

GLOUCESTER CITY COUNCIL MEETING

Tuesday, May 8, 2012 – 7:00 p.m.

Kyrouz Auditorium – City Hall

-MINUTES-

Present: Chair, Councilor Jacqueline Hardy; Vice Chair, Councilor Sefatia Theken; Councilor Joseph Ciolino; Councilor Melissa Cox; Councilor Steve LeBlanc, Jr.; Councilor Paul McGeary; Councilor Bruce Tobey; Councilor Greg Verga; Councilor Robert Whyntott

Absent: None

Also Present: Linda T. Lowe, Mayor Carolyn Kirk; Jim Duggan; Jeff Towne; Nancy Papows; Dr. Richard Safier; Melissa Teixeira; Tony Gross; Rick Noonan; Acting Fire Chief Stephen Aiello; Jonathan Pope; Suzanne Egan; Gregg Cademartori

The meeting was called to order at 7:08 p.m.

Flag Salute & Moment of Silence.

Oral Communications:

Valerie Nelson, 7 Sunset Point Road explained to the Council she had spoken with the State Treasurer, Steve Grossman regarding a bonding authorization for a MSBA feasibility study on West Parish School; and that a strong argument, to her understanding was that the City could only receive a state subsidy for a new school not a repair of the school. The State Treasurer informed her that was incorrect; that the subsidy is the same whether there this would be for a school refurbishment or building out a new school at West Parish or to rebuild the Fuller School, for instance. The State Treasurer further informed her the State is very interested in a full and complete analysis of all new and rebuild options for the City when they undertake the examination of a subsidy. She asked that such a clarification be brought before the City Council regarding the bonding for the West Parish School building study in order for the City to view the available options.

Presentation: Mayor Carolyn Kirk – Presentation of FY13 Budget to Council for Referral

Mayor Carolyn Kirk informed the City Council that the Fiscal Year 2013 Budget was officially transmitted to the City Clerk's office today and pointed out her budget transmittal memorandum (on file); with the fiscal year beginning July 1, 2012 and ending June 30, 2013. She thanked Jim Duggan, CAO and Jeff Towne, CFO who have worked "diligently" for the last several months to bring the budget into balance by working with department heads. She further explained her obligation to submit to the City Council a balanced budget, before them now. The Administration set fiscal priorities:

- Continued good fiscal management of the City;
- Education;
- Continuing infrastructure improvements, and to make them affordable within FY13.

The total amount for the General Fund for the FY13 to be voted on by the City Council: \$90,842,590.00.

Budget Transmittal Memorandum Review:

Sec. 1, Page 2: Revenue Highlights. This page reflects a summary of State revenues and highlights of local revenues and how they are trending. Under "One-Time" Revenues the Mayor noted the City had pulled in \$600,000 of one-time revenue to support the School Department allocation because of the way the Charter School funding formula is set, the City is absorbing more expense of the Charter School. To have minimal impact both on the City and the schools, this one-time revenue is a two-year budgeting strategy. They will have to do this again in the next fiscal year. Once the City has absorbed the entire expense of the Charter School, revenues that are currently being diverted there can do the backfilling as needed to avoid the "cliff" when there are one-time revenue sources. The Administration will review this in detail during the budget review with the City Council.

Sec. 2, Page 3: School Budget Recommendations: The Administration proposes a 4% increase to the school budget which is an increase of \$1,350,000 over the voted appropriation the Council made in June last year. That includes the \$600,000 noted above. Some of the reasons for this increase are that they are continuing a transition

away from federal stimulus money that the School Committee accepted over the past several years. That funding has been going away. Over the last two years this has totaled \$1.6 million. Last year saw the schools absorb \$800,000. They eliminated 41 positions in the school because of this. This year they're trying to avoid it, and give the Superintendent, new to the district, the resources he needs to continue his focus on student achievement. In order to transition away from federal stimulus money, absorb the impact of the Charter School, maintain high quality education and focus on student achievement in the public schools, it would call for this degree of allocation. Overall spending is about \$46.7 million when looking at all education-related expenses, which is over 50% of General Fund revenues.

Section 3, Page 4: Expenses: The Police Department budget has kept up with the attrition of personnel, and the budget calls for the hiring of one new police officer. The Mayor commented this is not as an aggressive hiring schedule as they would like, but is moving in the right direction. The Fire Department has hired one new position that was funded initially with free cash (brought on board in FY12). FY13 carries that new position. Paramedic levels remain at 20. Under the DPW, they are emphasizing their need to increase their allocation on custodial services in the schools. The Sawyer Free Library has had to seek a waiver because they don't meet state funding thresholds necessary for a public library in a community of this size; so the amount has been increased, but is still not likely at the level needed. The Community Development reorganization has had the implementation slowed down. The reorganization impact on this budget is about \$69,000.

Sec. 4, Page 5: Water Enterprise Fund: It is anticipated the water rate will go up 3.7% to \$9.07/1,000 gallons. They worked hard to keep the increase manageable and at the same time do the necessary mandated infrastructure improvements. The Sewer Enterprise Fund will have a 1% increase, with a rate of \$11.08/1,000 gallons. Again, there is a significant amount of infrastructure work that needs to be done. The treatment of the Waterways Enterprise Fund as well as the Talbot Rink was noted.

In closing, **Mayor Kirk** expressed the Administration wishes to work cooperatively with the Council and come to consensus on what the priorities are for the upcoming fiscal year.

Councilor McGeary, Chair of the Budget & Finance Committee noted this would start a long process for his Committee and invited the public to attend and meetings which will continue through the middle of June, noting the meetings are posted on the City's website as well as at City Hall and the Police Station.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed that in accordance with MGL c.44, §32 and pursuant to the Gloucester City Charter §6 that the City Council accepts receipt of the Mayor's FY13 Proposed Budget and becomes the budget of the City Council and to refer this budget to the Budget & Finance City Council Standing Committee for further review.

Consent Agenda:

• **MAYOR'S REPORT**

1. Memorandum from DPW Director re: requesting permission to pay invoices for items procured without a purchase order in place (Refer B&F)
2. Memorandum from Harbor Planning Director re: grant from Mass Seaport Advisory Council in amount of \$4.536 million for Repair and reconstruction of the Stacy Boulevard seawall and the northeast side of the Blynman Bridge (Refer B&F)
3. Memorandum from Planning Director re: Childhood Obesity Grant in amount of \$10,000 from Harvard Pilgrim Health Care Foundation (Refer B&F)
4. Memorandum from Emergency Management Director re: acceptance of a \$6,000 Emergency Management Performance Grant (Refer B&F)
5. Memorandum from CERT Program Manager re: City Council acceptance of a \$2,500 grant from FEMA through MEMA's Citizen's Corps Program (Refer B&F)
6. Memorandum from Emergency Management Director re: request City Council accept a donation of a fire boat from the City of New Bedford (Refer B&F, Harbormaster, & Waterways Board)
7. Special Budgetary Transfer (#2012-SBT-35) from Treasurer's Office (Refer B&F)
8. 2011 Year End Report & Financial Summary from the Affordable Housing Trust (Refer B&F)

• **COMMUNICATIONS/INVITATIONS**

1. Response to Oral Communications of April 24, 2012 City Council Meeting re: support to family of Caleigh Harrison (File)
- **APPLICATIONS/PETITIONS**
1. SCP2012-007: New Way Lane #50, GZO Sec. 5.13.7 (PWSF) Modification (Refer P&D)
2. Request & Application for road closures for the 9th Annual Seacoast Seven Road Race on July 21, 2012 (Refer P&D)
3. Request & Application for road closures for the 54th Annual Gloucester Sidewalk Bazaar, August 2nd, 3rd and 4th, 2012 (Refer P&D)

• **COUNCILORS ORDERS**

1. CC2012-024 (McGeary) Amend GCO c. 22, Sec. 22-159 "Parking Prohibited between certain hours and on certain days" Sec. 22-267 "One Way Streets Generally", Sec. 22-265 "Turning Movements-Generally" re: Davis St. Ext. & Chapel St. (Refer TC & O&A)
2. CC2012-025 (McGeary) Amend GCO c. 22, Sec. 22-270.1 "Resident Sticker parking only" re: Farrington Avenue (Refer TC & O&A)

3. CC2012-026 (McGeary) Amend GCO c. 22, Sec. 22-270 "Parking prohibited at all times" re: Eastern Point Road (Refer TC & O&A)
4. CC2012-027 (McGeary) Amend GCO c. 22, Sec. 22-287 "Disabled veteran, handicapped parking" re: Eastern Ave. #19 (Refer TC & O&A)
- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
1. City Council Meeting: 04/24/12 (Approve/File)
2. Standing Committee Meetings: B&F 05/03/12 (under separate cover), O&A 04/30/12, Special Joint Meeting P&D & PB 04/12/12 (under separate cover), P&D 05/02/12 (under separate cover) Special Joint Meeting P&D & PB 05/03/12 (under Separate cover) (Approve/File)

Items to be added/deleted from the Consent Agenda:

By unanimous consent the Consent Agenda was accepted as submitted.

Council President Hardy noted by mutual consent the City Council would take the scheduled public hearing for the proposed Hotel Overlay District next and the Committee Reports after the conclusion of that public hearing.

Scheduled Public Hearings:

1. PH2012- 002: Commercial Street #47, Amend Gloucester Zoning Ordinance to create a Hotel Overlay District

Council President Hardy, after briefly explaining the rules for speakers for the City Council public hearing to amend the Gloucester Zoning Ordinance to create a Hotel Overlay District (HOD) prior to opening the public hearing, she stated there have been many meetings and hearings already conducted on this matter. The Council has been examining this application for a HOD since the day it was filed with the City Clerk's office (submitted February 6, 2012).

Councilor Tobey, Chair of the City Council's Planning & Development Committee reviewed the process by which the Hotel Overlay District zoning amendment had been vetted by the Council. The Planning Board, after referral of this petition from the Council held several hearing sessions: March 12th, 15th, April 5th and April 12th. All those meetings were conducted jointly with the Planning & Development (P&D) Committee. The P&D Committee's public meetings followed once the Committee received the recommendation of the Planning Board accompanied by staff analysis in a memo dated March 30, 2012 (on file) prepared by the Planning Director. P&D met on two occasions, April 18th and May 2nd; a total of six sessions were held by that Committee. It all moved forward on the foundation of extensive Fort rezoning conversations that occurred in 2008 and 2010. He had asked the Planning Director to conduct an inventory of all the conversations that had occurred as a result of the zoning focus on this parcel in question in recent years. He was given a docket of 28 public sessions, which he expressed was an extensive opportunity for vetting the considerations and concerns as it relates to the area. It is based on the initial vote of Council referring this and their obligation to set a public hearing date within 65 days of the filing; this public hearing was initially opened (4/10/12 and continued to 5/8/12) two meetings ago of the Council. The Council is now at the procedural point where they are ready with a motion to come forward from the P&D Committee to frame the conversation that the public hearing resumes.

Linda T. Lowe, City Clerk read the public hearing legal notice published in the Gloucester Daily Times (on file) March 23 and March 30, 2012 as follows:

- "NOTICE OF PUBLIC HEARING: In accordance with the provisions of the City of Gloucester Zoning Ordinance, Section 1.11 and MGL Chapter 40A, Section 5, the Gloucester City Council will hold a public hearing on Tuesday, April 10, 2012 at 7 PM in the Kyrouz Auditorium, City Hall relative to the following: AMEND GZO by ADDING new Section 5.25 to create a Hotel Overlay District (HOD) at #33 and #47 Commercial Street, Map 1, Lots 22 and 23 consisting of approximately 3 +/- acres, said new section to be entitled, "Hotel Overlay District" which will allow a Hotel use and authorized accessory uses by Special Permit to be obtained from the City Council. The Application for a Zoning Amendment for 33 and 47 Commercial Street and the accompanying Map may be viewed at the office of the City Clerk at City Hall during regular business hours. At the Public hearing all interested persons will have the opportunity to be heard. By Vote of the City Council, Linda T. Lowe, City Clerk."

This public hearing is opened.

Those speaking in favor:

Attorney John Cunningham, 59 Main Street representing Beauport Gloucester LLC, the petitioner and Sheree DeLorenzo in the matter of rezoning to create a Hotel Overlay District (HOD) at Commercial Street #47 explained that after considering the concerns expressed at meetings of the Planning Board and the P&D Committee, the HOD has been revised and the amended text, dated May 2, 2012, which has been submitted to the City Council. The adoption of the HOD has been recommended unanimously by the Planning Board. The Council has their recommendation on file, along with the minutes of their hearings and all of the comments submitted. The P&D Committee reviewed, commented on suggested revisions and voted unanimously to recommend the adoption of the HOD. It has been stated many times, but the attorney made clear, that the HOD does not allow anything, no hotel or any other structure, to be built as a matter of right. The HOD adds a process for seeking approval of a City Council Special Permit for a hotel located in the HOD and not elsewhere. The City Council and all of the other appropriate City Boards and Commissions will review, approve and appropriately condition any proposed hotel on the site.

Not a Harborfront Site: The Birdseye site is a beach front site with great views of Gloucester's outer harbor. It is not a harbor front site. The site has no access for fishing or commercial vessels, no deep water and no wharf. Unlike the properties on the Inner Harbor, the site is not in the Designated Port Area under Chapter 91.

Planning Documents: The City's Planning Director, as part of the Planning Board's thorough process, prepared a memorandum which the Council has in the record, summarizing the Planning Board's review of the planning considerations. Two recent city planning documents were reviewed and relevant portions have been submitted for the record. The three-prong strategy outlined in the planning documents calls for support of (1) the City's fishing industry (2) the visitor-based economy, and (3) development of marine technology and scientific uses of our harbor. At the Planning Board's public hearing, testimony was given that a hotel is (1) an important economic driver for the visitor-based economy and (2) key to the development of marine technology businesses in Gloucester. He stated that the creation of the HOD is critical to the success of the City's overall economic strategy.

History: Many hotels, small and large, have been built through the years in Gloucester and in the downtown. Gloucester has had a long tradition of welcoming visitors, many of whom have stayed and become part of the community. None of these hotels interfered with the fishing industry, but instead brought visitors to Gloucester, including the artists and writers who are a part of the City's history and local economy. Hotels have supported an important component of Gloucester's visitor-based economy for more than a century.

Capacity: It is widely recognized that there is a need for a downtown hotel and more hotel capacity in Gloucester. There was testimony that existing businesses, major employers presently in Gloucester, have to send their visitors out of town; and that marine technology businesses, which the City would like to come to here to support the development of a maritime economy, need hotel and conference space in the downtown to operate effectively.

Revenues: There has been testimony also about the importance of tax revenue from the hotel and businesses which work with the hotel, which will support the City's budget, broaden the tax base and lessen the load on homeowners and renters alike, for both real estate taxes and water and sewer rates. In addition to real estate taxes, the hotel will generate room taxes and meal tax revenue, as well as providing new opportunities for employment.

Deteriorating Building: The Birdseye plant has been unused and deteriorating for 8 years more or less. There is now an opportunity to convert this site to an attractive, revenue-generating and job-generating hotel. This opportunity for a hotel is not speculative, it is real. The property owners have the experience and the capacity to build and operate a successful hotel, as well as a proven record in working with the community and surrounding businesses and industries. He expressed the opinion the upland parcel is a wonderful site for a hotel; just as Gloucester's first hotel was built on Pavilion Beach at the nearby Tavern site to welcome visitors and share the community's beauty. Whether it is visitors coming into town for a vacation, to visit family or on business, a hotel has the potential to contribute to the revitalization of Gloucester's local economy and the downtown, as well as provide jobs and showcase Gloucester.

Process: Through the hearing process, the petitioners have listened to the concerns and suggested revisions to the amendment so that it is more clearly defined and limited. The text of the May 2nd HOD reflects the changes resulting from the Planning Board, P&D and public comments. The amendment now better defines "hotel" and sets forth workable, dimensional standards and boundaries ensuring the City Council's full control of hotel development on the site. The owners of the property remain committed to the public use of Pavilion Beach in front of the site and look forward to continuing the process, as part of the special permit discussions, so that (1) as part of the project better public access from Commercial Street and Fort Square to Pavilion Beach will be a part of the plans; (2) the industrial remnants on the beach can be removed; and (3) the public use of the beach can be formalized forever.

Review of the Provisions of the Revised Amendment (dated May 2, 2012):

- The first section is important because it states the City's public purpose objectives in creating a special permit process for a hotel.

- The second section includes a more specific definition of “Hotel” resulting from the Planning Board review and comments. Through the process, the HOD boundaries were the subject of much discussion. The parcel at 33 Commercial Street is now excluded in its entirety.
- They have submitted to the Council today an alternative HOD Zoning Map dated May 8, 2012 (on file) which defines and further limits the HOD to an area 10' from the property line of the upland parcel. The existing building is located on that property line and the 10 feet is measured from the property line, as shown on the map. In this 10 foot area there are already numerous remnants of industrial activity – large concrete pads, a metal stairway, an abandoned pipe and a long retaining wall with a chain link fence on top of it. This is an area which can be cleaned up and where public access to the beach can be greatly improved. Any activity proposed in this area will be part of the special permit process. If it is the determination of the City Council that minimizing the HOD to the 10' line is in the public interest, then we would accept that determination. Attorney Cunningham reiterated there will be no deck, no patio and no hotel building on the beach area and any public access or storm protection structures will be completely within the City Council’s review under the special permit process, along with other coastal regulators. The balance of the section makes it clear that the standard City Council Special Permitting procedures, filing requirements and review process all stay in place.
- The Use section makes it clear that the HOD is solely focused on a hotel and does not allow any other residential uses, and explicitly prohibits condominium, cooperative, timeshare or extended stay use and reinforces what the Zoning Ordinance itself provides, that casino use is not allowed.
- As part of the review process, the dimensional table was revised to better define what could be expected in an application for a City Council Special Permit. Building height is handled by using the 40’ standard from the MI district, and the customary City Council process for allowing additional height as part of a special permit. The tower is being addressed separately from the height of a hotel building. A front yard setback of 10' was added, as well as a 10' yard around the existing building at the corner of Commercial Street and Fort Square.

Spot Zoning: The City’s legal counsel has assured the City Council that the HOD is not spot zoning. The amendment meets all of the criteria that a court would look at in upholding the City Council’s adoption of this overlay district. The amendment provides public benefits. It is a logical extension of the City’s planning efforts. It revitalizes a deteriorated area. It is not for the sole benefit of the property owner, but has wider public benefit and it develops Gloucester’s economy, generates revenue and increases employment opportunities. The key thing to keep in mind is that the HOD only allows a hotel within the narrowly defined district and only after submitting all the required data and plans needed to receive approval from the City Council of a Special Permit. Attorney Cunningham, on behalf of his clients, asked the City Council to vote in favor of the zoning amendment.

Sheree DeLorenzo, 1 Horton Street, partner in Beauport Gloucester LLC thanked the Council, City officials, the Mayor, the Planning Board and the Planning & Development Committee for their support and unanimous recommendations of the HOD to the full City Council to take a vote on this evening. She asked for the Council’s support for the HOD at 47 Commercial Street, known as the Birdseye [property]. She came to the City six years ago, and at her first meeting spoke about tax revenue with three tiers of the tax base: property tax, room tax and meals tax. There would be jobs, staff recruitment, both high on her priority list, retention and long-term employment, as well as living in harmony with the marine/industrial businesses around her, fishing vessels, Rose Marine and Americold (all around Cruiseport). She noted a job fair they held in Gloucester where she was able to recruit and hire over 40 people. At that time she was struck by how many people a hotel would be able to employ. She spoke about her volunteerism; touched upon economic and bio-tech businesses to bring more marine bio-tech to the City. She touched upon an event held at Cruiseport recently, a wedding that employed many of her employees at the Cruiseport and felt this was the kind of work that could be utilized at a hotel by Beauport Gloucester and that these jobs could be had there. She explained when the public dines, they work; when they have a family function, they work; when a cruise ship comes to the City, they work. They are students, mothers and young families working together to support the local economy. She promised to showcase the City in a positive way with the ability to have a hotel to welcome everyone at the Birdseye site, and asked the Council for a chance to fulfill that promise.

Those speaking in opposition:

Attorney J. Michael Faherty, prior to speaking in opposition of the proposed HOD requested of the Council President to view the May 8, 2012 amendment (on file as submitted to the City Clerk’s office) to the rezoning petition before the Council for their consideration, in the form of a colored map on behalf (a revised plan) of his

client which he had never seen. He expressed his surprise at another amendment at so late a date to the petition. **Councilor Verga** gave a copy of said map to Attorney Faherty who then viewed it prior to making the following comments:

Attorney Faherty, representing Mortillaro Lobster, LLC at 58, 60 and 65 Commercial Street, and Vincent and Gino Mortillaro individually. He clarified what he indicated was a misconception that 65 Commercial Street contains nothing but a shed. It is a lobster pound during peak season generates approximately 30% of the volume of that lobster company. His clients oppose the overlay for several reasons: (1) it eliminates the protection granted in the ordinance for maritime uses in the MI District. Sec. 5.18 of the zoning ordinance was specifically adopted by the Council to maintain the integrity of the MI District. It says that in any special permit granting situation the Council “shall” consider five factors, the last of which he read: “To what extent the proposed use beneficially affect the preservation of water related uses on surrounding properties.” He suggested this includes all of the businesses that are on Harbor Cove. If that is eliminated, the Council would not be considering the beneficial interest. He stated that all of Sec. 5.18 is gone with this proposal.

Footnote (e) which requires the set back of a building one-third of the height of the building if it faces the waterfront. In addition, it eliminates the requirements of other MI properties have to comply with regard to parking. The petitioners are seeking the parking only for the hotel and not for any of the ancillary uses which they described in their application as a conference center for 100 people and potentially a restaurant for 100 people.

Referencing Sec. 5.25.4.1 Dimensional Table, he noted the front yard is Footnote (g), which states a 10 foot front yard. Footnote (g) says “In a HOD district a yard of 10 feet from the lot line shall be provided when a building on an adjacent lot, and existing at the time of this ordinance, is located within 10 feet of that line.” Attorney Faherty stated that had nothing to do with the front yard. The footnote is misplaced. This is the only place in this ordinance where the requirement as a property owner to set the building back from the property line is dependent on the property’s neighbors’ placement of their building. He contended this is a “big exception” and setting “a dangerous precedent” in that regard.

Pavillion Beach: This is now limited to 10 feet. There is no explanation in this ordinance that says what can be done in that 10 ft. They have heard two verbal explanations but it is not in writing, and would not be binding on this Council for any future applicant. With regard to the beach, he submitted a letter from Peter Rosen (on file), a coastal geologist and well qualified with his C.V. also submitted (on file). His findings include the fact that this beach is not only a barrier beach but is also a coastal dune. This dune is trying to work by pushing sand off the beach upland into the parking lot and onto Commercial Street. There are several inches of sand on the sidewalk on the Commercial Street side of the building. This is still a working dune. He questioned whether anyone coming forward to place this hotel on any other dune would get “past the City Clerk’s office”.

Set back Requirements/Shadowing: There is 10 feet on the front. While it has been said set backs will be dealt with later, the petitioner has said they would come in with a building height of approximately 60 feet - they’d accept 40 feet. He showed the Council an example of three shadow studies (on file) done by using at face value what the petitioner had said they might do – a peaked/gabled roof and a horseshoe-shaped structure. In the winter, a key time for shadowing when the sun is lower in the sky, it would cast a shadow about out to Western Avenue. That is a shadow that a 60 ft. building in this location would cast. On all of the drawings, he pointed out a time of 8 o’clock, 10 o’clock showing the same shadow. Commercial Street would be completely in the shade in the winter. In the afternoon his client’s property would be completely enveloped in the shade in the winter, as well as the street in the front, preventing snow and ice to melt. Late afternoon, not only his client’s property and others would be consumed by shadow.

Street Traffic: There has not been consideration of what would happen to Commercial Street. **Attorney Faherty** expressed that Commercial Street is an inadequate, narrow street, in his view. It is only 24 feet wide, and there is no public layout. While everyone calls it a public street, they cannot find in the City a layout of that street. He pointed to a map saying that folks are talking that nothing is going to change, nothing is going to happen in the Fort; and everyone would get along. He pointed to a concept in the Fort that he coined a “commercial inter-dependent cooperation” and gave an example: in front of his client’s property across the street, a cold storage has shipping/cargo bay. (The shadow studies shown to the Council along with the noted map were submitted and on file prior to the public hearing.) The trucks to get out of that area couldn’t get out without nosing onto the Mortillaro (formerly the Frontiero property). The Mortillaro trucks that pull into its bays on their property are set back considerably more than 10 feet. In order to make a 3-point turn have to come onto the property. That has been an existing situation for a long time. He was not suggesting to the Council that anyone has a right to use anyone else’s property. However, at the Fort it is a way of life and necessary and is why he calls it a commercial inter-dependent cooperation. Recently, even with the minimal contract work that the gas work done there coupled with the presence of concrete jersey barriers that used to support the terminal for the cold storage, he had submitted 9 letters (on file)

from shippers, truckers that support the Mortillaro operation; and all of them threatened with the fact that they may not be able to deliver there any more because of the time delays and the problems with turning their trucks, that, he suggested, was an effect and impact of the hotel.

Once they have a situation where they have set standards, if an applicant meets those standards the Council will be “legally powerless” to make those requirements any more stringent because a court will not uphold them when they have the requirements. It is zero setbacks and zero intensity of use. The last time he witnessed “a political frenzy” to get this done was in April 2010. The Council deliberated the fate of I4-C2; it was the same arguments that it was going to an economic linchpin that sets the City forward. They don’t have to deal with details now; that will come later. He suggested to the Council, where did it get them; and is the same situation they are confronted with now.

Dan Hill, attorney, 43 Thorndike Street, Cambridge, explained he represented some business owners and neighbors of the Fort district, noted this is not a debate whether the City needs hotel rooms. He stated that Attorney Cunningham introduced the concept that this project needs to go forward because the City needs hotel rooms; and there is, he reiterated, no debate on that matter. The question is whether this particular location is appropriate for a hotel use. The memo from Attorney Cunningham of April 9, 2012 (on file), to P&D Committee and Planning Board mentioned this is not spot zoning, which he disagreed with. However, he did accept Attorney Cunningham’s statement of what constitutes illegal spot zoning under Massachusetts law and his framing of the legal standard of review. Attorney Cunningham cited the Whittemore v. Bldg. Insp. Of Falmouth case that held that spot zoning is the singling out of one lot for different treatment that is accorded to similar surrounding land that is indistinguishable in character all for the economic benefit of one owner. That standard is generally still applicable, though modified in the last 60 years. There have been dozens of spot zoning cases in the Commonwealth, some validated, some not. Courts generally look whether (a) there is a singling out of a parcel of land, which he expressed he didn’t think there is any question that this is the case here; they are singling out a parcel of land for unique treatment for economic benefit of one particular property owner. There is a public purpose for the property, but also whether this is consistent with the town’s planning. The courts look at whether there is a public purpose for the rezoning, which he stated he didn’t believe was disputed. There is a public purpose articulated; they need hotel rooms. But it is whether or not this is consistent with the town’s planning which is the most important factor courts look at. In the Duran vs. Superintendents of Buildings case, the rezoning of a parcel in a residential district into a business classification was upheld because the change was consistent with the town’s master development plan. Sullivan vs. Town of Acton, the rezoning of a parcel from business to residential was also upheld because it was a product of a long-range planning study that was trying to eliminate traffic congestion along a particular highway in Acton. The cases that Attorney Cunningham to support his position that this is not spot zoning are distinguishable from the facts of this case; and are therefore, not applicable. Hanna vs. Town of Framingham, the rezoning at issue placed the locus into the same zoning district as all the surrounding parcels of land thereby allowing that parcel to be developed in a consistent method. He expressed his opinion that is not the case here. A 1955 case, Burnham v. Bd. Of Appeals of Gloucester, dealt with no spot zoning at all; the issue was a special permit that was granted by, he believed, the Planning Board, for a motel in a residential district in the Back Shore, based on a rezoning in 1953. That had nothing to do with spot zoning. The Millennium Place project and the case cited, Kimberk v. Boston Zoning Comm., concerned a project in Boston for a planned development. The Land Court noted that Boston is unique; that this project was a redevelopment in a core urban area, and the location was within the areas that were designated for planned redevelopment areas. That is unique and distinguishable. The final case cited was that of Farrington v. City of Cambridge, the Lesley University case in 2011, the Land Court’s Judge Sands did a thorough analysis of whether that rezoning was compatible with Cambridge’s master planning for that area. What the rezoning attempted to accomplish was they wanted to take several church lots and make them available to the Art Institute of Boston. The judge went through a lot of the factors they’re asking of the Council to go through here that look at the master planning. The judge decided that the rezoning was compatible with the City of Cambridge’s master zoning plan. That case was intensive and has no precedential weight at all to this matter. It confirms exactly what they as opponents are trying to point out here - they have to look at the planning that was in place prior to the rezoning coming before the Council. He submitted, and had submitted in previous testimony before the P&D subcommittee, that the HOD is inconsistent with the City’s master harbor planning despite what the Administration tells them. This overlay district is inconsistent with the 2009 Harbor Plan and 2011 Harbor Economic Development Plan. The 2009 Harbor Plan expressly recommended the “promotion of local processing and retail sale of fish landed in Gloucester. The plan puts forward limits on commercial uses to prevent incompatibility with marine industry and identifies the City’s strategies to guide the on-going promotion for water dependent and industrial uses within the DPA.” That is a quote from the State Executive Office of Environmental Affairs approval of that plan in 2009. Another quote from the State’s approval of that 2009 report is, “The plan clearly articulates the importance of

improving the water dependent, marine industrial infrastructure on the waterfront.” The underlying themes in those plans were to promote tourism aspects in the waterfront as well as maintaining the marine industrial character of the City and the active working port. This project, for the reasons they will hear, will interfere with businesses primarily on traffic. As Mr. Faherty explained earlier, Commercial Street is a narrow winding road. Trucks go in and out constantly making deliveries to and from the businesses along Commercial Street - Intershell, Neptune’s Harvest and Mortillaro Lobster. This hotel will generate a lot of traffic and interfere and is generally incompatible with that trucking traffic. There have been no studies to date to evaluate those kinds of conflicts. He stated it is improper in his view for the City to move forward with a rezoning until that kind of study has been done. He has outlined those reasons in his previous letter to the Planning Board which is on file explaining his objections. He pointed out a provision of the 2011 Harbor Plan that directed new hotel development to occur downtown in the Central Business district, finding that, “...hotel should be located adjacent to but outside the DPA and the MI district.” For that reason this proposal is incompatible and inconsistent with the City’s Harbor Plan. He expressed that in his opinion this proposal for an HOD will constitute spot zoning and is illegal and incompatible with the plans. “The courts will find it that way.” The question before the Council is not why not Gloucester but rather why not the MI district and is the question they should be answering this evening.

There was a recess taken at 8:10 p.m. to check the integrity of the microphone at a podium. The meeting reconvened at 8:15 p.m.

Public Participation – Speakers were speaking alternately in opposition and in favor.

In Favor: Sargent Goodchild, 828 Washington Street, now retired commercial industrial real estate professional of 45 years stated a company he worked for in 2004 was asked by Peter Maggio, who owned the Birdseye building, to sell the property. After a year and a half, Mr. Maggio gave the deed and keys over to his lender, and then worked for the lender. They spent 5-1/2 years on the project giving him a unique perspective on what does and doesn’t work. They went to 48 local seafood businesses. They had no interest in the building; Ocean Crest did a few years later. The Gloucester larger business community had no interest. Colleges and universities were contacted and none had interest in the property. In all the time they handled the property, they had a total of two showings. A hotel works for this site, and nothing else does.

In Opposition: Natalie Simon, 1 Bianchini Road expressed her opinion that there are serious deficiencies in the ordinance as drafted and should not be adopted as drafted. The definition of a hotel in Sec. 5.25.2.1 says it is a structure providing no less than 80 sleeping units for transient guests. She expressed her inability to understand that meaning, stating that is open to providing a large loophole [in the proposed ordinance amendment]. Perhaps the developers would put a hotel there in a way the definition of a hotel is understood, but they don’t know who they would sell the property to. There are prohibitions for no condos, etc. There is no definitional section of that. A proper ordinance would tightly define a hotel and anything not fitting into that definition would not be allowed so that there is an ordinance that would last. She wished to see the developer to draft the ordinance so that the purpose won’t be frustrated by future owners of the property. There is no limitation on building height. Parking is a big issue. None of these things are defined in the ordinance and some not even addressed. There are no dimensions for a loading bay. Employee parking requirement is insufficient and will lead to congestion.

In Favor: Greg Verdine, 71 Eastern Point Boulevard, professor of biology and chemistry at Harvard University and partner in a life science venture fund expressed his belief he has a good understanding of what constitutes a successful biotech business. They developed a new drug in one business curing cancer in patients. Gloucester Pharmaceuticals, a company he started in 2005, was sold; every employee took home a significant financial reward for all their hard work. Gloucester Pharmaceuticals never resided in the City because he was vetoed by his investors because they realized the infrastructure for conferencing, bringing in consultants in worldwide was not here to bring people to the City. He wants to see this not repeated. He envisions Gloucester in the future where his children have the opportunity to work in life sciences and marine sciences that lives side by side with traditional businesses of the City. They need to create a posture that can compete with places like Boston and Cambridge by exploiting the City’s beauty that allows CEO’s to walk to businesses in the City. He asked for their support of the HOD.

In Opposition: Ann Molly, Ocean Crest Seafoods and Neptune’s Harvest, 88 Commercial Street stated there are real lives hanging in the balance. While this decision may not affect the Councilors’ lives directly, their decision will affect many residents and businesses in years to come. It was clear to her and others that the greater plan is to “force them out of the Fort.” The Planning Board’s job was to see if the HOD was appropriate use for the Birdseye site. The head of Planning told them it was their job to look at places that have done similar things and see if it worked for those communities. She claimed they didn’t do their research, and therefore did that research

themselves. She stated there were several examples where this failed. There are many coastal cities who regretted their decisions to put conflicting uses next to their working waterfront. Several examples will be given and submitted for the record (on file). She hoped the Council does not ignore these facts, as she stated her belief that the Planning Board did. She expressed it was the Council's job to read these documents, hear what is said this evening, and do what is best for the City, and not the few who will benefit at the risk of many thriving and growing businesses on Commercial Street. Every one of the businesses who abut this spot has signed a land-owner petition opposing it. It says to her they've done the research and know this will adversely affect their livelihoods. She claimed it had been expressed by Councilors that it won't affect their businesses. They must vote on facts; and the facts show businesses have been shut down, bankrupted fighting things or forced to move when conflicting uses are side by side. She pointed out the example when Lowe's in Brighton when Jim Davis bought the land around them. It all started with the claim that they would be good neighbors. She asked the Council if they were willing to risk the jobs and income of five plus marine industrial existing businesses? It was asked at a previous meeting of why the Fort was zoned Marine Industrial (MI). She stated it was zoned in 1991 to protect industrial businesses in the Fort from neighbors complaining and having them shut down. This, she expressed, was her concern if the HOD is allowed. Past Mayors and Councilors saw the benefit of having there companies there. This City grew and flourished under the protective MI zoning.

In Favor: Catherine Schlichte, 32 Wall Street a resident and small business owner in the City stated while the opposition is motivated and vocal, that many residents are in the silent majority. She stated her belief that this proposal has vast support it enjoys in the community. She asked the Council to keep in mind the big picture of the 26 square miles of Gloucester, the vast majority of which is reserved for residential and open space. A very small area of the City is dedicated and designated for industrial uses. There are the two industrial parks; the Central Business (CB) district; and the MI district. If they look at some of the vacant parcels in the MI district the zoning is not working there. Some of the opponents present claim the defeat of the Cohen project 25 years ago as a "badge of honor". That lot is still vacant today and she expressed the opinion that she didn't think that was anything to be proud of, and benefits no one. The City needs economic growth. If this zoning affords that opportunity for some economic development of that section of the Fort, growth, it benefits the City. The end of Commercial Street in the Fort formerly used for fish processing was on the market for 20 years. No one bought that parcel of land because the regulations were so onerous no one could find anything to do with it. In the end, the City took that property for back taxes several years ago, yet another piece of land that is lying fallow. As the Council considers the HOD, they should think about the limited opportunity for economic development; and this is appropriate for that use.

In Opposition: Leonard McCollum, Ocean Crest Seafoods, 88 Commercial Street pointed out the parcel of land Ms. Schlichte referred to is contaminated by oil and why no one would buy it. He expressed that the affect of this parcel's status has been the prevention of the expansion of their business in the Fort and has increased their property tax. He noted at Gloucester Times story dated May 3rd about Highliner Foods closing its Danvers fish processing plant, and reading from it which stated the processor tried to be a good neighbor spending over \$1 million over the last years to mitigate complaints of odors dating back to the mid-1970s. The plant's "offensive and objectionable odors" were a subject of an enforcement order of the former Building Inspector in 1997. This is the type of thing they fear will happen should a high-end hotel be permitted in an industrial zone. The hotel, he claimed, would make it more difficult for their trucks to reach their plant facility and leave the Fort. It could prevent their trucks from getting their perishable product to market on time and reach its destination in pristine condition in a timely delivery time by road or air, products such as blue fin tuna. He pointed out to condos built on the waterfront in Swampscott and the trucks that ran early in the morning in that area. Eventually this shut that last plant down. He spoke to issues from Maine about their working waterfront and legislation passed there. Beauport Gloucester estimates 100 jobs, but he questioned how many would be seasonal or part-time with no benefits.

In Favor: Richard Wilson, 12 Road expressed that something positive could happen on the City's waterfront. The Birdseye property has been idle eyesore for years generating little or no income, no capital, no jobs, nothing. Beauport Gloucester LLC's proposal will visually enhance the area y and bring in tax dollars and jobs to the City. He has dealt with Ms. DeLorenzo for three years and knows her and her partner to be good to their word. Local residents have told him that in the event this went to a vote citywide, 90% of those City residents he spoke with would support the proposal as he does.

In Opposition: Nathaniel Mulcahey, 33 Middle Street, engineer stated there was a petition submitted (on file) requesting additional public hearing regarding the HOD according to the City Charter Sec. 9-1 providing 200 signatures which is verified by the City Clerk. He stated the reason another public hearing is needed is that while getting extra signatures for the petition in walking the City's streets, he was told by people that they didn't want to sign the petition as this was a done deal. He further stated that if people feel it is a done deal before full discussion is had, to him it means there hasn't been full discussion or they have no faith that this discussion will be held. This

affords them the opportunity for everybody to be heard and for the City Council to have sufficient time to deliberate on these critical issues. As an engineer he focused his efforts on reviewing elements of the proposed HOD regarding height. A building with ground-level parking, a restaurant/conference level, two living levels and an additional 20 ft. peak, the building proposed would be 90-110 feet if they respect the engineering requirements for that lot. All the City maps from 1835 to present, the [Pavilion] beach does not belong to the Birdseye building. If they add up all the side lots of the additional small lots that were included, it adds up to 207 feet which is the distance from Commercial Street to the corner of the freezer on Fort Square. The beach, he stated, belongs to the City, 35 ft. or 10 ft.; and should not be given away. In terms of marine industry, the building is unique. The five highest grossing marine industries today are industries that need fresh exchange of salt water which the 2.6 feet of cement that are on the beach that allows the Birdseye building the only parcel unique for new businesses.

In Favor: Mark Vidal, 24 Rowley Shore, Gloucester professor of genetics at Harvard echoed Greg Verdine, a co-worker and partner in business. He is in support of the HOD project. There are activities they can do if they can bring people to the City for conferences. He goes to many conferences for his work all along the coast, Bar Harbor for instance. They can attract people here. This project can occur very quickly. They can create new jobs and something has to start somewhere. He stated his belief this is significant. He hoped for the future something can be started here.

In Opposition: Charlie Bianchini, 51 Fort Square is a fourth generation Gloucester resident spoke in opposition to the HOD proposal as one person "trying hard to stay in Gloucester to keep her work and home here as well as her friends' work and homes here. This would enable her to have entrepreneurs to collaborate with helping to make Gloucester a thriving City. She expressed concern this City Council might not support the kind of industry that will keep them here. A yes vote on the proposal might drive out an entire neighborhood; over \$77.6 million of business and millions of dollars in potential. Unlike most hospitality jobs, MI district jobs are not seasonal but year round providing living wages, benefits. People who work for these industries are on average paid better than minimum wage and can afford to live, shop, dine in Gloucester. This also comes to the City in the form also of taxes. She pointed to the Seaport Grill where managers are paid an hourly wage with no benefits. The hospitality industry would not keep her or her friends in the City. The highest job turnover is in the food services/leisure/hospitality sector. She asked they not vote in favor but help the Birdseye site become something they can use for their future.

In Favor: Bridget Jaramillo, 9 Gerring Road works at Cruiseport as a senior event manager stated everyone there are raising their families and are not struggling nor wishing to be somewhere else. Cruiseport did 201 events last year. They would like to people here in the City and send them to a local hotel the HOD.

In Opposition: Damon Cummings, 1063 Washington Street understood the desire for a downtown hotel. One is recommended strongly in the harbor planning process; however, it was stated very clearly it should be outside the MI district and outside the DPA (Designated Port Area). Their concern was the probable negative impact of hotel development on the present health and future investment in marine businesses. He stated the belief that no one would invest across the street from the hotel to build a fish plant. They're told by experts and City government that a hotel across from Intershell, Ocean Crest/Neptune's Harvest, and Mortillaro will have no negative impact on those three businesses. They're "poster children" for the recent investment in the fishing industry on the harbor. Failing businesses are moving out. Neptune's Harvest developed by Ocean Crest was started a few years ago based on research at the Mass. Marine Station. Their products have become famous. Mortillaro's recently purchased the property they had been renting and have applying for permits to expand their business as well as invested heavily in the security of their building, and Transportation Security Agency clearances for their employees. Intershell has just moved into their location, completely renovating the facility to conform to modern standards. Now businesses are hiring lawyers to protect them from City government. The City Administration states the hotel is no threat. The business owners say otherwise.

In Favor: Frank Rose, General Manger of Rose's Oil Service, abutter of Cruiseport; and as a homeowner and waterfront owner, this is a proposal to expand the City's tax base. Ms. DeLorenzo is a responsive business person. They work well together. If he has a truck coming in that cannot access his property, Ms. DeLorenzo accommodates.

In Opposition: Jay Gustafarro, Starknaught Road spoke about "them people down there", those that work with their hands raised the issue and expressed concern that this Council knows what is best for the majority of the businesses and residents that don't want this down there. Neighborhoods, he contended, counted. They don't need a Councilor to think for them and don't want a hotel in their neighborhood where there is a way of life at stake.

In Favor: David Anderson, 16 Middle Street stated the City needs the hotel now. They've had 28 meetings on this overlay in five years. There is nothing more important than they need than tax stability and recounted the cost of the infrastructure that needs replacing; and need \$55 million to repair the public schools; and the other infrastructure issues. There has been zero growth. He pointed to the City of Salem, Peabody, Lynn and their

development that has come forward in the millions of dollars which deep water development. They want the best for the facilities and the schools. They need this hotel to do this and expand the tax base.

In Opposition: James Tarrantino, 26 Fort Square stated it is obvious to him that there are influential people from influential neighborhoods in favor of the HOD, but that the working community is against the rezoning. He cautioned against 'gentrification' of the Fort by the rezoning. The working class needs the most protection when making the decision on this HOD. He asked they consider what is best for the future of Gloucester

In Favor: Patrick Scalli, 1 Bray Street, Gloucester, read an excerpt from a letter by Gloucester's senior harbor pilot, Captain Bob Blair in favor of the HOD (on file). Mr. Scalli also expressed his support as a former member of the Gloucester Board of Health, a former member of the Harbor Plan Implementation Committee and co-chair of the Fishermen's Memorial Cenotaph. For all those years, he expressed he has been vocal in his passion in this "enthusiasm" for the working waterfront and related businesses that thrive off of it, including his own. He believed this zoning proposal for a HOD is in the best interest of the City.

In Opposition: Bill Johnson, 26R Fort Square pointed out the vote this evening is being held to a majority of seven votes because of a submission of a land-owner petition by the neighborhood and businesses as provided by the Gloucester zoning ordinance. He noted all of the property owners on the opposing side of the street not directly involved directly with this proposal have signed the petition which he expressed his feeling that it should "speak volumes" to the Council about the threat which they perceive by repeated attempts to install a conflicting use in close proximity to them. He did not support this proposal. He is a resident and has been an abutter to the proposals that have come through. Noting he is a vocationally educated, fourth generation blue collar factory worker. He expressed his respect for the hard workers as they are the base of the economy. These businesses across from the proposed HOD represent the hard workers of the working waterfront who are successful. They remained successful despite the global economy. They can't outsource what these businesses do.

In Favor: Bernie Der, U.S. Customs/Border Protection, 100 Cummings Center, Beverly works with Ms. DeLorenzo in bringing the cruise ships through to the City, expressed his endorsement of her work with the cruise ships and lauded her work ethic. He stated by building the hotel they'll attract more tourists who come from the cruise ships to stay and supports the overlay.

In Opposition: Lauren Tarrantino, 26 Fort Square disputed Attorney Cunningham's statement that the Birdseye building was vacant 8 years and expressed her opposition.

In Favor: Tom Ellis, 5 Old Bray Street noted Bill Stride bought a property in the industrial park as it was cheaper than property on the waterfront, although he had a fish business. He believed that all the properties capable of loading and unloading vessels should be kept for that; but this property could have a hotel on the water where people could enjoy the view of the fishing fleet coming and going. A hotel on the inner harbor would not give the same view. He spoke of "socio-diversity" meaning to him that they need to have places that are unique as Gloucester. When visitors see a fishing boat coming and going it is an educational opportunity; a waterfront hotel would allow visitors to see the working harbor and be educated about the fishing industry.

In Opposition: Suzanne London, 11 Beach Road expressed the opinion that the City is under tremendous pressure to increase the tax base; and that the approval may be a foregone conclusion with "a white knight coming to Gloucester with money and influence". This person refuses to meet with the citizens most affected by this project. Those who would offer alternative uses that did not conflict with the MI uses were not heard, she stated. She asked the Council to carefully consider their vote which has "split the City". She expressed her opinion that the HOD risks the demise of the Fort neighborhood and the loss of the businesses there.

In Favor: Robert Ryan, 3 Blake Court stated this will increase the commercial tax base; create new jobs and complement downtown retailers. It will improve the outer harbor and a property has not been improved in 10 years. Further, residents should welcome Ms. DeLorenzo and Mr. Davis for their investment. The downtown hotel would accommodate events and travelers for tourism and businesses purposes. The City will receive hotel and occupancy taxes and meals taxes. The City can use that additional revenue to provide for the City infrastructure. He expressed the belief that businesses on the inner harbor can co-exist and asked the Council to support the rezoning.

In Opposition: Angela Sanfilippo President of the Gloucester Fisherman's Wives Association (GFWA) stated she was appearing before the Council to express that organization's opposition to the overlay. She expressed her opinion that she felt the Council came in this evening already knowing how they would vote. In past years they have heard testimony in favor of proposals because the fishing industry "is dead" and they have to move on. She stated, "The Gloucester fishing industry is not dead." **Ms. Sanfilippo** stated the following statistics: In 2011, 198 commercial fishing vessels brought into the port \$60 million of raw seafood to City docks. For the State's lobster industry, Gloucester is the #1 port in the State by landing and number of fishermen that fish and noted these figures came from the State's Division of Marine Fisheries. She concluded by saying, "Either they stay as the home of Captain Courageous...or the city of the rich and powerful."

In Favor: Stephanie Couture, 5 Decatur Street lifelong Gloucester resident and a Gloucester public school teacher and is employed also by Ms. DeLorenzo who treats them well personally and financially. She stated that the proposal will bring jobs. The tax revenue generated will help the City's school system which needs it.

In opposition: Jennifer Johnson, 26R Fort Square attended the Planning Board meeting where Councilor Ciolino stated that the zoning needed to be "consistent". The HOD is in conflict and not consistent. The MI zoning was put in place to protect the businesses there. The Mayor and EDIC came out against a hotel in the industrial park because it defeats the purpose of an industrial zone. She expressed her belief it should hold true in the Commercial Street area and reiterated this is a conflicting use.

In Favor: Sam Parisi, 108 Commercial Street submitted a petition signed by over 50 residents. As a former fisherman he stated he saw nothing that would displace or hurt the fishing industry [by the HOD]. This would create jobs, tax revenue. The benefits are many. He noted North Atlantic had gone out of business as have others in the Fort. There is less traffic in the Fort than ever over the last ten years. He did not see that any of this constituted a reason for denying the HOD.

In Opposition: Patti Page, 3 Tidal Cove Way stated that the waters edge should be protected. Hotels are not water dependent uses and do not require water's edge. She expressed the opinion that the non-compatible uses would weaken the MI District. Hotels and fish processing do not compliment each other and would compete with noise levels, air quality, etc. The Fort is not an "amusement" for tourists. Preventing a hotel in the Fort does not hold the City hostage. There are several national and international businesses utilizing the waterfront to the City's benefit.

In Favor: Bob Viau, East Main Street with a studio on 83 Gloucester Avenue expressed support for the HOD and Ms. DeLorenzo; this is something that would support the visitor-based economy providing walking access to the many amenities surrounding the area where the hotel would be built. He expressed the belief that differences can be worked out and everyone can work together.

In Opposition: Denise Foley, 57 Western Avenue presented a petition of 900 signatures stating they would like a hotel downtown because of the safety of the marine industrial area of the Fort. She stated it is public record that accidents have happened in that area and made note of several examples. An experienced fishing captain, her grandfather, was struck and killed by a forklift in that area. She cited injury and conflict that could occur and the liability it would cause.

In Favor: Ed Collard, 4 Lynwood Avenue spoke on behalf from Citizens for Positive Change. He noted there is community support for the HOD and applauded both sides for bringing concerns forward. He stated he represented a large portion of the community as a member of the Chamber of Commerce. He noted that the issues of traffic and odor don't exist to the extent presented; and that the site needs to be developed. He asked the Council to go with what they know is the law.

In opposition: Marcia Hart, 2 Fremont Street stated she had filmed four hours in the Fort area traffic and noted at one point smoke filled the air, and the smell of frying fish was prominent. Sand was blowing. She noted the heavy foot traffic and the fuel trucks; delivery trucks and other sorts of vehicle traffic during that time period. She did not believe it was a good place for a hotel. She suggested they put the hotel at the Gloucester Crossing instead.

In Favor: Mark McDonough, owner of Latitude 43 stated that the HOD could bring hospitality jobs to the City. He disputed the notion that hospitality jobs are "bad" jobs. He has many employees who support their families living in Gloucester working full time. The folks coming to work in the summer are many times first-time job holders. They support musicians and artists. He expressed that hospitality jobs are good, working wage jobs.

In Opposition: Jessica Anders Mulcahey, 33 Middle Street stated her employment is as a community development researcher working with other communities helping them to evaluate their planning processes for development. To her the HOD did not make sense given the three City plans as well as the zoning ordinances and five factors for the MI district that do not support a hotel placed on Commercial Street in an MI zone.

In Favor: Christine Rasmussen, 82 Woodward Avenue expressed that when someone purchases property come a bundle of rights. One of those rights is to petition the Council or the permit granting authority to find zoning relief for a proposal they feel is in the public interest. Then it becomes the Council's job to make that determination if the proposal is in the public interest. If they look at this City's eco-friendly city designation and all the work on tourism, they can find this is in the public interest. By allowing the HOD, they are providing just an opportunity for a hotel to be built in the future.

In Opposition: Dick Belaïre, 6 Forest Street read a rhyme he composed expressing his opposition on the HOD.

In Favor: Jeanne Boland, 30 Haskell Street stated they are here because of possible change and believed change is healthy. The change in the site of the Birdseye and a hotel would help the City.

In opposition: Carmine Gorga, 87 Middle Street expressed concerns of the community faced with a proposal that has divided it. He recommended the Council not vote for the HOD proposal. A hotel should be elsewhere.

In Favor: Bill Wall, 11 Poplar Street expressed support for the HOD and expressed as a small business owner noted Ms. DeLorenzo hires local workers. He supported the hotel.

In Opposition: Molly Lutcavage, 11 Haskell Street stated there is evidence that marine fishery labs cannot co-exist next to hotels. Fisheries science is not compatible with a hotel in the Fort.

In Favor: Neil Costa, 134 East Main Street stated the importance of a business-class hotel, and noted he has a business in the Chamber of Commerce building. This is an opportunity for a company like his that brings people in from all over the country to have them stay in Gloucester.

The following individuals all spoke in opposition:

Janette Cosselatti (sp.), Exchange Street a Harvard graduate read a statement whether needs would be met for a hotel for 80-90 visitors and impact to manipulate zoning laws to do so.

Henry Allen, 100 Main Street and proprietor of The Annie was surprised there was no economic or ecological impact study and urged delay until the studies can be done.

Gerald Berman, Cambridge expressed he comes to the City as a tourist noted that a hotel in the Fort could have a negative effect on tourism by affecting the city negatively in the long term. A hotel should be somewhere else.

Matt Service, 10 Becker Circle expressed his opposition; that the HOD has a negative impact on MI businesses and also setting HOD requirements will have negative impact. A hotel should be elsewhere downtown; that they should not house guests where fish is cut.

Julie Adkins, 8 Rose Avenue was against the HOD; that the addition to the tax base; and based on her calculations, would not add up to enough to warrant a hotel on this property.

Judy Rose, 341 Essex Avenue stated the HOD would take away from the flexibility from the MI district. She asked the Council to ask for drawings as how parking would be handled and should not be voted before this is handled.

Ann Rhineland, 16 Pine Street asked the Council to deny the HOD application because the zoning regulations are for the purpose of avoiding administrative and municipal "panic" about money. She read the five MI factors from Sec. 5.18 "Marine Industrial District" of the zoning ordinances.

Peter Anastas, 9 Page Street called this a third "assault on the Fort. This, he claimed, is poor planning and occurs when the City's master plan is 10 years out of date. It is targeting one area three times and attacks the residents and business owners there. Zoning is through planning.

Suzanne Altenberger, 66 Atlantic Street noted there are four hotel projects proposed for the City. What the Council is doing is risking economic performance, and expressed her opposition.

Judith Walcott, 9 Page Street stating her opposition, that the City needs quality jobs; as a teacher at North Shore Community College she sees what kinds of jobs are really needed. These hotel jobs are not well paid.

Marine/Industrial jobs will be a far better use. She is not in favor of where this hotel is going.

Steve LeCouri (sp.), 45 Main Street expressed opposition to the HOD. The Birdseye building could be used for many other uses besides a hotel.

Valerie Nelson, 7 Sunset Point Road stated she is a former Councilor with economics degree from Harvard and Ph.D. from Yale pointed out if the Council thinks about a clear, consistent economic strategy, in her opinion, the HOD violates what Democrats and Republicans stand for. Endicott College could eventually go into the Birdseye Building (as an alternative use). A conservative point of view believes the engine of growth is in small businesses. The most vibrant businesses are in the waterfront, and the HOD is inconsistent, threatening those businesses in this economy. She urged the Council to vote down the overlay and to move forward on investments in a port economy.

Communications:

Linda T. Lowe, City Clerk noted that the Council has received separately **29 communications in favor**; some people have sent multiple communications, and so the actual communications are slightly higher than that. The Council has received **47 communications in opposition**. There were received in **3 petitions: 2 in favor** (328 signatures on one, 450 on another), **1 in opposition** (305 signatures).

Rebuttal: None.

Questions:

Councilor Verga asked for a clarification of the 10 feet as regards to the beach which is not the 10 feet of beach the City is looking over. He asked why the petitioner is asking for that 10 feet inclusion of the beach in the HOD.

Attorney Cunningham stated the HOD included originally out to the low water mark. There is a discussion that will be on-going about public rights. As he noted during his remarks earlier, they wish to continue their discussions to provide that the public will have perpetual use of Pavillion Beach. The area in question is 10 feet from the property line which has importance as there are remnants of industrial structures there which will need to be dealt

with part of the permitting process. They also want to provide public access along the 33 Commercial Street side. Engineers envision stairways and handicapped-accessible ramps in that area. They will also need stormwater protection; a riprap wall may be able to be kept outside of the 10 feet area. But the hotel is not designed nor through the regulatory process and so don't know what will be asked of them. Anything that happens within the 10 foot area and on entire site is subject to the City Council Special Permit process. The HOD allows nothing to be constructed as a matter of right. **Councilor Ciolino** asked what exactly they are asking on the overlay. **Attorney Cunningham** responded that they are asking for May 2nd draft approval for a HOD with a revision that substitutes the May 8th plan that has the 10 foot inclusion within the HOD of the portion of the beach parcel that is associated with the upland parcel. **Councilor Ciolino** further inquired if the overlay passed this evening, what they would receive, and what opportunities. **Attorney Cunningham** responded they would receive, if voted favorably, they can go back to their architects and engineers to put together all the data and plans required and set forth in the Special Permit section of the zoning ordinance; and HOD district makes that clear that the process they will go through is like the Special Permit process the Council is familiar with. They'll consider water, sewer, traffic, shadowing. All those things brought up in the discussion will be studied and brought before the Council, committees and to department heads in the TAG process; also the infrastructure and safety issues. If approved they have a lot of work to do and then come back to the City with a Special Council Permit application. **Councilor Ciolino** stated that he was quoted as saying zoning would be needs to be consistent. **Mr. Cunningham** stated the Planning Board looked at this carefully. The study that was quoted also had an example in it where they assumed there would be rezoning of this parcel. The City's Planning Director presented to the Planning Board and to the P&D Committee about the history of the MI district and how as many of a third of the parcels in the MI district is not waterfront, not water dependent, not DPA, residential, banks. He stated the MI zoning history is complicated. The point in his presentation was that this is not a harborfront parcel; it is not in the DPA and not a classic MI parcel. The goals of the MI district are, in his view, to protect water-dependent uses consistent with the way Chapter 91 regulates the inner harbor. This parcel is a beachfront parcel and not a harbor parcel and is the distinction they draw. **Councilor Ciolino** stated there is no "by right," and they would have to come through the Special City Council Permit process to get anything built. **Attorney Cunningham** expressed his agreement; that there is nothing that can be done under the HOD without a Special City Council Permit, and would be a major project. **Councilor McGeary** stated Attorney Faherty in his presentation intimated that were the Council to pass the overlay, that the Council, in fact if not in law, should the proponents came in with a proposal that met the requirements of the zoning overlay the Council would essentially have no choice but to approve the Special Permit He asked if this was the City Solicitor's understanding of their powers under the Special Permit process. **Suzanne Egan**, City Solicitor stated, "No, it's not". Under the special permit granting process, they look at the factors laid out within the ordinance to determine whether they meet the requirements; and those considerations go to the surrounding environment. For each proposal before the Council, the Council would have to look at them individually to determine whether the proposals meet the requirements under the ordinance. With a special permit, the special permit granting authority is vested with significant discretionary authority as to whether that special permit will be granted. Additionally, the courts defer to the local special permit granting authority when they exercise their discretion. It is "not a matter of right grant". **Council President Hardy** asked when the amendment made from 35 feet to 10 feet for the beach; it was her understanding that the 10 feet doesn't delineate ownership of those 10 feet to anyone. **Attorney Cunningham** expressed that he hoped the issue of beach ownership would be resolved through discussions with the City. It is clear, and he had spoken with the City Solicitor, that designation in the HOD does not bear on title. **Council President Hardy** asked Ms. Egan what her interpretation of the 35 feet or the 10 feet was. Is the City, in essence, acquiescing in saying that the petitioner can have 10 feet or 35 feet for ownership? It was her understanding that that it is just for use, not to delineate ownership. Did she as the City's attorney agree with that statement? **Ms. Egan** responded, "Yes", it was correct.

This public hearing is closed.

Councilor Tobey, Chair of the Planning & Development Committee stated by leave of the members of his Committee that he would offer the following motion approved at the May 2, 2012 meeting reflecting, however, the scaling back of the extent of the overlay district on the beach from 35 feet to 10 feet.

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council under Gloucester Zoning Ordinance Sec. 1.11.5 to AMEND the Gloucester Zoning Ordinances by enacting Section 5.25 entitled "Hotel Overlay District" for the parcel located at 47 Commercial Street, Assessor's Map 1, Lot 33 as submitted to the City Clerk's office on May 2, 2012, which is attached hereto and incorporated by reference, and AMEND the Gloucester Zoning Map to create

a Hotel Overlay District located at 47 Commercial Street, Assessor's Map 1, Lot 33 in the Marine/Industrial District as shown on the plan entitled "Exhibit" to accompany an amendment to the Gloucester Zoning Ordinance Hotel Overlay District, by Beals Associates, Inc. dated May 8, 2012.

DISCUSSION:

Councilor Tobey stated spoke to the process undertaken in this matter. He would argue it has been lengthy, thorough, it has looked to appropriate standards; it has been deliberate and not been "frenzied". When he spoke of appropriate in scope and standards, he referred the Councilors to an extensive docket that has been shared with them; and to the Planning Director's memo of March 30, 2012 where they were essentially given two hurdles to keep in mind as they run this course of evaluating this proposal. The first, it is to be resolved, "to determine the appropriateness of the proposed district allowing hotel use in this location." Secondly, if they clear that hurdle, "the focus should be on the specifics of the permitting process and standards (uses, density, height, parking, etc.) and ensuring it adequately addresses project related issues." They have the April 13th Planning Board report to the Council, and they have the follow-up work done by P&D before them this evening. He believed P&D found the issue of the appropriateness of the use in this location was established, again referring to the memorandum from Mr. Cademartori dated March 30th, which lays out extensively the basis for his findings referencing the scope of the downtown as it is understood but being much more expansive than just the narrow stretch of the Main Street area that some would contend. In looking as well at a "medley" of planning documents, many of which can be found to stand for diametrically opposed positions in their own pages and weaving them together, and expressing he thought, appropriately. Additionally, having cleared that hurdle, they all moved forward, the Planning Board and P&D to engage that second hurdle on the questions on the specifics of permitting process. The Councilor expressed his thanks to Chair of the Planning Board, Rick Noonan and the Board's fellow members as well as to Gregg Cademartori, Planning Director, and Suzanne Egan, City Solicitor, for their hard work on this matter, came up with a set of standards, and P&D made them tighter still which is before the Council this evening. They would include that set back requirement around an MI parcel and active MI uses as of the date of this matter; the definitional issue, noting that one speaker was wrong. That not only did they define what a hotel is, but they also go on and say what is not allowed. Specifically, they note in this prohibited use section that anything not expressly allowed is prohibited. Then, "to put on belts and suspenders," they added some of the things that are meant by that: condominiums, timeshares, extended stay, casinos. They tried very hard to address the concerns put before them. They had extensive conversations about Pavillion Beach which have been fairly summarized by both the attorneys who spoke in the Q&A period just a moment ago; that the overlay closely tailored to a minimum of 10 feet has, "no bearing on the ownership of the beach;" and that the ownership and access to the beach is "fair game" for resolution if there should be a Special Permit process that comes before the Council.

They discussed spot zoning. He referred the Council to the April 18th P&D meeting minutes where General Counsel gave a succinct, comprehensive assessment of why she felt spot zoning was not a challenge that would prevail in this matter, which he expressed he believed the Committee agreed.

Councilor Tobey expressed several personal perspectives and stated he grew up here as did his parents. Each parent had a dad who was a fishing captain and a mom who is a fisherman's wife. The degrees that hang on the wall in his office don't include the one that matters most - six summers in the "dehyde", stating "that's where you learn;" and where he learned a lot about this community. It has been supplemented by years of experience as a member of the community in a variety of roles. One take away for him was the need to keep in mind the historic traditions of Gloucester's economy - it is a "five-legged stool" historically in past just as it is today. They are a seaport that has featured in varying degrees fisheries, cargo, passenger trade, recreational activity. They are an industrial zone urging a drive through the industrial park which he expressed the hope would soon be more resurgent, or any other number of settings in the community where active industrial activity and innovation are already in place. They are a commercial setting in the region where they live. They've always had retail activity, service activity and professional activity. The City is an arts center and would argue that the creative class was born in Gloucester will always be here. And last, but not least, the City is a tourism community featuring hospitality; always have and always will. One of the challenges for the Gloucester, and one they have always sustained, is, "juggling those five balls in the air at once, and keeping the balance;" and they have done that.

The Councilor spoke about his time on the Council going back initially to 1988, he could think of several matters that have come forward where they were told they had to deny an application because it would destroy the marine/industrial neighbors coming next to; one was Captain Carlo's Restaurant. That was not only wrong, but in the aftermath of its doors opening, they saw growth in the MI activity in the auction and all the rest that it spurred from that center opening in the late 1990's. And then Cruiseport itself; a site that had minimally used, largely fallow

and became resurgent in multiple uses, getting along with its MI neighbors and having MI activities on its own site. Looking back to his 9 years as Mayor, he reflected on the fact the City had a lot of economic activity going on, and yet they could have done more except for one fundamental fact, they didn't have the business quality hotel or the will to get it done that would have the conference space, the restaurant space, the lodging, 20th century at the time and now 21st century business leaders expect and deserve.

He wanted everyone to leave Kyrouz Auditorium that evening to leave to respect for whatever line of work whatever anyone chooses to engage. "There is dignity in work," whether it is a chambermaid in a hotel or as a Harvard professor or anything between or wrapped around those matters. The Councilor reiterated, "There is dignity in work."

As Mayor he had a number of occasions, prior to this stint on the Council, to engage challenges of the Fort. He hosted a meeting together with the then Executive Director of the Chamber of Commerce at the then newly restored American Legion Old Town Hall building where they tried to bring the businesses and neighbors together exactly because of the problems "spinning around the room" tonight; inadequate infrastructure, anomalies of housing wrapped around MI use. It is a part of the Fort. It was intractable then and didn't know it was any more intractable now. He did know that there are infrastructure improvements that could come out of this and could be very important for the future of the Fort and the community. He pointed out in 2001 in his last year as Mayor looking ahead to the prospect of a declining economic time; he convened a revenue task force. One of the central findings was that the City had to find way to grow the City's tax base; and target #1 was the Fort to see if they could do more there.

The Councilor stated he had been back in the City for 30 years this month. He has seen many lessons play out on how economic development happens. It is entrepreneurs with investment and a business plan yielding jobs, product, wealth that is shared. "We won't restore Gloucester to greatness on dreams." They will restore it on the basis of investment, and entrepreneurs willing to make it. He expressed his belief they have a reasonable opportunity on this site to begin to realize that with this step this evening, the enactment of the overlay district followed by a Council working very hard to apply standards extraordinarily stringently so that the hotel, if approved, coexists and work or not be approved. He also noted that the job cannot end there and cannot be a single-pronged attack. They have the land at 110 Commercial Street; the City has to sell it; and it should be sold with a deed restriction to be only MI. They have the I4-C2 parcel. Work is again underway, not to take it out of the DPA but to give one more shot looking to the models of places New Bedford to put together an RFP that will leverage Seaport Bond money and get an MI use there. The Council will hear from the Real Estate Development Director of the Mass. Development Finance Agency at their next meeting on how they might collaborate in the future to realize renewed MI greatness on the State Fish Pier which is 60% empty. They have challenges; they have opportunities. By moving forward with this tonight he believed they begin to embrace opportunity.

When a body deliberates a proposal such as this, it is important that the members express publicly and clearly their reasons for supporting or opposing that proposal. He stated he will be voting in favor of the zoning overlay on Commercial Street this evening after much deliberation and careful attention to the arguments put forth by the proponents and the opponents of the proposal. He expressed his thank to all who have participated in any way in this debate. There have been thoughtful and considered opinions on both sides of the issue. He stated his belief that the debate has improved the proposal from its inception to the form now before the Council. "It is the essence of democracy that issues must be fully debated and argued in order to reach informed decisions and proponents and opponents have done their jobs well."

It has been argued that zoning is intended to be consistent and predictable; and that the Council shouldn't "tinker" with it lightly. "Why have zoning, if we're just going to ignore it?" opponents ask. But overlay districts are part of the zoning laws. They are options made available to deal with exception cases. The Councilor expressed his belief that the properties on Commercial Street are just the kind of exception for which zoning overlays were created. The property fronts on a bathing beach. It has no deep water access and is certainly not a first choice for water-dependent industry. He also expressed that the hotel use will enhance the use of the beach by the public--including and especially the residents of the Fort neighborhood. The modest encroachment into the beach proper will afford public access and, importantly, handicapped access to the beach, which is not currently possible.

But the overarching question is of the hotel's overall economic impact on the city as a whole. The opponents argue that the construction of a hotel will inevitably put pressure on the existing businesses and residences to sell out to the highest bidder, leading to a conversion of the neighborhood from modest residential and marine industrial to gentrified housing and tourist traps. The Councilor stated if he felt that the construction of a hotel on the Birdseye site would seriously harm the maritime industrial character of the Designated Port Area (DPA) and the marine industries within the Fort, he would vote against it. But as they have seen, the mere presence of a nearby non-maritime industrial business doesn't ring the "death knell" for existing businesses. Mixed use can actually benefit

traditional businesses. He pointed to the examples of s Captain Carlo's and the Seafood Auction, and Cape Pond Ice which realizes significant revenue from the visitor economy. What makes Gloucester a tourist destination is the fact that it is a working port, "a real place." The DPA across the street from the Birdseye site is "our ace in the hole." Its presence raises serious barriers to gentrification and conversion of the existing businesses. He agreed there will be pressure, but the countervailing pressure will be strong, as well.

At the Maritime Economic Summit held last year and in the City's harbor plan, the visitor-based economy is seen as an import part of the City's economic future. Tourism generates much revenue, and he pointed to the nearly \$800,000 in meals and hotel tax revenues the City received last year. At the summit, speaker after speaker referred to the importance of a solid educational system to the City's future. He stated that while he thought everyone agrees that the School Department's teachers and administrators do a "marvelous" job of educating the City's young, but in recent years, school funding has fallen farther and farther behind. Gloucester cannot hope to become a world-class school system of the sort that 21st century marine research and industrial concerns require "on the cheap." The community has to invest in its educational system. Bound as the City is by Proposition 2 ½, there is no choice but to try to grow the tax base.

He made clear the hotel, in and of itself wasn't an answer. A conservative estimate is that the hotel and restaurant would provide \$200,000 to \$300,000 annually in tax revenue. He noted that that figure is more than half of what all the businesses on Main Street from the West End to Pleasant Street currently pay in property taxes. But \$300,000, while no mean figure, "is not a game breaker". The real import of the hotel complex lies in its ability to act as an economic engine for the downtown. Carefully sited and oriented, a waterfront hotel can act as a spur to the rest of the downtown economy. By generating foot traffic along the waterfront and, especially on Main Street, it will, he hope, lead to greater profitability for downtown storefronts and restaurants, and in turn leading to expansion and renovation and growing the tax base. The revenue generated from that economic expansion will help meet the City's critical infrastructure needs, in roads and water and sewer and most of all the schools.

"It is not turning our back on our heritage or our history." The community is availing itself of another tool in its toolkit. A tool that can help the City remain vibrant, strong and ready to meet the demands and opportunities of the 21st Century--modern infrastructure, good municipal services and strong schools.

In the end, these nine elected officials are charged with weighing the arguments for and against any proposal that comes before us. While the Councilor expressed no one can know the future, he expressed he wished he could say with absolute certainty that there is no possibility that the hotel won't work out as he hoped. Rather, in his judgment, the probable benefits outweigh the possible harm. The City has an opportunity here--one that can help the City grow and prosper; and one he believed will not do substantial harm to the industries that have served as well from the City's founding as well as in recent decades. He would support the zoning overlay and encourage his fellow councilors to do likewise.

Councilor Ciolino acknowledged the receipt of many the emails and noted he had read them all. He also wished to acknowledge his family ties to the Fort; that his father and his brothers lived over Bertolino's Bakery as well as an uncle who lived there for years. His first job was with Cape Ann Fisheries. He expressed that he knew "exactly what the area entails". He stated he has tried to stick to the facts of what is being proposed for the Birdseye parcel. He pointed to the "by right" issue. The petitioner will have the opportunity to apply [for a hotel] for a Special [Council] Permit. "There are no 'by rights'." With the opportunity to apply, that is when the process "takes hold" where the issues of shading, traffic, utilities, environmental factors and others, will all be reviewed and considered. He also explained they look to how well this process has worked. The Councilor pointed out the example of Cruiseport which had objections raised – that it didn't belong where it was proposed to be erected because it had a marine railways next to it; and there was a freezer next to the property with trucks coming in and out all hours of the day and night. Mr. Rose, who spoke earlier, noted his business and Cruiseport co-exist very nicely. It is a mixed use property which works. The gas company has offices there; there is a tug boat; a herring boat; trucks coming and going, and, "it all works; history proves it does work".

He then pointed to the example of issues raised during the permitting of Gloucester Crossing with people saying it would herald the demise of Stop and Shop, Shaw's; the downtown would fold; there would be traffic jams on Rt. 128, etc. The reality was it didn't happen. Gloucester Crossing and Cruiseport created many jobs for the community. The majority of these job holders, whom he has spoken with, tell him they are happy to work for these businesses, and most live here. At the time of the projects permitting, they heard, 'they only pay \$8.00 an hour'. "A job is a job". These concerns hire a lot of people. He noted the Mayor's submission of the FY13 budget this evening; and that the Council has a charge to run the City; and it takes money to run the City. To have the residential tax payers to always bear the tax burden of the City, and not have the commercial tax structure for the City's growth, he expressed, is not equitable in his opinion. He stated he has always contended commercial businesses are important in that they don't put children in the schools; don't use the City's trash services; and if you

add in hotels, there is the room tax revenue. Commenting on keeping the fire stations open and schools adequately staffed, he stated the Councilors take these issues seriously and have to find resources to make that happen and not put it all on the residential tax payers. Each year when the tax rate is set they examine the make up of the tax base. The commercial property tax base has declined each year for some time. They need to stop that and decline and work to see it move up. The Councilor expressed his belief that is where the future of the City is. He assured that the Special Council Permit process for major projects works. The neighborhood will be protected; the neighborhood will have input on what is built there. He expressed his optimism that it can work and will vote for this tonight.

Councilor LeBlanc stated of the letters, emails and communications he has received in favor of the HOD outweighed by four to one those to in opposition, having taken the day off of work to review everything and do some "soul searching". He would support the HOD because he expressed he felt it would bring people to the City who will support the businesses downtown and throughout the City. It will increase the tax base; and it has the potential to bring other businesses to come and locate and invest in Gloucester.

Councilor Theken explained she would abstain from voting in this matter as she is Vice President of the Fisherman's Wives Association. Although she had spoken to the State Ethics Commission and had been informed it was appropriate for her to vote on the zoning amendment and that there was no conflict of interest, the Fishermen's Wives Association has taken a position against the zoning amendment. Therefore, to avoid any appearance of conflict of interest or impropriety, she would abstain from any vote this evening.

Councilor Whynott stated he is a lifelong resident of Gloucester and came from a fishing family; his grandfather was a dory fisherman; his father a fresh fish foreman at Cape Ann Fisheries in the 1950's, the "golden age" of fishing; his mother worked on the wharves; and expressed his respect of the fishing industry, and stated he didn't think the fishing industry is dead, but "the golden age is never going to come again." He also expressed that they are adequately taking care of the fishing industry stating there is plenty of space on the inner harbor. Further, he stated his belief that this is the right place for the overlay district; and as said before, this gives nothing "by right." Others have spoken of a 'domino' effect. He stated, "That's not true". There is no precedent setting when issuing a Special Council Permit. One can be issued, and the next person who comes forward the Council can say no to. The Councilor stated this is a first step. He knew a hotel is necessary in Gloucester or they wouldn't have been here so many times; three times with the Fort; one time with the Essex Avenue hotel permitting; one time with the Gloucester Crossing hotel permitting. He personally experienced that need for a hotel when as president of the Essex County City Clerk's wanted to have their summer conference here with at least 350 people participating meaning a need for a lot of rooms and a lot of money to the City; but they couldn't find a place for them here and had to go someplace else. When an ATF officer's funeral was held in the City, police officers from all over the State as well as from other state and federal agencies were going to attend the funeral, they had to stay in Peabody. He expressed that a beachfront hotel made sense. He would vote for the overlay tonight. There is a long process ahead for the Council to protect people's rights and to make sure that what happens with Pavillion Beach is the right thing; and he assured he would work to protect those rights.

Councilor Verga stated that one of the recurring themes is that this has become a divisive issue pitting family against family, everyone against one another. In his view it is unfortunate instead of looking at it as just someone with a different philosophy and view of where the City will be in the future. He expressed his opinion that, "The hotel will not mean the end of the Fort." Stating he would have to get past the accusations of being bought or the threats of how it will affect the next election, he would vote his conscience. He expressed the hope it is something he could live with and believed he would, 10 to 20 years from now.

Councilor Cox stated in addition to the properties Councilor Tobey indicated, she wished to add that of the Cape Ann Brewery to that list. She pointed to the Brewery as an example of positive change. If Gloucester had allowed the worst case scenario to win over the Brewery, they would have failed a long time ago. It is a respected business and a great community partner. She explained she knew firsthand that MI jobs don't always get full benefits nor are they always higher paying jobs than in the hospitality sector. She has worked in both industries. Further, the reason she ran for office for this position was to support Ward 2 and have a voice for her ward, not to express her personal beliefs or feelings. She agreed she can't vote on what she thinks will happen. Her vote is based on her communications with residents by email, telephone and personal conversations. She stated she would be voting in favor based on the communications she has received.

Council President Hardy expressed that she, too would be supporting the motion for the overlay district, based on the economy, the budget that needs support, and for all the items previously mentioned. The "by right" provisions are no longer in the proposal; and stated she would not be approving any "by right" provisions in any overlay as neighbors all need the ability to address the City Council, the ZBA, or the Planning Board at each and every juncture regarding changes in their neighborhood which she pointed out happened there today.

The Council President stated that compromise has been reached on many levels and expressed her surprise that yet another compromise had been reached since the last Planning & Development meeting. To go from 35 feet to 10 feet is a substantial reduction. Her concern, she explained, was whether or not it conveyed with it ownership. According to the City Solicitor and the attorney of record for the petitioner, it does not convey ownership. The City "is not giving the beach away." The Council President expressed the hope that the City, in her term of office, clearly gains full possession of the beach which she viewed vital to the City who has maintained it for a number of years and needs to continue to do so.

The Council President did not believe that the property, once an HOD, would be substantially detrimental to the neighborhood based on what is already there. The building is derelict and doesn't speak well of Gloucester. She expressed her appreciation that the petitioner has made an effort to at least say they are willing to consider the restoration of the historic chimney at Birdseye.

As to the tax base, stated they'll only get what they are paying for. Unless residents wanted to see their taxes raised, they need to realize the revenue that a proposition such as hotel brings in to the City. Reiterating other Councilors' sentiment, she expressed also that the overly is just a first step. She stated that the City Council's "fingerprints" will be all over the Special City Council Permit for a hotel. They did it for Gloucester Crossing; for the other hotels; for Market Basket; and will continue to do that. Sometimes an applicant will ask for something; however, the Council is not afraid to say they don't like the way it looks; that it doesn't fit Gloucester. If a petitioner wants the Councilors' votes, they have to work with the Council, and believed that so far, this petitioner had done that.

Council President Hardy asked the City Clerk for clarification on a statement by Bill Johnson earlier, about a land-owner's petition to force the majority vote of the City Council to pass this measure tonight; and stated normally a zoning amendment requires six votes of the City Council.

Ms. Lowe referred to the Gloucester Zoning Ordinances, Sec. 1.11.5(d), entitled "Required Majority" and explains the regular vote that would be taken in such a matter, "No proposed amendment shall be adopted except by a two-thirds vote of all members of the City Council (i.e., six members); provided, however, that no proposed amendment shall be adopted except by a three-fourths vote of all the members of the City Council (i.e., seven members(if a written protest is filed with the City Clerk prior to final action of the City Council. Such written protest shall state the reasons for the protest and shall be signed by the owners of twenty percent (20%) or more of the area of land proposed to be included in or affected by said proposed amendment, including the area of land immediately adjacent thereto and extending three hundred (300) feet outward from said adjacent land."

The City Council received such a petition on Monday afternoon in the City Clerk's office. That petition's signatures were verified by her office. They worked together with the Assessors' office and with the Planning Director, Gregg Cademartori who created from the City GIS system a map (on file) that referenced the signatures that were verified by the City Clerk and by the Assessors as owners of property that falls within that definition. The City Council has the map entitled, "Verification of Petition for Required Three-Quarter Majority Vote, Hotel Overlay District." It verifies that 24.8% of the total land impacted under the definition does appear in signatures on the petition; therefore, the vote requires seven votes of the full Council in order to pass.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Theken) abstained, under Gloucester Zoning Ordinance Sec. 1.11.5 to AMEND the Gloucester Zoning Ordinances by enacting Section 5.25 entitled "Hotel Overlay District" for the parcel located at 47 Commercial Street, Assessor's Map 1, Lot 33 as submitted to the City Clerk's office on May 2, 2012, which is attached hereto and incorporated by reference, and AMEND the Gloucester Zoning Map to create a Hotel Overlay District located at 47 Commercial Street, Assessor's Map 1, Lot 33 in the Marine/Industrial District as shown on the plan entitled "Exhibit" to accompany an amendment to the Gloucester Zoning Ordinance Hotel Overlay District, by Beals Associates, Inc. dated May 8, 2012.

Council President Hardy confirmed the vote passed 8 in favor, 0 opposed, with one abstention.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted BY ROLL CALL 0 in favor, 7 opposed, 1 (Theken) abstained, 1 (Whynott) absent to reconsider the vote to AMEND the GZO by enacting Sec. 5.25 entitled "Hotel Overlay District located at 47 Commercial Street.

MOTION FAILS.

[Note: Councilor Verga left the meeting at 10:55 due to illness.]

The City Council recessed at 10:56 p.m. and reconvened at 11:00 p.m.

Committee Reports:

The Council, by unanimous consent, extended the meeting by a half hour at 11:00 p.m. when the Committee reconvened from its recess.

Budget & Finance: May 3, 2012

MOTION: On motion by Councilor Cox, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council transfer (#2012-SBT-33) for \$5,000 from Police-Uniform, Sal/Wage-Perm Position, Unifund Account #101000.10.211.51100.0000.00.000.00.051 to Police-Investigation, Sal/Wage-Overtime to fund Detectives Investigations through the end of FY12.

DISCUSSION:

Councilor McGeary explained that this transfer is to buttress up the Police-Investigations account to fiscal year end from an unused salary account. There were more unexpected background checks and so these funds are needed to fill that gap.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Verga) to transfer (#2012-SBT-33) for \$5,000 from Police-Uniform, Sal/Wage-Perm Position, Unifund Account #101000.10.211.51100.0000.00.000.00.051 to Police-Investigation, Sal/Wage-Overtime, Unifund Account #101000.10.212.51300.0000.00.000.00.051 to fund Detectives Investigations through the end of FY12.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Cox, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council transfer (#2012-SBT-34) for \$15,000 from Police-Uniform, Sal/Wage-Perm Position, Unifund Account #101000.10.210.51300.0000.00.000.00.051 to Police-Admin, Sal/Wage-Overtime to fully fund the account for the annual St. Peter's Fiesta police duty.

DISCUSSION:

Councilor McGeary stated this transfer is to also to buttress up the account used to pay police officers for St. Peter's Fiesta duty.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Verga) absent to transfer (#2012-SBT-34) for \$15,000 from Police-Uniform, Sal/Wage-Perm Position, Unifund Account #101000.10.211.51100.0000.00.000.00.051 to Police-Admin, Sal/Wage-Overtime, Unifund Account #101000.10.210.51300.0000.00.000.00.051 to fully fund the account for the annual St. Peter's Fiesta police duty.

MOTION: On motion by Councilor Cox, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council under MGL c. 44, §53A-½ to accept a gift of tangible goods from the Gloucester Rotary Club of a children's wooden stage, in the Stage Fort Park playground area with a value of approximately \$3,500.00 to be delivered and installed on site by the Gloucester Rotary Club.

DISCUSSION:

Councilor Ciolino stated he is a member of the Rotary Club and a past president but it would not affect his vote. **Councilor McGeary** extended his thanks to the Rotary Club.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Verga) under MGL c. 44, §53A-½ to accept a gift of tangible goods from the Gloucester

Rotary Club of a children's wooden stage, in the Stage Fort Park playground area with a value of approximately \$3,500.00 to be delivered and installed on site by the Gloucester Rotary Club.

Ordinances & Administration: April 30, 2012

There were no matters to come forward from this meeting for Council action.

Planning & Development: May 2, 2012

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the full City Council to permit the Fishtown Horribles Parade Committee on Tuesday, July 3, 2012 to hold the Fishtown Horribles Parade and to close affected City roadways from 6 p.m. to 9 p.m. with the following conditions:

1. Certificate of Insurance:

A Certificate of Insurance naming the City of Gloucester as an additional insured party is to be filed with the City Clerk's Office on or before June 22, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the Fishtown Horribles Parade on July 3, 2012 to be on file with the City Clerks office on or before June 22, 2012. Roads to be closed are to be marked with signage directing the public as to the duration of the closure and alternate routes. Traffic and parking plan and police detail information by the Police Chief or his designee is to be filed with the City Clerk and the DPW Director or his designee on or before June 22, 2012. Any substantial changes, as determined by either the Police or Fire Chief or their designees to the route or related to safety issues will require Council approval.

3. Refuse and Comfort Stations:

All refuse and recycling due to this event must be removed by the organizer. Any portable toilets (with two handicap accessible) are to be provided and maintained by the organizer, placed the evening before the event or early in the morning of the day of the event and removed by 9:00 AM, July 4, 2012.

4. Emergency Services:

A signed, visible and staffed first aid station must be in place in an accessible location in the area of the parade route throughout the event.

5. Staffing:

Event staff is to have cell phones and be identified by the public with distinct shirts. A list of event staff and their cell phone numbers to be submitted to the Police, Fire or DPW Departments.

6. Notification of Immediate Abutters and Businesses to Parade Route:

Notice shall be made by the event organizer by hand or by mail no later than 7 days in advance of the event to any function halls, motels and hotels, and other businesses along the parade route.

7. Responsibility of the Fishtown Horribles Parade Committee

The applicant is also required to obtain any necessary approvals from the Licensing Board, the Board of Health and the Licensing Commission. It is the sole responsibility of the Fishtown Horribles Parade Committee to ensure that all required documentation is timely filed with the appropriate City departments as indicated. Failure to comply with any conditions precedent may result in permit revocation.

DISCUSSION:

Councilor Cox explained she would abstain from the vote as she is the Treasurer of the Fishtown Horribles Parade Committee.

MOTION: On motion by Councilor Tobey, seconded by Councilor Ciolino, the City Council voted 7 in favor, 0 opposed, 1 (Verga) absent, 1 (Cox) abstaining, to permit the Fishtown Horribles Parade Committee on Tuesday, July 3, 2012 to hold the Fishtown Horribles Parade and to close affected City roadways from 6 p.m. to 9 p.m. with the following conditions:

1. Certificate of Insurance:

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2. Road Closure Plans:

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For Council Vote:

- 1. Decision to Adopt: SCP2012-003: Washington Street #540, GZO Sec. 5.5.4 (Lowlands)**

MOTION: On motion by Councilor Tobey, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Verga) absent, to adopt the SCP2012-003 decision for Washington Street #540 pursuant to Sec. 5.5.4 (Lowlands) 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 commended the Council President for her management of this evening's meeting and appreciated the Council for maintaining their spirit of cooperation.

Councilor Cox noted that the Post Office Food Drive is Saturday, May 12th at the Dale Avenue location.

Councilor Ciolino reminded that the Food Pantry has their Empty Bowl event from 4 p.m. to 6:30 p.m. at Cruiseport on Thursday. The hand-painted bowls by community members will be up for auction.

Councilor McGeary wished the Council to make official recognition that Lucia Amero, Senior Clerk in the Office of Veterans Services has been honored with the Mass. Commission on the Status of Women as their "Unsung Heroine of 2012". The award recognizes women who live in the State for their outstanding contributions to their communities and organizations which they serve. She will be honored at the State House on May 16th.

Council President Hardy congratulated Ms. Amero on her receiving this award and for her 17 years of service to the community.

A motion was made, seconded and voted unanimously to adjourn the meeting at 11:13 p.m.

Respectfully submitted,

**Dana C. Jorgenson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Statements and by the public in favor and in opposition during the Hotel Overlay District zoning amendment public hearing are all on file and available in the City Clerk's office.**