

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, November 15, 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 Steven Curcuru; Councilor Greg Verga; Councilor Robert Whynott; Councilor Bruce Tobey

**Absent:** Councilor Mulcahey

**Also Present:** Linda T. Lowe; Kenny Costa; Jim Duggan; Jeff Towne; Gary Johnstone; Max Schenk; Fire Chief Phil Dench; Mike Hale; Jonathan Pope; Councilors Elect Cox and LeBlanc; Police Chief Michael Lane

**The meeting was called to order at 7:01 p.m.**

**Flag Salute & Moment of Silence.**

**Council President Hardy** announced Councilor Mulcahey was ill and unable to attend this evening's meeting.

**Oral Communications: None.**

**Consent Agenda:**

- **MAYOR'S REPORT**

1. Memorandum from Mayor re: establishment of the East Gloucester Cultural District (Refer P&D)
2. Memorandum from Harbormaster re: proposed change to GCO Chapter 10, Sec. 10-51(e) fees (Refer O&A)
3. Review & recommendations for the disposition of real property for the Good Harbor & Wingersheek Beach Concessions (Refer B&F)
4. Communication from Police Chief re: acceptance of grant award in the amount of \$7,133.75 from the US Dept. of Justice FY11 Bulletproof Vest Program (Refer B&F)
5. Memorandum, grant application & checklist from Interim Health Director & Senior Project Manager for "Get Fit Gloucester" Re: grant in the amount of \$25,000 for the Strategic Alliance for Health Mentoring (Refer B&F)
6. Two requests from Director of Information Services to pay invoices for services procured prior to approval of purchase orders (Refer B&F)
7. Grant Application & checklist from Emergency Management Director re: NERAC 2011 Equipment Distribution Project grant In the amount of \$14,140 from the Northeast Homeland Security Regional Advisory Council (Refer B&F)
8. New Appointments: Community Preservation Committee (TTE 02/14/13) Charles Crowley (Refer B&F)  
Conservation Commission (TTE 02/14/14) Hugh Prichard

- **COMMUNICATIONS/INVITATIONS**

1. Letter from Executive Director of Massachusetts Motor Transportation Association re: Truck Route (Refer O&A)
2. Letter from Gloucester Historical Commission re: FY11 CPA projects (Refer B&F)
3. Response to Oral Communication of October 11, 2011 City Council Meeting re: ADA Compliance (File)
4. Gloucester Fishermen Athletic Association request for road closure re: Run Gloucester 7 Mile Road Race on 8/19/2012 (Refer P&D)
5. Letter from Kenneth Hanover President/CEO of Northeast Health System re: Community Health Needs Assessment Initiative (File)
6. Letter from Executive Director of PERAC re: Appropriation for FY2013 (Refer B&F)

- **APPLICATIONS/PETITIONS**

1. SCP2011-015: Cleveland Street #33, GZO Sec. 2.3.1(6) Conversion to or new multi-family or apartment dwelling, three dwelling Units (Refer P&D)
2. SCP2011-016: River Road #23, GZO Sec. 5.5.4 (Lowlands) (Refer P&D)
3. SCP2011-017: Atlantic Street #63, GZO Sec. 5.5.4 (Lowlands) (Refer P&D)
4. Renewal of Special Permit pursuant to MGL c. 48, §56 and GCO Sec. 22-153 re: Richard Pratt Outdoor Parking Permit at 2 Beach Avenue (Refer P&D)
5. Renewal of Special Permit pursuant to MGL c. 48, §56 and GCO Sec. 22-153 re: Antonio Procaccini Outdoor Parking Permit At Long Beach Road (Refer P&D)

- **COUNCILORS ORDERS**

1. CC2011-054 (Mulcahey) Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: across from Central Grammar Apartments' driveway in front of Mason Street #6-8 (Refer TC & O&A)
2. CC2011-055 (Verga/Ciolino) Possible adoption of MGL re: assessment of water betterments and deferral of such Betterments and amend GCO Chapter 23 "Utilities" Article III accordingly (Refer O&A, B&F & Administration)

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

1. City Council Meeting: 10/25/11 (Approve/File)
2. Special City Council Meeting (under separate cover) (Approve/File)
3. Standing Committee Meetings: B&F 11/03/11 (under separate cover), O&A 10/31/11 (no meeting), O&A 11/14/11 (under separate cover)P&D 11/02/11 (Approve/File)

**Unanimous Consent Calendar:**

1. CC2011-056 (Hardy/Ciolino) That the City Council, together with the Administration, identify a funding source

- To hire local Veterans from the Civil Service Fire Fighters List as soon as possible but no later than the date  
The existing list is to expire (Refer Administration & B&F)
2. Addendum to Mayor's Report re: memorandum regarding Health Insurance Reform-Adoption of Legislation (Refer O&A)
  3. Memorandum from Marie Giambanco, Assistant Registrar re: request permission to pay poll workers without  
Purchase orders in place (Refer B&F)
  4. Memorandum from Jim Duggan, CAO re: Power Purchase Agreement with Equity Industrial Partners (Refer B&F)

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

**Councilor Ciolino** asked to remove Item #3 on the Mayor's Report from the Consent Agenda and stated that when there is disposition of real property it is usually sent to P&D; however, in this instance it was not the case and should go to both P&D and B&F.

**The matter was referred to the P&D Committee by unanimous consent as well as to Budget & Finance.**

**Council President Hardy** noted there is a Unanimous Consent Agenda before them as well and asked the Council's approval for it also.

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

**Committee Reports:**

**Budget & Finance: November 10, 2011 and November 3, 2011**

**MOTION:** On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council under MGL c. 44, §53A to accept a donation of One Hundred Thousand Dollars (\$100,000) from the Gloucester Fishermen's Athletic Association to be used solely for the purpose of partial payment of engineering services for the plans for the renovation of Newell Stadium. The funds are to be placed in Fund #300078.

**DISCUSSION:**

**Councilor Curcuru** explained the Gloucester Fishermen's Athletic Association (GFAA) is absorbing half of the soft costs associated with the Newell Stadium renovation project. They would put forward \$100,000 towards the cost of the design services by Camp, Dresser & McKee (CDM). The total for the design services are \$234,000. The City will do partial borrowing of \$134,000. This will keep them on track for the design phase to take them to the bid phase; and then be ready to go out to bid on the Newell Stadium project in the spring. **Jonathan Pope**, President of the GFAA with the permission of the Council stated he has the check in hand through the generous donations of community members, Gorton's, Sudbay Motors and Rockport National Bank. They continue to fundraise. The Golf Ball drop was a little windy but it was successful. He noted several upcoming fundraising activities for the GFAA. **Councilor Verga** for the record stated his ex officio status to the GFAA has expired and that he intends to vote on this matter.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted 8 in favor, 0 opposed, 1 (Mulcahey) absent, that under MGL c. 44, §53A to accept a donation of One Hundred Thousand Dollars (\$100,000) from the Gloucester Fishermen's Athletic Association to be used solely for the purpose of partial payment of engineering services for the plans for the renovation of Newell Stadium. The funds are to be placed in Fund #300078.**

**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 approve the RFP #12069, Disposition of City-owned Land by Lease for Property Located at 6 Stanwood Street, Gloucester, MA as put forward by the Administration with the terms and conditions as presented.

**DISCUSSION:**

**Councilor Curcuru** explained the Committee spoke at length with Stanley Stone of the Cape Ann Amateur Radio Association (CAARA) regarding the lease and what was fair to them and the City. The Committee determined that upon consideration of the discussion at P&D and after speaking to Mr. Stone, and Mr. Duggan, that it would recommend the lease be for a term of three years for \$1 per year but that a maintenance agreement be placed in the lease whereby CAARA must spend \$999 per year. That would be overseen by the City's Facilities Manager who would inspect it annually. For those reasons, the B&F Committee supported the RFP for 6 Stanwood Street as amended to reflect those points and as put forward by the Administration. **Council President Hardy** reminded the Council under City Ordinance Sec. 2-3, this requires six votes to pass. They did change the rent from \$1,000 a year to \$1 per year with the understanding that the renter pays \$1,000 towards that maintenance annually. Regarding the year three of the lease for maintenance she asked what antenna the Facilities Director would like to see cleared because without the antenna CAARA would be unable to function. **Mr. Duggan** stated Mr. Hafey clarified it is the antennas that have been stored and not in use on the side of the building. There is no intent that any antenna used for their operations should be touched or to disrupt their service. Any antenna still functioning would not be included. **Councilor Tobey** asked why the City isn't taking this opportunity to see if CARAA could include an option to purchase the property. **Mr. Duggan** responded it was postponed at his request. It gave him an opportunity to speak with the tenants to see if they could move them to another property or did they wish to purchase it. They've been there for 35 years and moving to another location is not in their best interest at this time. They could maintain where they are now and as a conversation builds on a joint public safety building, they then could look for a place for them there. The conversation did include the possible purchase. CAARA has a shrinking membership and with fundraising efforts, it takes up a lot of time for them. They don't have the capacity to take on that kind of debt at this time. **Councilor Ciolino** noted P&D also had a motion on the matter. On the lease, he understood upon first-hand observation today, on the third year option there is a fence they're required to build and asked if there was a right of way at the back of the property; would the fence cause an obstruction of that right of way. **Hank McCarl**, CAARA treasurer stated the situation is something they can work out. It doesn't say what kind of fence and believed it was something they can negotiate. They're pleased with the lease as it stands now and thanked the Council and the Mayor's office. As Mr. Duggan indicated they've spent substantial funds to maintain the building at no cost to the City. They appreciate the opportunity. **Councilor Ciolino** recommended the fence be stricken from the lease as an amendment to the motion. There was no second. **Mr. McCarl** stated that would be fine also. **Council President Hardy** stated if there is something else the Facilities Director wishes to add, something else of equal value then. **Mr. McCarl** stated there is no right of way through the property. The City owns it outright. He assured they can find other things of similar value. **Councilor Ciolino** withdrew his request to amend the motion to strike the fence from the maintenance list for year three of the lease agreement. **Council President Hardy** thanked Mr. McCarl for CAARA's service to the City.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Mulcahey) absent to approve the RFP #12069, Disposition of City-owned Land by Lease for Property Located at 6 Stanwood Street, Gloucester, MA as put forward by the Administration with the terms and conditions as presented.**

[Note: All terms and conditions are on file with these minutes.]

MOTION: On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council under MGL c. 44, 53E-1/2, for the establishment of a Fire Department Training Revolving Fund #293020, for the purpose of providing mass decontamination drill training. The authorized officer of the Fund is the Fire Chief; receipts credited from reimbursements; expenditure \$1,100; the balance is the available balance, and there are no restrictions to the Fund.

#### **DISCUSSION:**

**Councilor Curcuru** expressed that Chief Dench believed he needed to create a revolving training account for Northeast Health Systems which the Committee supported.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Mulcahey) absent, that under MGL c. 44, 53E-1/2, for the establishment of a Fire Department Training Revolving Fund #293020, for the purpose of providing mass decontamination drill training. The authorized officer of the Fund is the Fire Chief; receipts credited from**

**reimbursements; expenditure \$1,100; the balance is the available balance, and there are no restrictions to the Fund.**

**MOTION: On motion by Councilor McGeary, seconded by Councilor Curcuru the City Council voted BY ROLL CALL 1 (Whynott) in favor, 7 opposed, 1 (Mulcahey) absent to reconsider the vote for the establishment of a Fire Department Training Revolving Fund.**

**MOTION TO RECONSIDER FAILS.**

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to permit the Emergency Management Director to apply for a FEMA passed through MEMA FFY 2009 Emergency Management Performance Grant 'Supplemental' Grant for Administrative Help and Equipment totaling of \$24,767.79.

**DISCUSSION:**

**Councilor Curcuru** explained this is a competitive grant. The total amount requested is \$24,767.79. It is for equipment and personnel costs. The match is in kind.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Mulcahey) absent to permit the Emergency Management Director to apply for a FEMA passed through MEMA FFY 2009 Emergency Management Performance Grant 'Supplemental' Grant for Administrative Help and Equipment totaling of \$24,767.79.**

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 transfer (#2012-SBT-8) \$50,000.00 from Sewer Reserve for Capital Outlay, Unifund Account #600000.10.440.58000.0000.00.000.00.058 to Sewer Parts and Accessories, Unifund Account #600000.10.440.54850.0000.00.000.00.054.

**DISCUSSION:**

**Councilor Curcuru** stated this transfer was interdepartmental; that the vector used by the DPW to clean storm drains was in urgent need of major repairs. This equipment is heavily used and necessary.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Mulcahey) absent, to transfer (#2012-SBT-8) \$50,000.00 from Sewer Reserve for Capital Outlay, Unifund Account #600000.10.440.58000.0000.00.000.00.058 to Sewer Parts and Accessories, Unifund Account #600000.10.440.54850.0000.00.000.00.054.**

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 to accept under MGL c. 44, §53A a grant from the MA Department of Health & Human Services, Substance Abuse & Mental Health Services Administration, Drug Free Communities Grant for \$625,000.

**DISCUSSION:**

**Councilor Curcuru** explained this grant is a highly competitive grant, and Gloucester is one of only a few communities to receive it in the State. This federal grant was awarded based on the merits of the work being performed by the Health Department's Healthy Gloucester Collaborative, Joan Whitney Director. It is through her efforts, and that of Max Schenk, Interim Health Director that the City has been able to see this award. This grant money grant will provide continuing funding for substance abuse prevention planning and programming in Gloucester with a focus on youth 18 years and under which includes: 1 full time Coordinator for Program Support much needed to support Ms. Whitney and will be at a net zero cost to the City; Bi-Annual Youth Risk Behavior Surveys; support for local steering committees focused on substance abuse prevention; screening and brief intervention and referral to treatment training; drug disposal initiatives; other substance abuse prevention, education and awareness programming. The grant asked for two substances, alcohol and marijuana. They'll also address

prescription drugs. It is administered over five years, at \$125,000 per year. There is no cash match; it is in-kind one to one. He thanked both Ms. Whitney and Mr. Schenk for their fine work in raising awareness in the community and making in-roads into the problem of alcohol and marijuana abuse among youth 18 years and younger.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted 8 in favor, 0 opposed, 1 (Mulcahey) absent, to accept under MGL c. 44, §53A a grant from the MA Department of Health & Human Services, Substance Abuse & Mental Health Services Administration, Drug Free Communities Grant for \$625,000.**

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the full City Council to establish under MGL c. 44, Sec. 53E-1/2 for the establishment of a Lanes Cove Fish Shack Repair Revolving Account #293021 for the purpose of repairs and renovations of the Fish Shack at Lanes Cove. The authorized officer of the Fund is Michael Hale, DPW Director. The fund is credited from donations; expenditure limit is \$100,000; the balance is the available balance, and there are no restrictions to the Fund.

#### **DISCUSSION:**

**Councilor Curcuru** expressed that the Lanes Cove Fish Shack Committee is looking to start fundraising and to create a revolving fund to allow donations to be received in and be taxed deductible for the renovation and rehabilitation of the Lanes Cove Fish Shack. They're looking for \$100,000 which would be put into the Gloucester Fund and then put into the Revolving Fund on an as needed basis.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Theken, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Mulcahey) absent, to establish under MGL c. 44, Sec. 53E-1/2 for the establishment of a Lanes Cove Fish Shack Repair Revolving Account #293021 for the purpose of repairs and renovations of the Fish Shack at Lanes Cove. The authorized officer of the Fund is Michael Hale, DPW Director. The fund is credited from donations; expenditure limit is \$100,000; the balance is the available balance, and there are no restrictions to the Fund.**

**MOTION: On motion by Councilor McGeary, seconded by Councilor Curcuru, the City Council voted BY ROLL CALL 0 in favor, 8 opposed, 1 (Mulcahey) Absent to reconsider the vote for the establishment of a Lanes Cove Fish Shack Repair Revolving Account.**

**MOTION TO RECONSIDER FAILS.**

#### **Budget & Finance: November 15, 2011**

**Councilor Curcuru** stated \$244,250 from the State have been returned in local aid. **Mr. Duggan** confirmed that amount of funds explaining it is the Mayor's recommendation that the \$244,250 be spent by using \$26,270.08 for the second and final payment for the arbitration decision three months ago in the Lamberis arbitration decision, and \$217,979.92 towards reducing the tax rate for FY12 which equates to a credit of 5 cents per thousand dollars. However, in the spirit of cooperation and in conversation with B&F just prior to this meeting, the Administration would like to propose \$67,979.92 be put into the Capital Stabilization Fund and the balance of \$150,000 be put in the Stabilization Fund. That consumes the entire amount including the settlement amount. **Councilor Theken** asked for an explanation for the public as to what the two funds are. She had input that folks wished for the funds to be put to better use instead of the 5 cents per thousand. **Mr. Duggan** stated these accounts are rainy day accounts, or can be used to purchase something. It is the start of building up the Stabilization Fund. This way they won't have to bond for things like police cars, fire trucks. Any appropriation has to go through Budget & Finance to the Council. Transfers can be made from one account to the other. **Councilor Ciolino** asked about the fund balances. **Councilor Curcuru** stated the Stabilization Fund has \$1,951,108.47 and the Capital Project Stabilization Fund has \$109,793. **Councilor Tobey** asked for a situation they imagine the Capital Project Stabilization Fund would be drawn upon. **Mr. Duggan** stated if an opportunity arises to purchase an apparatus, or do a major repair in an emergency that is an area they can utilize funds first before borrowing or touching the larger stabilization fund. **Councilor Tobey** thought the telecommunication system for the Schools doesn't qualify. **Mr. Duggan** stated they applied the savings to getting it done. They are still in the process of building up the Capital Project Stabilization

Fund. They want to be disciplined in putting the money in not to take out funds in year two. **Councilor Tobey** would support this motion and felt this is a jumping off point on the future of the free cash of \$3.2 million which is a substantial achievement and thought the Administration deserved a lot of credit. Similarly during his Mayoral administration, budgeting practices made sure while reasonable amounts of free cash are certified, very large amounts were not. The challenge is also what to do with it; and he understood they are soliciting the department heads for a list. Fire Department communications have been highlighted for instance. They as a Council need to look at their priorities and collaborate with the Administration to do a better job on hitting appropriation marks. **Councilor Whynott** thought funding the Capital Stabilization Fund is an outstanding idea.

#### **DISCUSSION:**

**Councilor Curcuru** thought this was a great idea and hoped it continued to grow. **Councilor Ciolino** also supported the building up of the account. **Councilor McGeary** would also support this. He reflected they have run into unforeseen expenses in the School Department and that free cash could be a possibility. **Council President Hardy** would support this funding also, and thanked the Administration for its support. She noted at the B&F meeting the discussion was not in that direction, but that this is a win:win situation.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the Budget & Finance Committee voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Mulcahey) absent, to appropriate \$67,979.92 (Sixty-Seven Thousand Nine Hundred Seventy Nine Dollars and Ninety-Two Cents) as a supplemental appropriation to the FY2012 Budget for the purpose of transferring funds to the Capital Project Stabilization Fund to be placed in Unifund Account # 850000. The available funds are from a one-time Unrestricted General Government Aid (UGGA) payment from the State.**

**MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the City Council voted 0 in favor, 8 opposed, 1 (Mulcahey) absent to reconsider the vote to appropriate \$67,979.92 (Sixty-Seven Thousand Nine Hundred Seventy Nine Dollars and Ninety-Two Cents) as a supplemental appropriation to the FY2012 Budget for the purpose of transferring funds to the Capital Project Stabilization Fund.**

**MOTION TO RECONSIDER FAILS.**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the Budget & Finance Committee voted BY ROLL CALL 8 in favor, 0 opposed to appropriate \$150,000 (One Hundred and Fifty Thousand Dollars) as a supplemental appropriation to the FY2012 Budget for the purpose of transferring funds to the Stabilization Fund to be placed in Unifund Account # 840000. The available funds are from a one-time Unrestricted General Government Aid (UGGA) payment from the State.**

**MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the City Council voted 0 in favor, 8 opposed, 1 (Mulcahey) absent to reconsider the vote to appropriate \$150,000 (One Hundred and Fifty Thousand Dollars) as a supplemental appropriation to the FY2012 Budget for the purpose of transferring funds to the Stabilization Fund.**

**MOTION TO RECONSIDER FAILS.**

**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 to appropriate \$26,270.08 (Twenty-Six Two Hundred and Seventy Dollars and Eight Cents) as a supplemental appropriation to the FY2012 Budget for the purpose of covering the liability associated with the Arbitrator's ruling in the Stephen Lamberis case to be placed in the City Legal Dept, Settlement-Out/Court Account, Unifund Account #101000.10.151.57620.0000.00.000.00.057. The available funds are from a one-time Unrestricted General Government Aid (UGGA) payment from the State.**

#### **DISCUSSION:**

**Mr. Duggan** stated this is the second and final payment for the arbitration decision three months ago. This will finalize it all; and there will be no further financial obligation on the part of the City. **Councilor Tobey** asked if this was the total amount of this award to Officer Lamberis. **Mr. Duggan** stated it was actually \$46,270.08. **Councilor**

**Tobey** asked the component parts. **Mr. Duggan** stated it included regular pay, overtime and expenses. Of those negotiated expenses removed was unemployment compensation. It was credited back to the City. Of the \$45,270.08, **Councilor Tobey** asked what the regular pay was. **Mr. Duggan** stated it was average overtime and other negotiated areas were subtracted off. They treated it as a lump sum. How much was the negotiated amount from the salary components; he couldn't answer. It was lumped all together. **Councilor Tobey** noted there has already been a \$20,000 payment made from which account. **Mr. Duggan** stated that was out of the payroll account through the Police Department. **Mr. Towne**, in response to **Councilor Tobey** concern that the account would then be in a possible deficit position because of an unanticipated expenditure, responded they'd be looking to a funding source to make that whole for FY12 and would be returning to the Council for a transfer to fund that original \$20,000 to make sure the budgeted line item for the Police Department for FY12, which had no funds in it for Officer Lamberis, will now have the money in it that they took out. **Councilor Tobey** reviewed the first part is to seek to replace the \$20,000 asked if there was an added challenge because there is an additional patrolman to be covered for payroll purposes as Officer Lamberis' return was not budgeted. **Mr. Duggan** thought there may be a shortfall and will be addressing this matter with free cash. **Councilor Tobey** asked if the Administration will be sharing the arbitrator's decision with the Council. **Mr. Duggan** stated they would. However, they will not be sharing the negotiated settlement as it is a personnel matter and would confer with the City Solicitor in that regard. **Councilor Ciolino** asked if Officer Lamberis was back to work and when. **Chief Lane** stated as soon as the settlement was announced he came back very shortly thereafter, about a week after the settlement in late July, early August. He is on the midnight watch. **Councilor Tobey** noted the City has had two instances attempting to terminate this officer. The Councilor wanted to know how the administration of the Police Department will work to ensure that this officer will succeed going forward. **Chief Lane** thought they had a strong chance at termination but did not succeed. **Councilor Tobey** restated he wanted to know what they would do to ensure this officer succeeds and not be a future problem. **Chief Lane** felt the officer is where he is best suited in a long-standing situation. They will keep him working effectively as best they can, and is in the best place he can be.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted BY ROLL CALL 7 in favor, 1 (Tobey) opposed, 1 (Mulcahey) absent, to appropriate \$26,270.08 (Twenty-Six Thousand, Two Hundred and Seventy Dollars and Eight Cents) as a supplemental appropriation to the FY2012 Budget for the purpose of covering the liability associated with the Arbitrator's ruling in the Stephen Lamberis case to be placed in the City Legal Dept, Settlement-Out/Court Account, Unifund Account #101000.10.151.57620.0000.00.000.00.057. The available funds are from a one-time Unrestricted General Government Aid (UGGA) payment from the State.**

**MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the City Council voted 2 (Theken, Tobey) in favor, 6 opposed, 1 (Mulcahey) absent to reconsider the vote to appropriate \$26,270.08 (Twenty-Six Thousand, Two Hundred and Seventy Dollars and Eight Cents) as a supplemental appropriation to the FY2012 Budget for the purpose of covering the liability associated with the Arbitrator's ruling in the Stephen Lamberis case.**

**MOTION TO RECONSIDER FAILS.**

**Ordinances & Administration:**

**October 31, 2011 – No meeting.  
November 14, 2011**

**MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee 3 voted in favor, 0 opposed, 0 to recommend to the City Council to AMEND the Gloucester City Home Rule Charter to clarify language contained in Sec. 2-9 Council Standing Committees (a) into three subsections as follows:**

(a) Designation of Committees – There shall be three standing committees of the city council:

- (i) A committee on Budget and Finance, to which may be referred by a simple majority vote of the full city council every matter which would involve an expenditure by the city.

- (ii) A committee on Ordinances and Administration, to which may be referred by a simple majority vote of the full city council every matter which in the form of adoption is categorized an “ordinance” or the effect of which is more than temporary significance, all matters the effect of which would be to alter the administrative structure of the city government and which shall have general oversight of the department of the city clerk.
- (iii) A committee on Planning and Development, to which may be referred by a simple majority vote of the full city council all matters which affect land use, planning, zoning and other development of the city.

**DISCUSSION:**

**Linda T. Lowe, City Clerk** explained she had distributed materials to the Council as to what was taken up by O&A at their 11/14/11 meeting about this matter. She noted that she had provided the Council with the revised version of the Charter and the version of the Charter before any revisions were made. Everything else reviewed and proposed by the Charter Task Force for amendments to the City Charter was passed at a Special City Council meeting on October 11<sup>th</sup>. This was the only remaining issue. **Councilor Whynott** noted the simple majority of the “full” City Council was at issue.

**MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 1 in favor, 7 (Hardy, Theken, Tobey, Verga, Whynott, Ciolino, Curcuru) opposed, 1 (Mulcahey) absent, 0 to AMEND the Gloucester City Home Rule Charter to clarify language contained in Sec. 2-9 Council Standing Committees (a) into three subsections as follows:**

**(a) Designation of Committees – There shall be three standing committees of the city council:**

- (i) **A committee on Budget and Finance, to which may be referred by a simple majority vote of the full city council every matter which would involve an expenditure by the city.**
- (ii) **A committee on Ordinances and Administration, to which may be referred by a simple majority vote of the full city council every matter which in the form of adoption is categorized an “ordinance” or the effect of which is more than temporary significance, all matters the effect of which would be to alter the administrative structure of the city government and which shall have general oversight of the department of the city clerk.**
- (iii) **A committee on Planning and Development, to which may be referred by a simple majority vote of the full city council all matters which affect land use, planning, zoning and other development of the city.**

**Councilor Tobey** stepped away from the dais at 8:14 p.m.

**MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Mulcahey, Tobey) absent affirming the vote of the amendments to the City Charter as voted by the City Council on October 11, 2011.**

**Councilor Theken** thanked Councilor Mulcahey and Tony Gross for there outstanding work on the Charter Review as well as the rest of the Charter Task Force.

**Planning & Development: November 2, 2011**

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to approve the RFP #12069, Disposition of City-owned Land by Lease for Property Located at 6 Stanwood Street, Gloucester, MA as put forward by the Administration with the terms and conditions as presented.**

**DISCUSSION:**

**Councilor Ciolino** stated his Committee was in favor of the proposal as presented by the Administration, but he had expressed in the meeting he wished to see a \$1/year rent and was pleased to see that the B&F Committee had agreed and worked it out so that both the City and CAARA benefited.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 7 in favor, 0 opposed, 2 (Tobey, Mulcahey) absent to approve the RFP #12069, Disposition of City-owned Land by Lease for Property Located at 6 Stanwood Street, Gloucester, MA as put forward by the Administration with the terms and conditions as presented.**

[**Note:** A similar motion was previously passed under the B&F Committee reports by the Council as well. The matter went to both the B&F and the P&D Committees.]

**Scheduled Public Hearings:**

1. PH2011-072: SCP2011-009: Main Street #186, GZO Sec. 5.13.7.2 (PWSF) Modifications

This public hearing is continued to November 29, 2011.

2. PH2011-073: Amend GZO Sec. 1.5.3 pursuant to MGL c. 40A, §5 and Gloucester Zoning Ordinance Sec. 1.22 and 1.11.2(e) and "Appendix A-Rule 25: Rules of Procedure Special Permit Procedures" Part I & II

This public hearing is opened and continued to November 29, 2011.

3. PH2011-074: SCP2011-014: Dory Road #34, GZO Sec. 5.13.7.1 (PWSF)

This public hearing is opened and continued to November 29, 2011.

4. PH2011-075: Amend GCO Sec. 22-287 "Disabled veteran, handicapped parking" re: deleting one space Riggs Street #7

This public hearing is opened and continued to November 29, 2011.

5. PH2011-076: Amend GCO Sec. 22-270 "Parking Prohibited at all Times" re: Green Street

This public hearing is opened and continued to November 29, 2011.

6. PH2011-077: Amend GCO Sec. 22-291 "Tow Away Zone" re: Green Street

This public hearing is opened and continued to November 29, 2011.

7. PH2011078: Amend GCO Sec. 22-269 "Stop Intersections" re: Raymond Street & Shore Road Intersection

This public hearing is opened and continued to November 29, 2011.

8. PH2011-079: Amend GCO Sec. 22-269.1 "Yield Intersections" re: Raymond Street & Shore Road Intersection

This public hearing is opened and continued to November 29, 2011.

Councilor Tobey returned to the dais at 8:20 p.m.

9. PH2011-080: Amend GCO Sec. 1-15 – "Penalty for violation of certain specified sections of Code"

This public hearing is opened and continued to November 29, 2011.

**10. PH2011-081: Loan Authorization in the amount of \$1, 509,000 re: Capital Items for FY2012**

**This public hearing is opened.**

**Those speaking in favor:**

**Jeff Towne**, CFO explained the following are the requested capital needs of the City Departments for \$1.5 million in the form of a loan authorization for the Fire Department with two items; the DPW with seven items that have multiple items within them; the Police Department; and the IT Department. They met with the CIAB; and as discussed at B&F with several members of the CIAB who came before them, the CIAB members discussed the lack of recommendation coming forward from them due to no five year plan available this year, but which is now under development. They were appreciative of the department heads coming forward to explain the capital item requests to them. The Fire Department requested \$250,000 for a new ambulance and to refurbish a pumper, which came out of discussions with the CIAB. The Chief, working with his vendor had the pumper evaluated. It was found to be possible to refurbish the pumper and get enough useful life from it to make it worthwhile. He reviewed the number of vehicles for the DPW and two roof repairs they've requested. The Police Department is requesting radios. The Fire Department has been converting over to the new frequency with their radios; and the Police Department is in need to do the same. They want to start a parking kiosk program in the City versus meters, and the kiosk purchases are a part of this loan authorization. And IT had \$36,000 pulled from the FY12 operating budget for an upgraded server and software licensing; so they've returned it into the capital loan request.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions:**

**Councilor Tobey** asked about communications for the Fire Department, as documented in 'After Action' reports and an audit, as to what the cost is to remediate the situation. **Chief Dench** stated they need a recording system for voice messages on telephones and the radio transmissions. They are working on that and will bring it forward to come out of free cash. As to portable radios, they're in the process of getting the repeater system up to par because of the topography of Cape Ann. The towers may have to be raised to get better coverage and the vendor is working through those problems. Through the Administration they purchase 10 portable radios per year. The only thing they're going for now is the voice recording system to record all communications and will be through free cash. Responding to an inquiry by **Councilor Tobey**, **Chief Dench** stated the repeater system boosts the radio signal. But by improving that, a city in the western part of the State is interfering with their signal now. They're in the process of trying to get a new frequency which is the best route. **Councilor Tobey** noted the practical problem when firefighters can't communicate with each other in a fire and asked if there will be a capital expenditure to deal with this. **Chief Dench** stated no, he had money in the budget to cover it. They may wind up putting in a repeater in West Gloucester. They're working on it now daily and seem to improve daily. **Councilor Tobey** noted insuring each firefighter has their own portable radios. **Chief Dench** stated there are 72 firefighters in the department. About 42 firefighters have their own assigned radio. When they're on duty, everyone has a radio. It is when there is a multiple alarm situation it becomes a problem. **Councilor Tobey** thought it conceivable that in a major fire there would be a firefighter without a radio. **Chief Dench** stated the radios cost \$2,500 apiece and are by contract, and they have to go with that rate which comes to approximately \$60,000. **Councilor Tobey** asked if that would be on their free cash list. **Chief Dench** stated "no". They have a plan to buy radios regardless. **Councilor Curcuru** asked when they borrow this how many years would it be for. **Mr. Towne** stated they'll go short-term for one year and in total if they borrow the full \$1,509,000 it would be per year on a declining scale around \$250,000 and each item has a different schedule of their useful life. It would likely not be more than \$250,000 and drop to \$150,000 to \$40,000. After year 11 it drops way down. **Councilor Curcuru** asked about the equipment for the DPW and the current status of their vehicles. **Mr. Hale** stated they are getting caught up. They supply the Inspectors, the Assessor's office, the Board of Health and School Department vehicles also. They recycle as many vehicles in the City as they can for fleet vehicles, but there is a need for some new vehicles. Many of them are very old. There wasn't much investment in the early 2000's and things like backhoes now need to be replaced. They will continue to upgrade the vehicles they are responsible for. **Councilor Ciolino** asked about the brush cutting machine noting Mr. Hale had indicated to him that he would look to purchase one that could also be used as a snow blower and asked why it was not a part of this list. **Mr. Hale** responded they traded in their old brush cutter and purchased a new machine delivered at the first of this month. It is at the DPW yard now with the ability to do sidewalks in winter and cut brush the rest of the year. **Councilor Ciolino** expressed he was pleased to see this dual purpose machine had been purchased. **Councilor Verga** agreed with Councilor Tobey; and would like to see within this loan order \$60,000 for the Fire Department radios. He viewed this as a safety issue; and if not added to the loan order he felt strongly it must be from free cash. **Councilor Theken** also felt that safety was tantamount for the Fire Department personnel.

Firefighters would be in jeopardy when they can't communicate with each other; their priority should be to add the radios by amending the motion and should have come forward sooner to the Council. She didn't wish to eliminate anything from the loan order. They need safety for safety personnel. **Chief Dench** stated before the free cash was certified the intent was to get the voice recording system in place. The radios are being looked at for free cash. **Councilor Tobey** asked how much is allocated for the roof repair of the Magnolia Fire Station for this loan order. **Mr. Towne** stated it is \$165,000 for two roofs – Magnolia Fire Station and the DPW roof. **Councilor Theken** reiterated they should add \$60,000 to the loan order. **Councilor Tobey** pointed out that there is going to be some amount of the free cash spent for capital purposes expressing he would rather wait on the Magnolia Fire Station roof than on the firefighter radios. **Mr. Towne** noted the Magnolia station roof is 4,000 sq. ft., about \$50,000. **Councilor Tobey** asked what the Council's capacity to amend a loan authorization is and also asked if the Administration had a point of view to amend this loan order to include the Fire Department portable radios. **Mr. Duggan** responded they have tasked the Facilities Manager to maintain their facilities and would not wish to deviate from that [referencing the roof replacements]; feeling it was pitting one priority over the other. Fire safety is important; and they will prioritize that going forward. If it is the wish of the City Council to amend the loan order to include the radios, he would concur. **Councilor Tobey** appreciated that, thanking Mr. Duggan. The Councilor asked if that requires offsets. **Mr. Duggan** stated they would add to it. **Councilor Tobey** asked if this would create a problem with legal notice. **Mr. Towne** stated they have a description of what is to be purchased in the language of the loan order which **Councilor Curcuru** read. **Mr. Towne** stated they could modify the authorization as long as they advertised for it. **Councilor Curcuru** asked about the roofs. **Mr. Hale** stated they'd want to do the roofs as soon as possible. They'd bid this winter and make the repairs in the spring. **Councilor Curcuru** suggested the roofs be done with free cash; and remove the roofs from the loan order. After conferring with **Mr. Duggan** and **Mr. Towne**, **Mr. Hale** stated they need design money now and do the construction in the spring. Magnolia Station is "teetering". **Councilor Curcuru** contended it could come out of free cash. **Councilor Ciolino** commented the time had come to purchase the portable radios for the Fire Department. The leaky roofs are always put off. More damage is done and felt the City can't put repairs off on public buildings. He would be agreeable to adding the \$60,000 to the loan figure and leaving the rest as is. **Council President Hardy** asked what the life expectancy of the radios is which **Mr. Towne** stated was 10-15 years. It would fit into the bond authorization. **Council President Hardy** agreed they should add onto the loan. **Mr. Towne** suggested they add the \$60,000; they can always choose before borrowing long term to pay for it in free cash, and rescind the loan authorization. **Councilor Tobey** asked for a new total if an amendment was made. **Mr. Towne** stated he would amend the loan order then to \$1,569,000. **This public hearing is closed.**

**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 following loan order:

Ordered: That up to \$1,569,000 (One Million Five Hundred and Sixty -Nine Thousand Dollars) be appropriated for the purchase of departmental equipment, the refurbishment of a fire department vehicle, repairs to the roofs at the Magnolia Fire Station and DPW building and for the purchase of a server and software licensing; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow up to \$1,569,000 under G.L. c.44 § 7 (3a), 7 (9), 7 (9a), 7 (28) and 7 (29) or any other enabling legislation; that the Mayor with the approval of the City Council is authorized to take any other action necessary to carry out this project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

**DISCUSSION:** None.

**MOTION:** On motion by Councilor Curcuru, seconded by Councilor, the City Council voted **BY ROLL CALL 8** in favor, 0 opposed, 1 (Mulcahey) absent, the following loan order:

**Ordered:** That up to \$1,569,000 (One Million Five Hundred and Sixty-Nine Thousand Dollars) be appropriated for the purchase of departmental equipment, the refurbishment of a fire department vehicle, repairs to the roofs at the Magnolia Fire Station and DPW building and for the purchase of a server and software licensing; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow up to \$1,569,000 under G.L. c.44 § 7 (3a), 7 (9), 7 (9a), 7 (28) and 7 (29) or any other enabling legislation; that the Mayor with the approval of the City Council is authorized to take any other

**action necessary to carry out this project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.**

**11. PH2011-082: Designation of 127 Rogers Street (Gorton's Inc.) as an Economic Opportunity Area (EOA)**

**This public hearing is opened.**

**Those speaking in favor:**

**Jim Duggan**, CAO explained to the Council that the motion before them is the first step in supporting Gorton's of Gloucester investment in the City. By establishing the site specific EOA designation, they are able to secure a TIF agreement that was negotiated with the TIF Committee made up of himself, Chairman of Budget & Finance, Councilor Curcuru; Gary Johnstone, City Assessor; CFO, Jeff Towne; Kenny Costa, City Auditor; Suzanne Egan, City Solicitor; and Gregg Cademartori, Planning Director. They had two meetings outlining the advantages of this; and stated for the record that the Administration is in complete support of establishing the EOA designation at 127 Rogers Street. **Jeremiah Hoffman**, Director of Engineering at Gorton's on their behalf thanked the Mayor's office and the Council for their consideration of this EOA designation. He made note of the a long partnership with Gloucester dating back to the origin of the company in 1849; and are very proud of their workforce here. He respectfully requested the support of the Council on behalf of Gorton's Inc. for the EOA designation and for the TIF agreement which would enable them to expand their production facility at 127 Rogers Street. He further expressed the appreciation of the support the City has offered Gorton's over the years.

**Those speaking in opposition: None.**

**Communications:**

**Questions:**

**Councilor Theken** asked for an explanation of the definition of an EOA. **Mr. Duggan** stated the City of Gloucester is an economic target area as a whole which is a designation by the State which potentially could lead to economic development incentives for businesses through the State. They need to do it within an economic target area; site specific economic opportunity areas can be established, like 127 Rogers Street being designated an EOA. As long as there is local support in its establishment, and for a TIF agreement, it opens the door for that business to State tax credits. **Councilor Theken** remarked this is not rezoning which **Mr. Duggan** confirmed it was not.

**This public hearing is closed.**

**MOTION:** On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to designate 127 Rogers Street as an Economic Opportunity Area (EOA).

**DISCUSSION:**

**Councilor Curcuru** explained this was the first phase of three motions. He appreciated being able to continue to work with a "tremendous" company in the City, and was happy they were here. **Councilor Tobey** echoed Councilor Curcuru's observation that they're very glad Gorton's is here. The Councilor believed Gorton's is an example that the TIF program is an enormous benefit to a community looking to maintain growth of its industrial base. It is thanks to a TIF that the research and development facility was built on Main Street, and felt this is an example of the TIF program at its finest. He thanked Councilor Curcuru and the Administration for pulling this together and would support it. **Councilor McGeary** also supported it, feeling it is a modest TIF and a great deal for all. **Councilor Whynott** echoed those sentiments as well; and stated Gorton's is an "anchor" industry for the City. He would support all three motions also.

**MOTION:** On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted **BY ROLL CALL 8 in favor, 0 opposed, 1 (Mulcahey) absent, to designate 127 Rogers Street as an Economic Opportunity Area (EOA).**

**12. PH2011-083: TIF Agreement re: Gorton's Inc. 127 Rogers Street**

**This public hearing is opened.**

**Those speaking in favor:**

**Mr. Duggan** explained before the Council is another commitment that Gorton's is calling Gloucester home. Gorton's had the opportunity to invest and expand in their Georgia location. Yet they chose to stay here where it is much more expensive to do business. They felt Gloucester is the place to be. They came forward and asked the Administration for support for a TIF agreement on the minimum of five years for a minimal dollar amount of \$18,672. There will be a \$13 million investment by Gorton's: a \$7 million investment in machinery and \$6 million for building modifications. As outlined in the TIF agreement, they will maintain an employee base of 268 employees. There'll be a minimum of 20 new employees added which will equate to jobs in the City. The total benefit is \$18,672 over five years with a tax abatement for Gorton's. That doesn't take into account the increased commercial tax base for the City, which is in the form of new development at \$186,718, not including building permit fees or the like. Therefore, they request the Council's support for the TIF agreement and plan before them. He thanked the TIF Committee, Councilor Curcuru and Gorton's.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions:**

**This public hearing is closed.**

**MOTION:** On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to approve the 127 Rogers Street Economic Opportunity Area (EOA) Application; the 127 Rogers Street TIF Plan and designation of 127 Rogers Street as a TIF zone, and the Gorton's Inc. Expansion Project Application for submittal to the Massachusetts Economic Assistance Coordinating Council (EACC) pursuant to MGL Chapter 23A Section 3E & 3F.

**DISCUSSION:**

**Councilor Curcuru** agreed completely and stated "Gorton's of Gloucester identifies the City". **Councilor Theken** was a "proud" former employee of Gorton's years ago. While Gorton's identifies the City, she felt the City also identifies Gorton's. Expressing she didn't like TIF's per se, this one she would vote for gladly. Gorton's is a top employer in the City who interacts, supports and gives so much to the community. **Councilor Ciolino** noted the word TIF is sometimes not a good word to use. As a Council they have limited tools; but they do have one such tool for economic development, a TIF. Since his tenure on the Council, TIF's have created jobs, removed blight and expressed there is much good created by TIF's. They need to keep jobs in the City. Gorton's supports and employs the community and is a good corporate citizen. The tax benefits they get from the City are small compared from what they'll get from the State. He wholeheartedly supported this as an economic benefit to the City.

**MOTION:** On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted **BY ROLL CALL 8 in favor, 0 opposed, 1 (Mulcahey) absent, to approve the 127 Rogers Street Economic Opportunity Area (EOA) Application; the 127 Rogers Street TIF Plan and designation of 127 Rogers Street as a TIF zone, and the Gorton's Inc. Expansion Project Application for submittal to the Massachusetts Economic Assistance Coordinating Council (EACC) pursuant to MGL Chapter 23A Section 3E & 3F.**

**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 authorize the Mayor to execute the Tax Increment Financing (TIF) Agreement by and between The City of Gloucester and Gorton's Inc. and for the Mayor and/or her staff to take such other actions as are necessary or appropriate to implement the provisions contained within said Tax Increment Financing Agreement.

**DISCUSSION: None.**

**MOTION:** On motion by Councilor Curcuru, seconded by Councilor , the City Council voted **BY ROLL CALL 8 in favor, 0 opposed, 1 (Mulcahey) absent, to authorize the Mayor to execute the Tax Increment Financing (TIF) Agreement by and between The City of Gloucester and Gorton's Inc. and for the Mayor and/or her staff to take such other actions as are necessary or appropriate to implement the provisions contained within said Tax Increment Financing Agreement.**

**13. PH2011-084: SCP2011-013: Dale Avenue #10 (Central Grammar Apartments) Amendment to City Council Special Permit granted May 23, 1974 pursuant to GZO Sec. 1.10.1 and 3.2.2(a)**

**This public hearing is opened.****Those speaking in favor:**

**Mark Sandler**, attorney at 28 Dale Avenue and was before the Council in his capacity as President of Gloucester Development Team, Inc., the managing portion of the LLC which is the owner of the Central Grammar Apartments. They're trying to carry out a major renovation of the Central Grammar apartments. The last time they did that was in 1986. The original conversion of the school to residential use was between 1974-76. There were many improvements that the age of the building required to be made. They're moving towards their December 1<sup>st</sup> target completion date. As part of the renovation they're doing, they proposed an auxiliary generator to power the apartment project in the event of an outage primarily for lighting and the elevator that serves the building. Secondly they've proposed a tool/garden shed to hold equipment used to maintain the building. Both of these proposed structures would be on the Mason Street side of the building which under the zoning ordinance is a "front yard". The building has a "front yard" also on Dale Avenue. It is a non-conforming structure. The special permit to allow the conversion of the school to elderly housing was issued in 1974. They are asking for amendments to permit putting new structures within the front yard of Mason Street. Under the zoning ordinances they were required to seek variances because of the location of the proposed structures on the Mason Street side of the building; and were required to come to the Council to reduce the open space requirement and open space per unit. There are two sections of the zoning ordinance; Sec. 1.10.1 "Jurisdiction of the City Council and Zoning Board of Appeals" and under that is a subparagraph called "City Council" and #3 says Special Permits pursuant to footnote A of Section Sec. 3.2.2(a) authorizing a decrease in the minimum lot area and minimum open space per dwelling unit per multi-family dwellings subject to the requirements and standards set forth therein. The referred to footnote in 3.2.2(a) was also quoted (see City Zoning Ordinances). He noted Kirk Noyes' presence, a member of the Gloucester Development Team. The six criteria under GZO 1.8.3 are in writing as part of their application which they feel they have met. They would appreciate the Council's granting the special permit to complete the project to the benefit of everyone who lives in that building and the community. **Kirk Noyes**, 1 Woodbury Street stated they are proposing two structures on the site. They decrease the open space by a very small reduction, about 1.3%. One of the structures is actually open. There is a generator on the site not hooked up yet. It gets enclosed by a painted galvanized steel trellis with substantial steel columns in a dark blue color. The generator over a period of time would be covered by ivy and the grid is the medium that will hold up the ivy. He held up a galvanized grid portion for the Council to view. They erected a 10 ft. x 10 ft. tool shed with a conical roof structure. It was their fault for its building first before the permit modification. If the tool shed is not approved, there are only eight bolts holding it; and it can be removed if the Council so wishes.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions:**

**Councilor Ciolino** noted his concern regarding the grid at P&D, which Mr. Noyes had shown the Council this evening. The Councilor noted the grid would be covered eventually from view by landscaping. **Mr. Noyes** stated the generator is picture framed by grid panels which will be covered by the ivy. The Councilor expressed his appreciation to Mr. Noyes for bringing in the sample. **Mr. Noyes** reiterated the grid would enclose the generator, fencing it in up to a height of six feet and vines would grow over that grid.

**This public hearing is closed.**

**Councilor Curcuru left the meeting at 9:20 p.m.**

**MOTION:** On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend that the City Council approve the amendment of New Central Grammar Management LLC, City Council Special Permit granted on May 23, 1974 for the construction of a multi-family structure, for 10 Dale Avenue, Assessors Map 14, Lot 29, pursuant to Sec. 1.10.1 and 3.2.2(a) of the Gloucester zoning ordinance to decrease the lot area per dwelling unit as required by Sec. 1.10.1 of the zoning ordinance from 39.3% to 38.8% and to decrease the open space per dwelling unit under Sec. 3.2.2 of the zoning ordinance from 186 square feet to 182 square feet for a total reduction of 1,086 square feet, to place an auxiliary generator covered by wire mesh on the Mason Street yard in the location as depicted on the site plan entitled "Subsurface Drainage Plan" prepared by Mastue Associates, December 14, 2010, and construct a ten foot by ten foot garden/tool shed at the location depicted on the Mastue site plan.

**DISCUSSION:**

**Councilor Ciolino** stated that on the basis of the application and the presentation of the applicant the Committee found as required by Sec. 3.2.2(a) that the lesser lot area and open space requested is in keeping with the neighborhood character and structural density as the improvements will allow the building and grounds to be maintained in a more efficient manner and provide for the safety of the residents by providing power to the complex in the event of loss of electricity. The Committee also found that as required by Sec. 1.10.2 this application is in harmony with the general purpose and intent of the zoning ordinance. He also noted the concern with the library redoing their parking area and grounds; they wanted to make sure that what they did with the generator and garden shed was in harmony. They've partnered with the library to make sure it is done appropriately and in harmony with the renovations there as well. He expressed his faith they would keep the ivy growing to act as a screen. He asked his fellow Councilors to vote for it. **Council President Hardy** thanked the Gloucester Development Team for their continuity with Central Grammar. Because of the Team's continuity then and now, the building is "magnificent"; and the community is proud to have the building as elderly housing. She thanked them and looked forward to working with them in the future as a team. Additionally she believed this project is in harmony with the general purpose and intent within Sec. 1.8.3 of the Gloucester Zoning Ordinance A-F does not adversely affect the community and would be in full support of the application.

**Councilor Curcuru left the meeting at 9:20 p.m.**

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Curcuru, Mulcahey) absent, to approve the amendment of New Central Grammar Management LLC, City Council Special Permit granted on May 23, 1974 for the construction of a multi-family structure, for 10 Dale Avenue, Assessors Map 14, Lot 29, pursuant to Sec. 1.10.1 and 3.2.2(a) of the Gloucester zoning ordinance to decrease the lot area per dwelling unit as required by Sec. 1.10.1 of the zoning ordinance from 39.3% to 38.8% and to decrease the open space per dwelling unit under Sec. 3.2.2 of the zoning ordinance from 186 square feet to 182 square feet for a total reduction of 1,086 square feet, to place an auxiliary generator covered by wire mesh on the Mason Street yard in the location as depicted on the site plan entitled "Subsurface Drainage Plan" prepared by Mastue Associates, December 14, 2010, and construct a ten foot by ten foot garden/tool shed at the location depicted on the Mastue site plan.**

#### **14. PH2011-085: SCP2011-012: Pearce Island/Durney's Island GZO Sec. 5.5.4 Lowlands**

**This public hearing is opened.**

**Those speaking in favor:**

**David Williams**, applicant residing at 73 Fernald Street, and owner of Durney's Island stated he is before the Council for a Special Council lowlands permit in order to get a c. 91 license. This is for his docks and floats and all else on the property. There is an 18 ft. ramp, a 20 ft. float, to a 16 ft. float to an 8 ft. float and some wooden piers. It is in a tidal creek, at the entrance to Jones Creek's on the Annisquam River. There is a little cottage on the property surrounded by mud flats, rocks and marsh. There was concern expressed at the P&D meeting about getting emergency boats to the island. He had an email from the Harbormaster (submitted and on file) stating there was nothing he has done there that will interfere with any emergency vehicles getting in and around the island next to it. **Councilor Ciolino** expressed it was a concern that was raised at the P&D Committee meeting when they took this matter up. P&D had requested Mr. Williams obtain comments from the Harbormaster on the situation.

**Those speaking in opposition:**

**Richard Larson**, 40 Churchill's Lane, Milton, MA, a trustee and owner of Merchant's Island/Pearce's Island stated everything on the adjacent piece of land (Durney's) was done prior to getting approval [for a Special Council Permit] and thought it the wrong way to do the work in any city. The area is very sensitive (environmentally) he contended. Extensive building he felt to be inappropriate in marsh land. His family has worked to keep the property and marsh land intact which seemed to be under attack now in his view. With all the other pollution arriving, it is concerning to him. His attorney had sent a letter stating the Trust's entire objections to the permit (previously on file).

**Communications:**

**Linda T. Lowe**, City Clerk stated there was an email from Robert M. Larson, II with attached photographs regarding alleged pollution in the Annisquam River; and asked the Council to vote against the Special Council Permit (email dated 11/14/11 on file). There was a letter sent late in the day from Richard Nylen, Esq. via email dated a month ago, sent to P&D (on file). She assumed that when Councilor Ciolino brings his report forward that it was taken into consideration at the time for the P&D deliberations. **Council President Hardy** received an email at

4:44 p.m. today dated the same, with a letter attached dated November 15, 2011. **Ms. Lowe** read from Attorney Nylen's letter of November 15, 2011 written on behalf of the Merchant's Island/Pearce Island Trust in reference to this permit (copy on file). This letter was in opposition to the permit application, and expressing the Trust's concern.

**Mr. Williams** stated nothing has really been changed. He's asking for the permitting the floats that he has now. He believed he is doing the right thing by coming forward now and going through the proper channels. **Mr. Larson** stated Mr. Williams didn't apply for the permits until forced to do so.

**Questions:**

**Councilor Theken** asked for clarification as to who owned the island. **Councilor Ciolino** stated they checked with the Assessor's Office, and the official address is Pearce Island/Durney's Island and is how the City recognizes it. The neighborhood might recognize it as something else, but that is the official name. Mr. Williams owns it. **Ms. Lowe** stated when they received the application it said Pearce Island. A member of Mr. Larson's family noted a different name, Durney's Island. She pulled the Assessor's records for the island which is the subject of the application is a separate adjacent small island. The City a couple of years ago changed the name of that map and lot to Durney's Island. That is what it is officially known as in City records and was advertised correctly. **Councilor Ciolino** asked how long the applicant owned the property. **Mr. Williams** stated he has owned it for approximately five years; and he couldn't apply for a c. 91 license without the Special Permit. The State requires he has a lowlands permit in order to obtain that c. 91 license. The Councilor stated the c. 91 license is the purview of the State, not of the City. The only thing they had in front of them at P&D was the Special Council Permit for Lowlands. **Councilor McGeary** asked if any of the floats were in place when Mr. Williams purchased the property. **Mr. Williams** noted the existing ramp and two floats were already there and he added two. **Councilor Theken** asked if he had put two in without permission from anyone in the City which **Mr. Williams** confirmed he had; however, he has gone before ConCom and has an Order of Conditions. He has made his application for his c. 91 license. **Councilor Theken** asked how many floats he had now. **Mr. Williams** stated there are four floats bolted together. The Councilor asked if Mr. Williams intended to add any more floats which he stated "no" and confirmed this is just to legalize what is there now. **Councilor Theken** commented that the applicant had heard the complaints made by an opponent of the application; and then asked would this be for a commercial lobstering concern. **Mr. Williams** stated it would not; this is for recreational uses only. He has only 10 lobster pots which **Councilor Theken** confirmed was legal for him to do so. **Councilor Hardy** asked if he was aware that he must go through City departments if he wishes to do any further work on the property in the future. **Mr. Williams** confirmed that he did.

**This public hearing is closed.**

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant a Special Council Permit (SCP2011-012) to David Williams under GZO Sec. 5.5.4 (Lowlands) for the property located at Pearce Island, now known as Durney's Island as shown on Assessors Map 244, Lot 2, be granted for an eight by four foot shed and an eight by 16 foot pier and to maintain docks, all as shown on plans dated May 13, 2011 as prepared by Vernon LeBlanc, Professional Land Surveyor with the following condition:

1. That this property is not to be used for a commercial business.

**DISCUSSION:**

**Councilor Ciolino** stated on the basis of the application submitted, and the applicant's presentation, the Committee finds as required by Sec. 5.5.4 that the requirements of MGL c. 131, §40 have been met in that the applicant has obtained an Order of Conditions from the Conservation Commission issued June 10, 2010; and that the removal, filling, dredging or construction will not pose a hazard to health or safety and will be so executed as to conserve shellfish and other wildlife resources of the City. The City boards recommended this in their order of conditions and they rely on that. **Councilor Whynott** would support the application noting if one looks at the Annisquam River, there are many floats and didn't think this float would do more damage. He believed the applicant was trying to rectify his mistake and acting in good faith. **Councilor Verga** understood the opponent's view; but that he agreed with Councilor Whynott that the applicant will in the future come forward to get proper permits. They do listen to their Boards, Committees and Commissions and accept their recommendations; and that also the c. 91 license is not the Council's purview. However, what the Council gives they can take away and can revisit it if necessary. He supported this application. **Council President Hardy** stated this is neither the first nor the last lowlands permit that

has come before the Council after the fact. She urged on behalf of the Council that those who might consider it to come forward appropriately. She would also support this application.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Curcuru, Mulcahey) to grant a Special Council Permit (SCP2011-012) to David Williams under GZO Sec. 5.5.4 (Lowlands) for the property located at Pearce Island, now known as Durney's Island as shown on Assessors Map 244, Lot 2, be granted for an eight by four foot shed and an eight by 16 foot pier and to maintain docks, all as shown on plans dated May 13, 2011 as prepared by Vernon LeBlanc, Professional Land Surveyor with the following condition:**

**1. That this property is not to be used for a commercial business.**

**15. PH2011-071: Ferry Hill Road #21, GZO Sec. 5.5.4 (Lowlands) (Cont'd from 10/25/11)**

**This public hearing is opened.**

**Those speaking in favor:**

**Bob Griffin, PE of Griffin Engineering, Beverly, MA** spoke on behalf of Stan Michalak, Jill Michalak **both** of whom were present. They are seeking a Special Council Permit under Sec. 1.8.3 and Sec. 5.5.4 (Lowlands) for the property located at Ferry Street #21, Map 91, Lot 14, and zoned R-10. They would like to install a 10 ft. by 20 ft. float which Mr. Griffin pointed out on the locus map before the Council (on file) in the Annisquam River which would be connected to land by a 30 ft. gangway. An elevation view on the map shows the gangway sloping downward from a fixed platform located just above the 100 year flood plain. Above that are some wooden steps going from that platform down by the water to the yard area at 21 Ferry Hill Road. It is a residential neighborhood; and there are similar structures in the area. Mr. & Mrs. Michalak have made significant improvements to the property since purchasing it one year ago. There is a small house along the river where they plan to stay for some time to come. The application was in front of ConCom; and an Order of Conditions was issued in May and a minor amendment was made in September. They've had meetings with the Harbormaster; and with the Shellfish Warden and have a plan that satisfies any questions that have come up. Mr. & Mrs. Michalak have met with their neighbors about this project and have their support.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions: None.**

**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 a Special Council (SCP2011-011) Lowlands Permit pursuant to Sec. 5.5.4 of the Gloucester Zoning Ordinances to Stanley and Jill Michalak for the property at Ferry Hill Road #21, (Assessors Map 91, Lot 14), zoned R-10, for the purpose of constructing a 10 foot by 20 foot wooden pier over an existing stone wharf connecting to a 2.5 foot by 30 foot seasonal aluminum ramp and wood float in the Annisquam River in compliance with Sec. 1.8.3 as shown in the application and as shown on Locus Plan by American Land Survey Associates, Inc. of Gloucester, MA dated February 18, 2011; and further, this application is in harmony with the general purpose and intent of the ordinance.**

**DISCUSSION:**

**Councilor Ciolino** stated that the Committee found that the project complies with the Wetlands Protection Act and is designed in such a way as to pose no risk to the health and safety of wildlife. It is also in compliance with Sec. 1.8.3 as shown by the applicant's representative and by determination of this Committee; and memos from the Shellfish Warden and the Harbormaster to the Conservation Agent of the City are on file with the application. This is a new float and ramp and a good use for the property; and he urged his fellow Councilors to vote for it.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Curcuru, Mulcahey) to grant a Special Council (SCP2011-011) Lowlands Permit pursuant to §5.5.4 of the Gloucester Zoning Ordinances to Stanley and Jill Michalak for the property at Ferry Hill Road #21, (Assessors Map 91, Lot 14), zoned R-10, for the purpose of constructing a 10 foot by**

**20 foot wooden pier over an existing stone wharf connecting to a 2.5 foot by 30 foot seasonal aluminum ramp and wood float in the Annisquam River in compliance with §1.8.3 as shown in the application and as shown on Locus Plan by American Land Survey Associates, Inc. of Gloucester, MA dated February 18, 2011; and further, this application is in harmony with the general purpose and intent of the ordinance**

**For Council Vote:**

**1. Decision to Adopt: SCP2011-005: Dory Road #11 GZO Sec. 5.22**

**MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 2 (Curcuro, Mulcahey) absent, to adopt the SCP2011-005 decision for Dory Road #11, pursuant to Sec. 5.22 of the Gloucester Zoning Ordinance.**

**Unfinished Business: None.**

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

**Councilors' Requests to the Mayor:**

**Councilor Whynott** congratulated everyone who ran for office in the local elections.

**Councilor Theken** thanked the voters and reminded open enrollment ends on December 17<sup>th</sup>. She expressed her thanks and wished everyone a happy Thanksgiving.

**Councilor Ciolino** expressed his appreciation to the voters and on November 27<sup>th</sup> the City welcomes Santa with a Christmas parade. Anyone who wishes to participate should show up at 2 p.m. at the State Fish Pier and must have a Christmas theme. This is a parade for children. This year they have the Docksiders in the parade and the Firemen's band. They've joined forces with the Amvets who are sponsoring the US Marine Corps Toys for Tots. They're asking parade viewers to bring an unwrapped toy with them. They'll have a big pink elephant so everyone will know that's the time to hand the toys in.

**Councilor McGeary** stated there are two meetings in Ward I tomorrow, one at 5 p.m. at Kyrouz which is the Ocean Alliance for a Brownfields project. And on the same evening at the former Christian Science Church on Rocky Neck there will be a meeting for the creation of a Rocky Neck Cultural Center.

**Councilor Tobey** thanked the voters of the City.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 10:05 p.m.**

**Respectfully submitted,**

**Dana C. Jorgensson  
Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- **Email from Harbormaster to Mr. Williams related to Durney's Island and safety and passage of emergency vessels**