

GLOUCESTER CITY COUNCIL MEETING

Tuesday, July 24, 2012 – 7:00 p.m.

Kyrouz Auditorium – City Hall

-MINUTES-

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

Absent: Councilor Whynott

Also Present: Linda T. Lowe; Kenny Costa; Jim Duggan; Mike Hale; Bill Sanborn; Rick Noonan; Rose LoPiccolo; Robert Ryan; Michelle Harrison; Dale Brown; Stephen Winslow; Fire Chief Eric Smith; Suzanne Egan; Joel Favazza

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

Flag Salute & Moment of Silence.

Council President Hardy noted Councilor Whynott was absent due to illness.

Oral Communications: None.

Presentation/Commendations.

1 of 1: Capital Improvements Advisory Board's update status to City Council by Kersten Lanes, Chair

Kersten Lanes, 12 Palfrey Road, Chair of the Capital Improvements Advisory Board (CIAB) reviewed the following CIAB activities pursuant to the City Council's request for information made at their July 10, 2012 meeting:

- The CIAB is established by the City Charter and operating under the City's Code of Ordinances, Sec. 2-585 to 2-88 states in part, "the board shall be apprised of the preparation of the ten-year capital improvements program developed by the community development department on a continuing basis, shall review the final ten-year program and shall submit a report on its review to the mayor." The Board views this ordinance as giving them a narrow scope under which they have been charged.
- The Board is appointed by the Mayor with staggered three terms. Currently there are six members with one seat vacant.
- Dates of most recent CIAB meetings were: 2/9/12; 3/1/12; 3/6/12; 7/18/12 All minutes have been submitted to the City Clerk's office (7/18/12 minutes yet to be approved) and are also posted on the City's website as well as distributed to the Council.
- FY10-FY11: CIAB met 11 times; in FY12 they met four times; their next meeting scheduled for August 1st.
- There has been no City ten-year capital improvements plan in recent history, to their knowledge for at least a decade. They haven't produced a report on one to date. In the fall of FY10-FY11 when the Board was reinvigorated, they met several times to get input on capital planning for the City, and an information request went out from the CIAB to all City Departments for their capital projects. They found they could not give a good opinion or guidance to the Mayor because what they received back was not integrated into a comprehensive framework. Some department requests overlapped; some were redundant; some suggested different policies. Without an all-encompassing framework structured with the City's priorities, it is hard for the Board to make a recommendation. Through that experience, they made suggestions to improve the process, and what they would like to see in the next year.
- In FY11-FY12 they restarted the process with a request for information from the departments. The Board also met more often with the City's CFO and the Community Development Department to improve upon the previous year's effort. Based on those conversations the Board agreed, as did the Mayor's office, that they needed a comprehensive, integrated plan, not just one-time requests. Agreeing on the right approach, the CFO and Community Development Department started the process by requesting submissions from department heads; and only recently integrated them into one overall report. The Board, not getting a response to their several requests for information after their last March meeting, then went dormant until

the City Council request was made two weeks ago prompting information to come forward for their consideration.

- The Board is committed to their narrow charter in the Code of Ordinances as written based on conversations with the Mayor, which is to give advice to the Mayor on capital plans. On July 17th they received a draft capital improvements plan for FY13 through FY17; and today they received a number of documents for the waterworks facilities master plan, a needs assessment and update. At their next meeting they will determine how they will review those plans because these are time-sensitive matters and wish to expedite that review.

Councilor Questions:

Councilor Tobey thanked Ms. Lanes and the Board for the effort in restarting the CIAB process. He pointed out the framers of the Charter envisioned a very important role for the CIAB, which “trumps a narrowing” ordinance, giving the Board broad rights to issue advice within that framework. They are acting on a multi-year benchmark for every action the Council takes regarding that plan against which it has to be measured. If they disagree through one of their votes with something in that plan, they have to let the Planning Board know ahead of time in writing. He advised the Board to “be bold” moving forward. **Councilor McGeary** asked based on the ordinance statement, “guidance from the City as to its long-term plans and financial capabilities;” had they received that guidance in addition to the essential list of projects so that they can put them in a payment schedule as well as a debt schedule. **Ms. Lanes** responded the capital plan they received a week ago does include a debt amortization schedule. **Council President Hardy** followed up with a series of questions previously submitted in writing to the Board which Ms. Lanes responded to as follows: There are no problems scheduling meetings, holding as many as needed, and have had a quorum for every meeting. Commenting on receiving information from City departments, they are changing the process. Now they coordinate it and have asked it be consolidated into an integrated plan from the Administration which they got last week. The City support staff is responsive to meeting the needs the Board. Like the Council, the Board struggles with making difficult choices; to the extent the Council has views as to what is most important for the City is helpful because trade-offs are difficult. There is not a common way to decide which way is best. The Board has pushed back strongly with the Mayor’s office for help to let them know where the important choices are. If infrastructure is critical, and the City wants to commit to it; or if a unified Fire and Police Department is an important move to make, that kind of guidance becomes critical in examining any project they receive for review.

Appointments: Historic District Commission TTE 02/14/15 Stephen H. Goodick

Councilor Theken explained that the O&A Committee questioned Mr. Goodick as to his commitment to the Historic District Commission and on his experience, background, professional affiliations; and if there were any conflicts with other committees, boards or commissions. She expressed the Council’s appreciation for Mr. Goodick’s willingness to step forward and volunteer on behalf of their City.

MOTION: On motion by Councilor LeBlanc, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to appoint Stephen H. Goodick to the Historic District Commission, TTE 02/14/15.

DISCUSSION: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to appoint Stephen H. Goodick to the Historic District Commission, TTE 02/14/15.

Consent Agenda:

- **CONFIRMATION OF REAPPOINTMENT**

1. Planning Board Richard Noonan TTE 02/14/17

- **MAYOR’S REPORT**

1. Memorandum from CAO requesting permission to pay an invoice for K12 Insight in the amount of \$4,999 (Refer B&F)
2. Memorandum from Acting Community Development Director and recommendations from the Community Preservation Committee for Round 3, FY12 Funds (Refer B&F)
3. Memorandum from Grants Administrator regarding a three year EPA Brownfields Assessment Grant in the amount of \$400,000 (Refer B&F)
4. Addendum to Mayor’s Report re: request that certain school property be repurposed for use as part of Newell Stadium (Refer B&F)

COMMUNICATIONS/INVITATIONS

1. Response to Oral Communication of June 26, 2012 City Council Meeting re: City Hall handicap entrance (File)

2. Communication from Peggy O'Malley, Chairperson for Partners for Addison Gilbert Hospital (Info Only)
- **COUNCILORS ORDERS**
1. CC2012-041 (Cox/Whynott) Amend GCO Chapter 22, Sec. 22-280 "Fifteen Minute Parking" re: 282 Main Street (Refer P&D)
- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
1. City Council Meeting: 07/10/12 (Approve/File)
2. Standing Committee Meetings: B&F 07/19/12 (under separate cover), O&A 07/16/12, P&D 07/18/12, Joint Meeting PB & P&D 06/07/12 (under separate cover) and Joint Meeting PB & P&D 07/19/12 (under separate cover) (Approve/File)

Unanimous Consent Calendar:

1. CC2012-041 (Tobey) Protection of Babson Watershed Land and Babson Bird Sanctuary pursuant to Article 97 of the Commonwealth of Massachusetts (Refer P&D)

Items to be added/deleted from the Consent Agenda:

By unanimous consent the Consent Agenda was accepted as presented.

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

Councilor Tobey asked to remove Item #1 Council Order 2012-041 from the Unanimous Consent Calendar, "The protection of Babson Watershed Land and Babson Bird Sanctuary pursuant to Article 97 of the Constitution of the Commonwealth of Massachusetts." He explained Article 97, adopted by referendum 1992, elevating and reaffirming the State's commitment to protection natural resources including those dedicated to water, woods and open spaces; when applied to particular piece of land add another protective barrier against development of "precious resources" by requiring a two-thirds vote of the State legislature before conservation interest can be impaired by any development. The City already has the Babson deed terms and trust terms; but people persist in wanting to build a road across it and will occur if they are not vigilant. The preceding Council adopted an order because they feared the sale of their water resources; and this is equally important to preserve the source of the City's drinking water. He asked the matter be referred to P&D and return quickly to the Council in order protect the Babson Watershed. **By unanimous consent the matter was referred to the P&D Committee.**

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

Committee Reports:

Budget & Finance: July 19, 2012

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the Budget & Finance Committee voted 2 in favor, 0 opposed, 1 (Hardy) abstained, TO ADVERTISE FOR PUBLIC HEARING the following loan authorization:

ORDERED: That the City of Gloucester appropriates up to Seven Hundred Fifty Thousand Dollars (\$750,000) to pay costs of purchasing two parcels of land located at 70 and 74 Thatcher Road in Gloucester, comprising 5.94 acres, more or less, which are shown on Assessors' Map 184, as Lots 5 and 9, and more commonly known as Briernock Crossing, which includes the payment of all costs incidental or related thereto. To meet this appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to M.G.L. Chapter 44, M.G.L. Chapter 44B (the Community Preservation Act), or pursuant to any other enabling authority. The Mayor, with the approval of the City Council, is authorized to apply for and accept any and all grants or gifts that may be available to the City to pay costs of this purchase. In the event that Community Preservation Act funds are utilized for this purchase, the Mayor, with the approval of the City Council, is authorized to grant a conservation restriction on the property purchased with such funds, to the Essex County Greenbelt Association, as required by the Community Preservation Act. The amount authorized to be borrowed by this Order shall be reduced by any grants or gifts received by the City on account of this project. No amount shall be borrowed or expended pursuant to this Order unless and until the City shall have received confirmation that grants, gifts or donations have been made available to pay costs of this project in a total amount of at least \$721,000.

FURTHER ORDERED: That the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order

and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

DISCUSSION: None.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, TO ADVERTISE FOR PUBLIC HEARING the following loan authorization:

ORDERED: That the City of Gloucester appropriates up to Seven Hundred Fifty Thousand Dollars (\$750,000) to pay costs of purchasing two parcels of land located at 70 and 74 Thatcher Road in Gloucester, comprising 5.94 acres, more or less, which are shown on Assessors' Map 184, as Lots 5 and 9, and more commonly known as Briernek Crossing, which includes the payment of all costs incidental or related thereto. To meet this appropriation the Treasurer, with the approval of the Mayor, is authorized to borrow said amount under and pursuant to M.G.L. Chapter 44, M.G.L. Chapter 44B (the Community Preservation Act), or pursuant to any other enabling authority. The Mayor, with the approval of the City Council, is authorized to apply for and accept any and all grants or gifts that may be available to the City to pay costs of this purchase. In the event that Community Preservation Act funds are utilized for this purchase, the Mayor, with the approval of the City Council, is authorized to grant a conservation restriction on the property purchased with such funds, to the Essex County Greenbelt Association, as required by the Community Preservation Act. The amount authorized to be borrowed by this Order shall be reduced by any grants or gifts received by the City on account of this project. No amount shall be borrowed or expended pursuant to this Order unless and until the City shall have received confirmation that grants, gifts or donations have been made available to pay costs of this project in a total amount of at least \$721,000.

FURTHER ORDERED: That the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

MOTION: On motion by Councilor Hardy, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to accept under MGL c. 44, §53A a grant from the U.S. Department of Defense DLA Disposition Services through the State of Massachusetts for \$120,089.00 for the purpose of obtaining three Humvee vehicles and one diesel generator.

DISCUSSION:

Councilor McGeary explained this equipment has been made available by the federal government. The City has obtained three Humvees which have been examined by the DPW and pronounced to be in good working condition. There is also an emergency generator. It is actually a grant (although this is for equipment). The federal government has the right to recall the equipment at any time; but until they do, the City has the right to use it. The Public Works, Police and Fire Departments are in favor of obtaining the vehicles for access to off-road locations in Gloucester particularly in Dogtown and North Gloucester for purposes such as fighting fires. He expressed it was a good deal, as there is no cost to the City, and recommended approval by the Council. **Councilor Theken** questioned if the repairs are at the City's expense. **Councilor McGeary** assured that these vehicles will be maintained by the City, but the government will give them the parts for repairs as a part of this program. **Councilor Ciolino** agreed that this was a good deal; these vehicles will save the DPW, Police and Fire Departments from using newer vehicles for off-road situations. He commended the Police Department for their efforts on behalf of the City. **Council President Hardy** also thanked the Police Department for coordinating this effort with other City departments.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to accept under MGL c. 44, §53A a grant from the U.S. Department of Defense DLA Disposition Services through the State of Massachusetts for \$120,089.00 for the purpose of obtaining three Humvee vehicles and one diesel generator.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to ADVERTISE FOR PUBLIC HEARING to AMEND the Gloucester Code of Ordinances by ADDING Chapter 23 – Utilities, Article V, Non-Storm Water Discharges, Sections 23-124 through 23-136 on file.

MOTION: On motion by Councilor Hardy, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council pursuant to the Gloucester City Charter Sec. 7-16, to ADOPT the “Regulations for Fats, Oil and Grease Program, Sections 1.0 through 10.2(a) on file.

DISCUSSION:

Mike Hale, DPW Director explained this regulation came before a previous Council, but staff had a difficult time finding the minutes that reflected the vote of the Council to adopt the fees and the fines associated with the regulations. They then started at the beginning to bring the whole regulation back before the Council with the fee and fine schedule, in order to be sure. These are DPW regulations and not an ordinance amendment. **Councilor Theken** clarified that this has been before the City Council and was adopted; the City has been doing outreach to the restaurants; but no fees were attached for fines for non-compliance. The regulations are being adopted and the fees are also being adopted. O&A and B&F did vote to advertise for public hearing on the non-stormwater discharge ordinance amendment which is an amendment to the Gloucester Code of Ordinances. **Suzanne Egan**, General Counsel clarified for the Council these regulations do not need to be advertised for public hearing; it simply need to be adopted by their vote this evening and would be the same with the adoption of the associated fees. The ordinance amendment for Non-Storm Water Discharge is pursuant to Chapter 23 and does need to have a public hearing.

MOTION: On motion by Councilor McGeary, seconded by Councilor Theken, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Whynott) absent, pursuant to the Gloucester City Charter Sec. 7-16, to ADOPT the “Regulations for Fats, Oil and Grease Program, Sections 1.0 through 10.2(a) on file.

MOTION: On motion by Councilor Hardy, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to amend the Fee Schedule pursuant to the City Charter Sec. 7-16 “Regulations for Fats, Oil and Grease Program”, Sections 1.0 through 10.2(a) to adopt a fee schedule as follows:

Permit Fees:

\$50.00 annual wastewater discharge permit fee
\$25.00 variance fee

Fines & Civil Penalty Fees:

\$100.00 for 1st offense
\$250.00 for 2nd offense
\$1,000.00 for 3rd offense
\$1,000 for subsequent violations for every instance

DISCUSSION:

Councilor McGeary added that the federal government requires these penalties; this is the actual fee schedule for the FOG regulations. The City, through its water contractor, Veolia, has dedicated one individual to do community outreach to all the City’s food producers and restaurants.

MOTION: On motion by Councilor McGeary, seconded by Councilor LeBlanc, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Whynott) absent, to amend the Fee Schedule pursuant to the City Charter Sec. 7-16 “Regulations for Fats, Oil and Grease Program”, Sections 1.0 through 10.2(a) to adopt a fee schedule as follows:

Permit Fees:

\$50.00 annual wastewater discharge permit fee
\$25.00 variance fee

Fines & Civil Penalty Fees:

\$100.00 for 1st offense
\$250.00 for 2nd offense
\$1,000.00 for 3rd offense

\$1,000 for subsequent violations for every instance**Ordinances & Administration: July 16, 2012**

MOTION: On motion by Councilor Whynott, seconded by Councilor LeBlanc, the Ordinance & Administration Committee voted 3 in favor, 0 opposed to the withdrawal of CC2012-029 (Verga/Ciolino) Resolution re: Equitable treatment of residents who are City water users, customers and water rate payers and Amend GCO Sec. 23-58 to reflect the requirement of equitable treatment of all customers (Amended CC2012-023).

DISCUSSION:

Councilor Verga commented they are withdrawing this Council Order because the plan, as suggested by the City Solicitor, is to form an ad hoc committee to look at the City's private roads and come up with a master plan about the possibility of the City taking them over. That being the case, this resolution becomes moot at this time.

MOTION: On motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to allow the withdrawal of CC2012-029 (Verga/Ciolino) Resolution re: Equitable treatment of residents who are City water users, customers and water rate payers and Amend GCO Sec. 23-58 to reflect the requirement of equitable treatment of all customers (Amended CC2012-023).

The Council voted unanimously TO ADVERTISE FOR PUBLIC HEARING to AMEND the GCO Chapter 2, "Administration", Art. V "Boards, Commissions, Councils, and Committees," Div. 6A "Tourism Commission.

Planning & Development: July 18, 2012

Councilor Tobey highlighted a P&D Committee discussion on the status of I4-C2; with the Administration advising the Council can anticipate a renewed Request for Proposal (RFP) being forwarded to them in September. It was indicated development for the parcel will be done in a phased approach and requiring DPA compliance.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, to recommend to the City Council to permit the Lone Gull 10K Road Race sponsored by the Children's Center for Communication to be held Sunday, September 16, 2012 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 August 31, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the Lone Gull 10K Road Race to be on file with the City Clerks office on or before August 31, 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 August 31, 2012. After City Council approval if either the Police Chief or Fire Chief or their designees determine that a substantial change(s) has been made to the route, then the applicant shall obtain City Council approval for the change.

3. Refuse and Comfort Stations:

All event refuse and recycling 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 first day of the event or early in the morning of the day of the event and removed by 1:00 p.m., Sunday, September 16, 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 race course throughout the event.

5. Staffing:

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

6. Notification of Immediate Abutters and Businesses to Race Course:

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 race route.

7. Responsibility of the Children's Center for Communication:

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 Children's Center for Communication 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: None.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to permit the Lone Gull 10K Road Race sponsored by the Children's Center for Communication to be held Sunday, September 16, 2012 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 August 31, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the Lone Gull 10K Road Race to be on file with the City Clerks office on or before August 31, 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 August 31, 2012. After City Council approval if either the Police Chief or Fire Chief or their designees determine that a substantial change(s) has been made to the route, then the applicant shall obtain City Council approval for the change.

3. Refuse and Comfort Stations:

All event refuse and recycling 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 first day of the event or early in the morning of the day of the event and removed by 1:00 p.m., Sunday, September 16, 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 race course throughout the event.

5. Staffing:

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

6. Notification of Immediate Abutters and Businesses to Race Course:

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 race route.

7. Responsibility of the Children's Center for Communication:

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 Children's Center for Communication 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.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed to recommend to the City Council to permit the Essex County Velo Cyclo-Cross Race event to be held at Stage Fort Park on Saturday, September 29, and Sunday, September 30, 2012 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 September 14, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the Essex County Velo Cyclo-Cross Race to be on file with the City Clerks office on or before September 14, 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 September 14, 2012. After Council approval if either the Police Chief or Fire Chief or their designees determine that a substantial change(s) has been made to the route, then the applicant shall obtain City Council approval or the change.

3. Refuse and Comfort Stations:

All event refuse and recycling due 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 first day of the event or early in the morning of the day of the event and removed by 9:00 p.m. Sunday, September 30, 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 race course throughout the event.

5. Staffing:

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

6. Notification of Immediate Abutters and Businesses to Race Course:

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 race route.

6a. Traffic Signage:

That the applicant places signage on the roads leading in and out of Stage Fort Park to be sure it is clear to the public access roads are closed but that the Visitor's Center is accessible.

7. Responsibility of the Essex County Velo organization:

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 Essex County Velo organization 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: None.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to permit the Essex County Velo Cyclo-Cross Race event to be held at Stage Fort Park on Saturday, September 29, and Sunday, September 30, 2012 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 September 14, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the Essex County Velo Cyclo-Cross Race to be on file with the City Clerks office on or before September 14, 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 September 14, 2012. After Council approval if either the Police Chief or Fire Chief or their designees determine that a substantial change(s) has been made to the route, then the applicant shall obtain City Council approval or the change.

3. Refuse and Comfort Stations:

All event refuse and recycling due 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 first day of the event or early in the morning of the day of the event and removed by 9:00 p.m. Sunday, September 30, 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 race course throughout the event.

5. Staffing:

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

6. Notification of Immediate Abutters and Businesses to Race Course:

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 race route.

6a. Traffic Signage:

That the applicant places signage on the roads leading in and out of Stage Fort Park to be sure it is clear to the public access roads are closed but that the Visitor's Center is accessible.

7. Responsibility of the Essex County Velo organization:

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 Essex County Velo organization 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.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 2 in favor, 0 opposed to recommend to the City Council to permit the Magnolia Historical Society to hold their "Magnolia Roadshow" Saturday, August 25, 2012 from 8 a.m. to 5:00 p.m. closing Lexington Avenue from Norman Avenue to Flume Road for the duration of the event. A Certificate of Insurance is to be on file with the City Clerk's office no later than August 10, 2012.

DISCUSSION:

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to permit the Magnolia Historical Society to hold their "Magnolia Roadshow" Saturday, August 25, 2012 from 8 a.m. to 5:00 p.m. closing Lexington Avenue from Norman Avenue to Flume Road for the duration of the event. A Certificate of Insurance is to be on file with the City Clerk's office no later than August 10, 2012.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to permit the Magnolia Annual 5K Road Race to benefit the Magnolia library on Thursday, August 30, 2012 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 August 16, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the Magnolia Annual 5K Road Race to be on file with the City Clerks office on or before August 16, 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 August 16, 2012. After City Council approval if either the Police Chief or the Fire Chief, or their designees, determine that a substantial change(s) has been made to the route then the applicant shall obtain City Council approval for the change(s).

3. Refuse and Comfort Stations:

3. All event refuse and recycling 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 first day of the event or early in the morning of the day of the event and removed by 9:00 p.m. Thursday, August 30, 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 race course throughout the event.

5. Staffing:

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

6. Notification of Immediate Abutters and Businesses to Race Course:

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 bike route.

7. Responsibility of the Magnolia Annual 5K organization:

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 Magnolia Annual 5K organization 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: None.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to permit the Magnolia Annual 5K Road Race to benefit the Magnolia library on Thursday, August 30, 2012 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 August 16, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the Magnolia Annual 5K Road Race to be on file with the City Clerks office on or before August 16, 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 August 16, 2012. After City Council approval if either the Police Chief or the Fire Chief, or their designees, determine that a substantial change(s) has been made to the route then the applicant shall obtain City Council approval for the change(s).

3. Refuse and Comfort Stations:

3. All event refuse and recycling 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 first day of the event or early in the morning of the day of the event and removed by 9:00 p.m. Thursday, August 30, 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 race course throughout the event.

5. Staffing:

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

6. Notification of Immediate Abutters and Businesses to Race Course:

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 bike route.

7. Responsibility of the Magnolia Annual 5K organization:

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 Magnolia Annual 5K organization 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.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed to recommend to the City Council to permit the North Shore Habitat for Humanity 5K Road Race on Sunday, September 30, 2012 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 September 21, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the North Shore Habitat for Humanity 5K Road Race are to be on file with the City Clerks office on or before August 16, 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 September 21, 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 event refuse and recycling 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 first day of the event or early in the morning of the day of the event and removed by 9:00 p.m. Thursday, August 30, 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 race course throughout the event.

5. Staffing:

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

6. Notification of Immediate Abutters and Businesses to Race Course:

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 bike route.

7. Responsibility of the North Shore Habitat for Humanity organization:

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 North Shore Habitat for Humanity organization 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: None.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to permit the North Shore Habitat for Humanity 5K Road Race on Sunday, September 30, 2012 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 September 21, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the North Shore Habitat for Humanity 5K Road Race are to be on file with the City Clerks office on or before August 16, 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 September 21, 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 event refuse and recycling 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 first day of the event or early in the morning of the day of the event and removed by 9:00 p.m. Thursday, August 30, 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 race course throughout the event.

5. Staffing:

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

6. Notification of Immediate Abutters and Businesses to Race Course:

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 bike route.

7. Responsibility of the North Shore Habitat for Humanity organization:

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 North Shore Habitat for Humanity organization 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.

Scheduled Public Hearings:

- 1. PH2012-039: Loan Order #2012-009: Loan Authorization in the amount of \$12,400,000 for Phase 4 Water System Upgrades, Babson Dam Repairs, Phase 3A Water Pipeline Project; Additional Funds and Engineering**

This public hearing is opened.**Speaking in favor:**

Mike Hale, DPW Director stated before the Council is a loan authorization of \$12.4 million to continue the City's water improvement projects. The projects were vetted at B&F. At the last City Council meeting when this public hearing was opened, there was a question raised about process; whether this capital improvements program had been reviewed by the CIAB. The bulk of this loan order stems from the 1999 ten-year water master plan presented to the CIAB in 2002 and 2004. He did not believe they had a comprehensive capital improvement plan result from those planning processes. The Department submitted a document late to the Council (to be placed on file in the City Clerk's office the following day). At some point there was a Public Works submission to the CIAB at that time, a ten-year plan FY2003 through FY13, which incorporated everything the Council is seeing in this loan authorization for Phase 4. Most of these items were listed as necessary and urgent; with one project being necessary but needing more information. He suggested this could be the disconnect between their master planning process and their capital planning process. They presented to the CIAB last week the fact that they are developing a new water master plan for the next 10 years now. That water master plan will accompany a ten-year capital plan so that the footings of the capital plan are derived from the water master plan. The CIAB will have document(s) to base a capital improvements advisory on. He urged the Council to support this authorization saying process has been followed. These projects are considered urgent by his department; and the majority is funded through the State Revolving Fund. The Massachusetts Water Pollution Abatement Trust (MWPAT) will not fund projects without a local commitment, so a Council vote would be the commitment to the MWPAT for this project. The City is also an environmental justice community which gives it principal forgiveness on these projects; the principal forgiveness can range from single digits to low 20 percent range on the projects. However, dams are not eligible for State Revolving Funds (SRF) which is why the \$2.5 million repair for the Babson dam is included here and cannot be part of the MWPAT loan to the City. The loan authorization remains as a total of \$12.4 million; how it is parceled out becomes a function of the borrowing.

Speaking in Opposition: None.**Communications: None.**

Councilor Ciolino asked in brief how the money will be spent. **Mr. Hale** pointed out as follows:

- There have been major improvements to the two primary water filtration plants operated seasonally: Babson water filtration plant (East Gloucester) and the West Gloucester at the corner of Magnolia and Essex Avenues. Both plants are 40+ years old. The majority of work done at Babson was a result of the Boil Water Order in 2009, and modernizing the West Gloucester plant as best as they can. The cost for the upgrades for that and a small amount of work at Babson is \$5.5 million (breakdown of work on file).
- Water that travels from mainland Gloucester to the island side of Gloucester and visa-versa goes through the Spooner Tunnel built in 1904 which runs below the Blynman Bridge under the canal. There are two 20 inch water mains that go through the tunnel. These are the same vintage mains that have been breaking on the Boulevard for the last 10 years. The mains on the Boulevard have been replaced; the mains in the tunnel have not. It is not valuable to just replace the mains in the tunnel because the tunnel is over 100 years old. Rather, they will do a river crossing at GHS with new water mains to connect the mainland to the island side, assuring the City another 100 years of safety. Should one of those mains fail in the tunnel today, there is no good way to supply water from West to East Gloucester other than closing the Blynman Bridge indefinitely. There is a chance of losing the seawall, the bridge abutments and the bridge if that happens. The majority of the City's water for fire protection is stored at Bond Hill; 7 million gallons of finished water, most of which is used on the island portion of the City. The cost is \$2.5 million.
- Babson Dam is considered by the State Department of Dam Safety as a high hazard (not highly hazardous) dam due to its location to people and private property; with an elderly housing project, businesses, and private residences nearby on Poplar Street which are at the base of the dam containing almost 300 million gallons of water. If the dam breached, flooding would be substantial in those areas with threat of loss of life and heavy damage to properties. This is rehabilitation for this existing dam that has been a capital wish list project for the last ten years. The cost is \$2.5 million.
- Additional water work is taking place on Commonwealth Avenue and in the Governors Hill neighborhood, listed as a high need area in the 1999 master water plan. That is an on-going \$6 million project. This funding request is to facilitate some additional pipe work within that project and spanning the distance between Centennial Avenue and the Annisquam River for the river crossing. The cost is \$1.5 million
- \$400,000 is needed for additional engineering and permitting so they would be ready to go now. A lot of these projects are time sensitive. This work was originally projected to be done over the last ten years; it's done in just over three years for it all.

Councilor Ciolino asked about the work on Centennial Avenue; had they put in large enough pipe to do the river crossing or would the roadway be dug up again. **Mr. Hale** confirmed Centennial Avenue would not be dug up again; that the previous configuration of water main was two 20 inch pipe main transmission lines in the City running in parallel through Bond Street through Western Avenue to Middle Street; one continued up from Middle Street to Washington Street with another pipe headed to East Gloucester. The separation of those pipes is too close with too much risk of catastrophic gas main failure or an excavation incident. Both water mains could be broken; the disruption would cut the water supply to the entire City. At Centennial Avenue they are bringing a 20 inch water main up it over Commonwealth Avenue to Washington Street with another continuing towards the center of town. It separates the main arteries for the system to minimize risk. **Councilor Ciolino** asked what they anticipate it will do to the water rate and when it will be affected. **Mr. Hale** stated portions of the projects will be bid this fall, some in the spring. All this work won't be completed for another 12 to 24 months depending on how it is phased. There would be no long-term financing for at least that long, perhaps a bit longer. He said it is difficult to quantify the influence of one project on the water rate because there are so many projects being carried out simultaneously. These are significant projects that will affect the water rate which has steadily increased over the last several years; and will continue to do so. This is not just a local issue, but a national one in communities with infrastructure of this size. **Council President Hardy** asked for more information on the Babson dam. **Mr. Hale** added the Babson Dam is part of the loan order. The SRF (State Revolving Fund) programs pay for water and sewer projects. Dams are not included in the SRF program. The \$2.5 million for the dam will be locally borrowed between the CFO and the Administration, just as with any other public project. The \$2.5 million is for both design and construction for the project. It also cannot be put through the MWPAT program. In the memorandum dated May 22, 2012 through Mayor's Report (on file) it lists the Babson Dam project as not eligible for SRF. They anticipate being ready to begin the project in early fall of this year.

This public hearing is closed.

MOTION: On motion by Councilor Cox, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the following Loan Authorization;

Ordered: That Twelve Million Four Hundred Thousand Dollars (\$12,400,000) is appropriated for the purpose of making improvements to the City's Public Water System including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer, with the approval of the Mayor is authorized to borrow up to \$12,400,000 and to issue bonds or notes thereof under Chapter 44 of the General Laws and/or Chapter 29C of the General Laws or any other enabling authority; that such bonds or notes shall be general obligations of the City unless the Treasurer, with the approval of the Mayor, determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount of the Massachusetts Water Pollution Abatement Trust ("Trust") established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or the financing thereof; and that the Mayor is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project.

DISCUSSION:

Councilor McGeary commented that the DPW made the case that there is an urgent need; they responded as to where this fits into the overall capital improvement plans of the City, such as they now exist.

MOTION: On motion by Councilor McGeary, seconded by Councilor Cox, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Whynott) absent, the following Loan Authorization;

Ordered: That Twelve Million Four Hundred Thousand Dollars (\$12,400,000) is appropriated for the purpose of making improvements to the City's Public Water System including without limitation all costs thereof as defined in Section 1 of Chapter 29C of the General Laws; that to meet this appropriation the Treasurer, with the approval of the Mayor is authorized to borrow up to \$12,400,000 and to issue bonds or notes thereof under Chapter 44 of the General Laws and/or Chapter 29C of the General Laws or any other enabling authority; that such bonds or notes shall be general obligations of the City unless the Treasurer,

with the approval of the Mayor, determines that they should be issued as limited obligations and may be secured by local system revenues as defined in Section 1 of Chapter 29C; that the Treasurer with the approval of the Mayor is authorized to borrow all or a portion of such amount of the Massachusetts Water Pollution Abatement Trust (“Trust”) established pursuant to Chapter 29C and in connection therewith to enter into a loan agreement and/or security agreement with the Trust and otherwise to contract with the Trust and the Department of Environmental Protection with respect to such loan and for any federal or state aid available for the project or the financing thereof; and that the Mayor is authorized to enter into a project regulatory agreement with the Department of Environmental Protection, to expend all funds available for the project and to take any other action necessary to carry out the project.

2. PH2012-047: Group Free Petition under City Charter Sec. 9-1(b) Re: Commercial Street Hotel Overlay District requesting an additional public hearing on same

Council President Hardy asked Suzanne, Egan, General Counsel to address how the Council under Sec. 9-1(b) may act under that section based on her memo dated July 17, 2012 (on file). **Suzanne Egan**, General Counsel read the July 17, 2012 memo authored by her into the record as follows:

“This is in response to your request for an opinion regarding the legal effect of the petition filed with the city clerk’s office on May 7, 2012. The petition states, in pertinent part, “We the undersigned Gloucester residents feel that the one City Council meeting planned for May 8, 2012, for a decision on the Hotel Overlay District between Commercial Street and Pavilion Beach, is not sufficient for a subject of this magnitude. Invoking City Regulations, we hereby request that an additional public hearing before the City Council be held on this subject.” Handwritten at the top of the petition it states: “Re Charter Sec 9-1”. The city clerk has certified that the petition was signed by at least 150 voters.

The city charter at section 9-1(a) provides that the city council shall hold a public hearing and act with respect to every petition which is addressed to it and which is signed by at least 150 voters. The council has properly noticed a public hearing on the petition for July 24, 2012. The sole issue before the council is the request for an additional public hearing on the Hotel Overlay District Zoning proposal. However, General Law, chapter 40A, section 5, sets out a legislative process through which a proposed zoning amendment is enacted. The council strictly followed this process. The amendment was referred to the Planning Board and the Planning and Development Committee. The Planning Board held a public hearing on the amendment and made its recommendation to the city council within the requisite number of days. The Board held numerous sessions on the issues. At each session, the Planning and Development Committee was present, which then held its own series of public meetings on the amendment. The Committee forwarded its recommendation along with the Planning Board’s recommendation to the full council. The council held a duly noticed public hearing and voted to enact the amendment. With regard to its authority to enact a zoning amendment, the council is limited by the statutory authority set forth in General Law chapter 40A. The council is required to hold a public hearing on the petition requesting an additional public hearing. However, under the Zoning Act any public hearing would be moot as the zoning amendment is no longer before the council. Therefore, there is no legal basis upon which an additional public hearing can be held. With regard to the zoning amendment, there is no action that the council can take.”

Council President Hardy stated they are here this evening not under MGL Chapter 40A as a zoning ordinance, but because the City Charter allows through petition under Sec. 9-1(b), it is the umbrella under which they can hold a public hearing this evening. **Ms. Egan** affirmed that and said the Council could hold a public hearing on the request that is contained within the petition; that is to hold an additional public hearing and is what is before the Council. The issue of enacting the Hotel Overlay Zoning District is no longer before the Council because they have acted on that. What is before the Council is whether or not an additional public hearing should be held as requested in that petition.

Council President Hardy announced she would open a public hearing under Sec. 9-1(b) of the City Charter with the understanding the Council has no authority to reopen the zoning matter for the Commercial Street Hotel Overlay District. This petition was referred to the P&D Committee who referred it back to the City Council with no action taken, so there is no Committee Report. There will be no questions by the City Council. And when public hearing is closed there will be a discussion by the City Council. They are not acting under Sec. 1.1 of the Gloucester Zoning Ordinance or under MGL Chapter 40A.

This public hearing is opened.

Those speaking in favor of petition:

Rev. Rona Tindall, 44 Fort Square stated four businesses, residents and supporters requested this hearing primarily because the initial hearing on this issue was unbalanced even before it occurred. Their concern was that voting would take place without the City Councilors taking time to read the written testimony that was turned in and was exactly what happened. She has been asked by two groups, "Hold the Fort" and Citizens for Gloucester Harbor: to speak on behalf of their concern about the integrity of the City Council process regarding the Hotel Overlay District (HOD) vote; thus far and ask them to take the opportunity to set this right. It was their impression that City Councilors led by the Council President have shown no concern or interest in what constituents have to say. She said it was becoming increasingly clear that the City Council is merely going through the motions of holding public hearings. At the deciding vote on May 8th most Councilors delivered speeches that were obviously written prior to the vote being taken. One Councilor testified she was voting based on input from her constituents, when in fact when that input was reviewed after a public records request, it revealed that the majority opposed the proposed zoning changes. They spent hours of their time; hundreds of dollars for legal counsel, and benefitted from new information, shadow studies and expert testimony. There were far more people opposed to the rezoning than in favor of it. Instead of continuing the hearing when it was clear that more people wished to hear than could reasonably speak out in a single hearing, the Council President called for a vote that she [Rev. Tindall] contended had been clearly been determined before the meeting had even begun. "It was a charade," making a mockery of their political process. Based on what they observed in the email exchange revealed in the days preceding the proceedings this evening, they know the representatives are not representing them. In fact, of the three [Councilors] whom she had communicated with personally, none knew anything of it through no fault of their own. The matter was handled almost entirely by the City's legal counsel. And now [the Council is] forced to hold this hearing by the newspaper's reaction, the outrageous plan to open and close the hearing without testimony, their representatives have held the meeting. The process "was insulting and painful". The police presence at the last meeting was humiliating, impeded discussion and interfered with the democratic process. Being cut down to two and then one minute made their attempts to convey their information and points impossible. The Planning Board passed everything over to the City Council and Council passed most of everything off to the Special Council permitting process without doing the research that was needed. They did a lot of research on their own; had experts; had studies and submitted many documents that showed how the HOD would not fit into this area. But they remained in the box never being seen at the time of the vote. Two of the most important things that were not seen were their submission of studies that showing the adverse affects of putting a hotel on the waterfront had on coastal communities nearby. They also found out from reading the Boston Globe that this property owner has a history in another community. In Brighton Mr. Davis has plans to develop a property that he didn't even own yet and filed so many lawsuits against the locals who owned the property, it forced them out of that site. These are the tactics that he used the last time he wanted to acquire some land and are two big factors that should be taken into consideration in the decision making process. Some other issues are safety and engineering issues that were valid because they are in the HOD and should have been allowed to be presented but were not. There were truck issues brought forward by Attorney Michel Faherty in companies threatening to stop delivery of products to Commercial Street; the Newport study that showed that tax rates were higher from water-dependent businesses than from other industries. It was sad and illustrative that the process in this room had two distinct sides that were divided which has become representative of how the City has been divided by the way this process has been handled. It was unnecessary and divisive and not conducive to good a good conversation and learning. They noticed that the Back Shore HOD public hearing have been conducted in a different way. The credibility of the City Council has been damaged. It can be restored if they repeal their vote of May 8th and conduct a thorough process including the public hearing and discussion of all of the issues that were raised and revote. Short of taking these steps there is nothing further to say for the public even though those who are in favor now of the proposal, they will know that the City Council has not represented its people.

Nathaniel Mulcahey, 33 Middle Street, Ward 2 resident, stated by the action of the City Council and by the Council President's words this evening, the concept of zoning within this discussion is moot. He refuted that statement and that declaration. Having come from Italy, he where he had seen some rather spectacular actions by politicians there. He thought he would be coming to a place where he would see a democratic process held at its highest level. The first time he saw a vote taken with information not being reviewed was when Gregg Cademartori "voted on and declared something at a P&D meeting" while all of the presenters of the material remained unread. The system needs to be fixed. Since they can't address the zoning issue, he would use his time to help restore the democratic process to the City of Gloucester. Going back to the Declaration of Independence, "we hold these truths to be self evident", but the actions of the City Council have shown they are not self-evident. The only thing self-evident is that their representatives have not been representing them. Melissa Cox today in the paper said that, "she was aware

of the Petition until after the May 8th meeting.” But email documents show that on May 7th, their Ward Councilor stated that she didn’t know if they had the 150 signatures necessary for the second hearing that would be needed as per their request. She also recommended in a way which calls into question her motivation that they not present the petition of 150 signatures or more; and not even present it at that meeting of May 8th but to even not present it until the following meeting. When asked through the public records law, for “the full revelation” of the emails, their Ward Councilor claimed that 10 days as allowed by law was too little to provide all the documents needed. Given that the first request for those documents was May 9th, it took over two months for those requests to come through in complete disregard for the requirements as set forth by State law. [At this juncture Mr. Mulcahey’s three minutes expired, but since the primary speaker used 8 minutes of the 15 minutes allowed, Mr. Mulcahey was given the balance of that time should he choose to use it by the assent of the Council.] “Governments are instituted to arrange by men deriving their powers and consent from the governed. That whenever any form of government becomes destructive at these ends it is the right of the people to alter or abolish their leadership.” If their Council representatives, duly elected by due process, are charged with representing them and then through their actions and words show that they have not, what corrective actions have they other than to remove that government. This process can easily be resolved by an amendment, which they are currently putting forth through petition through the charter through the regulations of an amendment to the City Charter which would require each P&D member, each City Council member to attest prior to the vote, that they have read, understood and discussed the material they have been presented. To suggest to the public their opinions matter and ask them to present the documents to leave them unread in a box while they vote is a “clear declaration” that they are not taking those words or submissions into consideration; and is, therefore, “a perversion” of the democratic process which needs to be righted within the City Charter. It is a small but quickly fixed loophole which he proposed the City take on itself without having the citizens ask for them to do so to right this wrong before it can be done again.

Laurel Tarrantino, 26 Fort Square submitted written testimony for the record.

Ann Rhinelander, 16 Pine Street read a statement (submitted for the record) that she found the May 8, 2012 the Council considerations of the Beauport LLC application as “outright collusion and confiscatory process versus deliberative and impartial hearing and responsible decision making. She offered it can be remedied by reopening the May 8th hearing for a full hearing process that is authentic. She expressed the zoning performance of the Planning Board was poorly done; that while they did conduct a public hearing there was little input by the public. The P&D Committee wrote for itself “dictatorial powers” and the City Council gave the appearance of giving the matter a foregone conclusion.

Susannah Altenberger, 66 Atlantic Street stated this Council and community has four different hotel projects underway. This will give \$30,000 to 60,000 in annual tax income to the City. They have made the City look bad for sustainability to investors and have gained nothing. People such as her who are productive on the working waterfront are finding more opportunities to stay local. Who would they talk to on the Council to get issues such as sustainability and how to achieve projects with any degree of comprehension and respect for the core of economic development for the City’s future; for jobs? She asked whom should they talk to when bringing into the City outside partners; who would want to be the contact person on the Council with the exception of Councilors Tobey and Theken. The Council took action for the sake of someone who has plenty, hurting those who have been on Commercial Street, who have been dedicated to their commercial enterprises for many years. She expressed her dismay at the dismissal of the drive and enterprise these folks bring to work and said it was a low point for the City.

Peter Parsons, 37 Washington Street pointed out there were once a working harbor in Lanes Cove and Bay View but no more. There was a hotel on Pavillion Beach and on beaches over the North Shore; there was a manufactory at Pavilion Beach for foul weather gear. There is a code of the hunter gatherer. Native villages of tribes were on the beaches of the City when Champlain came here. It is the City’s island ethos, and made it and the residents what they are; based on democracy of hunter/gatherers. What is happening on the Fort is in violation of that code. It is a traditional community. Current planning & development schemes are ignoring the working waterfront and the rebuilding of it which he said can be rebuilt and made profitable. They are not against fair, democratic process and want to get the ocean based economy growing again.

Council President Hardy asked if anyone else would like to speak in favor this evening. There were no additional people that wished to speak.

Those speaking in opposition: None.

This public hearing is closed.

Discussion by Council:

Councilor Verga addressed the people who were accusatory to him as a part of the Council by being “on the take” and several other phrases that were used; he wondered what they thought might be in it for him. He was born and

raised in the City and would finish his life in it. To think that his vote was anything more than from the heart, he said they were wrong.

Councilor Cox expressed she would not defend her actions or her vote or as to the request for information. She did submit emails that were not already part of the public record that had been sent to her. She stated there were numerous other contacts both in person, on the phone, not just by email to her on this matter. She didn't indicate they were primarily email format or only email. Therefore, her original statement was valid. She submitted that it took a while to get the information to those who requested it as she was engaged with City budget meetings and other civic activities which benefitted the City immediately following the vote.

Councilor Theken stated she did get emails and did her homework and did plan to vote. She did expect the public hearing would be continued as there were parts of the rezoning she didn't understand. She had spoken with General Counsel and contacted the Ethics Commission. She wanted more questions [to be asked] and wished to continue the hearing. Instead of recusing herself, which would bar her from every waterfront issue moving forward having to quit the Fishermen's Wives Association or the Council; choosing one or the other. Because she could not vote, due to these considerations, she abstained instead. For most of these Councilors, this is not the first time this parcel came before them for rezoning; with many of the Councilors having been in place for some years. She knew the Councilors did their homework. It was a hard decision. Some Councilors were being threatened, and because of that they did have a police presence; and pointed out there has been police presence at other public hearings too. They are now divided. This was the most difficult hearing, and there were hard choices. To be divided on each side is not what Gloucester is about. There is still more to come. They can still have input; and the Council will listen. They can still have a say as to how this hotel will come to the City. There is desperation in the City due to the economic times which she witnesses through her professional work life. She expressed her willingness to be their voice. Her colleagues worked very hard and were torn. She urged they not give up; there is still another process ahead. She asked they come forward to teach how a beautiful hotel can be built by working together.

Councilor LeBlanc clarified his vote on May 8th on the HOD by stating his vote was informed by emails and by oral communications; the majority of people he spoke to in his ward and the City were in favor of the rezoning. He had two statements he was going to read that night; one in favor, one opposed.

Councilor Ciolino took exception to Mr. Mulcahey's statements saying the Council did their due diligence. They did go through this process before and once again. They went to ward meetings, Planning Board meetings, P&D meetings. For them to accuse this Council he has served for five terms to say they didn't do their due diligence was wrong. They're talking about the process. Between P&D and the Planning Board, they did their process and heard everyone. The referred to "box" held public record. It is in the Council files available for public view, and will be there and is not wasted. Everyone is entitled to an opinion. As a Councilor At Large, during the election, 99 percent of the electorate with whom he spoke told him they wanted something to move forward there. The Council did do their research and worked hard on it. He expressed that the accusations are insulting to the Council and the work they do. He spoke to the residents' in the Fort, and his suggestion was to come up with a plan of what they would like to see there. They did an overlay with no "by right". It is a blank slate. He asked them to work with their ward Councilor to say what they want to see happen. They will listen. They want something there that they can all live with. He said he did not regret his decision, and was not a spur of the moment decision either. He listened to them all as he did this evening. When they move forward and they start hearings once again of whatever is proposed there, he will listen again to their needs and desires.

Councilor McGeary expressed democracy doesn't mean you always win even on things you feel passionately about. Sometimes it comes up short, and the process is that you move on. Under this system there is recourse which is at the polls. If they don't like what the Council did, they can vote them out of office. As to the issue of deliberations they put in as Councilors individually and together, he, for one, did reach out more than once to the opponents, more than he did to the proponents because he wanted to be sure he understood the case against the zoning overlay. In the end his judgment was that it was worth doing. He expressed he felt strongly, however, that the information he got from those conversations with people like Ann Molloy and Peter Anastas will inform the Councilors' deliberations if and when anybody comes forward with a hotel to be put on that site. It was not lost effort; it will be an important part of the framework for the Council to view any future project that comes before them. The participation is what they are entitled to in a democratic system; and they have participated fully. Even though they lost on that vote, they may be more effective than they think.

Councilor Tobey explained his view that under the zoning enabling act the job of each Councilor is to listen, hear, explore, evaluate and then decide and said he thought each one of his colleagues did that. Participating in a process that was deliberate, considered, intelligent, thoughtful and that yielded the result that it did on what may prove to be the first phase of a multi-phase process. Their job was not to count heads; if they had he was not sure of what the result would have been; but it is not the nature of this system. Economic development, in his many years of

witnessing that process, usually is divisive. He pointed to the Gloucester Crossing project where there was “bitter” division in the community; and the community did move on, opponents and proponents. The project is built. Gloucester did not die as they know it as a result. This process, too, has been divisive; and if there is a next phase, it may be in the future but the Councilor suggested they are bigger than that and will move on. There will be a process that will be deliberate, considered, intelligent, thoughtful and would yield a good result, expressing he had no doubt. There will be no “dictatorship because there was none.” There will be free and open participation just as there was. Councilors elected by their community will make their decisions they were called upon to make and explain them as they see fit. He noted that on the evening of the May 8th vote he spoke first as [P&D] Committee Chair. His speech was not written in advance; it wasn’t a drafted speech. It was a set of remarks based on some notes on a piece of paper; and expressed he was flattered and amused that folks thought he drafted them in advance. He said he tries to bring to bear his 59 years on the island, seeing, experiencing, learning, absorbing, synthesizing and did so that night. He expressed his appreciation but that it was not a prepared speech. It was spontaneous.

Council President Hardy explained as City Council President she is charged with conducting the business of the Council; putting together the agenda, its order, and conducting public hearings. At no time did this City Council do anything that was not called for in MGL 40A or in Sec. 1.1 of the Gloucester Zoning Ordinance. They followed procedure. They voted the evening of May 8th; they voted to reconsider on the evening of May 8th. The time for reconsideration expired on the evening of May 8th. There is nothing that gives the Council the authority to repeal its vote, to amend its vote. The vote has been taken. The recourse people would have who has been dismayed or didn’t like how the vote went is not for the authority of the City Council. They opened the public hearing this evening under the Charter provision of Sec. 9-1(b). It is all they discussed and all they can act on. The Charter provision allows the public with 150 certified signatures or more of registered voters in the City to come forward with a petition for any reason and was the umbrella under which the Council acted this evening. They did not act under MGL 40A. The public hearing conducted under MGL 40A has not been reopened. She said she could not stress enough how hard the City Council worked not only on this HOD, but on every public hearing that comes before it. There will be people who will be disillusioned and not like the Council’s vote. They make hard decisions that are not easy; and not always the way their particular constituents in their wards want them to vote. They have to look at the big picture for the entire City; and the economy of the City is front and center. Jobs mean a lot which was likely considered largely them for the HOD on May 8th. She said she knew it was a big consideration of people she spoke to, and was one of the reasons she voted for it. To say that they had their minds made up in advance, she asked how many public meetings had they attended. They heard from many people through a [multi-night] joint meeting with the Planning Board. Her mind changed twice on the matter. For the Council to be painted with a brush that they’re not listening, not paying attention, going outside the bounds of their authority, are not true. She expressed her pride in the City Council. If they wished to blame her as City Council President for not conducting the meeting properly, stating she believed she had conducted that meeting properly and within the bounds of MGL 40A and Sec. 1.1 of the GZO, “so be it and would take the hit for it.” She asked they not blame the rest of the City Council. They did the best they could with what they had, and she would vote the same way again this evening. The Council President reiterated what Councilors Ciolino, McGeary, Tobey and Theken said, that there is plenty of time for voicing their opinion on the Special Council Permit that has yet to be presented to the City Clerk’s office and suggested they bring compromise to the table, “it always works.”

3. PH2012-048: Amend c. 1, Article IV, Div. 4, Dept. of Veterans’ Services, GCO Sec. 2-291 “Appointment Qualifications and general powers and duties of director”

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor LeBlanc, seconded by Councilor Whyntott, the Ordinances & Administration Committee voted 3 in favor, 0 opposed the Ordinances & Administration Committee recommends to the City Council to AMEND GCO Chapter 1, Article IV, Division 4, “Department of Veterans’ Services” Sec. 2-291 “Appointment qualifications and general powers and duties of director” by ADDING after “approved by the city council” “for a term of two (2) years.”

DISCUSSION:

Councilor Theken explained that given recent events and the resignation of the Director of Veterans' Services, and the search for a replacement, this was an appropriate time to restore this position to that of a department head, and as such should have a Council reappointment, like many others. Like some department head positions, the order had been written to have a term of one year. But the Committee is recommending a two year term for reappointment to be reconfirmed by the City Council. This would give an opportunity for the community to come speak if they wish to have input during the reappointment process. **Councilor Ciolino** expressed his agreement that this is a very sensitive position. He approved it coming to the Council for reappointment. **Councilor Tobey** expressed that no one need fear from this process. There have been some "remarkable" Veteran Services' Directors in the past who were nominated subject to Council confirmation. Having a Council confirmation process assures there is someone who is fully vetted candidate who can balance both the bureaucratic paperwork, as well as community-oriented celebrations of the City's veterans. He expressed his belief this was an important initiative and will also open the door to revisit other department heads being included in the reappointment process.

MOTION: On motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Whynott) absent, to AMEND GCO Chapter 2, Article IV, Division 4, "Department of Veterans' Services" Sec. 2-291 "Appointment qualifications and general powers and duties of director" by ADDING after "approved by the city council" "for a term of two (2) years."

4. PH2012-049: Amend GCO c. 2, Art. V, Div. 10, Committee for the Arts, Sec. 2-508 and add new subsection I

This public hearing is opened.

Those speaking in favor:

Judith Hoglander, Chair of the Committee for the Arts (CFTA), 52 Shore Road explained that before the Council is an amendment to the ordinance which is broad in scope dealing with issues that are unrelated to art installations on City property. They are asking the ordinance be amended by taking out those issues and that the time allowed for the turnaround for their decisions be extended: 30 days for temporary, less permanent installations; and 90 days for larger installations that involve more considerations. As the ordinance exists now, it allows for a 30 day turnaround in which to make timely and thoughtful decisions. As the CFTA meets once a month it makes it difficult to meet the standard of the ordinance in a thoughtful and timely manner. She asked the Council to support the ordinance amendment.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor LeBlanc, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend the Gloucester Code of Ordinances, Chapter 2, Article V, Division 10, COMMITTEE FOR THE ARTS, Section 2-508 by DELETING Section "b)" in its entirety and ADDING a new subsection "b)" and by ADDING a new subsection "c)" as follows:

- b) No work of art, monument or ornament of art shall be placed on any public ways or on any public lands other than cemeteries and no work of art or object of decoration shall be placed in or upon any public or municipal building or be removed, relocated or altered unless the design thereof or the action to be taken therewith shall have been reviewed by the Committee for the Arts. For the temporary installation of a work of art, the Committee shall make a written recommendation to the mayor within 45 days of its submission. For the permanent installation of a work of art, the Committee shall make a written recommendation to the mayor within 90 days of its submission to the Committee.
- c) Temporary installations of art work of school age children shall be exempt from the provisions of this section.

DISCUSSION:

Councilor Verga endorsed the ordinance amendment saying it gives a better framework for the decision-making process especially when art is donated to the City, allowing the experts take a look, consider, and give advice to those who make the final decisions.

MOTION: On motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Whynott) absent, to Amend the Gloucester Code of Ordinances, Chapter 2. Article V, Division 10. COMMITTEE FOR THE ARTS, Section 2-508 by DELETING Section “b)” in its entirety and ADDING a new subsection “b)” and by ADDING a new subsection “c)” as follows:

- b) **No work of art, monument or ornament of art shall be placed on any public ways or on any public lands other than cemeteries and no work of art or object of decoration shall be placed in or upon any public or municipal building or be removed, relocated or altered unless the design thereof or the action to be taken therewith shall have been reviewed by the Committee for the Arts. For the temporary installation of a work of art, the Committee shall make a written recommendation to the mayor within 45 days of its submission. For the permanent installation of a work of art, the Committee shall make a written recommendation to the mayor within 90 days of its submission to the Committee.**
- c) **Temporary installations of art work of school age children shall be exempt from the provisions of this section.**

5. PH2012-038: Modification to Special Council Permit granted to Cape Ann Brewing Company on December 7, 2010 re: Rogers Street #9-11

This public hearing is opened.

Those speaking in favor:

Attorney Catherine Schlichte, representing the applicant, Cape Ann Brewing Company (CABC) and owner Jeremy Goldberg stated this is a petition to modify their Special Council Permit to operate a restaurant in the Marine/Industrial (MI) district by having a 17x33 foot awing over the outside dining area and a 10x20 foot awning over an outside bar that that has already been installed. The property is complex in terms of its regulatory zoning ordinances: there is the State ABCC who oversees and permits the brewery operations; the local Licensing Board permits the on-premise consumption of alcohol; the DEP regulates this piece of property through the DPA regulations; and the City Council regulates the zoning through the M/I district for the restaurant operations which are only permitted in the M/I district with a Special Council Permit. The Council granted that permit on January 6, 2010 for a 2,368 square foot restaurant operation with a 1,220 square foot outside dining area. Neither the seating capacity nor the size of the restaurant is changing with this request for modification. The CABC is seeking to put an awning over the outside seating area. The Special Council Permit was modified once in December 2010 when the CABC sought a modification of the permit in order to install a grain silo at the left front of the building (as viewed from Rogers Street) to assist with the brewery operation. When considering whether to grant the modification, the standard isn't the six criteria the Council originally considered for the Special Council Permit; but rather, the standard is found the GZO Sec. 1.8.5 that says modifications may be granted if the City Council finds the interest of the City and neighborhood are not impaired by the modification. She expressed her hope that the Council will see that this modification does not increase the size of the restaurant or the seating capacity and therefore does not impair the interest of the City and the neighborhood. In answer to concerns raised whether the outside bar requires any further permitting, the Building Inspector in a memo addressed to Councilor Tobey dated July 23, 2012 stated because the bar is moveable it is considered a piece of furniture and does not require any special permitting to be placed on the outside deck. The CABC did require modification to the liquor license which has already been obtained.

Those speaking in opposition:

Sunny Robinson, 20 Harvard Street stated there were fundamental problems with this request for modification in that that the original criteria laid down by the DEP and incorporated into the Special Council Permit have continued to be either not be met or not demonstrated. She suggested the Council needs to go back and look at those criteria in the original permitting to assure they are met because she expressed the belief there is no evidence they are being met. Further, she expressed the belief it was incorrect to say because the bar is a temporary structure, it does not represent a modification that needs to be addressed. The original language is clear that the outdoor deck is for

seating not for a bar. The application for the modification for the bar and the awning was correct; both are substantial modifications and need to be addressed. Among the special conditions laid down by the DEP which rolled to Council, Ms. Robinson asked had they been met, how and in what ways as follows:

- Nearly 5,000 sq. ft outside area must be retained for MI use. She suggested the Council needs to go to the site and look at the outside space and determine that the square footage is made available without obstruction for MI uses.
- Original language from the DEP states there should be site improvements to facilitate use of the outside areas allocated for water dependent uses.
- Contributions at \$2,000 per year in mitigation funds for improvement of the docks were to be made. If that money has been paid, where it is, who administers it and what improvements have been achieved, as there would have been three years of contributions.
- The provision of ready access of the public across the property to the water.
- The application originally addresses approximately 30% of the property made available for parking for water dependent uses. What portion of the property is that 30% and is it being made available; and can do fishing people who come to that area to gain access because on the front of the building there is a sign posted that says “unauthorized vehicles will be towed at the owners expense.”
- Public Bathroom signage. The applicant has been working with P&D about whether the posting of “prominently displayed signs” are up and permanently affixed to the building. That situation is better only in the last few weeks. There is now a computer-generated 8x10 sign that says public bathrooms are available during pub hours. During Fiesta she checked and the sign was on the inside of the door only.

Ms. Robinson then submitted a written statement and a copy of the original DEP requirements to the Council (placed on file). Further, Ms. Robinson stated this history demonstrates this is a business that has neither met the letter or the spirit of the requirements that should have been met. She asserted that no modifications to the property should be permitted until all the reports that were originally required and documentation with measurements of the area are submitted to the City Council to be assured, perhaps on a yearly basis, so that they know these requirements are being met. The application indicates that the applicant feels the outdoor bar will increase the inviting feel of the new Harbor Walk and allow greater usage of Gloucester harbor which she did not understand nor endorse. The Harbor Walk provides access to recreational and cultural opportunities. She expressed she failed to see this expanded indoor and outdoor bar reached the desired outcomes of the Harbor Walk.

Patti Page, 3 Tidal Cove Way stated the CABC makes a product for distribution. They were issued a pouring license to serve their product to their patrons and a license to serve food. They derive their income from these principal activities. Denial of this modification request for further expansion of their operation does not stand in the way of their primary sources of income. They will still be able to serve food and liquor on the deck. She suggested modifying further the Special Council Permit to extend their permission to operate an outside bar including entertainment from noon until sunset needs to be reviewed carefully. The CABC is at the gateway to the harbor at the start of the Harbor Walk. She suggested this could be a precursor for neighboring establishments for their own upcoming requests. The Licensing Board has several establishments with noise complaints and has declined several requests for outside entertainment. There is no building permit required; it remains that the Special Council Permit needs to be modified in order to authorize the operation of an outside bar. She said the CABC “adherence” to the Chapter 91 conditions for MI related uses is poor. She expressed her opinion they have not met their obligation to the City and the State in that regard, and asked if this modification is granted that it not be at the exclusion of the MI related supporting uses within the City.

Rebuttal:

Ms. Schlichte stated the outside bar did need permitting by the Licensing Board as a second bar and was granted a modification to their on-premises service and consumption license. She did not represent Mr. Goldberg at that hearing. Requests and concerns were voiced that the Licensing Board at that time. As to the issue of the outdoor seating, the Special Council Permit says outside seating is permitted. There is no prohibition to limit the seating, so some of that space can be taken up with a bar. There are many issues remaining as noted by Ms. Robinson and Ms. Page about the DEP license and the conditions related to it. There is a modification to the Chapter 91 license pending with the DEP. There were two gardens that were installed which reduce the outside area available and are subject of the DEP license which is available for public comment with the DEP. There is a process for them to speak with the DEP on the issues the opponents raised. While the DEP license is not the subject of this hearing, she stated there have been no violations of the DEP license. The mitigation payments have been made; there is correspondence to the Council showing that fact which is on record (on file). The outside square footage is available for lobster pots for winter storage and will available again next winter. The owner is working with the

DEP to create a marketing plan to encourage MI use. They have to find someone to make use of it; other than lobster pot storage the area doesn't seem conducive to any other type of MI use. The temporary signage has been put up for the bathrooms; they are discussing this with the DEP and wish to wait to get the determination from them. As to water access by the public, between the office building to the left of the brewery is a 15x125 ft. walkway for public access (referred to by the DEP license), and set aside for that, and not dependent to the side entrance to the CABC (the left side of the building from Rogers Street) and is also part of the parcel that comprises the 5,000 sq. ft. that goes towards the MI water dependent use.

Rebuttal to the Rebuttal:

Ms. Robinson clarified that she did not object to the outdoor seating, but the DEP and Special Council Permit language is clear that the outside deck is for "outside seating". Given the specificity of the language, it makes a bar, with or without an awning, not what the outside deck was proposed for. She reiterated her suggestion that the way to demonstrate that the 5,000 feet set aside for water dependent use and 30% of that used for parking is by someone doing measurements and submitting that information to the Council where they can be made available. Expressing that she pleased to hear about a marketing plan, it was to have been done within 60 days.

Communications:

Questions:

Councilor Ciolino pointed out when the application was before P&D they asked the attorney to accomplish several things, one was to have a conversation with Dr. Gonzales whose offices are in the next building (who had voiced a complaint to the Councilor regarding odors from the brewery). **Ms. Schlichte** explained she had called and left a message and a partner returned the call 10 minutes later stating they had no concerns; they were not seeking assistance from the City; they were happy to see the dumpsters screened, but had no particular concerns about the brewery operations. A fence was put up and the screening on it as well as a posting of the bathrooms signage is done with a laminated piece of paper on the front door. **Councilor Ciolino** stated it was made clear at P&D they had asked for international signage indicating a public restroom long before the Fiesta. At that time the Councilor had advised Ms. Schlichte with Fiesta a few weeks away, that signage needed to be posted, and had a problem with it. It was his opinion that each time the brewery is before the Council, things are not completed, giving the impression the Council is disregarded by the owner. He expressed surprised the awning was already started and the bar was installed without any permits. Further expressing his disappointment, the Councilor stated he would not support this modification of the Special Council Permit.

On inquiry by **Councilor Tobey, Bill Sanborn**, Building Inspector informed the Council the last time he did a site inspection was three weeks ago to view the enclosure and screening of the dumpsters; and has not been back since. As to regulatory compliance, the premise is inspected once a year on the liquor license, in November/December, and they have not been back for an inspection for that purpose. Depending on the vote by the Council on the awning, it will determine whether they will be able to take a [building] permit out on it and they will come back and inspect that. There has not been an official inspection. **Councilor Tobey** point of view of the bar being on the deck, what is the status of that bar in terms of the compliance with local zoning ordinance. **Mr. Sanborn** informed the Council the bar is in compliance; it is a movable (a determining factor), not fastened to the deck, and is considered a piece of furniture. If it had electrical and/ plumbing service to it, and was permanently affixed to the deck, then it would be different. **Councilor Tobey** asked was there any kind of covering over that deck now. **Mr. Sanborn** stated, "Yes". There is an awning that has been installed onto the deck. **Councilor Tobey** followed up by asking if it was properly permitted as of this date. **Mr. Sanborn** responded this is part of the permitting process; they need approval of the Council. He confirmed it has already been done and is coming before the Council after the fact. **Councilor Tobey** asked if the Building Inspector had any role in the enforcement of Chapter 91 standards. **Mr. Sanborn** explained the City has no authority; it is up to the DEP.

Ms. Schlichte, responding to **Councilor Tobey's** inquiry on what is happening overall with the CABC, stated there is no disrespect by her client towards the City Council, if that is the impression they've come away with. If he had called her and asked her advice about the awning whether it needed a modification to his Special Council Permit, while she would have called the Building Inspector, her first instinct would have been, "no". It is a temporary structure made of canvas and is taken down for the winter. There was no intended deception or disrespect. **Mr. Goldberg** knows this property is watched by those who have interest in waterfront activity. Under the Chapter 91 license, he has five years to put in place all of the DEP conditions. It does say, "within 60 days but no later than five years," for compliance of all conditions in the DEP license which contains suggestions how one complies with them. The DEP understands some of them do take time. **Mr. Goldberg** was more focused on getting the business open and running, making it profitable and keeping 40 people employed on a full-time basis. If the awning isn't granted, he'll take it down and put umbrellas over his tables or use some other temporary measure. This awning has sides which zip onto it which was why the Building Inspector thought it was more of a structure because it has lighting in it; and

it does have side, and is more substantial and so requires some modification to the Special Council Permit. Mr. Goldberg has complied with the Special Council Permit requirements, but has some DEP conditions to meet. **Councilor Tobey** commented what has been erected there now that he is retroactively seeking approval on is in effect is an outdoor room with sidewalls, roof, lighting. **Ms. Schlichte** stated, "Yes". He has not put up the 10x20 ft. awning over the bar because he received a letter prior to having that installed. He has installed the 17x33 ft. awning but is not affixing the side panels to it, or done anything further to it. **Councilor Tobey** asked what, if any, consideration did Mr. Goldberg believe the Council should be giving in terms of how he is doing with compliance of the Chapter 91 conditions; and should the Council be contemplating that. **Ms. Schlichte** stated for every permit issued in the City, it is conditioned on all fees being paid and all permits being in compliance. He is not out of compliance with the DEP license, and reiterated he has five years to meet all of the conditions of his DEP Chapter 91 license. He is still in the progress phase. The major components of the license, the lobster pot storage and the public access have always been in place. The marketing plan is to develop a usage of the temporary access area which is parking for lobstermen. Ms. Robinson had mention a sign saying unauthorized vehicles will be towed. That is not to say lobstermen can't park there. He has the right under the DEP license to manage his property so he knows someone is parking there who is permitted to do so. He has been talking to the lobstermen to develop more significant use of the property. As far as the DEP license is concerned, she reiterated he is not in violation. **Councilor Tobey** pointed out his intention to comply is somewhat constrained by already seeking relaxation of at least one of the standards. **Ms. Schlichte** responded he is seeking a reduction in the amount of outdoor square footage that is available for water dependent industrial use. Under the City of Gloucester DPA plan it says you can use 50 percent of filled tidal lands for non-supporting DPA use which is what the brewery is. He had more than 50% dedicated to the water-dependent industrial use and seeks to reduce it from 57 percent to 50 percent. **Councilor Theken** asked if fees would be charged for lobster pot storage. **Ms. Schlichte** stated, "Yes", although he can't charge for public access. He can charge for lobster pot storage. **Councilor Theken** pointed out if lobstermen don't pay for lobster pot storage because they can't afford fees, how is he complying with DEP conditions then. **Ms. Schlichte** responded she represents another client in the Fort, and they charge for lobster pot storage also. Mr. Goldberg has to make the land available, but he doesn't have to do it free of charge. **Councilor Theken** asked about the restrooms; noting there are not enough public restrooms available for tourism in the downtown area. That sign had not been posted. It is supposed to be on the outside of the building; they have told other establishments the same thing. That has happened more than once. They don't have to go to the DEP for advice in order for a sign to put up and viewed that response as an excuse. **Ms. Schlichte** stated they will do it. The "international symbols" indicating the bathrooms will be on the front of the building. He has been there a year and a half. The sign will be placed. **Councilor Verga** expressed he was not as bothered about the permitting retroactively; it does happen. However, there are a few outstanding items raised before voting can move forward on the modification. He asked if it would be in Ms. Schlichte's client's best interest for the Council to continue this public hearing to get documentation. It was mentioned at the last P&D meeting, that the applicant was seeking from the DEP to reduce the percentage of land for water dependent use and still be within the Chapter 91 license conditions. There needs to be some actual documentation of actual measurements of what is available and what the pathways allow public access to the waterfront. The signage about who is authorized to park on the property needs to be clarified, and having viewed the site on Saturday, the restroom sign, although printed off of a home computer printer, is on both sides of the door. It is clear going back a month ago that P&D wanted to see permanent and prominent signage to passersby. He reiterated the Council needs to see some documentation of what is in place now; what is planned to be done even if it is not specifically the item that is before the Council, before they vote on the matter. The owner needs "set things straight." **Ms. Schlichte** stated the conditions of the Special Council Permit - the dumpster fenced and screened was the only item just recently complied with. All the DEP items are being enforced and are taken care of by the DEP which is that regulatory agency's purview. The awning is what is before the Council. She expressed the Council has everything it needs to determine the modification of the Special Council Permit for an awning over the deck. She didn't know if the DEP license process is integral to the City Council's decision. **Councilor Verga** confirmed the DEP license is not in Council's jurisdiction. But there has been an illustration of things not happening the way they should which gives credence to the opposition. He again asked if it wouldn't be in the client's best interest to continue the public hearing. **Ms. Schlichte** stated they could do so. The measurements are already in the DEP plan. All this information has been provided to the opposition. She expressed the opinion the opposition is misinterpreting the language of the license and intent of what that land is to be used for. She repeated there is no violation [of the DEP license]. If the Council would like to continue the public hearing to wait for the DEP process to finish they can.

Councilor Cox stated she has had numerous discussions with Mr. Goldberg; while he's not in violation, being a good neighbor and good partner in the City, it would be appropriate that questions being asked about the measurements be answered so they know exactly what they are. As to the building permits needed; that was asked and answered. The bathroom sign and the screening of the dumpster area were asked by P&D to be corrected, and it was. It was a matter of perception. She supported the bar and enjoyed going there, but there are too many questions. **Councilor Tobey** commented on Ms. Schlichte's remark that it is a term and condition of every permit this Council grants that there be compliance with state or other permits as well which, in effect, is incorporated in them. He asked what the Building Inspector's current practice was in that regard. **Mr. Sanborn** did not agree that it was every state law; certain state laws affect them and some don't. It depends of who enforces that law. For 40A zoning, he can enforce that. He has no authority over DEP to enforce any regulations they have. He is not in the position to force them to put up a sign for public bathroom; DEP could tell them to take it down, it is not right, put up a new sign. They write their regulations; and enforce them. If there are questions on those regulations and their compliance, the DEP should be asked. **Councilor Tobey** suggested that the Building Inspector had an "affirmative duty" if he saw non-compliance and point it out to the DEP. **Mr. Sanborn** said he had yet to deal with that kind of question and could not respond. **Councilor Tobey** further pointed out there are a lot of structures in the City, two close by: The Gloucester House Restaurant and Latitude 43 Restaurant and Bar that are in the DPA and probably have DEP permits and require public notice of public use of bathrooms and hasn't seen a sign on either establishment. He urged the Building Inspector and his team how they might engage this. Rocky Neck went through an issue with a bathroom being positioned outside one of the houses in a public park; and there are Chapter 91 permits for all those restaurants on the Neck; where are their signs. **Mr. Sanborn** stated he was not aware if any of them are required to have the signs. He knew of two restaurants in the downtown on the harbor side that are required to make them available; and believed he had been told one of them is not required to put a sign up. **Councilor Tobey** would make a Request to the Mayor that the Building Inspector inspect those restaurants and come back to the Council to inform them what the Chapter 91 permits require relative to public bathrooms and to the extent of compliance.

Councilor Tobey stated he would voted no on this modification this evening, because of not only the concerns Councilor Verga raised, but specifically the fact that there seemed to be a "grudging acceptance" of Ms. Schlichte's client of the unique opportunity he has in that location; hedging when he can, and also seeking the modification from 50 percent to 47.5% percent. He would be more in favor if that DEP modification was withdrawn. If it weren't withdrawn, he would want the Council to prepare a collective statement to go on file with the DEP in opposition.

Attorney Schlichte then asked for a continuance of the public hearing to give her time to submit more information to the Council. She commented that her client is not reluctant but uncertain on some of these issues. She guaranteed the sign will be on the building if the Council permits a continuance. **Councilor Theken** stated the attorney's client could put umbrellas on the deck and not have the awning be an issue; and that these seemed to be similar issues coming forward from the CABC's the original location. When they gave the permit for a kitchen, it carried with the person, and so they got the restaurant. This was just to sell their own product. Now there is a full restaurant and bar and outside on the deck. They have turned down other restaurants for less. She disagreed with the Building Inspector on the bathrooms. This is not the first time this applicant has come before them for issues after the fact. She would vote for a continuance. Otherwise she would vote no on the modification application also. **Ms. Schlichte** confirmed the CABC only sells beer produced by the brewery. **Council President Hardy** asked for an extension of the public hearing as well as a Council site visit. **Councilor Tobey** asked that there be no further amplification of that deck with the panels, the heaters, etc.. **Ms. Schlichte** assured the owner will refrain from doing so. **Council President Hardy** confirmed at P&D they did ask the signs indicating public bathrooms be on the sides of the building that the public walks by on Rogers Street and the Harbor Walk, and should be highly visible.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed to continue the public hearing to September 11, 2012 to give time for a City Council site visit with the Building Inspector and for the concerns of the Council to be answered.

Councilor McGeary asked for clarification if they are asking Mr. Goldberg to take down the awning now in place or is it allowed to remain. **Council President Hardy** pointed out he has proceeded at his own risk; not proceeding any further is what she understood the Council is requesting. **Mr. Sanborn** asked for Council clarification if the Council is suggesting that his office take enforcement action to stop the use the deck until this matter is resolved. **Councilor Tobey** asked for the Building Inspector's best judgment. **Mr. Sanborn** responded normally if there is a violation found, they allow the person to go through the process to correct that, and is what they have been doing.

Mr. Goldberg has agreed to not put any sides on the awning until this is resolved. The Building Inspector wanted to get as sense of the Council's wishes. He does have the authority to take further action. **Councilor Tobey** expressed regulatory enforcement is a matter of discretion and asked the Building Inspector, in the ordinary course of business, given where this matter stands where a deficiency has been identified and is in a permitting process, what the Building Inspector would routinely do, and that should be the guideline.

This public hearing is continued to September 11, 2012.

6. PH2012-050: Amend GCO c. 5, Art. II, Div. 3, Sec. 5.31 Definition of "Vacant Building;" amend Sec. 5.33 "Registration Fees," and by adding new Section 5.37, "Removal of Building from List"

This public hearing is opened.

Those speaking in favor:

Bill Sanborn, Building Inspector stated that these are amendments to an ordinance already in place as a result of questions that were raised as to how the City was dealing with vacant buildings by Councilors Tobey and Verga. At their request, the ordinance was reviewed over several meetings. They found that the ordinance is a good product that works, but there were some changes that would improve it. One issue is after a building is declared vacant, the ordinance wasn't clear about how the property could be removed from the vacant building list, and so language is offered in an amendment to clarify the circumstances when a building could come off the list. Those reasons are: the building being sold; a building permit being issued to do work to the vacant building; the building is being demolished or the building is being occupied – in that case the Building Inspector has to be notified in writing of that fact. He noted when a building permit is pulled to do work to the vacant building, if the other owner doesn't do anything with the building; it goes back onto the vacant building list again, which has happened twice now. Most of the other amendments offered are simple corrections. The other main point was individual condominium units. In the language for registration fees, it should be noted that the fee is on one vacant unit in a building. It is not considered a vacant building. He expressed he believes this is a series of good amendments to improve the ordinance.

Those speaking in opposition: None.

Communications: None.

Questions:

Councilor Theken asked if the fees are the same or new. **Mr. Sanborn** stated the fees are the same as before as approved by the City Council. He also noted there was a change for the numbering for the three sections offered for the Council consideration. They should read: Sec. 5.35 Definitions, Sec. 5-36 Registration Fees, and Sec. 5-37 Removal of Building from List. **Linda T. Lowe**, City Clerk explained that what was read by the Building Inspector was correct, and that the Clerk of Committees had the corrected numbering for the Council. **Councilor Verga** explained in their meetings last fall the Building Inspector mentioned he had a list (of vacant buildings) and knew that some people send the money automatically, but many did not. He asked if there was still a staff issue for tracking such matters. **Mr. Sanborn** stated they are doing well collecting the fees. However, they have a created staff position that will be funded through a revolving account and is self-sustaining. **Councilor Verga** expressed the City is not concerned about making money off of this situation, but rather it is to have someone on staff who ensures the City avoids the blight caused by vacant buildings. **Mr. Sanborn** confirmed the intent of this program is to see that vacant properties are maintained, and boarded up, if needed, to try to keep vagrants out. Moreover, they are trying to eliminate the vacant building "look" of tall grass, broken windows, and trash around the property. They have cleaned up a number of properties since this program was initiated, although there is a lot more work they can and need to be doing. The new staff position will certainly make a difference there. **Councilor Verga** clarified if there is overgrown grass on a vacant property and the City handles that situation, the City submits a bill to the owner or they place a lien on the property which **Mr. Sanborn** confirmed. **Councilor Verga** noted when this issue was first brought forward; one of the examples they had was of Worcester after the tragedy that City experienced when a fire in a vacant warehouse took the lives of firefighters there. He pointed out the Fire Department has the list of vacant buildings as does the Building Inspector for just such a reason. **Fire Chief Eric Smith** stated they support his type of program to using technology to get the word out and have shared resources that are critical to getting that information to their staff. Having visible identification on the building is an important part of that program in many cities. In his experience, to advertise by visible identification can bring other problems for the police with people taking opportunities with unoccupied buildings. He stated they have to figure out what works best for the community. It is a matter of identifying a vacant building for the Fire Department so that they do not needlessly put firefighters in harms way and not take undue risk. He was looking forward to working jointly to get this done.

This public hearing is closed.

MOTION: On motion by Councilor LeBlanc, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the Gloucester Code of Ordinances Chapter 5. Article II. Division 3, VACANT BUILDINGS by DELETING called Definitions in its entirety and ADDING new a Section 5-35 Definitions as follows:

Section 5-35. Definition

For purposes of this Ordinance, a “vacant” building means any commercial building in which no person or entity actually conducts a lawfully licensed business in such building; or any residential building in which no person lawfully resides in any part of the building; or a mixed use building in which neither a licensed business nor a lawful resident exists. Further, any building in which more than one half of the total exterior windows and/or doors are broken, boarded or open without a functioning lock shall be deemed “vacant” regardless of occupancy. A condo unit is not considered a building on its own.

DISCUSSION: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Whynott) absent, to AMEND the Gloucester Code of Ordinances Chapter 5. Article II. Division 3, VACANT BUILDINGS by DELETING Section called “Definitions” in its entirety and ADDING new a Section “Definitions” as follows:

Section 5-35. Definition

For purposes of this Ordinance, a “vacant” building means any commercial building in which no person or entity actually conducts a lawfully licensed business in such building; or any residential building in which no person lawfully resides in any part of the building; or a mixed use building in which neither a licensed business nor a lawful resident exists. Further, any building in which more than one half of the total exterior windows and/or doors are broken, boarded or open without a functioning lock shall be deemed “vacant” regardless of occupancy. A condo unit is not considered a building on its own.

MOTION: On motion by Councilor LeBlanc, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the Gloucester Code of Ordinances Chapter 5. Article II. Division 3. VACANT BUILDINGS by DELETING the Section called “Registration Fees” in its entirety and ADDING a new Section 5-36 “Registration Fees” as follows:

Section 5-36. Registration Fees

A registration fee will be due 90 days after a building has been determined to be vacant. If said building remains vacant thereafter, an annual registration fee will be due on November 15 of each calendar year. The owners of any vacant building shall pay to the Inspectional Services Department a registration fee to cover the administrative cost of monitoring and enforcing proper maintenance of buildings under the vacant building ordinance. The annual registration fee shall be based on the duration of the vacancy as of November 15 each year according to the following schedule.

Residential Buildings containing up to three dwelling units, the registration fee shall be:

\$500.00 - For properties that have been vacant for less than one year.

\$1,000.00 – For properties that have been vacant for one year or more but less than two years.

\$2,000.00 – For properties that have been vacant for two years or more but less than three years.

\$3,000.00 – For properties that have been vacant for three years or more.

Commercial Buildings including residential with 4 or more dwelling units, and mixed use that are less than 7,500 ft. of floor area, the registration fee shall be:

\$500.00 - For properties that have been vacant for less than one year.

\$1,000.00 – For properties that have been vacant for one year or more but less than two years.

\$2,000.00 – For properties that have been vacant for two years or more but less than three years.

\$3,000.00 – For properties that have been vacant for three years or more.

For any Commercial Building over 7,500 sq. ft of floor space, the following formula shall be added to the above registration fees: sq. ft area of floor space x \$.20 = \$ Amount. This extra fee would be justified by the work involved by the inspector to verify that both the sprinkler and fire alarm systems are maintained.

A failure to timely pay the registration fee shall be a Violation of the City of Gloucester Code of Ordinances. The full fee shall be deemed an assessment resulting from a Violation of this Ordinance. Said fee shall be a municipal charges lien and shall be collected in accordance with M.G.L. Ch. 40, Sec. 58.

DISCUSSION: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Whynott) absent, to AMEND the Gloucester Code of Ordinances Chapter 5. Article II. Division 3. VACANT BUILDINGS by DELETING the Section called “Registration Fees” in its entirety and ADDING a new Section 5-36 “Registration Fees” as follows:

Section 5-36. Registration Fees

A registration fee will be due 90 days after a building has been determined to be vacant. If said building remains vacant thereafter, an annual registration fee will be due on November 15 of each calendar year. The owners of any vacant building shall pay to the Inspectional Services Department a registration fee to cover the administrative cost of monitoring and enforcing proper maintenance of buildings under the vacant building ordinance. The annual registration fee shall be based on the duration of the vacancy as of November 15 each year according to the following schedule.

Residential Buildings containing up to three dwelling units, the registration fee shall be:

\$500.00 - For properties that have been vacant for less than one year.

\$1,000.00 – For properties that have been vacant for one year or more but less than two years.

\$2,000.00 – For properties that have been vacant for two years or more but less than three years.

\$3,000.00 – For properties that have been vacant for three years or more.

Commercial Buildings including residential with 4 or more dwelling units, and mixed use that are less than 7,500 ft. of floor area, the registration fee shall be:

\$500.00 - For properties that have been vacant for less than one year.

\$1,000.00 – For properties that have been vacant for one year or more but less than two years.

\$2,000.00 – For properties that have been vacant for two years or more but less than three years.

\$3,000.00 – For properties that have been vacant for three years or more.

For any Commercial Building over 7,500 sq. ft of floor space, the following formula shall be added to the above registration fees: sq. ft area of floor space x \$.20 = \$ Amount. This extra fee would be justified by the work involved by the inspector to verify that both the sprinkler and fire alarm systems are maintained.

A failure to timely pay the registration fee shall be a Violation of the City of Gloucester Code of Ordinances. The full fee shall be deemed an assessment resulting from a Violation of this Ordinance. Said fee shall be a municipal charges lien and shall be collected in accordance with M.G.L. Ch. 40, Sec. 58.

MOTION: On motion by Councilor LeBlanc, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the Gloucester Code of Ordinances Chapter 5. Article II. Division 3. VACANT BUILDINGS by ADDING a new Section "Removal of Building from List" as follows:

"Section 5-37 Removal of Building from List

A building may be removed from the vacant building list by:

1. Building being sold;
2. Building permit being issued;
3. Building being demolished;
4. Building being occupied-owner must notify the Inspector of Buildings in writing.

Sections 5-37 – 5-39. Reserved. Replace with Sections. 5-38 – 5-39. Reserved and Amend Sec. 1-15 to change Sec. 1-36 to Sec. 1-37."

DISCUSSION: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Whynott) absent, to AMEND the Gloucester Code of Ordinances Chapter 5. Article II. Division 3. VACANT BUILDINGS by ADDING a new Section 5-37 "Removal of Building from List" as follows:

"Section 5-37 Removal of Building from List

A building may be removed from the vacant building list by:

- 1. Building being sold;**
- 2. Building permit being issued;**
- 3. Building being demolished;**
- 4. Building being occupied-owner must notify the Inspector of Buildings in writing.**

Sections 5-37 – 5-39. Reserved. Replace with Sections. 5-38 – 5-39. Reserved and Amend Sec. 1-15 to change Sec. 1-36 to Sec. 1-37."

- 7. PH2012-051: SCP2012-008: Maplewood Avenue #89, GZO Sec. 2.3.1(7), Conversion to or new multi-family or apartment dwelling, four to six dwelling units**

This public hearing is opened.

Those speaking in favor:

Attorney Salvatore Frontiero, 46 Middle Street representing the applicant, Woodnut LLC, explained that the applicant wishes to convert the property to a four-family apartment dwelling, previously mixed use. This property historically had benefitted from a Special Council Permit for a three family - two units on the second floor and a day care on the first floor which was not by right under the Special Council Permit. Then the first floor was used as a plumbing company. The Building Inspector viewed it as a legal two family currently. The first floor previously used for commercial purposes is now vacant with the second floor having two two-bedroom apartment units. The first floor facing the street has a commercial-like façade on it and does not lend itself to any other use as currently

configured. The owners would reconfigure the first floor into two apartments, and the upstairs would continue as it is now. He showed a footprint drawing of the premises to the Council (documentation on record as part of the application.) There are no changes to the right side or rear of the building. The front of the building will see a removal of the commercial façade to make it more residential, matching the second floor. The building has parking in the rear for five vehicles, but could be expanded to accommodate several more. There is plenty of room for cars to turn around, as well as room for emergency access. Currently there is a door leading to the sidewalk on the front of the building which will be eliminated. That alcove will be squared off with no change to the building's footprint. This neighborhood is largely residential. The Building Inspector stated a four family dwelling would be a less intensive use rather than the current mixed use. At the ZBA hearing, the neighbors who abut to the right of the property expressed their support of this application.

Mr. Frontiero then spoke to the six criteria for a Special Council Permit under Sec. 1.8.3:

Social, Economic or Community Needs – This is commercial use in a residential area. This application, if approved, changes it to completely residential use. Also, it would add two new, quality dwelling units to the downtown area with parking. There are five legal parking spaces. The requirement is one per dwelling unit. While there could be more spaces added, they want to ensure tenants have the ability to turn around so they are not backing out of the property onto a busy street. There is plenty of room for access by emergency vehicles in the driveway and parking area.

Traffic Flow and Safety – Again, there is ample room for turn around for parking of tenant vehicles. The alleyway is also wide enough to accommodate emergency vehicles. The building is right on Maplewood Avenue. They are eliminating the commercial use; a residential use would be less intensive regarding traffic flow and safety. Maplewood Avenue is already a major City thoroughfare. The only changes to the exterior they are adding an egress compliant window and enlarging two windows and they are removing the commercial façade. The addition of two units would not add appreciatively to the traffic in the area.

Adequacy of Utilities and Public Services – The property is served by municipal water and sewer. Two more residential units will not place a strain on the public utilities compared to some commercial uses.

Neighborhood character and social structure – The neighborhood is a residential mix of multi-family and single family dwellings in this immediate area. With the train station nearby, this is a great apartment building for commuters. There are many other amenities within walking distance.

Qualities of the Natural Environment – There are no resource areas nearby and no detriment to the environment surrounding the building. It is an urban environment.

Potential Fiscal Impact – Legally there is no productive use of the first floor currently. Local contractors will be hired to do the work to this building. This will be better real estate tax wise and provide much needed apartment units in the City.

In addition, **Mr. Frontiero** enumerated the Dimensional Relief being sought as a part of the Special Council Permit: Prior to coming to P&D, Woodnut LLC applied and received all dimensional relief asked for from the ZBA. There are two dimensional issues before the Council: open space per dwelling unit and lot area per dwelling unit. The applicant is seeking some dimensional relief by a proposed decrease in the required lot area per dwelling unit from 2,500 square feet which is required per dwelling unit, to reduce it to 1,443 square feet per dwelling unit, an overall reduction of 1,057. With open space per dwelling unit requiring 1,250 square feet, the applicant is proposing a reduction to 912 square feet, a 338 square foot reduction overall. This lot is on the larger side of the neighborhood. As to the density concern of the ordinance, they are not changing the footprint. It is more intense for the number of units, but is in harmony with the zoning ordinance's intent. He reiterated that the Building Inspector believes this is less intense usage of the property.

On behalf of the applicant **Mr. Frontiero** asked the Council for their approval for this Special Council Permit.

Those speaking in opposition: None.

Communications: None.

Questions:

Councilor Theken stated this property had a small building used as storage in the back years ago. **Mr. Frontiero** responded there was separate storage building in the back but is no longer there. On further inquiry by **Councilor Theken**, **Mr. Frontiero** reiterated the applicants are asking for four dwelling units. There once was an appliance store on the first floor, and other commercial concerns over the years. This will be now be solely residential.

Councilor Ciolino asked if this was formerly owned by the Whalen's. **Mr. Frontiero** confirmed it was purchased from the Whalen's by Woodnut LLC. **Councilor Ciolino** expressed it was a good use of the property. **Council President Hardy** asked if this was a corner lot. **Mr. Frontiero** stated it was not. He also confirmed for the Council President that the frontage was directly on 89 Maplewood Avenue and that the driveway in the back of the lot is not attached to this property. He expressed his belief there was a property swap regarding it in the past.

This public hearing is closed.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed to recommend to the City Council to grant a Special Council Permit (SCP2012-008) to Woodnut LLC, 5 Cross Street, Stow, MA to convert an existing two unit multi-family dwelling located at Maplewood Avenue #89, (Assessors Map #34, Lot #66) zoned R-5 (High Density Residential), pursuant to Sec. 1.8.3 and Sec. 2.3.1(7), to a four unit multi-family and under Sec. 3.2.2 (a) a decrease in the required lot area per dwelling unit from 2,886 square feet to 1,443 square feet and a reduction of open space per dwelling unit from 1,824 square feet to 912 square feet as shown on Plan A-1 and A-2 "Renovations to 89 Maplewood Avenue, Gloucester MA drawn by JPT, March 29, 2012 and Boundary Retracement Exhibit dated January 6, 2012 by County Land Surveys, Inc., received by the City Clerk's office dated June 6, 2012.

DISCUSSION:

Councilor Verga stated in his opinion this was an appropriate use for this property. There is a shortage of rental units in the City, and this gives yet another opportunity to increase the City's rental stock. **Councilor Theken** would support this application as she was familiar with the property. Her main concern was that no one wants a commercial concern at this location. She thanked the applicants for coming forward to do something that was pleasing to the neighbors. **Council President Hardy** expressed she passes this property frequently and was very familiar with it. The applicant's proposal is in harmony with the neighborhood and will be an improvement to the neighborhood. The social, economic needs of the community will be positive. The traffic flow is not affected, nor utilities. The neighborhood structure will be positively affected. The natural environment will not be effected. Potential fiscal impact to the City is positive as well. She expressed it was good to see Maplewood Avenue being improved; and also hoped the developers might keep the rent as low as possible on these four units to give those who need housing in the City the ability to obtain it. She would support the application.

MOTION: On motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted **BY ROLL CALL 8** in favor, **0** opposed, **1** (Whynott) absent, to **GRANT** a Special Council Permit (SCP2012-008) to Woodnut LLC, 5 Cross Street, Stow, MA to convert an existing two unit multi-family dwelling located at Maplewood Avenue #89, (Assessors Map #34, Lot #66) zoned R-5 (High Density Residential), pursuant to Sec. 1.8.3 and Sec. 2.3.1(7), to a four unit multi-family.

MOTION: On motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted **BY ROLL CALL 8** in favor, **0** opposed, **1** (Whynott) absent, to **GRANT** a Special Council Permit (SCP2012-008) to Woodnut LLC, 5 Cross Street, Stow, MA under Sec. 3.2.2 (a) to **GRANT** a decrease in the required lot area per dwelling unit from 2,886 square feet to 1,443 square feet and a reduction of open space per dwelling unit from 1,824 square feet to 912 square feet as shown on Plan A-1 and A-2 "Renovations to 89 Maplewood Avenue, Gloucester MA drawn by JPT, March 29, 2012 and Boundary Retracement Exhibit dated January 6, 2012 by County Land Surveys, Inc., received by the City Clerk's office dated June 6, 2012, and pursuant to Sec. 1.8.3.

8. PH2012-052: Amend GCO c. 22, Sec. 22-287 by **DELETING** one Handicapped Parking Space at School Street #30

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted **BY ROLL CALL 8** in favor, **0** opposed, **1** (Whynott) absent to Amend the GCO Chapter 22, Sec. 22-287 (Disabled Veteran, Handicapped Parking) by **DELETING** one (1) handicap parking space at School Street #30.

Unfinished Business: None.

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

Councilors' Requests to the Mayor:

Councilor Cox requested to the mayor the City work with CATV to improve audio and better video quality; and prior to the next big event to use I4-C2 to have a plan for parking.

Councilor Tobey asked the Clerk to check with Mayor's office that the documents related to the deed and trust documents for Blackburn watershed lands and bird sanctuary be posted on the City's website and receive quick action.

Councilor McGeary announced that on Saturday, July 28th there will be a dedication at 2:30 p.m. of the harbor patrol boat in honor of Police Officer Stephen Amaral at the Harbormaster's dock on Harbor Loop. Also on the same day, Art Haven will have its grand opening of its newest space for creativity, at 11 Pleasant Street from 4:00 PM to 6 PM.

Councilor Ciolino updated the Council that the flag poles for the Vietnam Memorial are ready for pick up. He hoped to have a ceremony when they are installed soon.

Councilor Theken stated the first health fair held at the Rose Baker Senior Center was well attended. Vouchers for the Cape Ann Farmer's Market were given out at the event, and she reminded everyone that the Farmer's Market was held every Thursday at Stage Fort Park through October. The DPW Director has also been notified and had pictures forwarded to him on the poor condition of the walkway at the back of the senior center as four seniors have fallen as a result. She, too, made note of the dedication of the harbor patrol boat at the Harbormaster's dock in honor of Police Officer stating that public is welcome to attend.

A motion was made, seconded and voted unanimously to adjourn the meeting at 10:48 p.m.

Respectfully submitted,

**Dana C. Jorgenson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Submissions during the public hearing on the Group Free Petition under City Charter Sec. 9-1(b) Re: Commercial Street Hotel Overlay District requesting an additional public hearing on same from the following individuals: Lauren Tarrantino, 26 Fort Square; Ann Rhinelander, 16 Pine Street and Peter Parsons, 37 Washington Street
- Memo to City Council in opposition to the application by the Cape Ann Brewing Company for modification to their Special Council Permit submitted during public hearing of same by M. Sunny Robinson, 20 Harvard Street