competitiveness, demonstrates their commitment to sustainability, to the environment and to advanced power generation technology. This project will reduce their energy costs, improve energy supply reliability, and offers the potential to reduce brown outs. They have experienced reliability issues that have affected their productivity and costs in the past. This project allows them to continue to compete and helps them to continue growing the company. They are pleased to be a part of Gloucester's progressive power efforts and expressed his company's support of the project.

**Hunter Emerson**, Equity Industrial Partners, Needham, MA stated wind energy is the fastest growing renewable energy source in the U.S., growing by 20% annually over the last decade. In 2008 it had grown by 25,000 MW in wind energy capacity. Wind energy, in addition to being clean, will play a major role in the effort to reduce or eliminate the country's dependence on foreign oil. They have a great interest in playing a role in this energy initiative; and just as importantly to expand an excellent working relationship with the City. A little over a year ago they worked closely with City officials and the eventual buyers of Gloucester Engineering, Blue Wolf, to structure a deal to ensure Gloucester Engineering remained a viable and significant long-term employer in Gloucester going forward. In forming this partnership with the City and Gloucester Engineering, they view this a good example of a public/private partnership which successfully promotes green energy, energy independence and look forward to being involved with the City in one of the first projects of this type in the State.

*Setbacks:* **Mr. Kleiman** noted a site map (on display and not submitted to the Council at the meeting already on file) for Turbine #1 and #2 pointing out setbacks from the public ways and the closest buildings and property lines which meet the City's zoning ordinance requirements. They are over 153 ft. to the closest public way for Turbine #1 which is located closest to Dory Road, in the parking lot outside of any wetland resource areas or buffers as affirmed by ConCom; Turbines #1 and #2 meet that standard. The by-law states that you have to be more than 50 ft. from the closest building; and Turbine #1 is 153 ft. to the Gloucester Engineering building; and Turbine #2 is approximately 170 ft. from the nearest building which is a shed behind Gloucester Engineering on the same site. The closest property line would be the one closest to Turbine #2, 150 ft. to the MassDOT property which is the corridor for Rte. 128. The blade length of these turbines is 144 ft. They are 150 ft. to the nearest property line which is greater than the blade length and so meets the setback standard as well.

**Joseph George**, 6 Naomi Drive noted he met Mr. Kleiman at the Clean Energy Commission back in March. He believed this is a no risk way for Gloucester to achieve clean energy goals and to work constructively with a significant Gloucester employer. This is an excellent project, well structured in his estimation. They've already permitted Varian Associates for such a wind turbine in the same industrial park. The City will receive net metering credits. This will provide a revenue stream for years. The site has excellent wind which has been studied very closely. It is privately financed as well. He believed it to be "a gift" for the City.

**Mr. Kleiman** reviewed for the Council the criteria under **GZO §5.223 (c) Commercial Land-Based Wind Energy Conversion Facilities for Dory Road #11 as follows:**

**Criterion #1:** The proposed location is an appropriate location on the site:

The project is sited within a Business Park zoning district where Commercial land-based wind energy conversion facilities are allowed by Special Permit from the City Council as per Section 2.3.7 of the City of Gloucester Zoning Ordinance. The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The turbines are buffered from neighboring uses by wide expanses of forested land to the west, Route 128 to the south, and woodlands and industrial facilities to the north and east. The Project was sited outside of wetland resource areas and buffer zones and received a negative determination on its Request for Determination of Applicability (i.e., no further review is required under the Wetland Protection Act or the Gloucester Wetland Protection Bylaw) from the Gloucester Conservation Commission on 8/17/11. The Project was found to have no significant impact on drinking water reservoir watershed areas, and a Watershed Protection Overlay District Special Permit was approved by the Gloucester Planning Board under the GZO on 8/18/11. Therefore, the proposed location is an appropriate location on the site.

**Criterion #2:** The use will not pose a significant adverse impact to the health or public safety of the neighborhood:

The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project will comply with all applicable noise and shadow flicker limits as specified in the City of Gloucester Zoning and Noise Ordinances, which was confirmed during the review of the Project application by the City Solicitor, the City's Planning Director, and the City's technical consultant on noise and shadow flicker and affirmed by them before the City Council Planning and Development Committee. Therefore, the Project will not pose a significant adverse impact to the health or public safety of the Neighborhood.

**Criterion #3:** There will be no serious hazard to pedestrians or vehicles from the use:

The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project shall be properly operated and maintained consistent with the turbine equipment manufacturer's recommendations. Therefore, there will be no serious hazard to pedestrians or vehicles from the use.

**Criterion #4:** Adequate and appropriate facilities will be provided for the proper operation of the use:

Project equipment will be housed inside the turbine towers and utility cabinets adjacent to the turbine towers. The Project will be operated and maintained by qualified personnel certified or otherwise approved by the turbine equipment manufacturer. These personnel shall have 24-hour access to the site for purposes of operation and maintenance of the Project. The Project has been designed to meet all electrical interconnection standards to ensure safety and reliability, as per National Grid requirements. Therefore, adequate and appropriate facilities will be provided to ensure proper operation of the use.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions:**

**Councilor Curcuru** asked who the applicant is. **Mr. Kleiman** stated it is a combination of Equity Industrial Partners, the property owner, in conjunction with Gloucester Engineering. **Councilor Curcuru** asked what would happen if Gloucester Engineering no longer existed. **Mr. Kleiman** stated the project would technically be owned and operated by a single purpose entity which is formed just for this project. It would live on if Gloucester Engineering were no longer there. However, the intent is for everyone to stay together. **Councilor McGeary** asked how the City benefits directly in a financial way. **Mr. Kleiman** responded this is what is virtual net metering; under state law, Green Communities Act, and net metering regulations under that act, and the net metering tariff that National Grid (NG) established based on the regulations, a project can now be developed on private land, interconnected to NG electrical grid for a wind or solar project. The electricity generated by the project goes into the grid; there is a meter established at the site. All the electricity that passes through that meter is counted; and then as part of the interconnection, the credits that are generated when the electricity is generated are allocated to the accounts listed on "Schedule Z" in the application. In this case the proposal is to allocate 100% of those credits to the City's electrical accounts (the City has the capacity to absorb all of the dollar denominated credits to be generated), for every kilowatt hour of electricity generated there is a rate assigned based on the four components of the electric rate that allowed for net metering; the basic supply rate, the distribution part of the rate, the transmission and transition part of the rate. Currently, that adds up as of November 1<sup>st</sup> up to 15.06 cents per kilowatt hour. They multiply the output of the project by the hours each month and those credits would appear on the City's bills; it appears as a plus on them. It is a savings, but it is a new source of revenue also. They're proposing the City retain a portion and when the credits appears, the City writes a check back to the project for the residual that pays down the debt service. They keep their portion from the net metering credit value and also assessing the property taxes. Ultimately the assessment will be worked out with the City Assessor and City officials. The best they can project based on NG present rates and what they expect to be the amount of property tax payments is approximately \$118,000 new benefit of revenue from the project and go up to \$219,000 on the far out. If rates went up at a faster rate, the City would get more money. This protects the City from ever having any costs (from the wind towers). It is a percentage of the prevailing net metering rate. **Councilor McGeary** stated if it generates \$1,000 of net metering, \$900 goes back to Gloucester Engineering, but net/net it makes \$100 to the City. He noted the difference, prior to this legislation, the City would have had to own the turbine; build it all and take the financial risk and then the City would have gotten the benefit. **Mr. Kleiman** agreed stating that the legislation passed last year allows them to do this. The full benefit of net metering can be now realized. **Council President Hardy** heard the terms revenue and net metering used and their descriptions as it relates to the project. But she believed what is in front of the Council is a permit for two wind turbines and asked does this have anything yet to do with an agreement for revenue as to what the percentages will be as to what the monies will be. She asked if they are at the stage where they would be

considering taking into consideration as to whether or not they're going to approve the wind turbines with the financial benefits to the City, or is the wind turbine permit standing on its own; are they considering only the merits of whether or not it meets the criteria and zoning ordinance requirements **Attorney Egan** stated it is the latter; the Council is acting as the permit granting authority under the zoning ordinance and are to consider whether or not to permit two turbines and whether or not the project meets the requirements under zoning ordinance as presented. The power purchase agreement is being negotiated. That will be before the Council also, as it must come before them. That is completely separate from what is before the Council. The majority of the terms has not been agreed to and is still in the negotiation process. **Council President Hardy** reiterated the Council is considering whether or not the application meets the criteria under GZO §5.22. Eventually if this is passed, and the agreement works its way to the Council, what is the Council's role. **Attorney Egan** responded they will get to approve the agreement when it comes before the Council. Right now it is proposed to be a 25 year agreement which would come before the Council. **Council President Hardy** reminded the Council it is the application for the Special Permit under the zoning ordinance only before them, and they should not take into considering the financing and projected revenue for the City in their decision-making process. **Councilor Tobey** understood they're only voting on the permit, but asked for some further understanding of the financial benefit to the City as he believed it was relevant; such as how much of the benefit is automatic of net metering to the City, and what exactly are the sorts of terms that need to be negotiated. **Attorney Egan** noted the rate to the City needs clarification. The power purchase agreement is a 15-20 page agreement. The consultant's fee has been provided by the applicant to hire McCauley and Lyman who are negotiating with the applicants' attorney; and she is a part of the negotiations. They are now looking at the specific terms. The rebate is part of the negotiation process. Right now they don't have the exact figures of what the financial benefit are; but there will be a benefit for the City. **Councilor Tobey** asked if there is any cap on the total financial benefit under the Green Communities Act on this project and others; and are there better deals. **Attorney Egan** added they're negotiating this deal to make it the best deal possible, negotiating it to the benefit of the City. **Councilor Tobey** restated his question if there is a dollar cap limit on the net metering benefits. **Gregg Cademartori**, Planning Director stated there are some limitations on the maximum kilowatts that can be generated by a municipality, 10 MW per community. It is a fairly large amount of energy that could be created for a small town and would probably never approach doing something like that. The key to the provisions is that it is set up as big enough for say, Boston that wanted to get into the wind energy business but there has to be an account assigned for the credits that NG allots when energy is generated or otherwise they're getting into their business. As a single community, they could go beyond what is consumed if they had other accounts to assign to. There may be other communities nearby that also want to get into renewable energy production because that's their community's goal. As long as they have accounts that are under the same district, NG, energy can be generated from a community beyond what its consumption is and have those credits assigned to another. There is a certain sized "basket" each community has. The easiest is when going up against one's own consumption, this project is proposed to generate what they consume. **Councilor Ciolino** asked why they chose to go net metering instead of going directly to Gloucester Engineering and how this benefits Gloucester Engineering with their still experiencing brown outs. **Mr. Kleiman** noted they only use a certain amount of electricity and couldn't absorb all of the electricity generated by the two turbines. There are few avenues available for off loading the excess electricity. This is one of the avenues available for that. There is a more obscure way to do it, which is called a "qualified facility" which is basically a wholesaling of the generated electricity to the market but a project of this scale would likely never be able to be financed and not be workable. These projects are not easy to finance; they're new to the market with thin margins. It is not like building a giant wind farm. This is two wind turbines with a lot of costs to interconnect to the grid in hundreds of thousands of dollars. There's the turbine costs themselves for millions of dollars. As such an expensive proposition, it relies on having a good municipal partner that has an excellent credit rating like the City. They're pleased to work with the City; the project wouldn't happen if not for the City's participation. **Councilor Ciolino** asked for an explanation between the LLC that would own the turbines and the property owner who owns the site Gloucester Engineering sits on. **Mr. Kleiman** informed the Council that Equity Industrial Gloucester is the property owner of the site. Gloucester Engineering is a lessee of that property with a long term lease on it. The project will have a 30' x 30' footprint for each turbine and the electrical line running to the NG lines. It is a relatively small amount of land and will be contained in a lease modification is likely it will then be leased by the new entity, the special purpose entity for the project, which may be called Equity Industrial Turbines which is an LLC created for the project. **Councilor Ciolino** asked how many people Gloucester Engineering employs. **Mr. Steele** stated 100. He added, on inquiry from the Councilor, that there is increased reliability and lower cost power access and increased power going back to the grid which reduces the potential brown outs and enhances their productivity. They anticipate continuing to grow and hire new people. **Mr. Kleiman** read the criteria under GZO Sec. 5.22 at the behest of **Council President Hardy** as follows:



**Criterion #1:** The proposed location is an appropriate location on the site:

The project is sited within a Business Park zoning district where Commercial land-based wind energy conversion facilities are allowed by Special Permit from the City Council as per Section 2.3.7 of the City of Gloucester Zoning Ordinance. The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The turbines are buffered from neighboring uses by wide expanses of forested land to the west, Route 128 to the south, and woodlands and industrial facilities to the north and east. The Project was sited outside of wetland resource areas and buffer zones and received a negative determination on its Request for Determination of Applicability (i.e., no further review is required under the Wetland Protection Act or the Gloucester Wetland Protection Bylaw) from the Gloucester Conservation Commission on 8/17/11. The Project was found to have no significant impact on drinking water reservoir watershed areas, and a Watershed Protection Overlay District Special Permit was approved by the Gloucester Planning Board on 8/18/11. Therefore, the proposed location is an appropriate location on the site.

**Criterion #2:** The use will not pose a significant adverse impact to the health or public safety of the neighborhood: The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project will comply with all applicable noise and shadow flicker limits as specified in the City of Gloucester Zoning and Noise Ordinances, which was confirmed during the review of the Project application by the City Solicitor, the City's Planning Director, and the City's technical consultant on noise and shadow/flicker and affirmed by them before the City Council Planning and Development Committee. Therefore, the Project will not pose a significant adverse impact to the health or public safety of the neighborhood.

**Criterion #3:** There will be no serious hazard to pedestrians or vehicles from the use:

The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project shall be properly operated and maintained consistent with the turbine equipment manufacturer's recommendations. Therefore, there will be no serious hazard to pedestrians or vehicles from the use.

**Criterion #4:** Adequate and appropriate facilities will be provided for the proper operation of the use:

Project equipment will be housed inside the turbine towers and utility cabinets adjacent to the turbine towers. The Project will be operated and maintained by qualified personnel certified or otherwise approved by the turbine equipment manufacturer. These personnel shall have 24-hour access to the site for purposes of operation and maintenance of the Project. The Project has been designed to meet all electrical interconnection standards to ensure safety and reliability, as per National Grid requirements. Therefore, adequate and appropriate facilities will be provided to ensure proper operation of the use.

**This public hearing is closed.**

**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 grant a Special Council Permit (SCP2011-005) to Equity Industrial Gloucester LLC pursuant to section 5.22 of the zoning ordinance for the operation of a commercial land-based wind energy conversion facility at 11 Dory Road Gloucester, MA, (Assessors Map 262, Lot 16) BP zoning classification, for two wind turbines with the following conditions:

1. The turbines shall be operated in a manner which does not create shadow or flicker on a residential unit. All recommendations regarding the minimization of the flicker effect shall be required and incorporated by reference into the special permit:

Turbine #1 at location B shall not operate during the morning hours in the months of June and July and Turbine # 2 at location A shall not operate in late April and late August during the morning hours.

2. The turbines shall be operated in a manner which does not exceed the noise limitations as set forth in Gloucester Code of Ordinances section 13-6 and 13-7.

3. To insure compliance with the ordinance the turbine equipment installed shall be a Gamesa G90 turbine with a hub height not to exceed 78 meters with the installation of a Gamesa Noise Reduction system which shall be configured with the following settings:

Turbine #1 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 103.6 dBA.

Turbine #2 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 102.8 dBA.

4. In the event the proponent selects a different make or model of wind energy turbine, the proponent shall seek a modification to this special permit prior to commencing any site work. Any change in the make or model of the wind energy turbine equipment shall include comparable noise reduction equipment and the default configuration settings shall be those that achieve the same or better noise reduction results as the Gamesa NRS configuration settings set forth above.

5. The applicant shall engage in a post-operation monitoring program. Once the wind turbines are operating, the proponent shall monitor sound levels at the Fuller School and Gloucester Crossing hotel site both with and without the wind turbines in operation, and with and without the noise reduction equipment in operation, to determine if the City's nighttime residential noise threshold of 50 dBA (*City of Gloucester Code of Ordinances*, Chapter 13, Sections 13-6 and 13-7, December 15, 1995) is being exceeded and if it is attributable to the wind turbines. Monitoring shall be conducted for a representative two month period or until sound levels are measured under the necessary wind speed and wind directions. Regardless of the post-operation monitoring findings, the noise reduction requirements as set forth in this permit shall be complied with.

The monitoring program shall be used to determine if further noise reduction measures should be required. The proponent shall submit its findings to the Planning Director. If the wind turbines generate noise above the threshold permitted under the ordinance, then the applicant shall immediately implement further noise reduction measures, and until such time as those measures are implemented the turbines shall not be operated during the hours set forth in section 13-7 of the Code of Ordinances.

6. No hazardous materials or wastes shall be used on the site and the turbine shall be designed to prevent unauthorized access.

7. The operation and maintenance plan and landscape and lighting plan submitted shall be incorporated herein by reference and compliance therewith shall be a condition of the permit;

8. A copy of the project summary and site plan shall be provided to the police and fire departments.

9. The special permit is valid for 25 years unless extended or renewed. The turbines shall be removed at the end of the term.

10. As required by section 5.22.15 the applicant must submit a fully inclusive estimate of the costs associated with removal with a mechanism for cost of living adjustment after 10 and 15 years, the applicant shall provide surety at the time of construction to cover costs of the removal in the event the city must remove the facility.

11. The turbine will be painted a non-reflective color.

12. All signs on the site shall comply with the plans approved and those plans are incorporated by reference into the special permit.

13. All utility connections shall be underground to the nearest utility pole or transformer.

#### **DISCUSSION:**

**Gregg Cademartori** noted he was copied on several emails over the past few days exchanged from Rich Kleiman to the Council regarding shadow/flicker control and the prevention of that; and the condition that was initially discussed at the P&D meeting last week was fairly broad and not specific as to the time the turbine should not be operational to prevent shadow/flicker on residential properties. There was reference to the worst case scenario hours in the Cadmus Report of August 20th. The applicant had submitted an actual schedule of times when the turbines would not be operated when those conditions occurred. This was submitted via a recent email to the Council and suggested it is something that should be considered because it would prevent the shadow/flicker from happening.

**Councilor Ciolino** then offered amendment to the main motion for Condition #1, seconded by **Councilor Whycott** and on a vote of the City Council 9 in favor, 0 opposed it read as follows:

**“1. The turbines shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the following curtailment standards shall be adhered to in order to ensure insignificant flicker effect:**

**Turbine #1 at location B shall not operate between 7:45 p.m. and 8:15 p.m. from May 15 through July 15;**

**Turbine #2 at location A shall not operate between the hours of 7:00 p.m. and 7:45 p.m. from May 1 through August 15.”**

**Council President Hardy** announced this now becomes Condition #1 of the main motion.

**Councilor Ciolino** stated P&D Committee consisting of himself, Councilor Whynott and Councilor Verga, did much due diligence, including a site visit to Ipswich where there is a similar turbine. They wanted to learn how loud the turbine was, a big concern for them. The Committee was surprised at how quiet it was. They related it to if one listens to the truck traffic on the Rte. 128 extension, it is much louder. During the helicopter test they went around town to view it from different site perspectives to see what the affect would be. He agreed the two turbines will change the landscape of Gloucester, but to some, these turbines are graceful and beautiful; and this is the way of the future. They will be tall, but it is something that Gloucester needs to move forward on. There isn't a better place than a business park to put wind energy turbines in his estimation. The applicant managed to come up with a project to be acceptable to everyone concerned and thanked them all. He thanked Mr. Cademartori for all his efforts to coordinate it all, as well as Attorney Egan and recommended this to his fellow Councilors to vote in favor of the turbine project. **Councilor McGeary** appreciated Council President Hardy's pointing out this is a permitting issue not a revenue issue because he thought it a good project, even if it wasn't a financial boon to the City. This will benefit the City and for the City's children. Gloucester, already recognized as a green community, is showing how it is possible to be both good stewards of the planet and also provide jobs for the future. In the short term the City benefits by being provided with a significant part of its energy usage at no cost either in environmental or financial terms. Gloucester is showing the way to the future not just for the City but for the nation. Gloucester and Gloucester Engineering are showing the way on this. He strongly supported this effort and looked forward to its success and the success of similar projects in the future. He thanked City staff, the members of the P&D Committee all of whom spent long hours reviewing in detail the proponents request and to the applicants who went the extra mile to ensure the concerns of all the citizens of Gloucester were protected and answered. He supported granting this special permit and urged his fellow Councilors to join in building a part of their future and the prosperity of the City. **Councilor Mulcahey** asked about the noise levels. **Mr. Cademartori** noted 50 dBA is the nighttime noise limitation in residential districts and that was one of the issues that took a lot of time to modify the project so that threshold would not be passed either in the Harrison Avenue neighborhood or in the Gloucester Crossing site because of the proposed hotel and the Fuller School, both zoned as residential. The applicant was up against three different sets of standards dealing with noise, both the code of ordinances, the zoning ordinance and the MA State noise policy. He also noted another condition that was suggested for possible revision which was Condition #6. When they were creating the zoning ordinance in 2005 that specifically related to the use of hazardous materials or wastes on site; but the actual lubricants used for the operation probably fall under that classification. The condition that came out of P&D was fairly broad. They created a condition to very specifically to capture what the concern was that is in 5.2.7 (f) which covers the operation of a wind turbine facility, either mirrored in that section to be prepared for any event of any spillage or anything associated with the operation. By remaining broad it would eliminate the operation of the turbines. They have a standard within the zoning ordinance. He then read the suggested the following replacement language:

**“No hazardous materials or wastes shall be discharged on the site of a commercial wind energy facility. If any hazardous materials or wastes are to be used on site, unless contained within the wind turbine itself, there shall be provisions for full containment of such materials or waste. An enclosed containment area, designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site may be required to meet this requirement. The wind turbine shall also be designed to prevent unauthorized access”.**

A motion to amend Condition #6 was brought forward by **Council President Hardy**, seconded by **Councilor Verga**, and voted 9 in favor, 0 opposed for the amendment.

In addition, **Council President Hardy** brought forward an added condition to further amend the motion, #14 which read: **“There shall be no temporary or permanent advertising on either turbine;”** which was seconded by **Councilor Verga** and voted 9 in favor, 0 opposed to add Condition #14.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to grant a Special Council Permit (SCP2011-005) to Equity Industrial Gloucester LLC pursuant to section 5.22 of the zoning ordinance for the operation of a commercial land-based wind energy conversion facility at 11 Dory Road Gloucester, MA, (Assessors Map 262, Lot 16) BP zoning classification, for two wind turbines with the following conditions:**

1. The turbines shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the following curtailment standards shall be adhered to in order to ensure insignificant flicker effect:

- Turbine #1 at location B shall not operate between 7:45 p.m. and 8:15 p.m. from May 15 through July 15;
- Turbine #2 at location A shall not operate between the hours of 7:00 p.m. and 7:45 p.m. from May 1 through August 15.”

**On October 25, 2011, the Gloucester City Council under the Consent Agenda amended these minutes by passing the following motion for the purpose of amending Condition #1 of SCP23011-005.**

**MOTION:** On motion by Councilor Ciolino, seconded by Councilor Whycott, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to AMEND the minutes of the regularly scheduled City Council meeting of October 11, 2011 related to the Special Council Permit (SCP2011-005) granted to Equity Industrial Gloucester LLC for the operation of a commercial land-based wind conversion facility at 11 Dory Road pursuant to Sec. 5.22 of the Gloucester Zoning ordinance by striking Condition #1 in its entirety which now reads:

“1. The turbines shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the following curtailment standards shall be adhered to in order to ensure insignificant flicker effect: Turbine #1 at location B shall not operate between 7:45 p.m. and 8:15 p.m. from May 15 through July 15; Turbine #2 at location A shall not operate between the hours of 7:00 p.m. and 7:45 p.m. from May 1 through August 15;”

and to **SUBSTITUTE** in its entirety the following language and curtailment table/schedule as the Amended Condition #1:

“1. The turbines (Turbine #1 and Turbine #2) shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the turbines shall not be operated in accordance with the following curtailment schedule to ensure insignificant flicker effect:

**Elimination of Shadow/Flicker Potential - Dates and Times at Residential Receptors**

Residential Receptors	Worst Case Flicker (Hrs/Yr)	Turbine #1 (Dates of Flicker)	Turbine #1 (Time Not to Be Operated)	Turbine #2 (Dates of Flicker)	Turbine #2 (Time Not to be Operated)
A	33	May 15 - July 25	5:45am - 6:15am	April 10-30 & Aug 10-31	6:00am - 6:45am
B	36	May 15 - July 15	5:30am - 6:15am	April 10-30 & Aug 10-31	6:00am - 6:45am
H	0				
I	60			May 15 - July 15	7:45pm - 8:15pm
J	38	May 1 - Aug 15	7:30pm - 8:00pm	May 1 - Aug 15	7:00pm - 7:45pm
K	0				
L	0				
M	50			May 15 - July 31	7:00pm - 8:00pm

2. The turbines shall be operated in a manner which does not exceed the noise limitations as set forth in Gloucester Code of Ordinances section 13-6 and 13-7.

3. To insure compliance with the ordinance the turbine equipment installed shall be a Gamesa G90 turbine with a hub height not to exceed 78 meters with the installation of a Gamesa Noise Reduction system which shall be configured with the following settings:

Turbine #1 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 103.6 dBA.

Turbine #2 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 102.8 dBA.

4. In the event the proponent selects a different make or model of wind energy turbine, the proponent shall seek a modification to this special permit prior to commencing any site work. Any change in the make or model of the wind energy turbine equipment shall include comparable noise reduction equipment and the default configuration settings shall be those that achieve the same or better noise reduction results as the Gamesa NRS configuration settings set forth above.

5. The applicant shall engage in a post-operation monitoring program. Once the wind turbines are operating, the proponent shall monitor sound levels at the Fuller School and Gloucester Crossing hotel site both with and without the wind turbines in operation, and with and without the noise reduction equipment in operation, to determine if the City's nighttime residential noise threshold of 50 dBA (*City of Gloucester Code of Ordinances*, Chapter 13, Sections 13-6 and 13-7, December 15, 1995) is being exceeded and if it is attributable to the wind turbines. Monitoring shall be conducted for a representative two month period or until sound levels are measured under the necessary wind speed and wind directions. Regardless of the post-operation monitoring findings, the noise reduction requirements as set forth in this permit shall be complied with.

The monitoring program shall be used to determine if further noise reduction measures should be required. The proponent shall submit its findings to the Planning Director. If the wind turbines generate noise above the threshold permitted under the ordinance, then the applicant shall immediately implement further noise reduction measures, and until such time as those measures are implemented the turbines shall not be operated during the hours set forth in section 13-7 of the Code of Ordinances.

6. No hazardous materials or wastes shall be discharged on the site of a commercial wind energy facility. If any hazardous materials or wastes are to be used on site, unless contained within the wind turbine itself, there shall be provisions for full containment of such materials or waste. An enclosed containment area, designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site may be required to meet this requirement. The wind turbine shall also be designed to prevent unauthorized access.

7. The operation and maintenance plan and landscape and lighting plan submitted shall be incorporated herein by reference and compliance therewith shall be a condition of the permit;

8. A copy of the project summary and site plan shall be provided to the police and fire departments.

9. The special permit is valid for 25 years unless extended or renewed. The turbines shall be removed at the end of the term.

10. As required by section 5.22.15 the applicant must submit a fully inclusive estimate of the costs associated with removal with a mechanism for cost of living adjustment after 10 and 15 years, the applicant shall provide surety at the time of construction to cover costs of the removal in the event the city must remove the facility.

**11. The turbine will be painted a non-reflective color.**

**12. All signs on the site shall comply with the plans approved and those plans are incorporated by reference into the special permit.**

**13. All utility connections shall be underground to the nearest utility pole or transformer.**

**14. There shall be no temporary or permanent advertising on either turbine.**

**For Council Vote:**

**1 of 3: Warrant for City Election**

**MOTION: On motion by Councilor Tobey, seconded by Councilor Whynott, the City Council voted 9 in favor, 0 opposed to approve the warrant for the City Election to be held November 8, 2011.**

The City Council then signed the warrant.

**2 of 3: CC2011-046 (Whynott) Adoption of Resolution re: H1972-An Act Regulating Election Primaries**

*This matter was taken up under Presentations.*

**3 of 3: CC2011-047 (Whynott) Commendation for GHS student Erin Pratt and Rebecca Lundy for their heroic rescue of several people caught in a rip tide**

*This matter was taken up under Presentations.*

**Unfinished Business: None.**

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

**Councilors' Requests to the Mayor:**

**Councilor Theken** stated Open Enrollment presentation is October 18<sup>th</sup> at the Rose Baker Senior Center. She also thanked the Charter Review team and Councilor Mulcahey whom she felt has done a phenomenal job in recommending updates to the City's Charter. **Councilor Mulcahey** thanked former City Councilor Ab Khambaty for his contributions along with Roz Frontiero, member of "Who Decides," as well as Tony Gross of the School Committee who kept their records who, in addition, acted as liaison between the Task Force and the School Committee. She thanked the City Councilors who contributed to the process and Linda Lowe for her work as well. **Council President Hardy** noted through the consent agenda a TIF for Gorton's, Inc. is being referred out to the B&F Committee and named Councilor Curcuru to the TIF Committee.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 10:32 p.m.**

**Respectfully submitted,**

**Dana C. Jorgensson  
Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- Statement and documentation from Donna Grinnell
- Memo of endorsement for the adoption of MGL c. 138, §12 pursuant to the City Council's adoption of liqueurs and cordials licenses from six Common Victuallers and Christopher Sallah, submitter of the memo
- Written statement by Mark Steele, CEO of Gloucester Engineering pursuant to the Special Council Permit for Dory Road #11
- Copy of statement by Richard Kleiman, representative of applicant in the Special Council Permit for Dory Road #11

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, October 11, 2011 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

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

**Absent:** None.

**Also Present:** Linda T. Lowe; Jim Duggan; Gregg Cademartori; Suzanne Egan; Sarah Garcia; Kenny Costa

The meeting was called to order at 7:05 p.m. Items were taken out of order.

**Flag Salute & Moment of Silence.****Oral Communications:**

**Joe Orange**, 16 Taylor Street, reacting to recent statements by the Town of Rockport that they want a road through the Babson Reservoir area, stated there was a process that they could not compromise on the Babson Reservoir by an access road through it from Rockport to Gloucester. He contended the City cannot live without Babson Reservoir, a precious resource. He asked that the City not consider this matter again. The first quarter mile of Babson Reservoir is underwater. The other quarter mile comes within 50 feet of the brook. If they lose 50% of the City's water, the City would be compromised.

**Donna Grinnell**, 145 Prospect Street, spoke of the need for removal of obstructions placed along Main Street, and violations and neglect of compliance of City Code 21-9, State Law MGLA c. 82 – 17 & 25, Federal Regulations 28 CFR Part 36:210. She had experienced several times difficulty navigating along Main Street that she deemed potentially harmful to her person, as she is disabled. A full text of her statement and attendant documents were placed on file.

**Presentations/Commendations:**

**Councilor Whynott** introduced Bill Campbell the City Clerk of Woburn to speak on H1972 which will move both the State and Presidential primaries to the same month in June. Mr. Campbell noted H1972 addresses the military or overseas voters as there is not enough time between the primary and actual election to get them back in time for Election Day. Federal law dictates that ballots are sent to military and overseas voters at least 45 days before a state or federal election. There are 11,691 military from MA and 3,800 spouses and countless numbers of residents who might be abroad in some other capacity. Focusing on the military personnel, in 2010, only 400 were counted. The solution was fax and email. Only 70 were fax and email. This bill he drafted was submitted in January 2011 and at public hearing in May it was well received and would make a recommendation to come out of committee but with redistricting it was delayed. He has been reaching out to all the City Clerks in cities and towns to consider this issue and if within their judgment they would endorse it and support the change. When you address one issue you see others and so took a broader approach. If the State could combine that primary with the presidential primary it would save the State an enormous amount of money as New Jersey and California are now doing. In 2008 the September primary and State primary and presidential primary cost the City of Woburn about \$4,000 to program their voting machines alone. There is no streamlining of business and that is not fair to the candidates. The plan is also to reduce voter fatigue to encourage voters to come out to vote and to also reduce security issues with the schools. The main goal is to allow for the military and overseas voters to be able to have their votes count. A number of communities have already adopted the resolution he had proposed in the last several weeks. It is to send a message to the Statehouse that this community supports this. There is still time to do make these changes and train poll workers. **Councilor Tobey** stated the norm now for State primaries is September, and with this bill it would move it to the first Tuesday in June. **Mr. Campbell** stated it would move both the State Primary and the Presidential primary to June. **Councilor Tobey** noted nationally the presidential primaries are to move them to the year before the election he wondered what the dynamic will be to move the state's later. **Mr. Campbell** would like to see a national primary on one date, but in 2008 they moved from March to February; and it turned out it was much later than February. **Councilor Whynott** noted the Presidential primary has the lowest turnout in the City. If it was the same day as the State primary he felt there would be more voters participating and a cost savings. **Linda**

**T. Lowe**, City Clerk, along with **Councilor Whynott**, stated that she supports Mr. Campbell's efforts. It will save an enormous amount of money for municipalities, and personnel efficiencies in clerks' offices with less duplication of effort; and improve voter turnout where more are likely to turn out in early June and is a commendable piece of legislation. Council President Hardy invited Councilor Whynott to move to adopt the resolution in favor of H1972 regarding election primaries.

**MOTION: On motion by Councilor Whynott, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (McGeary) absent to adopt the following resolution:**

**RESOLVED: whereas, according to the Department of Defense Federal Voting Assistance Program (FVAP), there are 11,691 active military duty Massachusetts residents residing overseas; and Whereas, for the November 2010 election, Massachusetts requested a waiver from a requirement of the Military and Overseas Voter Empowerment Act (the MOVE Act) to send absentee ballots to Americans overseas at least 45 days before an election "due to a late primary"; and Whereas, a report by the Secretary of the Commonwealth revealed that in the November 2010 election only 400 ballots from Massachusetts active duty military personnel stationed overseas were counted; and Whereas, the General Court is considering H1972 "An Act Regulating State Primaries" a bill that moves the state primary to allow Massachusetts residents residing overseas to vote privately and securely, and combines the presidential primary with the state primary to save taxpayers at least \$8,000,000.00; and Whereas, a number of states have moved their primary dates earlier in the year to comply with the federal MOVE Act and to provide relief to taxpayers by reducing the cost of elections; and Whereas, the Massachusetts state primary scheduled for September 18, 2012 stands alone as the last state primary in the country in 2012; and Whereas, in written testimony the FVAP concluded "passing HB1972 will significantly improve voter success for many military members, overseas voters, and their families"; and Whereas, HB1972 simplifies the election process, decreases the opportunity for "voter fatigue", reduces the cost of elections for taxpayers, and establishes fairness among candidates; Now, Therefore, Be It Resolved by the City Council of the City of Gloucester that the City of Gloucester supports the adoption of HB 1972 "An Act Regulating Election Primaries" pending before the 187<sup>th</sup> General Court of the Commonwealth of Massachusetts and directs the City Clerk to transmit a copy of this action to the municipality's State Delegation and to the Joint Committee on Election Laws.**

*By unanimous consent FOR COUNCIL VOTE 3 of 3: CC2011-047 (Whynott) Commendation for GHS student Erin Pratt and Rebecca Lundy for her heroic rescue of several people caught in a rip tide was taken out of order.*

**Councilor Whynott** noted Erin Pratt, a life guard at the Bass Rocks Beach Club, heard a woman's cry of distress, ran across the street, was met by Rebecca Lundy, a life guard at Good Harbor Beach, and she saved not only that woman but two children. It is wonderful when you have people do the opposite of what human nature tells you to do, that is to run away rather than into a dangerous situation, but risk their lives to save people. [Ms. Lundy was not in attendance.]

**MOTION: On motion by Councilor Whynott, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 8 in favor, 0 opposed to offer its sincerest congratulations to Erin Pratt in recognition of her serving as a lifeguard for Bass Rocks Beach Club at Good Harbor Beach on September 2, 2011; and having assisted in the rescue of Cheryl Borrelli, followed by the rescue of two young girls which prevented three possible drownings.**

**Councilor Whynott** asked Erin Pratt and her mother and father to join him at the podium, and then read the City Council commendation aloud and presented it to Ms. Pratt. The Council then personally congratulated Ms. Pratt individually during a brief recess.

**Consent Agenda:**

• **MAYOR'S REPORT**

1. Memorandum from Principal Assessor re: Tax Classification
2. Quarterly Report of the Clean Energy Commission

(Refer B&F)  
(Info Only)

• **COMMUNICATIONS/INVITATIONS**

1. Letter from Gloucester Rotary Club and Gloucester Rotary Foundation re: gift to City Stage Fort Park Playground 100<sup>th</sup>



- Anniversary project (Info Only)
- **INFORMATION ONLY**
1. Letter from Senator Tarr to City Clerk re: House Bill 1769 "An Act Relative to Double Poles" (Info Only)
  2. Thank you letter from Gerolama "Gerri" Lovasco re: 10<sup>th</sup> Year Celebration of the Fishermen's Wives Monument (Info Only)
  3. Press Release from Mayor re: Formation of a Fire Chief Selection Committee (Info Only)
  4. FY2011 Annual Report from Council on Aging filed with the Executive Office of Elder Affairs (Info Only)
- **APPLICATIONS/PETITIONS**
1. SCP2011-012: Pearce Island (73 Fernald Street), GZO §5.5.4 Lowlands (Refer P&D)
  2. SCP2011-013: Dale Avenue#10, Amendment of City Council Special Permit granted on May 23, 1974 pursuant to GZO §1.10.1 And §3.2.2(a) (Refer P&D)
  3. SCP2011-014: Pearce Island (73 Fernald Street), GZO §5.13.7.2 (PWSF Modifications) (Refer P&D)
- **COUNCILORS ORDERS**
1. CC2011-051 (Verga) Review "island" at the entrance of Beechbrook Cemetery (Refer TC & O&A)
  7. CC2011-052 (Theken/Tobey) Re: Update listing on Fisherman's Memorial Cenotaph by August 2012 (Refer to CC & Administration)
- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
1. City Council Meeting: 09/13/11 (Approve/File)
  2. City Council Meeting: 09/27/11
  2. Standing Committee Meetings: B&F 10/06/11 (under separate cover) O&A 10/03/11, P&D 10/05/11 (Approve/File)

**Items to be added/deleted from the Consent Agenda and Unanimous Consent Calendar:**

**Councilor Hardy** made note of the matter on the Unanimous Consent Agenda regarding a proposed TIF for Gorton's Inc.

**By unanimous consent the Council agenda and calendar was accepted as amended.**

**Committee Reports:**

**Budget & Finance: October 6, 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 in accordance with MGL Chapter 44 Section 64, to pay National Grid/GDF Suez under DPW Central Services 101000104995213 National Grid Account #40497-75004 Heritage Way dated 06/23/11 for \$1,027.27 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION:**

**Councilor McGeary entered the meeting at 7:34 p.m.**

**Councilor Curcuro** explained that this motion and the following three motions are all services that were rendered to the City which the DPW had overlooked the invoices for, and therefore they must be paid out of the FY12 DPW budget. Mark Cole, DPW Operations Manager explained that this was due to shortages in the School budget and assured they had enough money to cover these expenses in the FY12 budget.

**MOTION: On motion by Councilor Curcuro, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed, absent, in accordance with MGL Chapter 44 Section 64, to pay National Grid/GDF Suez under DPW Central Services 101000104995213 National Grid Account #40497-75004 Heritage Way dated 06/23/11 for \$1,027.27 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

**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 in accordance with MGL Chapter 44 Section 64, to pay National Grid under DPW Central Services 101000104725211 National Grid Account #40983-61001 40 Blynman Avenue dated 6/23/11 for \$8,073.95 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed in accordance with MGL Chapter 44 Section 64, to pay National Grid under DPW Central Services 101000104725211 National Grid Account #40983-61001 40 Blynman Avenue dated 6/23/11 for \$8,073.95 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

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 in accordance with MGL Chapter 44 Section 64, to pay Suez/GDF under DPW Central Services 101000104725211 Suez/GDF Account #8846705000 30 Cherry Street dated as of 7/11/11 for \$12,817.93 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed in accordance with MGL Chapter 44 Section 64, to pay Suez/GDF under DPW Central Services 101000104725211 Suez/GDF Account #8846705000 30 Cherry Street dated as of 7/11/11 for \$12,817.93 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

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 in accordance with MGL Chapter 44 Section 64 to pay National Grid under DPW Central Services 101000104725211 National Grid Account #42238-10330 40 Blynman Avenue dated June 21, 2011 for \$2,441.31 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION:**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed in accordance with MGL Chapter 44 Section 64 to pay National Grid under DPW Central Services 101000104725211 National Grid Account #42238-10330 40 Blynman Avenue dated June 21, 2011 for \$2,441.31 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

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 in accordance with MGL Chapter 44 Section 64 to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #73766034 dated 08-09-10 for the Rose Baker Senior Center Alarm Monitoring for \$214.71 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.

**DISCUSSION:**

**Councilor Curcuru** explained that the next two motions are for the alarm monitoring for the Rose Baker Senior Center. The contract with this company has subsequently been terminated now that a new wireless system for the City is in place which is why one is pro-rated to \$214.71. Both were for services rendered in FY11 without purchase orders in place and are to be paid out of the FY12 DPW budget. There was concern without the purchase order in place and did receive the bills.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to recommend to the City Council in accordance with MGL Chapter 44 Section 64 to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #73766034 dated 08-09-10 for the Rose Baker Senior Center Alarm Monitoring for \$214.71 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.**

**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 in accordance with MGL Chapter 44 Section 64, to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #7399062 for the Rose Baker Senior Center Alarm Monitoring for \$519.00 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.

**DISCUSSION:** None.

**MOTION:** On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to recommend to the City Council in accordance with MGL Chapter 44 Section 64, to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #7399062 for the Rose Baker Senior Center Alarm Monitoring for \$519.00 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.

**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 Graf Leasing under Central Services 101000104725211 for Invoice #38746 for storage unit leasing for \$60.00 with no purchase in place.

**DISCUSSION:**

**Councilor Curcuru** stated this invoice was for a leased storage unit and while the purchase order came through on July 20<sup>th</sup>, the invoice came in dated July 16<sup>th</sup>. This is to enable payment to the leasing company under these circumstances.

**MOTION:** On motion by Councilor Hardy, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to pay Graf Leasing under Central Services 101000104725211 for Invoice #38746 for storage unit leasing for \$60.00 with no purchase in place.

**Councilor Curcuru** explained to the Council that the following two motions are for the Affordable Housing Trust disbursements. The B& F Committee discussed these two disbursements with Sarah Garcia at their meeting and asked that representatives from each of the projects be available for questions from the Council.

**MOTION:** On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the funding of the request by the Affordable Housing Trust Committee for the Action Inc.'s Home Together Project at 26 Marsh Street for \$40,000 for architectural and engineering.

**DISCUSSION:**

**Sarah Garcia**, Community Development Director noted Peggy Hagerty-Steck and Tim Reilly both of whom were with Action, Inc., and stated the Affordable Housing Trust (AHT) had recommended this project for funding which reflects the AHT making new rental units available for people in Gloucester. They recommended \$10,000 for each unit to be built (a total of four) in show of local support. Residents of Marsh Street, where this proposed four-unit residence for homeless families will be located, met with Councilor Curcuru, and at that meeting they expressed their support. **Tim Reilly**, Executive Director of Action, Inc. noted the land on Marsh Street was purchased a year ago by them. This land was previously permitted with a Special Council Permit to be developed for five units but never came to fruition. Their purpose is to develop four units of affordable housing using the same footprint as the originally proposed five unit project, but decrease the number of units to two duplexes which is more of a family living type of setting on the property. Concern originally expressed with regard to the Special Council Permit was the screening of the dumpster. Each individual family will have their own trash receptacles. **Councilor Curcuru** explained he had a ward meeting where there was positive contact with the neighbors. **Mr. Reilly** continued Action, Inc. is appreciative of the support of the AHT for \$40,000. They have applied for HUD home funds for \$400,000 for construction and are already starting the foundation site work this week. This is for very low income families who are without homes. These are people likely to come from short-term subsidy situations to these two bedroom units

for a more permanent housing solution. There is a large waiting list for such units. **Councilor Curcuru** noted these are rental units which **Mr. Reilly** agreed. **Councilor Curcuru** asked how the AHT makes the determination to get the funds. **Ms. Garcia** stated they've funded new housing units and funded Central Grammar to recapitalize their units and make them affordable for another 30 years which the AHT felt made it worth the \$50,000 to subsidize them and significant enough that the State gave tax credits to make it work. They have not turned down anyone to do new units. They turned down a feasibility study as the preference is to create units. They've had some inquiries for projects proposing to buy homes and make them affordable housing. The AHT would listen to such applications but none have yet to come forward. They have encouraged affordable housing developers in the region to talk to the AHT as well as encouraged the affordable living component at Gloucester Crossing for assisted living. They try to stay in sync with the City's affordable housing plan. She spoke of the CDBG housing plan's recent study.

**Councilor Curcuru** asked when Action believes they'll begin construction for this project. **Mr. Reilly** stated he thought it would be next spring. The state funding should come through in January and be available in the spring also. This development is primarily for families. Councilor Curcuru commented in this economy everyone is one paycheck, one accident away from finding themselves homeless. **Councilor Tobey** understood this is not a 40B application or project, but noted in the AHT minutes some discussion of 40B, a consolidated and expediting permitting process favoring approval of projects that include dedicated affordable housing as the community has less than 10% in affordable category. He asked what constitutes an affordable unit. **Ms. Garcia** stated it is a deed restriction between 15 years and permanent in terms of counting for the State's inventory. What has hurt the City is that the State does not count Section 8 vouchers. **Councilor Tobey** stated it has to be dedicated in writing through a legal instrument, and asked what percentage of the City's housing stock has this element. **Ms. Garcia** thought it was around 800 units or 7.8%. She has looked at it in the recent past as has project manager, Sandra Shea.

**Councilor Tobey** noted Section 8 works very well and is an important economic driver. He then asked how many Sec. 8 units there are. **Ms. Garcia** stated it is hard to get an exact number from the Housing Authority as vouchers given out could be used in other communities and often are. She thought it was around 500. **Councilor Tobey** stated assuming around 500 and it came with a deed restriction, would that take the affordable stock over (the state percentage needed by the community) which **Ms. Garcia** stated it would. **Councilor Tobey** asked if they have reached out to landlords to see if they would do such a deed restriction which **Ms. Garcia** acknowledged she would look into. **Councilor Hardy** asked about the previous Special Council permit on the property; would the new owners of the property have to come in for a modification of the Special Council Permit as it was for five units with conditions. **City Solicitor Suzanne Egan** responded she'd have to look at the permit; a change in ownership would not trigger it; but any change in the construction plan could trigger that modification. They'd go to the Building Inspector and then the Planning Director for guidance. **Councilor Hardy** asked if a vote this evening would be appropriate without such a modification. **Attorney Egan** stated it would be appropriate whether or not an amendment to a special permit is needed. **Councilor Hardy** asked about the condition of the Special Council Permit that indicated the dumpster would go on the property; now that it is four units; the concern of the neighbors at the time was that it would be hidden. Another concern was the buffer of the trees between the highway and the housing is honored. **Mr. Reilly** stated they would honor that tree buffer. They did go to the building inspector on the redesign and was his opinion that as long as they didn't change the footprint of the plan that they were all right. Each unit would have its own trash receptacles. **Councilor Hardy** noted that another Special Council Permit condition related to the nearby boatyard, and that this property is not to be used as an extension of such; which **Mr. Reilly** stated they would also honor that condition. These families, he stated, would likely not own boats, regardless. **Councilor Hardy** also inquired about snow removal, and **Mr. Reilly** confirmed Action Inc. would be responsible for the snow removal within the boundaries of the property.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to fund the request of the Affordable Housing Trust Committee for the Action Inc.'s Home Together Project at 26 Marsh Street for \$40,000 for architectural and engineering.**

**MOTION: On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 1 in favor, 2 (Curcuru, Hardy) opposed to recommend to the City Council the funding Gardiner & Company – 10 Taylor Street Project for \$30,000 for Construction.**

#### **DISCUSSION:**

**Councilor Curcuru** expressed to the Council that he had voted last year at the CPA Funding public hearing against the Taylor Street project. At the time, he didn't believe it was a good project. It was supposed to have broken

ground in February 2011; and that there is a glut for this type of housing currently. He believed there are too many questions on the project itself and would vote no on the project's receiving the funding at this time. These units are for sale, which is different from Action, Inc.'s project. **Ms. Garcia** stated the AHT voted \$30,000 towards this project. The Gloucester Housing Authority (GHA) has been a proponent of this project and has a contract with Carl Gardiner, the developer, who **was** the sole bidder. They have sought funding from three sources. Right now it is a vacant lot, and is proposed for a three unit condominium unit and is the same project seen last year at the CPA. The AHT is new funding that was part of the pro forma given at the CPA. **Councilor Verga** asked about the units' market pricing now. **Carl Gardiner**, 9 Woods Lane, Ipswich, developer of the 10 Taylor Street project stated the \$30,000 was voted and approved by the AHT in February 2010 and were the first entity to step forward. There is a total of \$200,000 in subsidies. There is also a discount, for the lot, \$5,000. The pricing is aggressive – 60%-70% of median income. Two 2-bedroom plus units will be \$125,000 at 1,400 sq. ft. and the one handicapped unit will be \$90,000, at 932 sq. ft. The flooring will be hardwood in the first floor with tile baths and entry ways. These would be market rate unit construction as well as energy star rated construction with energy efficient windows and historical detail on the exterior. **Councilor Ciolino** noted the last time Mr. Gardiner appeared before the Council he had asked if for some reason Mr. Gardiner defaults, who then owns the property. **Mr. Gardiner** then stated it was the bank. **Councilor Ciolino** responded that the last time he answered it would be the GHA. **Mr. Gardiner** explained the GHA wanted a default return of property to them, but no bank would subsidize based on that agreement in place. There is an agreement called a "Disposition Agreement", or a "reverter" in place which says that BankGloucester will get title if there is a default, and that any funding not used will go to the GHA to finish the project to which the funding authorities agreed. The parties have agreed in advance to cooperate. Once he takes on the property a deed restriction will be in place for 99 years which can't be wiped out by foreclosure. **Councilor Ciolino** asked who has the document. **Mr. Gardiner** stated the document has been vetted and signed by the funding entities, North Shore Housing Consortium, the CPA. Mr. Gardiner stated they're not fully executed yet. **Councilor Ciolino** expressed his concern with this arrangement as it was now different than before, and now he is before the Council for more funding. **Mr. Gardiner** stated it is the project that gets the money. **Councilor Ciolino** asked if Ms. Garcia was comfortable with this. She stated the funding is contingent that the project obtains outside funding. The AHT, since this is privately owned, conditioned that the GHA will do an audit of the project and before the last 20% is put in they'll know it cost what they said it would. If not it would revert back to the Trust. For the \$30,000, specific pieces of the project are being paid for; and project managers on both sides are experienced, Deborah Laurie of the Community Development Department and Sandra Shea, of the GHA; and felt they've done all they could to support the GHA to get this property developed. She confirmed she was comfortable for the Council voting for this. George Sibley, Chair of the AHT apologized for his absence through Ms. Garcia. **Councilor McGeary** expressed concern at the great length of time it is taking to bring the project to fruition and asked why. **Mr. Gardiner** stated it couldn't go forward until everything was in place with the subsidies as far as the bank was concerned. They are awaiting this piece to come forward. The bank wants the subsidies to be spent first. He indicated he wanted to start in February 2011 but was naive about the timeframe to get all components in place. They had to come up with the alternative agreement with all the funding entities in place. The affordable housing restriction had to be modified and made compatible between HUD and the North Shore Consortium which he found out about only in late August. **Councilor McGeary** stated if in the worst case he defaulted, anyone who took over that property would have to build affordable housing. **Mr. Gardiner** stated if he closes on the property, then the deed restriction goes into place. If he was not there, the bank would have to work with the funding entities to get the project built. If he doesn't finish the project, but most of the subsidies will have been expended and then he defaults, then whatever remains of bank funding, the bank has agreed to disburse those funds to the Housing Authority to finish the project. **Councilor McGeary** asked him to outline other projects he'd been involved with. **Mr. Gardiner** described himself as self employed as a developer since 1987. He's done a four-unit project of affordable housing in Ipswich in early 2000's; in 2004 he did a two-unit project and finishing another in Groveland. He also listed a variety of luxury housing units he has done on the North Shore. **Councilor McGeary** asked Councilor Verga about the housing prices proposed (Councilor Verga being in the Real Estate business as a Realtor). **Councilor Verga** thought them questionable for fair market value. He didn't see the market recovering that quickly and thought the pricing off making it a questionable investment in his estimation. **Councilor McGeary** thought public funds make it more constructible. Part of this process is to guarantee a return on the labor and investment. The package he put together guarantees a reasonable return on his effort – he needs those prices even after all the subsidies to make what he said he needs. **Mr. Gardiner** stated he wanted to have the right to cut prices further if necessary. He has the right to defer income to sell it. As to the pricing, he felt it was "legitimate". The pro forma had them higher. The lower the price, the more people come into the market and meet the criteria. Appraisals were done in February last year and most recently in the last few weeks on the unrestricted units and didn't know those figures from BankGloucester's

most recent appraisal. **Councilor Curcuro** noted the project's receipt of \$110,000 CPA money, and \$30,000 from the AHT. He asked what Mr. Gardiner was getting out of the project as the Councilor believed the more subsidies, the more Mr. Gardiner can make on this project. **Mr. Gardiner** didn't know what he would make on this project at this time. The pro forma says \$55,000. **Councilor Curcuro** asked if this money comes off the top before being sold. **Mr. Gardiner** stated he would get the money up front. He is being paid for his time for building this project. **Councilor Curcuro** stated the bank is a new wrinkle. He had said that if the project goes "belly up", the bank would have had to take it on. **Councilor Curcuro** reiterated his concern and would not vote for this tonight. **Councilor Ciolino** would wish to continue this matter and have someone from the GHA and BankGloucester speak to the Council to explain the default situation. **Councilor Tobey** expressed confusion by the animosity he heard this project has drawn on several occasions, and stated if someone can't make payments, the bank forecloses. He didn't see the need for this to go back to B&F or postpone the vote. **Councilor Ciolino** responded in the first go around the GHA would end up with the property and now it is BankGloucester. He felt the matter could wait another couple of weeks. **Councilor Tobey** asked if this matter was continued would he be willing to have his attorney speak on his behalf. Mr. Gardiner stated he would not as he could not afford to do so.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Curcuro, the City Council voted BY ROLL CALL 3 in favor, 6 (Verga, Whynott, Hardy, McGeary, Mulcahey, Tobey) opposed to continue the matter of the 10 Taylor Street Project funding of \$30,000 from the Affordable Housing Trust to the next regularly scheduled City Council meeting.**

**MOTION FAILS.**

**MOTION: On motion by Councilor Curcuro, seconded by Councilor McGeary, the City Council voted 6 in favor, 3 (Verga, Curcuro, Hardy) opposed to fund the request of the Affordable Housing Trust Committee for the Gardiner & Company – 10 Taylor Street Project for \$30,000 for Construction.**

**Councilor Tobey** noted there is a crisis of confidence on this project. The Council can rescind their vote if there is a problem going forward; and therefore, he asked that the Community Development Director to keep her eye on the project. **Councilor Theken** also agreed in receiving the report even though she had faith in the people appointed to the AHT and the Housing Authority. She expressed her endorsement of affordable housing.

**MOTION: On motion by Councilor Tobey, seconded by Councilor Theken, the City Council voted 9 in favor, 0 opposed to have the Community Development Director through the Office of the Mayor submit bi-monthly reports on the progress or lack thereof on the 10 Taylor Street 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 City Council to accept under MGL c. 44, §53A a grant funding extension from Health Resources in the amount of \$30,000.**

**DISCUSSION:**

**Councilor Curcuro** stated this is the second half of the year's Get Fit Gloucester! funding which pays for the Project Manager's salary and that administrative cost are accounted for.

**MOTION: On motion by Councilor Curcuro, seconded by Councilor Theken, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to accept under MGL c. 44, §53A a grant funding extension from Health Resources in the amount of \$30,000.**

**Councilor Theken** requested an update on Get Fit Gloucester! from Stephen Winslow. Council President Hardy stated this request would be sent to the Office of the Mayor.

**Ordinances & Administration: October 3, 2011**

**There were no matters for Council action from this meeting.**

**Planning & Development: October 5, 2011**

**There were no matters for Council action from this meeting.**

**Councilor Ciolino** noted that there is a correction to a motion on one of the two motions passed by the Planning & Development Committee at their meeting of October 5, 2011 regarding a Special Council Permit for Prospect Street #27. The motion read as follows:

**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 grant Kayleen Reilly and Barbara Reilly Cohen a Special Council Permit (SCP2011-010) for the property located at Prospect Street #27, (Assessors Map 15, Lot 40) zoned R-5 (High Density Residential), pursuant to §1.8.3, §1.10.1 and §3.16 of the Gloucester Zoning Ordinance for building height in excess of 35 feet but not more than 36 feet, the height of the existing building.

The Councilor wished to clarify the height exception and offered one for that purpose. However, **Council President Hardy** noted that under the Gloucester Zoning Ordinance, the Zoning Board of Appeals grants height exceptions from 30-35 ft. The Council grants a height exception for anything over 35 ft. If the property comes to the Council, then the Council has to do the exemption from 30 ft. to whatever the actual height will be. She then offered another amendment in further correction making the one offered by Councilor Ciolino moot, by stating it should read, “an exemption of six feet [from the 30 ft. limit] not to exceed 36 feet.” This then became the main motion on the table to amend the P&D Committee’s motion on height exception and was voted upon by the Council.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to amend the P&D motion made regarding a Special Council Permit (SCP2011-010) by Kayleen Reilly and Barbara Reilly Cohen for the property located at Prospect Street #27, (Assessors Map 15, Lot 40) zoned R-5 (High Density Residential), pursuant to §1.8.3, §1.10.1 and §3.16 of the Gloucester Zoning Ordinance for building height with an exemption of six feet, not to exceed a building height of 36 feet, as voted by the City Council on October 11, 2011.**

**Scheduled Public Hearings:**

1. **PH2011-061: Amend GCO Sec. 22-287 (Disabled Veteran, Handicapped Parking) by ADDING “one (1) Handicapped parking space to be placed in front of Clifford Court #8**

**This public hearing is opened.**

**Those speaking in favor:**

**Sal Gilardi**, 8 Clifford Court expressed his support for the establishment of the handicap parking space as it was his wife who had made the request.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions: 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 (Handicapped Parking) by ADDING one (1) handicapped parking space in front of Clifford Court #8.

**DISCUSSION:**

**Councilor Theken** stated this had the unanimous support of the Traffic Commission.

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-287 (Handicapped Parking) by ADDING one (1) handicapped parking space in front of Clifford Court #8.**

2. **PH2011-062: Amend GCO §22-287 (Disabled Veteran, Handicapped Parking) by ADDING “one (1)**

**Handicapped parking space to be placed in front of Prospect Street #122**

**This public hearing is opened.**

**Those speaking in favor:** Cora Brown, #122 Prospect Street, the requestor, stated she is unable walk more than 20 yards. While her property has a small driveway, it is not big enough to get in or out of her car due to her handicap. She asked the Council for the spot to be created. The recommendation of the Traffic Commission was that it be established across the street from her home rather than in front of it.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions: 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 (Handicapped Parking) by ADDING one (1) handicapped parking space to be placed in front of Prospect Street #115.

**DISCUSSION:**

**Councilor Theken** related this creation of a handicapped parking space received the endorsement of the Traffic Commission

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-287 (Handicapped Parking) by ADDING one (1) handicapped parking space in front of Prospect Street #115.**

3. PH2011-063: Amend GCO §22-270 (Parking Prohibited at all Times) re: Leonard Street

4. PH2011-064: Amend GCO §22-291 (Tow Away Zone) re: Leonard Street

**These public hearings are opened.**

**Those speaking in favor:**

**Tom Hooper, 5 Arlington Street** representing the Annisquam Village Church referred to the three parking spaces off street and that the Traffic Commission supported this move to add the three spaces to be made available to their parishioners as parking in that area is difficult even in the best of circumstances.

**Those speaking in opposition: None.**

**Questions: None.**

**These public hearings are 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 §22-270 (Parking Prohibited at All Times) AND GCO §22-291 (Tow Away Zone) by DELETING Leonard Street westerly side from its intersection of Bridgewater Street north to its intersection of Nashua Avenue opposite the Village Church on Washington Street AND ADDING Leonard Street westerly side from its intersection with Nashua Avenue opposite the Village Church north to its intersection with Dennis Court and from a distance of 100 feet from Dennis Court to its intersection with Bridgewater Street.

**DISCUSSION:**

**Councilor Theken** expressed her support of the Traffic Commission's positive recommendation. **Councilor Hardy** explained that the neighborhood behind the Annisquam Village Church at the beginning of Leonard Street was looking for additional parking. The Traffic Commission visited the affected area along with the Fire Department and Village Church parishioners. The Commission could allow three additional spaces amounting to the measurements as noted in the Commission minutes. She asked for the Council's support with the two motions going forward.



**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-291 (Tow Away Zone) by DELETING Leonard Street westerly side from its intersection of Bridgewater Street north to its intersection of Nashua Avenue opposite the Village Church on Washington Street AND ADDING Leonard Street westerly side from its intersection with Nashua Avenue opposite the Village Church north to its intersection with Dennis Court and from a distance of 100 feet from Dennis Court to its intersection with Bridgewater Street.**

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-270 (Parking Prohibited at All Times) by DELETING Leonard Street westerly side from its intersection of Bridgewater Street north to its intersection of Nashua Avenue opposite the Village Church on Washington Street AND ADDING Leonard Street westerly side from its intersection with Nashua Avenue opposite the Village Church north to its intersection with Dennis Court and from a distance of 100 feet from Dennis Court to its intersection with Bridgewater Street.**

**5. PH2011-065: Adoption by City Council regarding subparagraph 15 of MGL c. 138, §12 re: selling Liqueurs and Cordials**

**This public hearing is opened.**

**Those speaking in favor:**

**Christopher Sallah**, representing Sugar Magnolias and six other Common Victuallers (memo of endorsement signed by the six Common Victuallers and Mr. Sallah submitted and on file), 56 Hilltop Road stated they're requesting that the Council adopt a third or middle classification of alcohol license which would add cordial type or liqueur to the beer and wine grouping so restaurants could choose one of three types which would best suit their business and would add a new, limited income stream. In difficult economic times with Gloucester's "burgeoning" restaurant community, they believe this should be a logical and positive step for businesses wanting to expand but not be overwhelmed by a major expansion. From his limited research, he found no negative results in Essex County to those communities who adopted this. **Attorney Michelle Harrison**, Chair of the Licensing Board advised that the Licensing Board has taken a position in support of the requested acceptance of paragraph 15, of MGL c. 138, §12. The acceptance of this paragraph will allow a licensee who has a Common Victuallers license and who has a beer and wine license ("malt and wine") to then sell cordials and liqueurs. If the Council accepts this paragraph, the licensee, after public hearing notice/advertisement and public hearing before the Licensing Board, gets approval from the Licensing Board to add cordials and liqueurs to their beer and wine license, they'd also need approval by the ABCC. She assured the Council that it is very carefully permitted. The Board looked at other cities in the area that have accepted this portion of c.138. Beverly has six beer and wine licenses and only one has sought a cordials and liqueurs license; Salem has all eight year 'round beer and wine licensees and only two have sought a cordials and liqueurs license. She didn't feel the impact will be strong in that they're not increasing how much alcohol will be served in Gloucester, but to allow assistance to some licensees to improve their sustainability and encourage the downtown restaurant atmosphere. Gloucester has seven year 'round beer and wine licenses and three seasonal beer and wine licenses. Mr. Sallah has gotten support from at least seven of them. The Board, if the City Council chooses to adopt this paragraph of c. 138, is recommending there be a fee increase. Right now a year 'round beer and wine license is \$1,500. The Board is suggesting that be increased to \$2,000. A seasonal beer and wine license is \$750, and the Board suggests an increase to \$1,000.

**Those speaking in opposition: None.**

**Linda York-Robbins**, 132 Western Avenue asked if this request is prompting the increase for the year round liquor license, or was that instituted anyway. On inquiry by **Council President Hardy** as to whether the fee increases are in front of the Council at this time, **Attorney Harrison** stated the fee increases are not. However, seasonal and all alcohol licenses were increased by the City Council in June prior to this petition coming before the Licensing Board. The fees they're asking to be increased is for someone holding a beer and wine license who wishes to add cordials and liqueurs; but the Council has to decide to add the cordials and liquors first; and then B&F would have to decide an increase in those fees as recommended by the Licensing Board [to be adopted by the Council after a public hearing]. **Ms. Mocerri**, of Café Dolce asked a question of the Council which Councilor Theken interpreted in Italian. The Councilor noted for Ms. Mocerri the difference between a full liquor license; and a beer and wine license enhanced by liqueurs and cordials. The Councilor explained Ms. Mocerri has a full liquor seasonal license and informed Ms. Mocerri she doesn't have to apply for an extension for her license to serve cordials and liqueurs.

**Communications: None.**

**Questions:**

**Councilor Ciolino** asked about the difference of the definition of a liqueur and a hard liquor. **Attorney Harrison** named several cordials and liqueurs such as Sambucca, Crème De Menthe, and Lemoncello versus vodka or bourbon which are considered “hard” liquors. She noted the ABCC website has a whole list of all of the liquors and cordials that are permitted under this license. There is a control in place that defines this. She would provide it to the B&F Committee when the fees increase come up. The Licensing Board does not determine the kinds of liquors. **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 adopt MGL c. 138 §12, [paragraph 15] as follows:

“In any city or town which votes to accept the provisions of this paragraph, a common Victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all other licensing provisions of this chapter.

**DISCUSSION:**

**Councilor Theken** stated her belief that for some restaurants there might be some interest in pursuing an added liqueurs and cordials license and that it should be made available. You have to apply and go through a process through the Licensing Board and the ABCC. This isn’t automatic. It is not handed to someone with a liquor license. **Councilor Tobey**, at **Council President Hardy’s** prompting, recounted for the Council that he had requested at the O&A Committee, at the suggestion of Attorney Harrison, that the City Clerk’s office reach out to the holders of year round licenses to find out if there were any objections from that sector. **Council President Hardy** noted she and several Councilors did field telephone calls regarding this matter, but all, once cognizant of the facts, expressed their support. **Councilor Ciolino** expressed his support noting in hard economic times it is a good thing to help restaurateurs to thrive.

**MOTION:** On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted **BY ROLL CALL 9** in favor, 0 opposed to adopt MGL c. 138 §12, [paragraph 15] as follows:

“In any city or town which votes to accept the provisions of this paragraph, a common Victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all other licensing provisions of this chapter.

**The Council recessed at 9:14 p.m. and reconvened at 9:19 p.m.**

**6. PH2011-048: SCP2011-005: Dory Road #11, GZO §5.22 Commercial Land-Based Wind Energy Conversion Facilities**

**This public hearing is opened.**

**Those speaking in favor:**

**Rich Kleiman** appeared on behalf of the Gloucester Engineering Wind Energy Project, as well as Gloucester Engineering and Equity Industrial Partners. He noted the presence of CEO, Mark Steele, of Gloucester Engineering and senior partners from Equity Industrial Partners, the property owner of the site, Bruce Levine and Hunter Emerson and their attorney Jonathan Klavens.

*Project Goals:* This is a wind installation at the Gloucester Engineering site in Blackburn Industrial Park at 11 Dory Road for two wind turbines up to 2 MW each are proposed to be privately financed, built, operated and maintained on private land. The City’s role in this project as a partner would be limited to receiving net metering credits through National Grid, the electrical distribution company, consistent with the Green Communities Act and the net metering regulations and tariffs that go along with that. There would be no liability to the City associated to the development and operation with this wind project. The projects goals are to offset the City’s use of fossil fuels with green, renewable energy; provide the City with a new revenue stream and advance its clean energy mission; stabilize Gloucester Engineering’s energy costs to help increase local jobs and tax base; minimize the City’s level of effort and eliminate the city’s liability and risk as this project is on private land and privately financed, owned and operated.

*Benefits to the City of Gloucester:* This is a new revenue stream for 25+ years. The City would receive net metering payments on a monthly basis which would appear on the National Grid bills. The City receives new property tax revenues based on an assessment, or a PILOT (payment in lieu of taxes) that would be agreed to. The total project revenue as projected is greater than \$2.1 million based on the current net metering rate. The City would start out with \$118,000 in Year 1 that includes the property tax portion, and ramping up to approximately \$219,000 per year in the out years.

*Benefits to Gloucester Engineering:* Gloucester Engineering will experience reduced energy costs stabilizing its balance sheet; helping the company retain/increase local jobs and contribute to the local tax base; stabilize their energy supply during peak usage such as when rolling “brown-outs” have occurred, affecting productivity. They have had numerous community consultations to date (as shown below). They have met with and discussed the project with Mayor Kirk and her Administration; City Council; Jim Duggan; Suzanne Egan; Sarah Garcia; Jeff Towne; Gregg Cademartori; the Clean Energy Commission and the EDIC.

- April 13 Councilor McGeary hosted a neighborhood meeting. The response was very positive.
- Late April: Councilor McGeary canvassed the neighborhoods around the project site to very positive responses.
- April 27: the Clean Energy Commission voted unanimously that the City further its investigation into the project.
- May 10: City Council held its Pre-Application Conference.
- July 20: P&D Committee began its review of the Special Council Permit application. During that process the City hired a third party review consultant, HMMH. It was noted that Stephen Barratt from HMMH was present at the Council public hearing.
- August 13: A balloon test was conducted as a helicopter test (photos on file) took place with the helicopter hovering at the blade tip height of approximately 404 ft. high and noted the tower will be approximately 259 ft. high. There was proper public notice of that helicopter test.
- August 17: ConCom issues a negative determination on a Request for Determination of Applicability. In this case, a negative determination is in essence an “approval” of the project.
- August 18: Planning Board approved a Watershed Protection special permit for the project under the GZO.
- October 5: P&D Committee completed its review of the project and recommended the project to the full Council with conditions.

*Review of some key technical analyses:*

- *Visual:* The visual photo simulations were conducted by Saratoga Associates using scaled and geo-referenced images used to simulate appearance of the turbines from different select vantage points selected in advance by the P&D Committee and the Council (on file). The result was that the turbines were difficult to see from most vantage points; not more than a blade from most residential areas.
- *Shadow/flicker:* This is a phenomenon where the sun shines through the spinning turbine blades usually at the very early morning hours or end of the day when the sun is at a certain angle in a certain season. An assessment was conducted by the Cadmus Group using specialized analytical software. HMMH reviewed their results, the City’s review consultant and affirmed by them. The potential shadow/flicker is limited largely to the industrial park. Using the control equipment included with the proposed turbines, the turbines will be programmed to shut down during times when there is potential for impact to residential units. Therefore, no residential areas should be affected by shadow/flicker which is their goal. They have worked with the P&D Committee on a condition which addresses it.
- *Sound assessment (noise):* Conducted by Epsilon Associates, and reviewed by HMMH, the sound levels were monitored at representative locations to determine background sound conditions. Turbine sound levels were modeled using specialized computer software to estimate worst case sound effects above background. These sound levels were then compared to both City and DEP regulatory standards/regulations and were found to comply with the City noise ordinance and State regulations. The City’s Planning Director and City Solicitor confirmed this at the P&D Committee meeting on October 5<sup>th</sup>.
- *Recap:* This project would substantially benefit both the City and a significant local employer and taxpayer, Gloucester Engineering. The City’s participation in the wind project will result in generation of green, renewable energy that roughly matches the City’s use of fossil fuel-generated energy. Potential impacts are considered a minor and (other than some off-site views) limited to the industrial park.

**Mark Steele**, CEO of Gloucester Engineering (copy of statement submitted at meeting and on file) stated on behalf of Gloucester Engineering, its employees, many of whom are community residents, are happy to partner with the City to host a wind generation project at their facility. They are pleased to be able to work with City officials as the project proceeds. They are grateful for the opportunity to support Equity Industrial Partners who have worked diligently to help keep Gloucester Engineering in the community, and who have worked tirelessly to advance this project. He believed Equity Industrial played a valuable partner role with their investors at Blue Wolf Capital and has continued to demonstrate their support of Gloucester Engineering. The project helps to aid Gloucester Engineering's competitiveness, demonstrates their commitment to sustainability, to the environment and to advanced power generation technology. This project will reduce their energy costs, improve energy supply reliability, and offers the potential to reduce brown outs. They have experienced reliability issues that have affected their productivity and costs in the past. This project allows them to continue to compete and helps them to continue growing the company. They are pleased to be a part of Gloucester's progressive power efforts and expressed his company's support of the project.

**Hunter Emerson**, Equity Industrial Partners, Needham, MA stated wind energy is the fastest growing renewable energy source in the U.S., growing by 20% annually over the last decade. In 2008 it had grown by 25,000 MW in wind energy capacity. Wind energy, in addition to being clean, will play a major role in the effort to reduce or eliminate the country's dependence on foreign oil. They have a great interest in playing a role in this energy initiative; and just as importantly to expand an excellent working relationship with the City. A little over a year ago they worked closely with City officials and the eventual buyers of Gloucester Engineering, Blue Wolf, to structure a deal to ensure Gloucester Engineering remained a viable and significant long-term employer in Gloucester going forward. In forming this partnership with the City and Gloucester Engineering, they view this a good example of a public/private partnership which successfully promotes green energy, energy independence and look forward to being involved with the City in one of the first projects of this type in the State.

*Setbacks:* **Mr. Kleiman** noted a site map (on display and not submitted to the Council at the meeting already on file) for Turbine #1 and #2 pointing out setbacks from the public ways and the closest buildings and property lines which meet the City's zoning ordinance requirements. They are over 153 ft. to the closest public way for Turbine #1 which is located closest to Dory Road, in the parking lot outside of any wetland resource areas or buffers as affirmed by ConCom; Turbines #1 and #2 meet that standard. The by-law states that you have to be more than 50 ft. from the closest building; and Turbine #1 is 153 ft. to the Gloucester Engineering building; and Turbine #2 is approximately 170 ft. from the nearest building which is a shed behind Gloucester Engineering on the same site. The closest property line would be the one closest to Turbine #2, 150 ft. to the MassDOT property which is the corridor for Rte. 128. The blade length of these turbines is 144 ft. They are 150 ft. to the nearest property line which is greater than the blade length and so meets the setback standard as well.

**Joseph George**, 6 Naomi Drive noted he met Mr. Kleiman at the Clean Energy Commission back in March. He believed this is a no risk way for Gloucester to achieve clean energy goals and to work constructively with a significant Gloucester employer. This is an excellent project, well structured in his estimation. They've already permitted Varian Associates for such a wind turbine in the same industrial park. The City will receive net metering credits. This will provide a revenue stream for years. The site has excellent wind which has been studied very closely. It is privately financed as well. He believed it to be "a gift" for the City.

**Mr. Kleiman** reviewed for the Council the criteria under **GZO §5.223 (c) Commercial Land-Based Wind Energy Conversion Facilities for Dory Road #11 as follows:**

**Criterion #1:** The proposed location is an appropriate location on the site:

The project is sited within a Business Park zoning district where Commercial land-based wind energy conversion facilities are allowed by Special Permit from the City Council as per Section 2.3.7 of the City of Gloucester Zoning Ordinance. The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The turbines are buffered from neighboring uses by wide expanses of forested land to the west, Route 128 to the south, and woodlands and industrial facilities to the north and east. The Project was sited outside of wetland resource areas and buffer zones and received a negative determination on its Request for Determination of Applicability (i.e., no further review is required under the Wetland Protection Act or the Gloucester Wetland Protection Bylaw) from the Gloucester Conservation Commission on 8/17/11. The Project was found to have no significant impact on drinking water reservoir watershed areas, and a Watershed Protection Overlay District Special Permit was approved by the Gloucester Planning Board under the GZO on 8/18/11. Therefore, the proposed location is an appropriate location on the site.

**Criterion #2:** The use will not pose a significant adverse impact to the health or public safety of the neighborhood:

The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project will comply with all applicable noise and shadow flicker limits as specified in the City of Gloucester Zoning and Noise Ordinances, which was confirmed during the review of the Project application by the City Solicitor, the City's Planning Director, and the City's technical consultant on noise and shadow flicker and affirmed by them before the City Council Planning and Development Committee. Therefore, the Project will not pose a significant adverse impact to the health or public safety of the Neighborhood.

**Criterion #3:** There will be no serious hazard to pedestrians or vehicles from the use:

The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project shall be properly operated and maintained consistent with the turbine equipment manufacturer's recommendations. Therefore, there will be no serious hazard to pedestrians or vehicles from the use.

**Criterion #4:** Adequate and appropriate facilities will be provided for the proper operation of the use:

Project equipment will be housed inside the turbine towers and utility cabinets adjacent to the turbine towers. The Project will be operated and maintained by qualified personnel certified or otherwise approved by the turbine equipment manufacturer. These personnel shall have 24-hour access to the site for purposes of operation and maintenance of the Project. The Project has been designed to meet all electrical interconnection standards to ensure safety and reliability, as per National Grid requirements. Therefore, adequate and appropriate facilities will be provided to ensure proper operation of the use.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions:**

**Councilor Curcuru** asked who the applicant is. **Mr. Kleiman** stated it is a combination of Equity Industrial Partners, the property owner, in conjunction with Gloucester Engineering. **Councilor Curcuru** asked what would happen if Gloucester Engineering no longer existed. **Mr. Kleiman** stated the project would technically be owned and operated by a single purpose entity which is formed just for this project. It would live on if Gloucester Engineering were no longer there. However, the intent is for everyone to stay together. **Councilor McGeary** asked how the City benefits directly in a financial way. **Mr. Kleiman** responded this is what is virtual net metering; under state law, Green Communities Act, and net metering regulations under that act, and the net metering tariff that National Grid (NG) established based on the regulations, a project can now be developed on private land, interconnected to NG electrical grid for a wind or solar project. The electricity generated by the project goes into the grid; there is a meter established at the site. All the electricity that passes through that meter is counted; and then as part of the interconnection, the credits that are generated when the electricity is generated are allocated to the accounts listed on "Schedule Z" in the application. In this case the proposal is to allocate 100% of those credits to the City's electrical accounts (the City has the capacity to absorb all of the dollar denominated credits to be generated), for every kilowatt hour of electricity generated there is a rate assigned based on the four components of the electric rate that allowed for net metering; the basic supply rate, the distribution part of the rate, the transmission and transition part of the rate. Currently, that adds up as of November 1<sup>st</sup> up to 15.06 cents per kilowatt hour. They multiply the output of the project by the hours each month and those credits would appear on the City's bills; it appears as a plus on them. It is a savings, but it is a new source of revenue also. They're proposing the City retain a portion and when the credits appears, the City writes a check back to the project for the residual that pays down the debt service. They keep their portion from the net metering credit value and also assessing the property taxes. Ultimately the assessment will be worked out with the City Assessor and City officials. The best they can project based on NG present rates and what they expect to be the amount of property tax payments is approximately \$118,000 new benefit of revenue from the project and go up to \$219,000 on the far out. If rates went up at a faster rate, the City would get more money. This protects the City from ever having any costs (from the wind towers). It is a percentage of the prevailing net metering rate. **Councilor McGeary** stated if it generates \$1,000 of net metering, \$900 goes back to Gloucester Engineering, but net/net it makes \$100 to the City. He noted the difference, prior to this legislation, the City would have had to own the turbine; build it all and take the financial risk and then the City would have gotten the benefit. **Mr. Kleiman** agreed stating that the legislation passed last year allows them to do this. The full benefit of net metering can be now realized. **Council President Hardy** heard the terms revenue and net metering used and their descriptions as it relates to the project. But she believed what is in front of the Council is a permit for two wind turbines and asked does this have anything yet to do with an agreement for revenue as to what the percentages will be as to what the monies will be. She asked if they are at the stage where they would be

considering taking into consideration as to whether or not they're going to approve the wind turbines with the financial benefits to the City, or is the wind turbine permit standing on its own; are they considering only the merits of whether or not it meets the criteria and zoning ordinance requirements **Attorney Egan** stated it is the latter; the Council is acting as the permit granting authority under the zoning ordinance and are to consider whether or not to permit two turbines and whether or not the project meets the requirements under zoning ordinance as presented. The power purchase agreement is being negotiated. That will be before the Council also, as it must come before them. That is completely separate from what is before the Council. The majority of the terms has not been agreed to and is still in the negotiation process. **Council President Hardy** reiterated the Council is considering whether or not the application meets the criteria under GZO §5.22. Eventually if this is passed, and the agreement works its way to the Council, what is the Council's role. **Attorney Egan** responded they will get to approve the agreement when it comes before the Council. Right now it is proposed to be a 25 year agreement which would come before the Council. **Council President Hardy** reminded the Council it is the application for the Special Permit under the zoning ordinance only before them, and they should not take into considering the financing and projected revenue for the City in their decision-making process. **Councilor Tobey** understood they're only voting on the permit, but asked for some further understanding of the financial benefit to the City as he believed it was relevant; such as how much of the benefit is automatic of net metering to the City, and what exactly are the sorts of terms that need to be negotiated. **Attorney Egan** noted the rate to the City needs clarification. The power purchase agreement is a 15-20 page agreement. The consultant's fee has been provided by the applicant to hire McCauley and Lyman who are negotiating with the applicants' attorney; and she is a part of the negotiations. They are now looking at the specific terms. The rebate is part of the negotiation process. Right now they don't have the exact figures of what the financial benefit are; but there will be a benefit for the City. **Councilor Tobey** asked if there is any cap on the total financial benefit under the Green Communities Act on this project and others; and are there better deals. **Attorney Egan** added they're negotiating this deal to make it the best deal possible, negotiating it to the benefit of the City. **Councilor Tobey** restated his question if there is a dollar cap limit on the net metering benefits. **Gregg Cademartori**, Planning Director stated there are some limitations on the maximum kilowatts that can be generated by a municipality, 10 MW per community. It is a fairly large amount of energy that could be created for a small town and would probably never approach doing something like that. The key to the provisions is that it is set up as big enough for say, Boston that wanted to get into the wind energy business but there has to be an account assigned for the credits that NG allots when energy is generated or otherwise they're getting into their business. As a single community, they could go beyond what is consumed if they had other accounts to assign to. There may be other communities nearby that also want to get into renewable energy production because that's their community's goal. As long as they have accounts that are under the same district, NG, energy can be generated from a community beyond what its consumption is and have those credits assigned to another. There is a certain sized "basket" each community has. The easiest is when going up against one's own consumption, this project is proposed to generate what they consume. **Councilor Ciolino** asked why they chose to go net metering instead of going directly to Gloucester Engineering and how this benefits Gloucester Engineering with their still experiencing brown outs. **Mr. Kleiman** noted they only use a certain amount of electricity and couldn't absorb all of the electricity generated by the two turbines. There are few avenues available for off loading the excess electricity. This is one of the avenues available for that. There is a more obscure way to do it, which is called a "qualified facility" which is basically a wholesaling of the generated electricity to the market but a project of this scale would likely never be able to be financed and not be workable. These projects are not easy to finance; they're new to the market with thin margins. It is not like building a giant wind farm. This is two wind turbines with a lot of costs to interconnect to the grid in hundreds of thousands of dollars. There's the turbine costs themselves for millions of dollars. As such an expensive proposition, it relies on having a good municipal partner that has an excellent credit rating like the City. They're pleased to work with the City; the project wouldn't happen if not for the City's participation. **Councilor Ciolino** asked for an explanation between the LLC that would own the turbines and the property owner who owns the site Gloucester Engineering sits on. **Mr. Kleiman** informed the Council that Equity Industrial Gloucester is the property owner of the site. Gloucester Engineering is a lessee of that property with a long term lease on it. The project will have a 30' x 30' footprint for each turbine and the electrical line running to the NG lines. It is a relatively small amount of land and will be contained in a lease modification is likely it will then be leased by the new entity, the special purpose entity for the project, which may be called Equity Industrial Turbines which is an LLC created for the project. **Councilor Ciolino** asked how many people Gloucester Engineering employs. **Mr. Steele** stated 100. He added, on inquiry from the Councilor, that there is increased reliability and lower cost power access and increased power going back to the grid which reduces the potential brown outs and enhances their productivity. They anticipate continuing to grow and hire new people. **Mr. Kleiman** read the criteria under GZO Sec. 5.22 at the behest of **Council President Hardy** as follows:

**Criterion #1:** The proposed location is an appropriate location on the site:

The project is sited within a Business Park zoning district where Commercial land-based wind energy conversion facilities are allowed by Special Permit from the City Council as per Section 2.3.7 of the City of Gloucester Zoning Ordinance. The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The turbines are buffered from neighboring uses by wide expanses of forested land to the west, Route 128 to the south, and woodlands and industrial facilities to the north and east. The Project was sited outside of wetland resource areas and buffer zones and received a negative determination on its Request for Determination of Applicability (i.e., no further review is required under the Wetland Protection Act or the Gloucester Wetland Protection Bylaw) from the Gloucester Conservation Commission on 8/17/11. The Project was found to have no significant impact on drinking water reservoir watershed areas, and a Watershed Protection Overlay District Special Permit was approved by the Gloucester Planning Board on 8/18/11. Therefore, the proposed location is an appropriate location on the site.

**Criterion #2:** The use will not pose a significant adverse impact to the health or public safety of the neighborhood: The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project will comply with all applicable noise and shadow flicker limits as specified in the City of Gloucester Zoning and Noise Ordinances, which was confirmed during the review of the Project application by the City Solicitor, the City's Planning Director, and the City's technical consultant on noise and shadow/flicker and affirmed by them before the City Council Planning and Development Committee. Therefore, the Project will not pose a significant adverse impact to the health or public safety of the neighborhood.

**Criterion #3:** There will be no serious hazard to pedestrians or vehicles from the use:

The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project shall be properly operated and maintained consistent with the turbine equipment manufacturer's recommendations. Therefore, there will be no serious hazard to pedestrians or vehicles from the use.

**Criterion #4:** Adequate and appropriate facilities will be provided for the proper operation of the use:

Project equipment will be housed inside the turbine towers and utility cabinets adjacent to the turbine towers. The Project will be operated and maintained by qualified personnel certified or otherwise approved by the turbine equipment manufacturer. These personnel shall have 24-hour access to the site for purposes of operation and maintenance of the Project. The Project has been designed to meet all electrical interconnection standards to ensure safety and reliability, as per National Grid requirements. Therefore, adequate and appropriate facilities will be provided to ensure proper operation of the use.

**This public hearing is closed.**

**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 grant a Special Council Permit (SCP2011-005) to Equity Industrial Gloucester LLC pursuant to section 5.22 of the zoning ordinance for the operation of a commercial land-based wind energy conversion facility at 11 Dory Road Gloucester, MA, (Assessors Map 262, Lot 16) BP zoning classification, for two wind turbines with the following conditions:

1. The turbines shall be operated in a manner which does not create shadow or flicker on a residential unit. All recommendations regarding the minimization of the flicker effect shall be required and incorporated by reference into the special permit:

Turbine #1 at location B shall not operate during the morning hours in the months of June and July and Turbine # 2 at location A shall not operate in late April and late August during the morning hours.

2. The turbines shall be operated in a manner which does not exceed the noise limitations as set forth in Gloucester Code of Ordinances section 13-6 and 13-7.

3. To insure compliance with the ordinance the turbine equipment installed shall be a Gamesa G90 turbine with a hub height not to exceed 78 meters with the installation of a Gamesa Noise Reduction system which shall be configured with the following settings:

Turbine #1 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 103.6 dBA.

Turbine #2 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 102.8 dBA.

4. In the event the proponent selects a different make or model of wind energy turbine, the proponent shall seek a modification to this special permit prior to commencing any site work. Any change in the make or model of the wind energy turbine equipment shall include comparable noise reduction equipment and the default configuration settings shall be those that achieve the same or better noise reduction results as the Gamesa NRS configuration settings set forth above.

5. The applicant shall engage in a post-operation monitoring program. Once the wind turbines are operating, the proponent shall monitor sound levels at the Fuller School and Gloucester Crossing hotel site both with and without the wind turbines in operation, and with and without the noise reduction equipment in operation, to determine if the City's nighttime residential noise threshold of 50 dBA (*City of Gloucester Code of Ordinances*, Chapter 13, Sections 13-6 and 13-7, December 15, 1995) is being exceeded and if it is attributable to the wind turbines. Monitoring shall be conducted for a representative two month period or until sound levels are measured under the necessary wind speed and wind directions. Regardless of the post-operation monitoring findings, the noise reduction requirements as set forth in this permit shall be complied with.

The monitoring program shall be used to determine if further noise reduction measures should be required. The proponent shall submit its findings to the Planning Director. If the wind turbines generate noise above the threshold permitted under the ordinance, then the applicant shall immediately implement further noise reduction measures, and until such time as those measures are implemented the turbines shall not be operated during the hours set forth in section 13-7 of the Code of Ordinances.

6. No hazardous materials or wastes shall be used on the site and the turbine shall be designed to prevent unauthorized access.

7. The operation and maintenance plan and landscape and lighting plan submitted shall be incorporated herein by reference and compliance therewith shall be a condition of the permit;

8. A copy of the project summary and site plan shall be provided to the police and fire departments.

9. The special permit is valid for 25 years unless extended or renewed. The turbines shall be removed at the end of the term.

10. As required by section 5.22.15 the applicant must submit a fully inclusive estimate of the costs associated with removal with a mechanism for cost of living adjustment after 10 and 15 years, the applicant shall provide surety at the time of construction to cover costs of the removal in the event the city must remove the facility.

11. The turbine will be painted a non-reflective color.

12. All signs on the site shall comply with the plans approved and those plans are incorporated by reference into the special permit.

13. All utility connections shall be underground to the nearest utility pole or transformer.

#### **DISCUSSION:**

**Gregg Cademartori** noted he was copied on several emails over the past few days exchanged from Rich Kleiman to the Council regarding shadow/flicker control and the prevention of that; and the condition that was initially discussed at the P&D meeting last week was fairly broad and not specific as to the time the turbine should not be operational to prevent shadow/flicker on residential properties. There was reference to the worst case scenario hours in the Cadmus Report of August 20th. The applicant had submitted an actual schedule of times when the turbines would not be operated when those conditions occurred. This was submitted via a recent email to the Council and suggested it is something that should be considered because it would prevent the shadow/flicker from happening.

**Councilor Ciolino** then offered amendment to the main motion for Condition #1, seconded by **Councilor Whycott** and on a vote of the City Council 9 in favor, 0 opposed it read as follows:

**"1. The turbines shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the following curtailment standards shall be adhered to in order to ensure insignificant flicker effect:**

**Turbine #1 at location B shall not operate between 7:45 p.m. and 8:15 p.m. from May 15 through July 15;**

**Turbine #2 at location A shall not operate between the hours of 7:00 p.m. and 7:45 p.m. from May 1 through August 15."**

**Council President Hardy** announced this now becomes Condition #1 of the main motion.



**Councilor Ciolino** stated P&D Committee consisting of himself, Councilor Whynott and Councilor Verga, did much due diligence, including a site visit to Ipswich where there is a similar turbine. They wanted to learn how loud the turbine was, a big concern for them. The Committee was surprised at how quiet it was. They related it to if one listens to the truck traffic on the Rte. 128 extension, it is much louder. During the helicopter test they went around town to view it from different site perspectives to see what the affect would be. He agreed the two turbines will change the landscape of Gloucester, but to some, these turbines are graceful and beautiful; and this is the way of the future. They will be tall, but it is something that Gloucester needs to move forward on. There isn't a better place than a business park to put wind energy turbines in his estimation. The applicant managed to come up with a project to be acceptable to everyone concerned and thanked them all. He thanked Mr. Cademartori for all his efforts to coordinate it all, as well as Attorney Egan and recommended this to his fellow Councilors to vote in favor of the turbine project. **Councilor McGeary** appreciated Council President Hardy's pointing out this is a permitting issue not a revenue issue because he thought it a good project, even if it wasn't a financial boon to the City. This will benefit the City and for the City's children. Gloucester, already recognized as a green community, is showing how it is possible to be both good stewards of the planet and also provide jobs for the future. In the short term the City benefits by being provided with a significant part of its energy usage at no cost either in environmental or financial terms. Gloucester is showing the way to the future not just for the City but for the nation. Gloucester and Gloucester Engineering are showing the way on this. He strongly supported this effort and looked forward to its success and the success of similar projects in the future. He thanked City staff, the members of the P&D Committee all of whom spent long hours reviewing in detail the proponents request and to the applicants who went the extra mile to ensure the concerns of all the citizens of Gloucester were protected and answered. He supported granting this special permit and urged his fellow Councilors to join in building a part of their future and the prosperity of the City. **Councilor Mulcahey** asked about the noise levels. **Mr. Cademartori** noted 50 dBA is the nighttime noise limitation in residential districts and that was one of the issues that took a lot of time to modify the project so that threshold would not be passed either in the Harrison Avenue neighborhood or in the Gloucester Crossing site because of the proposed hotel and the Fuller School, both zoned as residential. The applicant was up against three different sets of standards dealing with noise, both the code of ordinances, the zoning ordinance and the MA State noise policy. He also noted another condition that was suggested for possible revision which was Condition #6. When they were creating the zoning ordinance in 2005 that specifically related to the use of hazardous materials or wastes on site; but the actual lubricants used for the operation probably fall under that classification. The condition that came out of P&D was fairly broad. They created a condition to very specifically to capture what the concern was that is in 5.2.7 (f) which covers the operation of a wind turbine facility, either mirrored in that section to be prepared for any event of any spillage or anything associated with the operation. By remaining broad it would eliminate the operation of the turbines. They have a standard within the zoning ordinance. He then read the suggested the following replacement language:

**“No hazardous materials or wastes shall be discharged on the site of a commercial wind energy facility. If any hazardous materials or wastes are to be used on site, unless contained within the wind turbine itself, there shall be provisions for full containment of such materials or waste. An enclosed containment area, designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site may be required to meet this requirement. The wind turbine shall also be designed to prevent unauthorized access”.**

A motion to amend Condition #6 was brought forward by **Council President Hardy**, seconded by **Councilor Verga**, and voted 9 in favor, 0 opposed for the amendment.

In addition, **Council President Hardy** brought forward an added condition to further amend the motion, #14 which read: **“There shall be no temporary or permanent advertising on either turbine;”** which was seconded by **Councilor Verga** and voted 9 in favor, 0 opposed to add Condition #14.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to grant a Special Council Permit (SCP2011-005) to Equity Industrial Gloucester LLC pursuant to section 5.22 of the zoning ordinance for the operation of a commercial land-based wind energy conversion facility at 11 Dory Road Gloucester, MA, (Assessors Map 262, Lot 16) BP zoning classification, for two wind turbines with the following conditions:**

1. The turbines shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the following curtailment standards shall be adhered to in order to ensure insignificant flicker effect:

- Turbine #1 at location B shall not operate between 7:45 p.m. and 8:15 p.m. from May 15 through July 15;
- Turbine #2 at location A shall not operate between the hours of 7:00 p.m. and 7:45 p.m. from May 1 through August 15.”

**On October 25, 2011, the Gloucester City Council under the Consent Agenda amended these minutes by passing the following motion for the purpose of amending Condition #1 of SCP23011-005.**

**MOTION:** On motion by Councilor Ciolino, seconded by Councilor Whycott, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to AMEND the minutes of the regularly scheduled City Council meeting of October 11, 2011 related to the Special Council Permit (SCP2011-005) granted to Equity Industrial Gloucester LLC for the operation of a commercial land-based wind conversion facility at 11 Dory Road pursuant to Sec. 5.22 of the Gloucester Zoning ordinance by striking Condition #1 in its entirety which now reads:

“1. The turbines shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the following curtailment standards shall be adhered to in order to ensure insignificant flicker effect: Turbine #1 at location B shall not operate between 7:45 p.m. and 8:15 p.m. from May 15 through July 15; Turbine #2 at location A shall not operate between the hours of 7:00 p.m. and 7:45 p.m. from May 1 through August 15;”

and to **SUBSTITUTE** in its entirety the following language and curtailment table/schedule as the Amended Condition #1:

“1. The turbines (Turbine #1 and Turbine #2) shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the turbines shall not be operated in accordance with the following curtailment schedule to ensure insignificant flicker effect:

**Elimination of Shadow/Flicker Potential - Dates and Times at Residential Receptors**

Residential Receptors	Worst Case Flicker (Hrs/Yr)	Turbine #1 (Dates of Flicker)	Turbine #1 (Time Not to Be Operated)	Turbine #2 (Dates of Flicker)	Turbine #2 (Time Not to be Operated)
A	33	May 15 - July 25	5:45am - 6:15am	April 10-30 & Aug 10-31	6:00am - 6:45am
B	36	May 15 - July 15	5:30am - 6:15am	April 10-30 & Aug 10-31	6:00am - 6:45am
H	0				
I	60			May 15 - July 15	7:45pm - 8:15pm
J	38	May 1 - Aug 15	7:30pm - 8:00pm	May 1 - Aug 15	7:00pm - 7:45pm
K	0				
L	0				
M	50			May 15 - July 31	7:00pm - 8:00pm

2. The turbines shall be operated in a manner which does not exceed the noise limitations as set forth in Gloucester Code of Ordinances section 13-6 and 13-7.
3. To insure compliance with the ordinance the turbine equipment installed shall be a Gamesa G90 turbine with a hub height not to exceed 78 meters with the installation of a Gamesa Noise Reduction system which shall be configured with the following settings:

Turbine #1 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 103.6 dBA.

Turbine #2 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 102.8 dBA.
4. In the event the proponent selects a different make or model of wind energy turbine, the proponent shall seek a modification to this special permit prior to commencing any site work. Any change in the make or model of the wind energy turbine equipment shall include comparable noise reduction equipment and the default configuration settings shall be those that achieve the same or better noise reduction results as the Gamesa NRS configuration settings set forth above.
5. The applicant shall engage in a post-operation monitoring program. Once the wind turbines are operating, the proponent shall monitor sound levels at the Fuller School and Gloucester Crossing hotel site both with and without the wind turbines in operation, and with and without the noise reduction equipment in operation, to determine if the City's nighttime residential noise threshold of 50 dBA (*City of Gloucester Code of Ordinances*, Chapter 13, Sections 13-6 and 13-7, December 15, 1995) is being exceeded and if it is attributable to the wind turbines. Monitoring shall be conducted for a representative two month period or until sound levels are measured under the necessary wind speed and wind directions. Regardless of the post-operation monitoring findings, the noise reduction requirements as set forth in this permit shall be complied with.

The monitoring program shall be used to determine if further noise reduction measures should be required. The proponent shall submit its findings to the Planning Director. If the wind turbines generate noise above the threshold permitted under the ordinance, then the applicant shall immediately implement further noise reduction measures, and until such time as those measures are implemented the turbines shall not be operated during the hours set forth in section 13-7 of the Code of Ordinances.
6. No hazardous materials or wastes shall be discharged on the site of a commercial wind energy facility. If any hazardous materials or wastes are to be used on site, unless contained within the wind turbine itself, there shall be provisions for full containment of such materials or waste. An enclosed containment area, designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site may be required to meet this requirement. The wind turbine shall also be designed to prevent unauthorized access.
7. The operation and maintenance plan and landscape and lighting plan submitted shall be incorporated herein by reference and compliance therewith shall be a condition of the permit;
8. A copy of the project summary and site plan shall be provided to the police and fire departments.
9. The special permit is valid for 25 years unless extended or renewed. The turbines shall be removed at the end of the term.
10. As required by section 5.22.15 the applicant must submit a fully inclusive estimate of the costs associated with removal with a mechanism for cost of living adjustment after 10 and 15 years, the applicant shall provide surety at the time of construction to cover costs of the removal in the event the city must remove the facility.

**11. The turbine will be painted a non-reflective color.**

**12. All signs on the site shall comply with the plans approved and those plans are incorporated by reference into the special permit.**

**13. All utility connections shall be underground to the nearest utility pole or transformer.**

**14. There shall be no temporary or permanent advertising on either turbine.**

**For Council Vote:**

**1 of 3: Warrant for City Election**

**MOTION: On motion by Councilor Tobey, seconded by Councilor Whynott, the City Council voted 9 in favor, 0 opposed to approve the warrant for the City Election to be held November 8, 2011.**

The City Council then signed the warrant.

**2 of 3: CC2011-046 (Whynott) Adoption of Resolution re: H1972-An Act Regulating Election Primaries**

*This matter was taken up under Presentations.*

**3 of 3: CC2011-047 (Whynott) Commendation for GHS student Erin Pratt and Rebecca Lundy for their heroic rescue of several people caught in a rip tide**

*This matter was taken up under Presentations.*

**Unfinished Business: None.**

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

**Councilors' Requests to the Mayor:**

**Councilor Theken** stated Open Enrollment presentation is October 18<sup>th</sup> at the Rose Baker Senior Center. She also thanked the Charter Review team and Councilor Mulcahey whom she felt has done a phenomenal job in recommending updates to the City's Charter. **Councilor Mulcahey** thanked former City Councilor Ab Khambaty for his contributions along with Roz Frontiero, member of "Who Decides," as well as Tony Gross of the School Committee who kept their records who, in addition, acted as liaison between the Task Force and the School Committee. She thanked the City Councilors who contributed to the process and Linda Lowe for her work as well. **Council President Hardy** noted through the consent agenda a TIF for Gorton's, Inc. is being referred out to the B&F Committee and named Councilor Curcuru to the TIF Committee.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 10:32 p.m.**

**Respectfully submitted,**

**Dana C. Jorgensson  
Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- Statement and documentation from Donna Grinnell
- Memo of endorsement for the adoption of MGL c. 138, §12 pursuant to the City Council's adoption of liqueurs and cordials licenses from six Common Victuallers and Christopher Sallah, submitter of the memo
- Written statement by Mark Steele, CEO of Gloucester Engineering pursuant to the Special Council Permit for Dory Road #11
- Copy of statement by Richard Kleiman, representative of applicant in the Special Council Permit for Dory Road #11

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, October 11, 2011 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

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

**Absent:** None.

**Also Present:** Linda T. Lowe; Jim Duggan; Gregg Cademartori; Suzanne Egan; Sarah Garcia; Kenny Costa

The meeting was called to order at 7:05 p.m. Items were taken out of order.

**Flag Salute & Moment of Silence.****Oral Communications:**

**Joe Orange**, 16 Taylor Street, reacting to recent statements by the Town of Rockport that they want a road through the Babson Reservoir area, stated there was a process that they could not compromise on the Babson Reservoir by an access road through it from Rockport to Gloucester. He contended the City cannot live without Babson Reservoir, a precious resource. He asked that the City not consider this matter again. The first quarter mile of Babson Reservoir is underwater. The other quarter mile comes within 50 feet of the brook. If they lose 50% of the City's water, the City would be compromised.

**Donna Grinnell**, 145 Prospect Street, spoke of the need for removal of obstructions placed along Main Street, and violations and neglect of compliance of City Code 21-9, State Law MGLA c. 82 – 17 & 25, Federal Regulations 28 CFR Part 36:210. She had experienced several times difficulty navigating along Main Street that she deemed potentially harmful to her person, as she is disabled. A full text of her statement and attendant documents were placed on file.

**Presentations/Commendations:**

**Councilor Whynott** introduced Bill Campbell the City Clerk of Woburn to speak on H1972 which will move both the State and Presidential primaries to the same month in June. Mr. Campbell noted H1972 addresses the military or overseas voters as there is not enough time between the primary and actual election to get them back in time for Election Day. Federal law dictates that ballots are sent to military and overseas voters at least 45 days before a state or federal election. There are 11,691 military from MA and 3,800 spouses and countless numbers of residents who might be abroad in some other capacity. Focusing on the military personnel, in 2010, only 400 were counted. The solution was fax and email. Only 70 were fax and email. This bill he drafted was submitted in January 2011 and at public hearing in May it was well received and would make a recommendation to come out of committee but with redistricting it was delayed. He has been reaching out to all the City Clerks in cities and towns to consider this issue and if within their judgment they would endorse it and support the change. When you address one issue you see others and so took a broader approach. If the State could combine that primary with the presidential primary it would save the State an enormous amount of money as New Jersey and California are now doing. In 2008 the September primary and State primary and presidential primary cost the City of Woburn about \$4,000 to program their voting machines alone. There is no streamlining of business and that is not fair to the candidates. The plan is also to reduce voter fatigue to encourage voters to come out to vote and to also reduce security issues with the schools. The main goal is to allow for the military and overseas voters to be able to have their votes count. A number of communities have already adopted the resolution he had proposed in the last several weeks. It is to send a message to the Statehouse that this community supports this. There is still time to do make these changes and train poll workers. **Councilor Tobey** stated the norm now for State primaries is September, and with this bill it would move it to the first Tuesday in June. **Mr. Campbell** stated it would move both the State Primary and the Presidential primary to June. **Councilor Tobey** noted nationally the presidential primaries are to move them to the year before the election he wondered what the dynamic will be to move the state's later. **Mr. Campbell** would like to see a national primary on one date, but in 2008 they moved from March to February; and it turned out it was much later than February. **Councilor Whynott** noted the Presidential primary has the lowest turnout in the City. If it was the same day as the State primary he felt there would be more voters participating and a cost savings. **Linda**

**T. Lowe**, City Clerk, along with **Councilor Whynott**, stated that she supports Mr. Campbell's efforts. It will save an enormous amount of money for municipalities, and personnel efficiencies in clerks' offices with less duplication of effort; and improve voter turnout where more are likely to turn out in early June and is a commendable piece of legislation. Council President Hardy invited Councilor Whynott to move to adopt the resolution in favor of H1972 regarding election primaries.

**MOTION: On motion by Councilor Whynott, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (McGeary) absent to adopt the following resolution:**

**RESOLVED: whereas, according to the Department of Defense Federal Voting Assistance Program (FVAP), there are 11,691 active military duty Massachusetts residents residing overseas; and Whereas, for the November 2010 election, Massachusetts requested a waiver from a requirement of the Military and Overseas Voter Empowerment Act (the MOVE Act) to send absentee ballots to Americans overseas at least 45 days before an election "due to a late primary"; and Whereas, a report by the Secretary of the Commonwealth revealed that in the November 2010 election only 400 ballots from Massachusetts active duty military personnel stationed overseas were counted; and Whereas, the General Court is considering H1972 "An Act Regulating State Primaries" a bill that moves the state primary to allow Massachusetts residents residing overseas to vote privately and securely, and combines the presidential primary with the state primary to save taxpayers at least \$8,000,000.00; and Whereas, a number of states have moved their primary dates earlier in the year to comply with the federal MOVE Act and to provide relief to taxpayers by reducing the cost of elections; and Whereas, the Massachusetts state primary scheduled for September 18, 2012 stands alone as the last state primary in the country in 2012; and Whereas, in written testimony the FVAP concluded "passing HB1972 will significantly improve voter success for many military members, overseas voters, and their families"; and Whereas, HB1972 simplifies the election process, decreases the opportunity for "voter fatigue", reduces the cost of elections for taxpayers, and establishes fairness among candidates; Now, Therefore, Be It Resolved by the City Council of the City of Gloucester that the City of Gloucester supports the adoption of HB 1972 "An Act Regulating Election Primaries" pending before the 187<sup>th</sup> General Court of the Commonwealth of Massachusetts and directs the City Clerk to transmit a copy of this action to the municipality's State Delegation and to the Joint Committee on Election Laws.**

*By unanimous consent FOR COUNCIL VOTE 3 of 3: CC2011-047 (Whynott) Commendation for GHS student Erin Pratt and Rebecca Lundy for her heroic rescue of several people caught in a rip tide was taken out of order.*

**Councilor Whynott** noted Erin Pratt, a life guard at the Bass Rocks Beach Club, heard a woman's cry of distress, ran across the street, was met by Rebecca Lundy, a life guard at Good Harbor Beach, and she saved not only that woman but two children. It is wonderful when you have people do the opposite of what human nature tells you to do, that is to run away rather than into a dangerous situation, but risk their lives to save people. [Ms. Lundy was not in attendance.]

**MOTION: On motion by Councilor Whynott, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 8 in favor, 0 opposed to offer its sincerest congratulations to Erin Pratt in recognition of her serving as a lifeguard for Bass Rocks Beach Club at Good Harbor Beach on September 2, 2011; and having assisted in the rescue of Cheryl Borrelli, followed by the rescue of two young girls which prevented three possible drownings.**

**Councilor Whynott** asked Erin Pratt and her mother and father to join him at the podium, and then read the City Council commendation aloud and presented it to Ms. Pratt. The Council then personally congratulated Ms. Pratt individually during a brief recess.

**Consent Agenda:**

• **MAYOR'S REPORT**

1. Memorandum from Principal Assessor re: Tax Classification
2. Quarterly Report of the Clean Energy Commission

(Refer B&F)  
(Info Only)

• **COMMUNICATIONS/INVITATIONS**

1. Letter from Gloucester Rotary Club and Gloucester Rotary Foundation re: gift to City Stage Fort Park Playground 100<sup>th</sup>

- Anniversary project (Info Only)
- **INFORMATION ONLY**
1. Letter from Senator Tarr to City Clerk re: House Bill 1769 "An Act Relative to Double Poles" (Info Only)
  2. Thank you letter from Gerolama "Gerri" Lovasco re: 10<sup>th</sup> Year Celebration of the Fishermen's Wives Monument (Info Only)
  3. Press Release from Mayor re: Formation of a Fire Chief Selection Committee (Info Only)
  4. FY2011 Annual Report from Council on Aging filed with the Executive Office of Elder Affairs (Info Only)
- **APPLICATIONS/PETITIONS**
1. SCP2011-012: Pearce Island (73 Fernald Street), GZO §5.5.4 Lowlands (Refer P&D)
  2. SCP2011-013: Dale Avenue#10, Amendment of City Council Special Permit granted on May 23, 1974 pursuant to GZO §1.10.1 And §3.2.2(a) (Refer P&D)
  3. SCP2011-014: Pearce Island (73 Fernald Street), GZO §5.13.7.2 (PWSF Modifications) (Refer P&D)
- **COUNCILORS ORDERS**
1. CC2011-051 (Verga) Review "island" at the entrance of Beechbrook Cemetery (Refer TC & O&A)
  7. CC2011-052 (Theken/Tobey) Re: Update listing on Fisherman's Memorial Cenotaph by August 2012 (Refer to CC & Administration)
- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
1. City Council Meeting: 09/13/11 (Approve/File)
  2. City Council Meeting: 09/27/11
  2. Standing Committee Meetings: B&F 10/06/11 (under separate cover) O&A 10/03/11, P&D 10/05/11 (Approve/File)

**Items to be added/deleted from the Consent Agenda and Unanimous Consent Calendar:**

**Councilor Hardy** made note of the matter on the Unanimous Consent Agenda regarding a proposed TIF for Gorton's Inc.

**By unanimous consent the Council agenda and calendar was accepted as amended.**

**Committee Reports:**

**Budget & Finance: October 6, 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 in accordance with MGL Chapter 44 Section 64, to pay National Grid/GDF Suez under DPW Central Services 101000104995213 National Grid Account #40497-75004 Heritage Way dated 06/23/11 for \$1,027.27 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION:**

**Councilor McGeary entered the meeting at 7:34 p.m.**

**Councilor Curcuru** explained that this motion and the following three motions are all services that were rendered to the City which the DPW had overlooked the invoices for, and therefore they must be paid out of the FY12 DPW budget. Mark Cole, DPW Operations Manager explained that this was due to shortages in the School budget and assured they had enough money to cover these expenses in the FY12 budget.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed, absent, in accordance with MGL Chapter 44 Section 64, to pay National Grid/GDF Suez under DPW Central Services 101000104995213 National Grid Account #40497-75004 Heritage Way dated 06/23/11 for \$1,027.27 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

**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 in accordance with MGL Chapter 44 Section 64, to pay National Grid under DPW Central Services 101000104725211 National Grid Account #40983-61001 40 Blynman Avenue dated 6/23/11 for \$8,073.95 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed in accordance with MGL Chapter 44 Section 64, to pay National Grid under DPW Central Services 101000104725211 National Grid Account #40983-61001 40 Blynman Avenue dated 6/23/11 for \$8,073.95 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

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 in accordance with MGL Chapter 44 Section 64, to pay Suez/GDF under DPW Central Services 101000104725211 Suez/GDF Account #8846705000 30 Cherry Street dated as of 7/11/11 for \$12,817.93 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed in accordance with MGL Chapter 44 Section 64, to pay Suez/GDF under DPW Central Services 101000104725211 Suez/GDF Account #8846705000 30 Cherry Street dated as of 7/11/11 for \$12,817.93 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

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 in accordance with MGL Chapter 44 Section 64 to pay National Grid under DPW Central Services 101000104725211 National Grid Account #42238-10330 40 Blynman Avenue dated June 21, 2011 for \$2,441.31 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.

**DISCUSSION:**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed in accordance with MGL Chapter 44 Section 64 to pay National Grid under DPW Central Services 101000104725211 National Grid Account #42238-10330 40 Blynman Avenue dated June 21, 2011 for \$2,441.31 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget.**

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 in accordance with MGL Chapter 44 Section 64 to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #73766034 dated 08-09-10 for the Rose Baker Senior Center Alarm Monitoring for \$214.71 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.

**DISCUSSION:**

**Councilor Curcuru** explained that the next two motions are for the alarm monitoring for the Rose Baker Senior Center. The contract with this company has subsequently been terminated now that a new wireless system for the City is in place which is why one is pro-rated to \$214.71. Both were for services rendered in FY11 without purchase orders in place and are to be paid out of the FY12 DPW budget. There was concern without the purchase order in place and did receive the bills.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to recommend to the City Council in accordance with MGL Chapter 44 Section 64 to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #73766034 dated 08-09-10 for the Rose Baker Senior Center Alarm Monitoring for \$214.71 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.**



**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 in accordance with MGL Chapter 44 Section 64, to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #7399062 for the Rose Baker Senior Center Alarm Monitoring for \$519.00 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.

**DISCUSSION:** None.

**MOTION:** On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to recommend to the City Council in accordance with MGL Chapter 44 Section 64, to pay Simplex Grinnell under Central Services 101000104725211 for Invoice #7399062 for the Rose Baker Senior Center Alarm Monitoring for \$519.00 for expenses incurred in the prior fiscal year by the Department of Public Works to be paid with funds from the current DPW FY2012 Facilities Budget and with no purchase order in place.

**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 Graf Leasing under Central Services 101000104725211 for Invoice #38746 for storage unit leasing for \$60.00 with no purchase in place.

**DISCUSSION:**

**Councilor Curcuru** stated this invoice was for a leased storage unit and while the purchase order came through on July 20<sup>th</sup>, the invoice came in dated July 16<sup>th</sup>. This is to enable payment to the leasing company under these circumstances.

**MOTION:** On motion by Councilor Hardy, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to pay Graf Leasing under Central Services 101000104725211 for Invoice #38746 for storage unit leasing for \$60.00 with no purchase in place.

**Councilor Curcuru** explained to the Council that the following two motions are for the Affordable Housing Trust disbursements. The B& F Committee discussed these two disbursements with Sarah Garcia at their meeting and asked that representatives from each of the projects be available for questions from the Council.

**MOTION:** On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the funding of the request by the Affordable Housing Trust Committee for the Action Inc.'s Home Together Project at 26 Marsh Street for \$40,000 for architectural and engineering.

**DISCUSSION:**

**Sarah Garcia**, Community Development Director noted Peggy Hagerty-Steck and Tim Reilly both of whom were with Action, Inc., and stated the Affordable Housing Trust (AHT) had recommended this project for funding which reflects the AHT making new rental units available for people in Gloucester. They recommended \$10,000 for each unit to be built (a total of four) in show of local support. Residents of Marsh Street, where this proposed four-unit residence for homeless families will be located, met with Councilor Curcuru, and at that meeting they expressed their support. **Tim Reilly**, Executive Director of Action, Inc. noted the land on Marsh Street was purchased a year ago by them. This land was previously permitted with a Special Council Permit to be developed for five units but never came to fruition. Their purpose is to develop four units of affordable housing using the same footprint as the originally proposed five unit project, but decrease the number of units to two duplexes which is more of a family living type of setting on the property. Concern originally expressed with regard to the Special Council Permit was the screening of the dumpster. Each individual family will have their own trash receptacles. **Councilor Curcuru** explained he had a ward meeting where there was positive contact with the neighbors. **Mr. Reilly** continued Action, Inc. is appreciative of the support of the AHT for \$40,000. They have applied for HUD home funds for \$400,000 for construction and are already starting the foundation site work this week. This is for very low income families who are without homes. These are people likely to come from short-term subsidy situations to these two bedroom units

for a more permanent housing solution. There is a large waiting list for such units. **Councilor Curcuru** noted these are rental units which **Mr. Reilly** agreed. **Councilor Curcuru** asked how the AHT makes the determination to get the funds. **Ms. Garcia** stated they've funded new housing units and funded Central Grammar to recapitalize their units and make them affordable for another 30 years which the AHT felt made it worth the \$50,000 to subsidize them and significant enough that the State gave tax credits to make it work. They have not turned down anyone to do new units. They turned down a feasibility study as the preference is to create units. They've had some inquiries for projects proposing to buy homes and make them affordable housing. The AHT would listen to such applications but none have yet to come forward. They have encouraged affordable housing developers in the region to talk to the AHT as well as encouraged the affordable living component at Gloucester Crossing for assisted living. They try to stay in sync with the City's affordable housing plan. She spoke of the CDBG housing plan's recent study.

**Councilor Curcuru** asked when Action believes they'll begin construction for this project. **Mr. Reilly** stated he thought it would be next spring. The state funding should come through in January and be available in the spring also. This development is primarily for families. Councilor Curcuru commented in this economy everyone is one paycheck, one accident away from finding themselves homeless. **Councilor Tobey** understood this is not a 40B application or project, but noted in the AHT minutes some discussion of 40B, a consolidated and expediting permitting process favoring approval of projects that include dedicated affordable housing as the community has less than 10% in affordable category. He asked what constitutes an affordable unit. **Ms. Garcia** stated it is a deed restriction between 15 years and permanent in terms of counting for the State's inventory. What has hurt the City is that the State does not count Section 8 vouchers. **Councilor Tobey** stated it has to be dedicated in writing through a legal instrument, and asked what percentage of the City's housing stock has this element. **Ms. Garcia** thought it was around 800 units or 7.8%. She has looked at it in the recent past as has project manager, Sandra Shea.

**Councilor Tobey** noted Section 8 works very well and is an important economic driver. He then asked how many Sec. 8 units there are. **Ms. Garcia** stated it is hard to get an exact number from the Housing Authority as vouchers given out could be used in other communities and often are. She thought it was around 500. **Councilor Tobey** stated assuming around 500 and it came with a deed restriction, would that take the affordable stock over (the state percentage needed by the community) which **Ms. Garcia** stated it would. **Councilor Tobey** asked if they have reached out to landlords to see if they would do such a deed restriction which **Ms. Garcia** acknowledged she would look into. **Councilor Hardy** asked about the previous Special Council permit on the property; would the new owners of the property have to come in for a modification of the Special Council Permit as it was for five units with conditions. **City Solicitor Suzanne Egan** responded she'd have to look at the permit; a change in ownership would not trigger it; but any change in the construction plan could trigger that modification. They'd go to the Building Inspector and then the Planning Director for guidance. **Councilor Hardy** asked if a vote this evening would be appropriate without such a modification. **Attorney Egan** stated it would be appropriate whether or not an amendment to a special permit is needed. **Councilor Hardy** asked about the condition of the Special Council Permit that indicated the dumpster would go on the property; now that it is four units; the concern of the neighbors at the time was that it would be hidden. Another concern was the buffer of the trees between the highway and the housing is honored. **Mr. Reilly** stated they would honor that tree buffer. They did go to the building inspector on the redesign and was his opinion that as long as they didn't change the footprint of the plan that they were all right. Each unit would have its own trash receptacles. **Councilor Hardy** noted that another Special Council Permit condition related to the nearby boatyard, and that this property is not to be used as an extension of such; which **Mr. Reilly** stated they would also honor that condition. These families, he stated, would likely not own boats, regardless. **Councilor Hardy** also inquired about snow removal, and **Mr. Reilly** confirmed Action Inc. would be responsible for the snow removal within the boundaries of the property.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to fund the request of the Affordable Housing Trust Committee for the Action Inc.'s Home Together Project at 26 Marsh Street for \$40,000 for architectural and engineering.**

MOTION: On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 1 in favor, 2 (Curcuru, Hardy) opposed to recommend to the City Council the funding Gardiner & Company – 10 Taylor Street Project for \$30,000 for Construction.

#### **DISCUSSION:**

**Councilor Curcuru** expressed to the Council that he had voted last year at the CPA Funding public hearing against the Taylor Street project. At the time, he didn't believe it was a good project. It was supposed to have broken

ground in February 2011; and that there is a glut for this type of housing currently. He believed there are too many questions on the project itself and would vote no on the project's receiving the funding at this time. These units are for sale, which is different from Action, Inc.'s project. **Ms. Garcia** stated the AHT voted \$30,000 towards this project. The Gloucester Housing Authority (GHA) has been a proponent of this project and has a contract with Carl Gardiner, the developer, who **was** the sole bidder. They have sought funding from three sources. Right now it is a vacant lot, and is proposed for a three unit condominium unit and is the same project seen last year at the CPA. The AHT is new funding that was part of the pro forma given at the CPA. **Councilor Verga** asked about the units' market pricing now. **Carl Gardiner**, 9 Woods Lane, Ipswich, developer of the 10 Taylor Street project stated the \$30,000 was voted and approved by the AHT in February 2010 and were the first entity to step forward. There is a total of \$200,000 in subsidies. There is also a discount, for the lot, \$5,000. The pricing is aggressive – 60%-70% of median income. Two 2-bedroom plus units will be \$125,000 at 1,400 sq. ft. and the one handicapped unit will be \$90,000, at 932 sq. ft. The flooring will be hardwood in the first floor with tile baths and entry ways. These would be market rate unit construction as well as energy star rated construction with energy efficient windows and historical detail on the exterior. **Councilor Ciolino** noted the last time Mr. Gardiner appeared before the Council he had asked if for some reason Mr. Gardiner defaults, who then owns the property. **Mr. Gardiner** then stated it was the bank. **Councilor Ciolino** responded that the last time he answered it would be the GHA. **Mr. Gardiner** explained the GHA wanted a default return of property to them, but no bank would subsidize based on that agreement in place. There is an agreement called a "Disposition Agreement", or a "reverter" in place which says that BankGloucester will get title if there is a default, and that any funding not used will go to the GHA to finish the project to which the funding authorities agreed. The parties have agreed in advance to cooperate. Once he takes on the property a deed restriction will be in place for 99 years which can't be wiped out by foreclosure. **Councilor Ciolino** asked who has the document. **Mr. Gardiner** stated the document has been vetted and signed by the funding entities, North Shore Housing Consortium, the CPA. Mr. Gardiner stated they're not fully executed yet. **Councilor Ciolino** expressed his concern with this arrangement as it was now different than before, and now he is before the Council for more funding. **Mr. Gardiner** stated it is the project that gets the money. **Councilor Ciolino** asked if Ms. Garcia was comfortable with this. She stated the funding is contingent that the project obtains outside funding. The AHT, since this is privately owned, conditioned that the GHA will do an audit of the project and before the last 20% is put in they'll know it cost what they said it would. If not it would revert back to the Trust. For the \$30,000, specific pieces of the project are being paid for; and project managers on both sides are experienced, Deborah Laurie of the Community Development Department and Sandra Shea, of the GHA; and felt they've done all they could to support the GHA to get this property developed. She confirmed she was comfortable for the Council voting for this. George Sibley, Chair of the AHT apologized for his absence through Ms. Garcia. **Councilor McGeary** expressed concern at the great length of time it is taking to bring the project to fruition and asked why. **Mr. Gardiner** stated it couldn't go forward until everything was in place with the subsidies as far as the bank was concerned. They are awaiting this piece to come forward. The bank wants the subsidies to be spent first. He indicated he wanted to start in February 2011 but was naive about the timeframe to get all components in place. They had to come up with the alternative agreement with all the funding entities in place. The affordable housing restriction had to be modified and made compatible between HUD and the North Shore Consortium which he found out about only in late August. **Councilor McGeary** stated if in the worst case he defaulted, anyone who took over that property would have to build affordable housing. **Mr. Gardiner** stated if he closes on the property, then the deed restriction goes into place. If he was not there, the bank would have to work with the funding entities to get the project built. If he doesn't finish the project, but most of the subsidies will have been expended and then he defaults, then whatever remains of bank funding, the bank has agreed to disburse those funds to the Housing Authority to finish the project. **Councilor McGeary** asked him to outline other projects he'd been involved with. **Mr. Gardiner** described himself as self employed as a developer since 1987. He's done a four-unit project of affordable housing in Ipswich in early 2000's; in 2004 he did a two-unit project and finishing another in Groveland. He also listed a variety of luxury housing units he has done on the North Shore. **Councilor McGeary** asked Councilor Verga about the housing prices proposed (Councilor Verga being in the Real Estate business as a Realtor). **Councilor Verga** thought them questionable for fair market value. He didn't see the market recovering that quickly and thought the pricing off making it a questionable investment in his estimation. **Councilor McGeary** thought public funds make it more constructible. Part of this process is to guarantee a return on the labor and investment. The package he put together guarantees a reasonable return on his effort – he needs those prices even after all the subsidies to make what he said he needs. **Mr. Gardiner** stated he wanted to have the right to cut prices further if necessary. He has the right to defer income to sell it. As to the pricing, he felt it was "legitimate". The pro forma had them higher. The lower the price, the more people come into the market and meet the criteria. Appraisals were done in February last year and most recently in the last few weeks on the unrestricted units and didn't know those figures from BankGloucester's

most recent appraisal. **Councilor Curcuro** noted the project's receipt of \$110,000 CPA money, and \$30,000 from the AHT. He asked what Mr. Gardiner was getting out of the project as the Councilor believed the more subsidies, the more Mr. Gardiner can make on this project. **Mr. Gardiner** didn't know what he would make on this project at this time. The pro forma says \$55,000. **Councilor Curcuro** asked if this money comes off the top before being sold. **Mr. Gardiner** stated he would get the money up front. He is being paid for his time for building this project. **Councilor Curcuro** stated the bank is a new wrinkle. He had said that if the project goes "belly up", the bank would have had to take it on. **Councilor Curcuro** reiterated his concern and would not vote for this tonight. **Councilor Ciolino** would wish to continue this matter and have someone from the GHA and BankGloucester speak to the Council to explain the default situation. **Councilor Tobey** expressed confusion by the animosity he heard this project has drawn on several occasions, and stated if someone can't make payments, the bank forecloses. He didn't see the need for this to go back to B&F or postpone the vote. **Councilor Ciolino** responded in the first go around the GHA would end up with the property and now it is BankGloucester. He felt the matter could wait another couple of weeks. **Councilor Tobey** asked if this matter was continued would he be willing to have his attorney speak on his behalf. Mr. Gardiner stated he would not as he could not afford to do so.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Curcuro, the City Council voted BY ROLL CALL 3 in favor, 6 (Verga, Whynott, Hardy, McGeary, Mulcahey, Tobey) opposed to continue the matter of the 10 Taylor Street Project funding of \$30,000 from the Affordable Housing Trust to the next regularly scheduled City Council meeting.**

**MOTION FAILS.**

**MOTION: On motion by Councilor Curcuro, seconded by Councilor McGeary, the City Council voted 6 in favor, 3 (Verga, Curcuro, Hardy) opposed to fund the request of the Affordable Housing Trust Committee for the Gardiner & Company – 10 Taylor Street Project for \$30,000 for Construction.**

**Councilor Tobey** noted there is a crisis of confidence on this project. The Council can rescind their vote if there is a problem going forward; and therefore, he asked that the Community Development Director to keep her eye on the project. **Councilor Theken** also agreed in receiving the report even though she had faith in the people appointed to the AHT and the Housing Authority. She expressed her endorsement of affordable housing.

**MOTION: On motion by Councilor Tobey, seconded by Councilor Theken, the City Council voted 9 in favor, 0 opposed to have the Community Development Director through the Office of the Mayor submit bi-monthly reports on the progress or lack thereof on the 10 Taylor Street 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 City Council to accept under MGL c. 44, §53A a grant funding extension from Health Resources in the amount of \$30,000.**

**DISCUSSION:**

**Councilor Curcuro** stated this is the second half of the year's Get Fit Gloucester! funding which pays for the Project Manager's salary and that administrative cost are accounted for.

**MOTION: On motion by Councilor Curcuro, seconded by Councilor Theken, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to accept under MGL c. 44, §53A a grant funding extension from Health Resources in the amount of \$30,000.**

**Councilor Theken** requested an update on Get Fit Gloucester! from Stephen Winslow. Council President Hardy stated this request would be sent to the Office of the Mayor.

**Ordinances & Administration: October 3, 2011**

**There were no matters for Council action from this meeting.**

**Planning & Development: October 5, 2011**

**There were no matters for Council action from this meeting.**

**Councilor Ciolino** noted that there is a correction to a motion on one of the two motions passed by the Planning & Development Committee at their meeting of October 5, 2011 regarding a Special Council Permit for Prospect Street #27. The motion read as follows:

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 grant Kayleen Reilly and Barbara Reilly Cohen a Special Council Permit (SCP2011-010) for the property located at Prospect Street #27, (Assessors Map 15, Lot 40) zoned R-5 (High Density Residential), pursuant to §1.8.3, §1.10.1 and §3.16 of the Gloucester Zoning Ordinance for building height in excess of 35 feet but not more than 36 feet, the height of the existing building.

The Councilor wished to clarify the height exception and offered one for that purpose. However, **Council President Hardy** noted that under the Gloucester Zoning Ordinance, the Zoning Board of Appeals grants height exceptions from 30-35 ft. The Council grants a height exception for anything over 35 ft. If the property comes to the Council, then the Council has to do the exemption from 30 ft. to whatever the actual height will be. She then offered another amendment in further correction making the one offered by Councilor Ciolino moot, by stating it should read, “an exemption of six feet [from the 30 ft. limit] not to exceed 36 feet.” This then became the main motion on the table to amend the P&D Committee’s motion on height exception and was voted upon by the Council.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to amend the P&D motion made regarding a Special Council Permit (SCP2011-010) by Kayleen Reilly and Barbara Reilly Cohen for the property located at Prospect Street #27, (Assessors Map 15, Lot 40) zoned R-5 (High Density Residential), pursuant to §1.8.3, §1.10.1 and §3.16 of the Gloucester Zoning Ordinance for building height with an exemption of six feet, not to exceed a building height of 36 feet, as voted by the City Council on October 11, 2011.**

**Scheduled Public Hearings:**

1. **PH2011-061: Amend GCO Sec. 22-287 (Disabled Veteran, Handicapped Parking) by ADDING “one (1) Handicapped parking space to be placed in front of Clifford Court #8**

**This public hearing is opened.**

**Those speaking in favor:**

**Sal Gilardi**, 8 Clifford Court expressed his support for the establishment of the handicap parking space as it was his wife who had made the request.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions: 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 (Handicapped Parking) by ADDING one (1) handicapped parking space in front of Clifford Court #8.

**DISCUSSION:**

**Councilor Theken** stated this had the unanimous support of the Traffic Commission.

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-287 (Handicapped Parking) by ADDING one (1) handicapped parking space in front of Clifford Court #8.**

2. **PH2011-062: Amend GCO §22-287 (Disabled Veteran, Handicapped Parking) by ADDING “one (1)**

**Handicapped parking space to be placed in front of Prospect Street #122**

**This public hearing is opened.**

**Those speaking in favor:** Cora Brown, #122 Prospect Street, the requestor, stated she is unable walk more than 20 yards. While her property has a small driveway, it is not big enough to get in or out of her car due to her handicap. She asked the Council for the spot to be created. The recommendation of the Traffic Commission was that it be established across the street from her home rather than in front of it.

**Those speaking in opposition:** None.

**Communications:** None.

**Questions:** 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 (Handicapped Parking) by ADDING one (1) handicapped parking space to be placed in front of Prospect Street #115.

**DISCUSSION:**

**Councilor Theken** related this creation of a handicapped parking space received the endorsement of the Traffic Commission

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-287 (Handicapped Parking) by ADDING one (1) handicapped parking space in front of Prospect Street #115.**

3. PH2011-063: Amend GCO §22-270 (Parking Prohibited at all Times) re: Leonard Street

4. PH2011-064: Amend GCO §22-291 (Tow Away Zone) re: Leonard Street

**These public hearings are opened.**

**Those speaking in favor:**

**Tom Hooper, 5 Arlington Street** representing the Annisquam Village Church referred to the three parking spaces off street and that the Traffic Commission supported this move to add the three spaces to be made available to their parishioners as parking in that area is difficult even in the best of circumstances.

**Those speaking in opposition:** None.

**Questions:** None.

**These public hearings are 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 §22-270 (Parking Prohibited at All Times) AND GCO §22-291 (Tow Away Zone) by DELETING Leonard Street westerly side from its intersection of Bridgewater Street north to its intersection of Nashua Avenue opposite the Village Church on Washington Street AND ADDING Leonard Street westerly side from its intersection with Nashua Avenue opposite the Village Church north to its intersection with Dennis Court and from a distance of 100 feet from Dennis Court to its intersection with Bridgewater Street.

**DISCUSSION:**

**Councilor Theken** expressed her support of the Traffic Commission's positive recommendation. **Councilor Hardy** explained that the neighborhood behind the Annisquam Village Church at the beginning of Leonard Street was looking for additional parking. The Traffic Commission visited the affected area along with the Fire Department and Village Church parishioners. The Commission could allow three additional spaces amounting to the measurements as noted in the Commission minutes. She asked for the Council's support with the two motions going forward.

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-291 (Tow Away Zone) by DELETING Leonard Street westerly side from its intersection of Bridgewater Street north to its intersection of Nashua Avenue opposite the Village Church on Washington Street AND ADDING Leonard Street westerly side from its intersection with Nashua Avenue opposite the Village Church north to its intersection with Dennis Court and from a distance of 100 feet from Dennis Court to its intersection with Bridgewater Street.**

**MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO §22-270 (Parking Prohibited at All Times) by DELETING Leonard Street westerly side from its intersection of Bridgewater Street north to its intersection of Nashua Avenue opposite the Village Church on Washington Street AND ADDING Leonard Street westerly side from its intersection with Nashua Avenue opposite the Village Church north to its intersection with Dennis Court and from a distance of 100 feet from Dennis Court to its intersection with Bridgewater Street.**

**5. PH2011-065: Adoption by City Council regarding subparagraph 15 of MGL c. 138, §12 re: selling Liqueurs and Cordials**

**This public hearing is opened.**

**Those speaking in favor:**

**Christopher Sallah**, representing Sugar Magnolias and six other Common Victuallers (memo of endorsement signed by the six Common Victuallers and Mr. Sallah submitted and on file), 56 Hilltop Road stated they're requesting that the Council adopt a third or middle classification of alcohol license which would add cordial type or liqueur to the beer and wine grouping so restaurants could choose one of three types which would best suit their business and would add a new, limited income stream. In difficult economic times with Gloucester's "burgeoning" restaurant community, they believe this should be a logical and positive step for businesses wanting to expand but not be overwhelmed by a major expansion. From his limited research, he found no negative results in Essex County to those communities who adopted this. **Attorney Michelle Harrison**, Chair of the Licensing Board advised that the Licensing Board has taken a position in support of the requested acceptance of paragraph 15, of MGL c. 138, §12. The acceptance of this paragraph will allow a licensee who has a Common Victuallers license and who has a beer and wine license ("malt and wine") to then sell cordials and liqueurs. If the Council accepts this paragraph, the licensee, after public hearing notice/advertisement and public hearing before the Licensing Board, gets approval from the Licensing Board to add cordials and liqueurs to their beer and wine license, they'd also need approval by the ABCC. She assured the Council that it is very carefully permitted. The Board looked at other cities in the area that have accepted this portion of c.138. Beverly has six beer and wine licenses and only one has sought a cordials and liqueurs license; Salem has all eight year 'round beer and wine licensees and only two have sought a cordials and liqueurs license. She didn't feel the impact will be strong in that they're not increasing how much alcohol will be served in Gloucester, but to allow assistance to some licensees to improve their sustainability and encourage the downtown restaurant atmosphere. Gloucester has seven year 'round beer and wine licenses and three seasonal beer and wine licenses. Mr. Sallah has gotten support from at least seven of them. The Board, if the City Council chooses to adopt this paragraph of c. 138, is recommending there be a fee increase. Right now a year 'round beer and wine license is \$1,500. The Board is suggesting that be increased to \$2,000. A seasonal beer and wine license is \$750, and the Board suggests an increase to \$1,000.

**Those speaking in opposition: None.**

**Linda York-Robbins**, 132 Western Avenue asked if this request is prompting the increase for the year round liquor license, or was that instituted anyway. On inquiry by **Council President Hardy** as to whether the fee increases are in front of the Council at this time, **Attorney Harrison** stated the fee increases are not. However, seasonal and all alcohol licenses were increased by the City Council in June prior to this petition coming before the Licensing Board. The fees they're asking to be increased is for someone holding a beer and wine license who wishes to add cordials and liqueurs; but the Council has to decide to add the cordials and liquors first; and then B&F would have to decide an increase in those fees as recommended by the Licensing Board [to be adopted by the Council after a public hearing]. **Ms. Mocerri**, of Café Dolce asked a question of the Council which Councilor Theken interpreted in Italian. The Councilor noted for Ms. Mocerri the difference between a full liquor license; and a beer and wine license enhanced by liqueurs and cordials. The Councilor explained Ms. Mocerri has a full liquor seasonal license and informed Ms. Mocerri she doesn't have to apply for an extension for her license to serve cordials and liqueurs.

**Communications: None.**

**Questions:**

**Councilor Ciolino** asked about the difference of the definition of a liqueur and a hard liquor. **Attorney Harrison** named several cordials and liqueurs such as Sambucca, Crème De Menthe, and Lemoncello versus vodka or bourbon which are considered “hard” liquors. She noted the ABCC website has a whole list of all of the liquors and cordials that are permitted under this license. There is a control in place that defines this. She would provide it to the B&F Committee when the fees increase come up. The Licensing Board does not determine the kinds of liquors. **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 adopt MGL c. 138 §12, [paragraph 15] as follows:

“In any city or town which votes to accept the provisions of this paragraph, a common Victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all other licensing provisions of this chapter.

**DISCUSSION:**

**Councilor Theken** stated her belief that for some restaurants there might be some interest in pursuing an added liqueurs and cordials license and that it should be made available. You have to apply and go through a process through the Licensing Board and the ABCC. This isn’t automatic. It is not handed to someone with a liquor license. **Councilor Tobey**, at **Council President Hardy’s** prompting, recounted for the Council that he had requested at the O&A Committee, at the suggestion of Attorney Harrison, that the City Clerk’s office reach out to the holders of year round licenses to find out if there were any objections from that sector. **Council President Hardy** noted she and several Councilors did field telephone calls regarding this matter, but all, once cognizant of the facts, expressed their support. **Councilor Ciolino** expressed his support noting in hard economic times it is a good thing to help restaurateurs to thrive.

**MOTION:** On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted **BY ROLL CALL 9** in favor, 0 opposed to adopt MGL c. 138 §12, [paragraph 15] as follows:

“In any city or town which votes to accept the provisions of this paragraph, a common Victualler, who holds a license under this section to sell wines and malt beverages may, upon written approval, also sell liqueurs and cordials pursuant to said license, subject, however, to all other licensing provisions of this chapter.

**The Council recessed at 9:14 p.m. and reconvened at 9:19 p.m.**

**6. PH2011-048: SCP2011-005: Dory Road #11, GZO §5.22 Commercial Land-Based Wind Energy Conversion Facilities**

**This public hearing is opened.**

**Those speaking in favor:**

**Rich Kleiman** appeared on behalf of the Gloucester Engineering Wind Energy Project, as well as Gloucester Engineering and Equity Industrial Partners. He noted the presence of CEO, Mark Steele, of Gloucester Engineering and senior partners from Equity Industrial Partners, the property owner of the site, Bruce Levine and Hunter Emerson and their attorney Jonathan Klavens.

*Project Goals:* This is a wind installation at the Gloucester Engineering site in Blackburn Industrial Park at 11 Dory Road for two wind turbines up to 2 MW each are proposed to be privately financed, built, operated and maintained on private land. The City’s role in this project as a partner would be limited to receiving net metering credits through National Grid, the electrical distribution company, consistent with the Green Communities Act and the net metering regulations and tariffs that go along with that. There would be no liability to the City associated to the development and operation with this wind project. The projects goals are to offset the City’s use of fossil fuels with green, renewable energy; provide the City with a new revenue stream and advance its clean energy mission; stabilize Gloucester Engineering’s energy costs to help increase local jobs and tax base; minimize the City’s level of effort and eliminate the city’s liability and risk as this project is on private land and privately financed, owned and operated.



*Benefits to the City of Gloucester:* This is a new revenue stream for 25+ years. The City would receive net metering payments on a monthly basis which would appear on the National Grid bills. The City receives new property tax revenues based on an assessment, or a PILOT (payment in lieu of taxes) that would be agreed to. The total project revenue as projected is greater than \$2.1 million based on the current net metering rate. The City would start out with \$118,000 in Year 1 that includes the property tax portion, and ramping up to approximately \$219,000 per year in the out years.

*Benefits to Gloucester Engineering:* Gloucester Engineering will experience reduced energy costs stabilizing its balance sheet; helping the company retain/increase local jobs and contribute to the local tax base; stabilize their energy supply during peak usage such as when rolling “brown-outs” have occurred, affecting productivity. They have had numerous community consultations to date (as shown below). They have met with and discussed the project with Mayor Kirk and her Administration; City Council; Jim Duggan; Suzanne Egan; Sarah Garcia; Jeff Towne; Gregg Cademartori; the Clean Energy Commission and the EDIC.

- April 13 Councilor McGeary hosted a neighborhood meeting. The response was very positive.
- Late April: Councilor McGeary canvassed the neighborhoods around the project site to very positive responses.
- April 27: the Clean Energy Commission voted unanimously that the City further its investigation into the project.
- May 10: City Council held its Pre-Application Conference.
- July 20: P&D Committee began its review of the Special Council Permit application. During that process the City hired a third party review consultant, HMMH. It was noted that Stephen Barratt from HMMH was present at the Council public hearing.
- August 13: A balloon test was conducted as a helicopter test (photos on file) took place with the helicopter hovering at the blade tip height of approximately 404 ft. high and noted the tower will be approximately 259 ft. high. There was proper public notice of that helicopter test.
- August 17: ConCom issues a negative determination on a Request for Determination of Applicability. In this case, a negative determination is in essence an “approval” of the project.
- August 18: Planning Board approved a Watershed Protection special permit for the project under the GZO.
- October 5: P&D Committee completed its review of the project and recommended the project to the full Council with conditions.

*Review of some key technical analyses:*

- *Visual:* The visual photo simulations were conducted by Saratoga Associates using scaled and geo-referenced images used to simulate appearance of the turbines from different select vantage points selected in advance by the P&D Committee and the Council (on file). The result was that the turbines were difficult to see from most vantage points; not more than a blade from most residential areas.
- *Shadow/flicker:* This is a phenomenon where the sun shines through the spinning turbine blades usually at the very early morning hours or end of the day when the sun is at a certain angle in a certain season. An assessment was conducted by the Cadmus Group using specialized analytical software. HMMH reviewed their results, the City’s review consultant and affirmed by them. The potential shadow/flicker is limited largely to the industrial park. Using the control equipment included with the proposed turbines, the turbines will be programmed to shut down during times when there is potential for impact to residential units. Therefore, no residential areas should be affected by shadow/flicker which is their goal. They have worked with the P&D Committee on a condition which addresses it.
- *Sound assessment (noise):* Conducted by Epsilon Associates, and reviewed by HMMH, the sound levels were monitored at representative locations to determine background sound conditions. Turbine sound levels were modeled using specialized computer software to estimate worst case sound effects above background. These sound levels were then compared to both City and DEP regulatory standards/regulations and were found to comply with the City noise ordinance and State regulations. The City’s Planning Director and City Solicitor confirmed this at the P&D Committee meeting on October 5<sup>th</sup>.
- *Recap:* This project would substantially benefit both the City and a significant local employer and taxpayer, Gloucester Engineering. The City’s participation in the wind project will result in generation of green, renewable energy that roughly matches the City’s use of fossil fuel-generated energy. Potential impacts are considered a minor and (other than some off-site views) limited to the industrial park.

**Mark Steele**, CEO of Gloucester Engineering (copy of statement submitted at meeting and on file) stated on behalf of Gloucester Engineering, its employees, many of whom are community residents, are happy to partner with the City to host a wind generation project at their facility. They are pleased to be able to work with City officials as the project proceeds. They are grateful for the opportunity to support Equity Industrial Partners who have worked diligently to help keep Gloucester Engineering in the community, and who have worked tirelessly to advance this project. He believed Equity Industrial played a valuable partner role with their investors at Blue Wolf Capital and has continued to demonstrate their support of Gloucester Engineering. The project helps to aid Gloucester Engineering's competitiveness, demonstrates their commitment to sustainability, to the environment and to advanced power generation technology. This project will reduce their energy costs, improve energy supply reliability, and offers the potential to reduce brown outs. They have experienced reliability issues that have affected their productivity and costs in the past. This project allows them to continue to compete and helps them to continue growing the company. They are pleased to be a part of Gloucester's progressive power efforts and expressed his company's support of the project.

**Hunter Emerson**, Equity Industrial Partners, Needham, MA stated wind energy is the fastest growing renewable energy source in the U.S., growing by 20% annually over the last decade. In 2008 it had grown by 25,000 MW in wind energy capacity. Wind energy, in addition to being clean, will play a major role in the effort to reduce or eliminate the country's dependence on foreign oil. They have a great interest in playing a role in this energy initiative; and just as importantly to expand an excellent working relationship with the City. A little over a year ago they worked closely with City officials and the eventual buyers of Gloucester Engineering, Blue Wolf, to structure a deal to ensure Gloucester Engineering remained a viable and significant long-term employer in Gloucester going forward. In forming this partnership with the City and Gloucester Engineering, they view this a good example of a public/private partnership which successfully promotes green energy, energy independence and look forward to being involved with the City in one of the first projects of this type in the State.

*Setbacks:* **Mr. Kleiman** noted a site map (on display and not submitted to the Council at the meeting already on file) for Turbine #1 and #2 pointing out setbacks from the public ways and the closest buildings and property lines which meet the City's zoning ordinance requirements. They are over 153 ft. to the closest public way for Turbine #1 which is located closest to Dory Road, in the parking lot outside of any wetland resource areas or buffers as affirmed by ConCom; Turbines #1 and #2 meet that standard. The by-law states that you have to be more than 50 ft. from the closest building; and Turbine #1 is 153 ft. to the Gloucester Engineering building; and Turbine #2 is approximately 170 ft. from the nearest building which is a shed behind Gloucester Engineering on the same site. The closest property line would be the one closest to Turbine #2, 150 ft. to the MassDOT property which is the corridor for Rte. 128. The blade length of these turbines is 144 ft. They are 150 ft. to the nearest property line which is greater than the blade length and so meets the setback standard as well.

**Joseph George**, 6 Naomi Drive noted he met Mr. Kleiman at the Clean Energy Commission back in March. He believed this is a no risk way for Gloucester to achieve clean energy goals and to work constructively with a significant Gloucester employer. This is an excellent project, well structured in his estimation. They've already permitted Varian Associates for such a wind turbine in the same industrial park. The City will receive net metering credits. This will provide a revenue stream for years. The site has excellent wind which has been studied very closely. It is privately financed as well. He believed it to be "a gift" for the City.

**Mr. Kleiman** reviewed for the Council the criteria under **GZO §5.223 (c) Commercial Land-Based Wind Energy Conversion Facilities for Dory Road #11 as follows:**

**Criterion #1:** The proposed location is an appropriate location on the site:

The project is sited within a Business Park zoning district where Commercial land-based wind energy conversion facilities are allowed by Special Permit from the City Council as per Section 2.3.7 of the City of Gloucester Zoning Ordinance. The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The turbines are buffered from neighboring uses by wide expanses of forested land to the west, Route 128 to the south, and woodlands and industrial facilities to the north and east. The Project was sited outside of wetland resource areas and buffer zones and received a negative determination on its Request for Determination of Applicability (i.e., no further review is required under the Wetland Protection Act or the Gloucester Wetland Protection Bylaw) from the Gloucester Conservation Commission on 8/17/11. The Project was found to have no significant impact on drinking water reservoir watershed areas, and a Watershed Protection Overlay District Special Permit was approved by the Gloucester Planning Board under the GZO on 8/18/11. Therefore, the proposed location is an appropriate location on the site.

**Criterion #2:** The use will not pose a significant adverse impact to the health or public safety of the neighborhood:

The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project will comply with all applicable noise and shadow flicker limits as specified in the City of Gloucester Zoning and Noise Ordinances, which was confirmed during the review of the Project application by the City Solicitor, the City's Planning Director, and the City's technical consultant on noise and shadow flicker and affirmed by them before the City Council Planning and Development Committee. Therefore, the Project will not pose a significant adverse impact to the health or public safety of the Neighborhood.

**Criterion #3:** There will be no serious hazard to pedestrians or vehicles from the use:

The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project shall be properly operated and maintained consistent with the turbine equipment manufacturer's recommendations. Therefore, there will be no serious hazard to pedestrians or vehicles from the use.

**Criterion #4:** Adequate and appropriate facilities will be provided for the proper operation of the use:

Project equipment will be housed inside the turbine towers and utility cabinets adjacent to the turbine towers. The Project will be operated and maintained by qualified personnel certified or otherwise approved by the turbine equipment manufacturer. These personnel shall have 24-hour access to the site for purposes of operation and maintenance of the Project. The Project has been designed to meet all electrical interconnection standards to ensure safety and reliability, as per National Grid requirements. Therefore, adequate and appropriate facilities will be provided to ensure proper operation of the use.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions:**

**Councilor Curcuru** asked who the applicant is. **Mr. Kleiman** stated it is a combination of Equity Industrial Partners, the property owner, in conjunction with Gloucester Engineering. **Councilor Curcuru** asked what would happen if Gloucester Engineering no longer existed. **Mr. Kleiman** stated the project would technically be owned and operated by a single purpose entity which is formed just for this project. It would live on if Gloucester Engineering were no longer there. However, the intent is for everyone to stay together. **Councilor McGeary** asked how the City benefits directly in a financial way. **Mr. Kleiman** responded this is what is virtual net metering; under state law, Green Communities Act, and net metering regulations under that act, and the net metering tariff that National Grid (NG) established based on the regulations, a project can now be developed on private land, interconnected to NG electrical grid for a wind or solar project. The electricity generated by the project goes into the grid; there is a meter established at the site. All the electricity that passes through that meter is counted; and then as part of the interconnection, the credits that are generated when the electricity is generated are allocated to the accounts listed on "Schedule Z" in the application. In this case the proposal is to allocate 100% of those credits to the City's electrical accounts (the City has the capacity to absorb all of the dollar denominated credits to be generated), for every kilowatt hour of electricity generated there is a rate assigned based on the four components of the electric rate that allowed for net metering; the basic supply rate, the distribution part of the rate, the transmission and transition part of the rate. Currently, that adds up as of November 1<sup>st</sup> up to 15.06 cents per kilowatt hour. They multiply the output of the project by the hours each month and those credits would appear on the City's bills; it appears as a plus on them. It is a savings, but it is a new source of revenue also. They're proposing the City retain a portion and when the credits appears, the City writes a check back to the project for the residual that pays down the debt service. They keep their portion from the net metering credit value and also assessing the property taxes. Ultimately the assessment will be worked out with the City Assessor and City officials. The best they can project based on NG present rates and what they expect to be the amount of property tax payments is approximately \$118,000 new benefit of revenue from the project and go up to \$219,000 on the far out. If rates went up at a faster rate, the City would get more money. This protects the City from ever having any costs (from the wind towers). It is a percentage of the prevailing net metering rate. **Councilor McGeary** stated if it generates \$1,000 of net metering, \$900 goes back to Gloucester Engineering, but net/net it makes \$100 to the City. He noted the difference, prior to this legislation, the City would have had to own the turbine; build it all and take the financial risk and then the City would have gotten the benefit. **Mr. Kleiman** agreed stating that the legislation passed last year allows them to do this. The full benefit of net metering can be now realized. **Council President Hardy** heard the terms revenue and net metering used and their descriptions as it relates to the project. But she believed what is in front of the Council is a permit for two wind turbines and asked does this have anything yet to do with an agreement for revenue as to what the percentages will be as to what the monies will be. She asked if they are at the stage where they would be

considering taking into consideration as to whether or not they're going to approve the wind turbines with the financial benefits to the City, or is the wind turbine permit standing on its own; are they considering only the merits of whether or not it meets the criteria and zoning ordinance requirements **Attorney Egan** stated it is the latter; the Council is acting as the permit granting authority under the zoning ordinance and are to consider whether or not to permit two turbines and whether or not the project meets the requirements under zoning ordinance as presented. The power purchase agreement is being negotiated. That will be before the Council also, as it must come before them. That is completely separate from what is before the Council. The majority of the terms has not been agreed to and is still in the negotiation process. **Council President Hardy** reiterated the Council is considering whether or not the application meets the criteria under GZO §5.22. Eventually if this is passed, and the agreement works its way to the Council, what is the Council's role. **Attorney Egan** responded they will get to approve the agreement when it comes before the Council. Right now it is proposed to be a 25 year agreement which would come before the Council. **Council President Hardy** reminded the Council it is the application for the Special Permit under the zoning ordinance only before them, and they should not take into considering the financing and projected revenue for the City in their decision-making process. **Councilor Tobey** understood they're only voting on the permit, but asked for some further understanding of the financial benefit to the City as he believed it was relevant; such as how much of the benefit is automatic of net metering to the City, and what exactly are the sorts of terms that need to be negotiated. **Attorney Egan** noted the rate to the City needs clarification. The power purchase agreement is a 15-20 page agreement. The consultant's fee has been provided by the applicant to hire McCauley and Lyman who are negotiating with the applicants' attorney; and she is a part of the negotiations. They are now looking at the specific terms. The rebate is part of the negotiation process. Right now they don't have the exact figures of what the financial benefit are; but there will be a benefit for the City. **Councilor Tobey** asked if there is any cap on the total financial benefit under the Green Communities Act on this project and others; and are there better deals. **Attorney Egan** added they're negotiating this deal to make it the best deal possible, negotiating it to the benefit of the City. **Councilor Tobey** restated his question if there is a dollar cap limit on the net metering benefits. **Gregg Cademartori**, Planning Director stated there are some limitations on the maximum kilowatts that can be generated by a municipality, 10 MW per community. It is a fairly large amount of energy that could be created for a small town and would probably never approach doing something like that. The key to the provisions is that it is set up as big enough for say, Boston that wanted to get into the wind energy business but there has to be an account assigned for the credits that NG allots when energy is generated or otherwise they're getting into their business. As a single community, they could go beyond what is consumed if they had other accounts to assign to. There may be other communities nearby that also want to get into renewable energy production because that's their community's goal. As long as they have accounts that are under the same district, NG, energy can be generated from a community beyond what its consumption is and have those credits assigned to another. There is a certain sized "basket" each community has. The easiest is when going up against one's own consumption, this project is proposed to generate what they consume. **Councilor Ciolino** asked why they chose to go net metering instead of going directly to Gloucester Engineering and how this benefits Gloucester Engineering with their still experiencing brown outs. **Mr. Kleiman** noted they only use a certain amount of electricity and couldn't absorb all of the electricity generated by the two turbines. There are few avenues available for off loading the excess electricity. This is one of the avenues available for that. There is a more obscure way to do it, which is called a "qualified facility" which is basically a wholesaling of the generated electricity to the market but a project of this scale would likely never be able to be financed and not be workable. These projects are not easy to finance; they're new to the market with thin margins. It is not like building a giant wind farm. This is two wind turbines with a lot of costs to interconnect to the grid in hundreds of thousands of dollars. There's the turbine costs themselves for millions of dollars. As such an expensive proposition, it relies on having a good municipal partner that has an excellent credit rating like the City. They're pleased to work with the City; the project wouldn't happen if not for the City's participation. **Councilor Ciolino** asked for an explanation between the LLC that would own the turbines and the property owner who owns the site Gloucester Engineering sits on. **Mr. Kleiman** informed the Council that Equity Industrial Gloucester is the property owner of the site. Gloucester Engineering is a lessee of that property with a long term lease on it. The project will have a 30' x 30' footprint for each turbine and the electrical line running to the NG lines. It is a relatively small amount of land and will be contained in a lease modification is likely it will then be leased by the new entity, the special purpose entity for the project, which may be called Equity Industrial Turbines which is an LLC created for the project. **Councilor Ciolino** asked how many people Gloucester Engineering employs. **Mr. Steele** stated 100. He added, on inquiry from the Councilor, that there is increased reliability and lower cost power access and increased power going back to the grid which reduces the potential brown outs and enhances their productivity. They anticipate continuing to grow and hire new people. **Mr. Kleiman** read the criteria under GZO Sec. 5.22 at the behest of **Council President Hardy** as follows:

**Criterion #1:** The proposed location is an appropriate location on the site:

The project is sited within a Business Park zoning district where Commercial land-based wind energy conversion facilities are allowed by Special Permit from the City Council as per Section 2.3.7 of the City of Gloucester Zoning Ordinance. The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The turbines are buffered from neighboring uses by wide expanses of forested land to the west, Route 128 to the south, and woodlands and industrial facilities to the north and east. The Project was sited outside of wetland resource areas and buffer zones and received a negative determination on its Request for Determination of Applicability (i.e., no further review is required under the Wetland Protection Act or the Gloucester Wetland Protection Bylaw) from the Gloucester Conservation Commission on 8/17/11. The Project was found to have no significant impact on drinking water reservoir watershed areas, and a Watershed Protection Overlay District Special Permit was approved by the Gloucester Planning Board on 8/18/11. Therefore, the proposed location is an appropriate location on the site.

**Criterion #2:** The use will not pose a significant adverse impact to the health or public safety of the neighborhood: The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project will comply with all applicable noise and shadow flicker limits as specified in the City of Gloucester Zoning and Noise Ordinances, which was confirmed during the review of the Project application by the City Solicitor, the City's Planning Director, and the City's technical consultant on noise and shadow/flicker and affirmed by them before the City Council Planning and Development Committee. Therefore, the Project will not pose a significant adverse impact to the health or public safety of the neighborhood.

**Criterion #3:** There will be no serious hazard to pedestrians or vehicles from the use:

The project meets all setback requirements required under 5.22.6(b) of the City of Gloucester Zoning Ordinance. The turbines were sited to provide the maximum buffer to residential and other neighboring uses while meeting all setback and turbine operational separation requirements. The Project shall be properly operated and maintained consistent with the turbine equipment manufacturer's recommendations. Therefore, there will be no serious hazard to pedestrians or vehicles from the use.

**Criterion #4:** Adequate and appropriate facilities will be provided for the proper operation of the use:

Project equipment will be housed inside the turbine towers and utility cabinets adjacent to the turbine towers. The Project will be operated and maintained by qualified personnel certified or otherwise approved by the turbine equipment manufacturer. These personnel shall have 24-hour access to the site for purposes of operation and maintenance of the Project. The Project has been designed to meet all electrical interconnection standards to ensure safety and reliability, as per National Grid requirements. Therefore, adequate and appropriate facilities will be provided to ensure proper operation of the use.

**This public hearing is closed.**

**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 grant a Special Council Permit (SCP2011-005) to Equity Industrial Gloucester LLC pursuant to section 5.22 of the zoning ordinance for the operation of a commercial land-based wind energy conversion facility at 11 Dory Road Gloucester, MA, (Assessors Map 262, Lot 16) BP zoning classification, for two wind turbines with the following conditions:

1. The turbines shall be operated in a manner which does not create shadow or flicker on a residential unit. All recommendations regarding the minimization of the flicker effect shall be required and incorporated by reference into the special permit:

Turbine #1 at location B shall not operate during the morning hours in the months of June and July and Turbine # 2 at location A shall not operate in late April and late August during the morning hours.

2. The turbines shall be operated in a manner which does not exceed the noise limitations as set forth in Gloucester Code of Ordinances section 13-6 and 13-7.

3. To insure compliance with the ordinance the turbine equipment installed shall be a Gamesa G90 turbine with a hub height not to exceed 78 meters with the installation of a Gamesa Noise Reduction system which shall be configured with the following settings:

Turbine #1 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 103.6 dBA.

Turbine #2 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 102.8 dBA.

4. In the event the proponent selects a different make or model of wind energy turbine, the proponent shall seek a modification to this special permit prior to commencing any site work. Any change in the make or model of the wind energy turbine equipment shall include comparable noise reduction equipment and the default configuration settings shall be those that achieve the same or better noise reduction results as the Gamesa NRS configuration settings set forth above.

5. The applicant shall engage in a post-operation monitoring program. Once the wind turbines are operating, the proponent shall monitor sound levels at the Fuller School and Gloucester Crossing hotel site both with and without the wind turbines in operation, and with and without the noise reduction equipment in operation, to determine if the City's nighttime residential noise threshold of 50 dBA (*City of Gloucester Code of Ordinances*, Chapter 13, Sections 13-6 and 13-7, December 15, 1995) is being exceeded and if it is attributable to the wind turbines. Monitoring shall be conducted for a representative two month period or until sound levels are measured under the necessary wind speed and wind directions. Regardless of the post-operation monitoring findings, the noise reduction requirements as set forth in this permit shall be complied with.

The monitoring program shall be used to determine if further noise reduction measures should be required. The proponent shall submit its findings to the Planning Director. If the wind turbines generate noise above the threshold permitted under the ordinance, then the applicant shall immediately implement further noise reduction measures, and until such time as those measures are implemented the turbines shall not be operated during the hours set forth in section 13-7 of the Code of Ordinances.

6. No hazardous materials or wastes shall be used on the site and the turbine shall be designed to prevent unauthorized access.

7. The operation and maintenance plan and landscape and lighting plan submitted shall be incorporated herein by reference and compliance therewith shall be a condition of the permit;

8. A copy of the project summary and site plan shall be provided to the police and fire departments.

9. The special permit is valid for 25 years unless extended or renewed. The turbines shall be removed at the end of the term.

10. As required by section 5.22.15 the applicant must submit a fully inclusive estimate of the costs associated with removal with a mechanism for cost of living adjustment after 10 and 15 years, the applicant shall provide surety at the time of construction to cover costs of the removal in the event the city must remove the facility.

11. The turbine will be painted a non-reflective color.

12. All signs on the site shall comply with the plans approved and those plans are incorporated by reference into the special permit.

13. All utility connections shall be underground to the nearest utility pole or transformer.

#### **DISCUSSION:**

**Gregg Cademartori** noted he was copied on several emails over the past few days exchanged from Rich Kleiman to the Council regarding shadow/flicker control and the prevention of that; and the condition that was initially discussed at the P&D meeting last week was fairly broad and not specific as to the time the turbine should not be operational to prevent shadow/flicker on residential properties. There was reference to the worst case scenario hours in the Cadmus Report of August 20th. The applicant had submitted an actual schedule of times when the turbines would not be operated when those conditions occurred. This was submitted via a recent email to the Council and suggested it is something that should be considered because it would prevent the shadow/flicker from happening.

**Councilor Ciolino** then offered amendment to the main motion for Condition #1, seconded by **Councilor Whynott** and on a vote of the City Council 9 in favor, 0 opposed it read as follows:

**"1. The turbines shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the following curtailment standards shall be adhered to in order to ensure insignificant flicker effect:**

**Turbine #1 at location B shall not operate between 7:45 p.m. and 8:15 p.m. from May 15 through July 15;**

**Turbine #2 at location A shall not operate between the hours of 7:00 p.m. and 7:45 p.m. from May 1 through August 15."**

**Council President Hardy** announced this now becomes Condition #1 of the main motion.

**Councilor Ciolino** stated P&D Committee consisting of himself, Councilor Whynott and Councilor Verga, did much due diligence, including a site visit to Ipswich where there is a similar turbine. They wanted to learn how loud the turbine was, a big concern for them. The Committee was surprised at how quiet it was. They related it to if one listens to the truck traffic on the Rte. 128 extension, it is much louder. During the helicopter test they went around town to view it from different site perspectives to see what the affect would be. He agreed the two turbines will change the landscape of Gloucester, but to some, these turbines are graceful and beautiful; and this is the way of the future. They will be tall, but it is something that Gloucester needs to move forward on. There isn't a better place than a business park to put wind energy turbines in his estimation. The applicant managed to come up with a project to be acceptable to everyone concerned and thanked them all. He thanked Mr. Cademartori for all his efforts to coordinate it all, as well as Attorney Egan and recommended this to his fellow Councilors to vote in favor of the turbine project. **Councilor McGeary** appreciated Council President Hardy's pointing out this is a permitting issue not a revenue issue because he thought it a good project, even if it wasn't a financial boon to the City. This will benefit the City and for the City's children. Gloucester, already recognized as a green community, is showing how it is possible to be both good stewards of the planet and also provide jobs for the future. In the short term the City benefits by being provided with a significant part of its energy usage at no cost either in environmental or financial terms. Gloucester is showing the way to the future not just for the City but for the nation. Gloucester and Gloucester Engineering are showing the way on this. He strongly supported this effort and looked forward to its success and the success of similar projects in the future. He thanked City staff, the members of the P&D Committee all of whom spent long hours reviewing in detail the proponents request and to the applicants who went the extra mile to ensure the concerns of all the citizens of Gloucester were protected and answered. He supported granting this special permit and urged his fellow Councilors to join in building a part of their future and the prosperity of the City. **Councilor Mulcahey** asked about the noise levels. **Mr. Cademartori** noted 50 dBA is the nighttime noise limitation in residential districts and that was one of the issues that took a lot of time to modify the project so that threshold would not be passed either in the Harrison Avenue neighborhood or in the Gloucester Crossing site because of the proposed hotel and the Fuller School, both zoned as residential. The applicant was up against three different sets of standards dealing with noise, both the code of ordinances, the zoning ordinance and the MA State noise policy. He also noted another condition that was suggested for possible revision which was Condition #6. When they were creating the zoning ordinance in 2005 that specifically related to the use of hazardous materials or wastes on site; but the actual lubricants used for the operation probably fall under that classification. The condition that came out of P&D was fairly broad. They created a condition to very specifically to capture what the concern was that is in 5.2.7 (f) which covers the operation of a wind turbine facility, either mirrored in that section to be prepared for any event of any spillage or anything associated with the operation. By remaining broad it would eliminate the operation of the turbines. They have a standard within the zoning ordinance. He then read the suggested the following replacement language:

**“No hazardous materials or wastes shall be discharged on the site of a commercial wind energy facility. If any hazardous materials or wastes are to be used on site, unless contained within the wind turbine itself, there shall be provisions for full containment of such materials or waste. An enclosed containment area, designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site may be required to meet this requirement. The wind turbine shall also be designed to prevent unauthorized access”.**

A motion to amend Condition #6 was brought forward by **Council President Hardy**, seconded by **Councilor Verga**, and voted 9 in favor, 0 opposed for the amendment.

In addition, **Council President Hardy** brought forward an added condition to further amend the motion, #14 which read: **“There shall be no temporary or permanent advertising on either turbine;”** which was seconded by **Councilor Verga** and voted 9 in favor, 0 opposed to add Condition #14.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to grant a Special Council Permit (SCP2011-005) to Equity Industrial Gloucester LLC pursuant to section 5.22 of the zoning ordinance for the operation of a commercial land-based wind energy conversion facility at 11 Dory Road Gloucester, MA, (Assessors Map 262, Lot 16) BP zoning classification, for two wind turbines with the following conditions:**

1. The turbines shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the following curtailment standards shall be adhered to in order to ensure insignificant flicker effect:

- Turbine #1 at location B shall not operate between 7:45 p.m. and 8:15 p.m. from May 15 through July 15;
- Turbine #2 at location A shall not operate between the hours of 7:00 p.m. and 7:45 p.m. from May 1 through August 15.”

**On October 25, 2011, the Gloucester City Council under the Consent Agenda amended these minutes by passing the following motion for the purpose of amending Condition #1 of SCP23011-005.**

**MOTION:** On motion by Councilor Ciolino, seconded by Councilor Whycott, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to AMEND the minutes of the regularly scheduled City Council meeting of October 11, 2011 related to the Special Council Permit (SCP2011-005) granted to Equity Industrial Gloucester LLC for the operation of a commercial land-based wind conversion facility at 11 Dory Road pursuant to Sec. 5.22 of the Gloucester Zoning ordinance by striking Condition #1 in its entirety which now reads:

“1. The turbines shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the following curtailment standards shall be adhered to in order to ensure insignificant flicker effect: Turbine #1 at location B shall not operate between 7:45 p.m. and 8:15 p.m. from May 15 through July 15; Turbine #2 at location A shall not operate between the hours of 7:00 p.m. and 7:45 p.m. from May 1 through August 15;”

and to SUBSTITUTE in its entirety the following language and curtailment table/schedule as the Amended Condition #1:

“1. The turbines (Turbine #1 and Turbine #2) shall be operated in a manner that does not create significant shadow or flicker on a residential unit. Without limiting the foregoing, the turbines shall not be operated in accordance with the following curtailment schedule to ensure insignificant flicker effect:

**Elimination of Shadow/Flicker Potential - Dates and Times at Residential Receptors**

Residential Receptors	Worst Case Flicker (Hrs/Yr)	Turbine #1 (Dates of Flicker)	Turbine #1 (Time Not to Be Operated)	Turbine #2 (Dates of Flicker)	Turbine #2 (Time Not to be Operated)
A	33	May 15 - July 25	5:45am - 6:15am	April 10-30 & Aug 10-31	6:00am - 6:45am
B	36	May 15 - July 15	5:30am - 6:15am	April 10-30 & Aug 10-31	6:00am - 6:45am
H	0				
I	60			May 15 - July 15	7:45pm - 8:15pm
J	38	May 1 - Aug 15	7:30pm - 8:00pm	May 1 - Aug 15	7:00pm - 7:45pm
K	0				
L	0				
M	50			May 15 - July 31	7:00pm - 8:00pm



2. The turbines shall be operated in a manner which does not exceed the noise limitations as set forth in Gloucester Code of Ordinances section 13-6 and 13-7.

3. To insure compliance with the ordinance the turbine equipment installed shall be a Gamesa G90 turbine with a hub height not to exceed 78 meters with the installation of a Gamesa Noise Reduction system which shall be configured with the following settings:

Turbine #1 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 103.6 dBA.

Turbine #2 – Between the hours of 8:00 p.m. to 6:00 a.m. on weekdays and 8:00 p.m. to 8:00 a.m. on weekends, when wind speeds are above 6.9 meters per second at a 78-meter hub height, operate with noise reduction level setting designed for maximum operating sound power level of 102.8 dBA.

4. In the event the proponent selects a different make or model of wind energy turbine, the proponent shall seek a modification to this special permit prior to commencing any site work. Any change in the make or model of the wind energy turbine equipment shall include comparable noise reduction equipment and the default configuration settings shall be those that achieve the same or better noise reduction results as the Gamesa NRS configuration settings set forth above.

5. The applicant shall engage in a post-operation monitoring program. Once the wind turbines are operating, the proponent shall monitor sound levels at the Fuller School and Gloucester Crossing hotel site both with and without the wind turbines in operation, and with and without the noise reduction equipment in operation, to determine if the City's nighttime residential noise threshold of 50 dBA (*City of Gloucester Code of Ordinances*, Chapter 13, Sections 13-6 and 13-7, December 15, 1995) is being exceeded and if it is attributable to the wind turbines. Monitoring shall be conducted for a representative two month period or until sound levels are measured under the necessary wind speed and wind directions. Regardless of the post-operation monitoring findings, the noise reduction requirements as set forth in this permit shall be complied with.

The monitoring program shall be used to determine if further noise reduction measures should be required. The proponent shall submit its findings to the Planning Director. If the wind turbines generate noise above the threshold permitted under the ordinance, then the applicant shall immediately implement further noise reduction measures, and until such time as those measures are implemented the turbines shall not be operated during the hours set forth in section 13-7 of the Code of Ordinances.

6. No hazardous materials or wastes shall be discharged on the site of a commercial wind energy facility. If any hazardous materials or wastes are to be used on site, unless contained within the wind turbine itself, there shall be provisions for full containment of such materials or waste. An enclosed containment area, designed to contain at least 110 percent of the volume of the hazardous materials or waste stored or used on the site may be required to meet this requirement. The wind turbine shall also be designed to prevent unauthorized access.

7. The operation and maintenance plan and landscape and lighting plan submitted shall be incorporated herein by reference and compliance therewith shall be a condition of the permit;

8. A copy of the project summary and site plan shall be provided to the police and fire departments.

9. The special permit is valid for 25 years unless extended or renewed. The turbines shall be removed at the end of the term.

10. As required by section 5.22.15 the applicant must submit a fully inclusive estimate of the costs associated with removal with a mechanism for cost of living adjustment after 10 and 15 years, the applicant shall provide surety at the time of construction to cover costs of the removal in the event the city must remove the facility.

**11. The turbine will be painted a non-reflective color.**

**12. All signs on the site shall comply with the plans approved and those plans are incorporated by reference into the special permit.**

**13. All utility connections shall be underground to the nearest utility pole or transformer.**

**14. There shall be no temporary or permanent advertising on either turbine.**

**For Council Vote:**

**1 of 3: Warrant for City Election**

**MOTION: On motion by Councilor Tobey, seconded by Councilor Whynott, the City Council voted 9 in favor, 0 opposed to approve the warrant for the City Election to be held November 8, 2011.**

The City Council then signed the warrant.

**2 of 3: CC2011-046 (Whynott) Adoption of Resolution re: H1972-An Act Regulating Election Primaries**

*This matter was taken up under Presentations.*

**3 of 3: CC2011-047 (Whynott) Commendation for GHS student Erin Pratt and Rebecca Lundy for their heroic rescue of several people caught in a rip tide**

*This matter was taken up under Presentations.*

**Unfinished Business: None.**

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

**Councilors' Requests to the Mayor:**

**Councilor Theken** stated Open Enrollment presentation is October 18<sup>th</sup> at the Rose Baker Senior Center. She also thanked the Charter Review team and Councilor Mulcahey whom she felt has done a phenomenal job in recommending updates to the City's Charter. **Councilor Mulcahey** thanked former City Councilor Ab Khambaty for his contributions along with Roz Frontiero, member of "Who Decides," as well as Tony Gross of the School Committee who kept their records who, in addition, acted as liaison between the Task Force and the School Committee. She thanked the City Councilors who contributed to the process and Linda Lowe for her work as well. **Council President Hardy** noted through the consent agenda a TIF for Gorton's, Inc. is being referred out to the B&F Committee and named Councilor Curcuru to the TIF Committee.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 10:32 p.m.**

**Respectfully submitted,**

**Dana C. Jorgensson  
Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- Statement and documentation from Donna Grinnell
- Memo of endorsement for the adoption of MGL c. 138, §12 pursuant to the City Council's adoption of liqueurs and cordials licenses from six Common Victuallers and Christopher Sallah, submitter of the memo
- Written statement by Mark Steele, CEO of Gloucester Engineering pursuant to the Special Council Permit for Dory Road #11
- Copy of statement by Richard Kleiman, representative of applicant in the Special Council Permit for Dory Road #11