

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, October 23, 2012 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

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

**Absent:** None

**Also Present:** Linda T. Lowe; Jim Duggan; Police Chief Leonard Campanello; Gregg Cademartori; Karen Andrews; Jamie Levie; John Blanchard; Max Schenk; Gregg Cademartori

**The meeting was called to order at 7:00 p.m.**

**Flag Salute & Moment of Silence.**

**Council President Hardy** explained Councilor Tobey was driving into the City from out of state and was expected shortly.

**Oral Communications:**

**David Dow**, 12 Essex Street explained he encouraged the Gloucester Daily Times to publish a story which appeared on October 4<sup>th</sup> as to the condition of Stage Fort Park after the Essex County Velo Cyclo-Cross event at the end of September. He submitted photographs to the Council for the record, and explained the same photographs were submitted to the Conservation Commission (ConCom) the previous week when he appeared before them. He asked the Council for support on follow through on the matter and that they visit the park. He said in his opinion minimal repairs were made; there was extensive damage and wetland protection violations. He advised the Council this matter will be taken up at ConCom and by the P&D Committee on November 7<sup>th</sup>.

**Presentations/Commendations:**

**1 of 2: Status Update from IT Director, John Blanchard & IT Operations Manager re: Upgrades to Audio, Video & Lighting at Kyrouz Auditorium**

**John Blanchard**, IT Director updated the Council on some of the progress being made in Kyrouz Auditorium regarding the audio, video and lighting issues and in answer to direct questioning by the Councilors stated that:

- Shanahan Sound of Lowell, MA, an audio and video consulting firm is highly experienced with auditoriums such as Kyrouz Auditorium. At no charge to the City, they consulted on the audio and video systems. The firm has consulted on the Lynn Auditorium, Winchester and Burlington Schools, and many churches.
- An audio survey of the auditorium was done, and but the results were not yet available. It will include an estimate for audio panels, the current wiring and the audio infrastructure and microphone set up. The recommendation was to get new microphones, audio paneling and possibly some new wiring. He expects the quote by week's end which will include three options: the minimum, standard and high-end upgrades. He would report back to the City Council when more information is available.
- The upgrades for Kyrouz Auditorium will be put out to bid. However, the firm he is working is preferred as they are highly specialized in their field. They are not on the State bid list; however, their fees are competitive.
- For any upgrade to the video system, the IT Department could likely handle it based on the current infrastructure. Hard-wiring for live internet feed with an eye to video conferencing as well for remote participation purposes is preferred. He would reach out would to CATV on that matter

**Jim Duggan**, CAO spoke to the lighting upgrade to the auditorium by stating with the support of the Council working with the Administration they were able to capture some of the savings recently through the budget process and apply it directly towards upgrading the auditorium light fixtures.

**Council President Hardy** asked Mr. Blanchard to bring a more expansive report to the Council as well as to advise the Council if they reach the RFP stage prior to his next Council update. She noted the City Council is pushing for this work to be done; and they should be able to participate in the language of the RFP.

**This matter will return to the City Council agenda for the December 11, 2012 meeting.**

**2 of 2: Update from Animal Control Officer, Jamie Levie & Police Chief Leonard Campanello re: public safety related to influx of coyotes in Gloucester**

**Chief Campanello** explained that the influx of coyotes is not unusual or unique to the City. As the human population infringes on their habitat coyotes will be spotted more frequently. An informational packet to the Council was submitted prior to the meeting (on file). There are a set of safety precautions, and control of coyotes begins with the individual homeowner. The information submitted gives an outline of suggestions as to how to take precautions on private property. It suggests that garbage should be kept sealed. Coyotes go after rodents, snakes, small animals. Coyotes do not make a distinction between domestic cats and small dogs. The City has not had reported incidents where coyotes attacked any Gloucester residents, nor did they anticipate that to occur. **Council President Hardy** expressed her disagreement with the Chief's statement by saying those incidents are already happening, and she advised the Councilors are hearing from their constituents they are afraid. **Chief Campanello** stated if there had been incidents they had not been reported to the Police or Animal Control Officer. They are asking all residents to secure and leash their pets outside at all times. If a coyote is encountered, he urged they not engage in contact. They are asking parents to keep their children away from the coyote population. While the coyotes look like dogs, they are not and children should be told not to approach a coyote and to walk away from the animals. They ask the community to call either the Animal Control Officer or the Police Department if a coyote appears ill or is attacking another animal, or to determine if there is a threat to public safety so that they may respond accordingly.

**Jamie Levie**, Animal Control Officer explained in most cases a clap and a yell from an elderly person or child will send a normal coyote, fox or fisher cat back in the direction they came from. If not, go into the house or take shelter. If the animal is still acting strangely and/or aggressively after taking shelter, call the Police or his office. They do the same, clapping and yelling. If the coyote does not respond to the noise and other efforts to have them leave the immediate area, they will take the steps to euthanize the animal. He stated there is a management program through the Massachusetts Division of Fisheries & Wildlife (MassWildlife). **Council President Hardy** expressed her understanding coyotes were a protected species and could not be destroyed. She also asked if the animals could be relocated to another area. **Mr. Levie** stated coyotes are fur-bearing protected, and there is a hunting season for them. MassWildlife is authorized to take steps to move or control any of those types of issues. Local police response would occur in the situation of an immediate safety issue. A coyote on private property is not an immediate issue. That animal population is trying their best to live with humans. **Councilor Whycott** stated there has been a family of coyotes in his neighborhood behind Mr. and Mrs. Al Swekla's house. They come out in the daytime; and looking at the dogs, watching adults and children, coming onto residential property. Folks are fearful of the situation. When people live downtown and see coyotes it is "scary". **Chief Campanello** reiterated that common sense should dictate actions during these encounters. The information shared through the Council from the Animal Control Officer is publically available. They are streamlining some of the Animal Control Officer's duties which may allow him to respond more to some of these situations. He asked for the public's cooperation in this matter. He hoped that with the combined efforts of the Animal Control Officer and the Police Department and the public's cooperation they will alleviate the problem. **Mr. Levie** added that by using a small air horn that fits in a pocket, one blast on it is enough to send most coyotes on their way.

**The telephone number of the Animal Control Officer is 978-281-9746, or 978-283-1212x8.**

**Councilor Cox** pointed out that Mr. Levie does not work on Sundays and Mondays. **Councilor Ciolino** noted there are packs of coyotes in the East Gloucester "Seine Fields" and in "the Pines". He observed he has never seen as many coyotes as he has this summer. He expressed the belief the coyotes are "brazen," out during the day and come close to the human population. While there has not been a known attack on humans in Gloucester, there is the potential. They're in the City's yards, walking down City streets. He suggested there needs to be a plan in place when this population gets too large. **Chief Campanello** stated coyotes are on the verge of moving from a public annoyance to a public safety issue. They are taking this under advisement and preparing an action plan that includes the Police Department, the Animal Control Officer, MassWildlife and the Environmental Police should this situation expand. **Council President Hardy** asked if there is a policy in writing now for his department. **Chief Campanello** stated there is State law and some policy that Mr. Levie has as far as dealing with wild animals related to trapping

and hunting. They can adapt a policy for the Police Department through the Animal Control Officer, but would not do so without consulting MassWildlife and the Environmental Police. It is a work in progress. **Council President Hardy** stated when the policy is completed that the Council would like to obtain a copy of it in order to distribute it to their constituents. **Councilor Whynott** noted Mr. Levie does not carry a firearm or a tranquilizer gun. **Chief Campanello** stated he does have the ability in those circumstances where they must euthanize an animal safely. As far as a weapon Mr. Levie can discharge, he does not carry one. **Councilor LeBlanc** noted wood piles are a good source of food for coyotes as they prey on chipmunks and squirrels. Moving a wood pile further away from a house may be helpful. There are also some sprays that can be bought at hardware stores to keep rodents away, a main food source for coyotes. On line at "[MassWildlife.gov](http://MassWildlife.gov)" there is good information available about coyotes. The public needs to educate themselves more than just phoning the authorities. If coyotes become a problem, then the authorities can be brought in; but there are many things folks can do first. **Councilor Verga** confirmed with the Chief this is currently coyote hunting season. He also asked if either the Chief or Mr. Levie have notified Mass Wildlife of the City's potential problem. **Mr. Levie** stated when he started in his job, the population was so bad joggers were being harassed. After several harsh winters the coyote population dropped. Recently there have been several years of milder winters. He said upon the first harsh winter the coyote population will drop again. It is a normal cycle of nature. Bird feeders also attract small rodents, and that attracts the coyotes into a yard. He consulted MassWildlife who informed him they feel the City is in a normal coyote cycle which he expressed he agreed with that opinion.

### **Consent Agenda:**

#### • **MAYOR'S REPORT**

1. Memorandum, Grant Application & Checklist from Police Chief re: grant in amount of \$17,202.25 from DEA (Refer B&F)
2. Memorandum from Police Chief re: permission to pay invoice for services procured without a purchase order in place from July '12 (Refer B&F)
3. Memorandum from Harbormaster re: fee increases recommended by Waterways Board (Refer B&F)
4. Letter from Richard A. Davey, Secretary & CEO of MassDOT re: response to Mayor's letter re: repair of sidewalks along Rt. 127 & Rte. 133 (Info Only)
5. Memorandum from Mayor re: an incorrect editorial in the Gloucester Daily Times (Info Only)
6. New Appointments:
 

Capital Improvements Advisory Board	TTE 02/14/15	Joan Kimberly	
Historical Commission	TTE 02/14/15	Robert Whitmarsh	(Refer O&A)

#### • **COMMUNICATIONS/INVITATIONS**

1. Invitation to Veterans' Day ceremonies and parade on Sunday, November 11, 2012 (Info Only)
2. Memorandum from City Clerk re: Reply from MassDOT on request for parking restrictions on Rte. 133 (Essex Ave. & Rte. 127) (Western Avenue) adjacent to the WWII Memorial (Info Only)

#### • **APPLICATIONS/PETITIONS**

#### • **COUNCILORS ORDERS**

1. CC2012-060 (LeBlanc) Amend GCO Sec., 22-291 "Tow-away zones" re: Lincoln Avenue (Refer O&A & TC)
2. CC2012-061 (LeBlanc) Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: Granite Street #13 (Refer O&A & TC)

#### • **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**

1. City Council Meeting: 10/09/12 (Approve/File)
2. Standing Committee Meetings: B&F 10/18/12 (under separate cover), O&A 10/15/12, P&D 10/17/12 (under separate cover) (Approve/File)

### **Items to be added/deleted from the Consent Agenda:**

**Councilor McGeary** asked to remove Items #3 under the Mayor's Report Memorandum from Harbormaster re: fee increases recommended by Waterways Board.

**Councilor McGeary** stated in the case of Item #3 under the Mayor's Report, the request to increase fees should be referred both to O&A and B&F. Without objection the matter was referred to both Committees by the Council.

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

### **Committee Reports:**

#### **Budget & Finance: October 18, 2012**

#### ***Memorandum from Assessor concerning Overlay Surplus***

MOTION: On motion by Councilor Ciolino, seconded by Councilor Cox, the Budget & Finance Committee voted 3 in favor, 0 opposed in accordance with MGL Chapter 59, Section 25, to approve the appropriation in the amount of \$38,000 from Unifund Account #101000.10.000.32200.0000.00.000.00.000 entitled F/B: Reserve for Overlay released by the Assessors for Exp. (Overlay Surplus) to Unifund Account

#101000.10.000.12300.0000.00.000.09.000 entitled FY2009 PROVISION FOR ABATEMENT AND EXEMPTION. The purpose of this appropriation from Overlay Surplus is to cover future abatements of FY2009 Personal Property tax bills.

**DISCUSSION:**

**Councilor McGeary** explained that this transfer had to do with taxes assessed against Verizon New England, Inc. (Verizon) for poles and wires. Verizon appealed and won the appeal, so the City has to refund the tax money paid by them. **Council President Hardy** asked if the \$38,000 covered the entire bill for Verizon. **Nancy Papows**, Principal Assessor stated it did not. The transfer puts enough funds into the balance of the FY09 account to pay for the abatement. Verizon is not liable for the portion of the tax that year that is attributable to poles and wires. They get the total amount back which is \$67,276.80. There is money already in that account, just not a sufficient amount to process the abatement. The \$38,000 brings the FY09 account up to that total. The overlay surplus was declared in three prior years by the Board of Assessors and is being moved into FY09 so that they can pay off this assessment from 2009. On inquiry by **Council President Hardy**, **Ms. Papows** explained there has been an on-going court case about poles and wires over public ways. Verizon is a Department of Revenue (DOR) assessed telephone/telegraph company. The DOR Commissioner sets these values, and the City assesses them based on what the DOR certifies. The case initially went to the Appellate Tax Court which ruled Verizon was taxable for FY2009. It was appealed to the Appeals Court, and the decision was overturned. For all communities poles and wires over public ways are not taxable in FY09. That money will be returned. There was a legislative change for FY10 going forward, and they have to pay taxes on poles and wires over public ways, and will have to do so from then on. **Council President Hardy** asked how much of the \$67,276.80 is owed interest, which **Ms. Papows** explained that amount is the total tax amount. Interest is statutory at 8 percent, and will go back to May 1, 2009. The tax interest is not included in the \$67,276.80. Interest will be a separate issue that will have to be paid on the principal on the abatement. She will work closely with the CFO in order to issue that. She had an estimate from the Treasurer's Office of about \$19,000. **Council President Hardy** understood other communities are "on the hook" for more years than just one. **Ms. Papows** stated there were other communities who had appealed the values the Commissioner put in place. They, as Assessors, have the ability to appeal the Commissioner's value. There were a handful of communities that for years prior to FY09 had appeals in place saying the Commissioner's values were too low. The only issue for all communities where abatements are going to be filed is 2009. Other communities felt if they were taxable that they hoped to issue additional bills for prior years. With this abatement, the City will have a withdrawal of the cases prior to FY09, which are FY06-FY08. Verizon continued to file in FY10, FY11 and FY12 which is their right to do so each year. The City still has cases for FY10-FY12. The poles and wires issue is settled. Verizon will not "win that battle" moving forward. They may bring up other valuation issues. This will alleviate FY09 and the three years prior to that.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1(Tobey) absent, in accordance with MGL Chapter 59, Section 25, to approve the appropriation in the amount of \$38,000 from Unifund Account #101000.10.000.32200.0000.00.000.00.000 entitled F/B: Reserve for Overlay released by the Assessors for Exp. (Overlay Surplus) to Unifund Account #101000.10.000.12300.0000.00.000.09.000 entitled FY2009 PROVISION FOR ABATEMENT AND EXEMPTION. The purpose of this appropriation from Overlay Surplus is to cover future abatements of FY2009 Personal Property tax bills.**

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Cox, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to transfer (2013-SBT-7) \$7,988.90 from Computer Maintenance Contr, Unifund Account #101000.10.155.52610.0000.00.000.00.052 to Equipment Replacement, Unifund Account #101000.10.155.58700.0000.00.000.00.058. The purpose of this budgetary transfer is to purchase new computer equipment.**

**DISCUSSION:**

**Councilor McGeary** explained that this was to purchase laptops and desktop computers and similar equipment on a replacement basis.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to transfer (2013-SBT-7) \$7,988.90 from Computer Maintenance Contr, Unifund Account #101000.10.155.52610.0000.00.000.00.052 to Equipment Replacement, Unifund Account #101000.10.155.58700.0000.00.000.00.058. The purpose of this budgetary transfer is to purchase new computer equipment.**

**Ordinances & Administration: October 15, 2012**

No items for Council action from this meeting.

**Planning & Development: October 17, 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 under GCO Sec. 21-3 Street Names to rename a portion of Tolman Avenue and Hough Avenue, Assessors Map 216, Lots 75, 83 and 82 to “Georgia Way”, and to renumber those lots to 4, 6 and 8 Georgia Way respectively.

**DISCUSSION:**

**Councilor Verga** stated this road is a private road.

**MOTION: On motion by Councilor Verga, seconded by Councilor Cox, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, under GCO Sec. 21-3 Street Names to rename a portion of Tolman Avenue and Hough Avenue, Assessors Map 216, Lots 75, 83 and 82 to “Georgia Way”, and to renumber those lots to 4, 6 and 8 Georgia Way respectively.**

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 under GCO Sec. 21-3 Street Names to rename a portion of Parker Street, Assessors Map 54, Lots 109, 60, 54, and 53 to “Cripple Cove Lane,” and to renumber those lots to 3, 6, 4 and 4R Cripple Cove Lane respectively.

**DISCUSSION:**

**Councilor Verga** explained this too is a private road. **Councilor McGeary** asked if anyone from Parker Street attended the P&D meeting when this matter was taken up. **Councilor Verga** noted all abutters were contacted in writing. Written communications were not received by the Council, nor did any property owners of these three roadways attend the P&D meeting.

**MOTION: On motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, under GCO Sec. 21-3 Street Names to rename a portion of Parker Street, Assessors Map 54, Lots 109, 60, 54, and 53 to “Cripple Cove Lane,” and to renumber those lots to 3, 6, 4 and 4R Cripple Cove Lane respectively.**

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 under GCO Sec. 21-3 Street Names to rename and renumber a portion of Western Avenue to Kettle Cove Lane as follows:

<u>Assessor Map/Lot #</u>	<u>Current Address</u>	<u>New Address</u>
194-75	739 Western Avenue	1 Kettle Cove Lane
194-81	0 Kettle Cove Lane	3 Kettle Cove Lane
194-89	0 Kettle Cove Lane	7 Kettle Cove Lane
194-86	0 Kettle Cove Lane	9 Kettle Cove Lane
194-88	0 Kettle Cove Lane	11 Kettle Cove Lane
194-87	0 Kettle Cove Lane	13 Kettle Cove Lane
194-10	15-23 Kettle Cove Lane	15-23 Kettle Cove Lane

194-85	0 Kettle Cove Lane	24 Kettle Cove Lane
194-84	0 Kettle Cove Lane	22 Kettle Cove Lane
194-83	0 Kettle Cove Lane	20 Kettle Cove Lane
194-82	0 Kettle Cove Lane	8-18 Kettle Cove Lane
194-76	743 Western Avenue	6 Kettle Cove Lane

**DISCUSSION:**

**Councilor Verga** stated this is also a private way. It is a subdivision development which already had a street name, but had remained unnumbered, noting several of the lots were vacant. **Council President Hardy** explained that everyone, according to law, was notified in writing of the proposed changes. There was no one in attendance at the P&D who voiced objections. She thanked Karen Andrews of the Engineering Department for her work on these name and numbering changes.

**MOTION: On motion by Councilor Verga, seconded by Councilor Cox, the City Council voted BY ROLL CALL in favor, 0 opposed, 1 (Tobey) absent, under GCO Sec. 21-3 Street Names to rename and renumber a portion of Western Avenue to Kettle Cove Lane as follows:**

<u>Assessor Map/Lot #</u>	<u>Current Address</u>	<u>New Address</u>
194-75	739 Western Avenue	1 Kettle Cove Lane
194-81	0 Kettle Cove Lane	3 Kettle Cove Lane
194-89	0 Kettle Cove Lane	7 Kettle Cove Lane
194-86	0 Kettle Cove Lane	9 Kettle Cove Lane
194-88	0 Kettle Cove Lane	11 Kettle Cove Lane
194-87	0 Kettle Cove Lane	13 Kettle Cove Lane
194-10	15-23 Kettle Cove Lane	15-23 Kettle Cove Lane
194-85	0 Kettle Cove Lane	24 Kettle Cove Lane
194-84	0 Kettle Cove Lane	22 Kettle Cove Lane
194-83	0 Kettle Cove Lane	20 Kettle Cove Lane
194-82	0 Kettle Cove Lane	8-18 Kettle Cove Lane
194-76	743 Western Avenue	6 Kettle Cove Lane

**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 Downtown Gloucester Christmas Parade on Sunday, November 25, 2012 with a rain date of December 2, 2012. Sign offs from the Fire and Police Departments are to be on file as well as written documentation of the parade route by November 16, 2012 in the City Clerk's Office as is the Certificate of Insurance naming the City of Gloucester as the Certificate Holder.**

**DISCUSSION:**

**Councilor Ciolino** explained that the downtown merchants put the parade together to introduce Santa to the City's children. The parade goes from the State Fish Pier to Kent Circle for the tree lighting. This is a children's parade and all groups are welcome. It is the 32<sup>nd</sup> year for this family-oriented parade.

**MOTION: On motion by Councilor Verga, seconded by Councilor Cox, the City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent to permit the Downtown Gloucester Christmas Parade on Sunday, November 25, 2012 with a rain date of December 2, 2012. Sign offs from the Fire and Police Departments are to be on file as well as written documentation of the parade route by November 16, 2012 in the City Clerk's Office as is the Certificate of Insurance naming the City of Gloucester as the Certificate Holder.**

**Scheduled Public Hearings:**

All public hearings appear in the order in which they were taken up by the Council.

4. PH2012-075: Amend GCO Chapter 22, Sec. 22-280 "Fifteen Minute Parking" re: 242 Main Street

**This public hearing is opened.**

**Those speaking in favor:**

**Albert Carrasco**, 303 Dale Avenue and owner of Al's Glass at 242 Main Street stated that he was requesting a 15 minute time limit on a parking space in front of his shop, Monday through Saturday, 8 a.m. to 6 p.m. for the convenience of his customers who frequently were carrying heavy objects into his shop, some of which consists of broken windows. It is dangerous to carry broken objects like this from any great distance.

**Those speaking in opposition: None.**

**Communications: None.**

**This public hearing is closed.**

**MOTION:** On motion by Councilor Whynott, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND GCO Sec. 22-280 (Fifteen Minute Parking) by ADDING: "in front of 242 Main Street on the northerly side of Main Street for a distance of 22 feet, 9:00 a.m. to 6:00 p.m. Monday through Saturday.

#### **DISCUSSION:**

**Councilor Whynott** commented although the Traffic Commission did not endorse this change for a 15 minute parking space, matters such as this should be on a case-by-case basis. In this instance one space with a 15 minute limit makes sense. The Traffic Commission had commented that this would not be enforceable. The Councilor commented in general people obey the law. And while it is difficult to enforce, a phone call about a car parked overly long in this space will alleviate the situation. **Councilor Cox** expressed support for this change. She spoke with the some of the neighboring businesses; and none with whom she spoke voiced objections to this change. There is a loading zone nearby, but it is across the street from this business. It would not be a detriment to the downtown businesses in that area. **Councilor Verga** stated this 15 minute parking space will not exclusive to this business. But it also makes sense for several businesses in that immediate area. **Councilor Ciolino** also expressed his support. **Mr. Carrasco** acknowledging anyone can use the parking spot in front of his business assured the Council those customers of his business who park there will all only make use of it for the allotted 15 minutes.

**Councilor Cox** moved to amend the motion to change the hours from 9 a.m. to 6 p.m. to 8 a.m. to 6 p.m. excluding holidays which was seconded by **Councilor Whynott**. **The Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to amend the main motion.**

**Councilor Tobey entered the meeting at 7:50 p.m.**

**MOTION:** On motion by Councilor Theken, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) present, to AMEND GCO Sec. 22-280 (Fifteen Minute Parking) by ADDING: "in front of 242 Main Street on the northerly side of Main Street for a distance of 22 feet, 8:00 a.m. to 6:00 p.m. Monday through Saturday.

1. PH2012-066: GCO Article IV, Repair of Private Ways, Sec. 21-83 & Sec. 21-84 re: Petition for Road Repairs Norseman Avenue Extension (Cont'd from 09/25/12)

**This public hearing is opened.**

**Council President Hardy** asked if the information required by law had been filed with the City Clerk's office and to update the Council on the status of this matter. **Linda T. Lowe**, City Clerk reported they have been tracking the progress of this matter and that the DPW Director reported he and the residents of Norseman Road Extension are still discussing matters. The DPW Director is in the process of getting financial figures in place and may have that information available by the first Council meeting in November. Madame President had suggested it may be wise in parallel to refer this matter to the P&D Committee as it had not been before them yet. **Council President Hardy** suggested this matter be continued to December 11, 2012. If work were to be done it would not start until spring.

**This matter is continued to December 11, 2012.**

2. PH2012-063: Amend GCO Chapter 22, Sec. Parking Meter Zones-On Street (Cont'd from 10/09/12)

**This public hearing was closed and continued to this date.**

**Those speaking in favor:**

**Mark Adrian Farber**, 28 Salt Island Road, merchant on Main Street stated that the proposal brought forward by Councilor Tobey is something they've seen before over many years. The proposal is well intentioned. It would be welcomed by consumers in all seasons, many of whom complain about the parking meters feeling they are unfairly taxed for patronizing downtown businesses. The caveat is to the extent with which this ordinance could be enforced. The most important thing, he said, to downtown merchants are turnover of cars. There are many circumstances where people using the spaces with meters will go beyond the two-hour limit, staying 4-5 hours or longer. It is the lack of turnover that is the impediment to Main Street businesses. If the turnover can be guaranteed and limited to two hours it would be a boon to the downtown. If not, and should the Police Chief determine it is a burden to the department to enforce the ordinance; he highly recommended the Council not go forward with the proposal.

**Those speaking in opposition: None.**

**Communications:**

**Linda T. Lowe**, City Clerk reported there were written communications received from:

**Neyla Bajoras**, Village Silversmith, 138 Main Street in support of the removal of parking meters on Main Street on a trial basis. **Gloucester Downtown Association**, signed by Christine Orlando expressing they do not support the removal of parking meters from Main Street. **Cathy Gilson**, Co-Chair of the **Downtown Development Commission** (DDC) stated the DDC does not support the removal of parking meters from Main Street. **Shelley Titoni**, owner of Harbor Goods expressed support of the removal of parking meters on Main Street.

**Questions:**

**Councilor Tobey** asked if the Police Chief had assessed the current status of his department's efforts their adequacy enforce parking regulations in the downtown business district; and had he had reached any conclusions on that current adequacy. **Chief Campanello** expressed for the purposes of this forum, he had made some assessment the current level of enforcement and historical data. He had not reached any conclusions as to the adequacy of the current enforcement effort as he had only been in his position three weeks. However, he expressed the belief it was sufficient in terms of the meter enforcement officer doing as best as she can with the working hours she has. It will be continued to be assessed as part of his administration. **Councilor Tobey** asked if the Chief would be willing as department head with enforcement responsibilities to undertake a three-month pilot effort to see if it meets the concerns some have expressed that enforcement is necessary under any parking regulation scheme. They have heard people say enforcement is not being done now; and asked if the department would be willing to invest some effort in seeing this through as a knowledge-gaining experiment during January, February and March of 2013. **Chief Campanello** responded he was willing to entertain any action of the Council deems appropriate. **Council President Hardy** asked how many full-time and part-time parking enforcement staff the department had. **Chief Campanello** stated they have one full-time parking control officer, Monday through Friday, 40 hours per week. There is one part-time parking enforcement officer on Tuesdays and Thursdays. They do not have a parking enforcement officer on duty on weekends. He again noted it is a work in progress. **Council President Hardy** asked if there was any enforcement on the weekends by the police. **Chief Campanello** stated that policemen have the right and initiative to act on parking enforcement on weekends as well as any day of the week; and they do write tickets for parking violations. **Council President Hardy** was looking for better parking enforcement. She noted there was no charge for parking on Sundays or holidays; but said she wished to see parking enforcement on Saturdays. **Councilor Cox** asked Monday through Friday what are the hours of the full-time parking enforcement officer. **Chief Campanello** stated the enforcement officer works some days 8 a.m. to 4 p.m., and 9 a.m. to 5 p.m. on some days. **Councilor Cox** asked if the Chief was aware of the times for the parking meters and could they be enforced saying those times are not being covered. **Chief Campanello** said they don't have the coverage with only one full-time and one part-time parking enforcement personnel for all hours. **Councilor Cox** asked if the Chief believed that this experiment would be worthwhile if they don't have the staff to enforce it. **Chief Campanello** stated having talked to both parking control officers and the way in which this to be initiated, it will cause a time constraint that is yet undetermined on both officers who will have to spend more time on Main Street attempting to control this situation than possibly other areas of the City. **Councilor Cox** expressed her understanding parking enforcement was short staffed, but suggested the Chief would be pulling people onto Main Street and then leave other areas uncovered for parking enforcement. **Chief Campanello** expressed they will not necessarily pull people onto Main Street, but they will spend more time on Main Street than they normally would. **Councilor Cox** asked if the anti-shuffling ordinance was posted on Main Street. **Chief Campanello** said he hadn't seen any signage. Noting she put

flyers up and down Main Street on this public hearing, **Councilor Cox** commented the most prominent comment people had made was about vehicles parking at the top of Main Street for two hours to conduct business then moving to park at the bottom of Main Street to conduct business being ticketed for violating the anti-shuffling ordinance. But it is not posted, and so out of town visitors have no knowledge of the ordinance. She endorsed the anti-shuffling law, but didn't see how it could be effectively enforced with this possible change to the ordinance, if it is not posted. She supported the idea of the experiment, but not to make this change for some time until the Police Department can properly handle anti-shuffling enforcement. **Chief Campanello** corrected an earlier statement - which was that the full-time parking enforcement officer is on duty Tuesday through Saturday, not Monday through Friday.

**Councilor McGeary** asked if there is a technological impediment to enforcing a two-hour parking limit without meters being paid. **Chief Campanello** stated, "Hypothetically, yes." They have scanners which read the license plate and other information off of the inspection sticker for the purposes of writing a ticket for that vehicle, and print it out. For the purposes of a time limit, the scanners with their current software can't do that. The license plate would have to be entered manually for each vehicle. There is a section on the scanner that allows them to input a time limit. It is not programmed into the scanners' software. **Councilor McGeary** commented this is where the additional time spent on Main Street would come from - recording each car and come back in two hours to check whether they had moved on. **Chief Campanello** added this would be in addition to attempting to maintain the anti-shuffling law as well. **Councilor McGeary** inquired if the use of chalk marks on tires would be effective. **Chief Campanello** said they have invested a great deal of time in the scanning equipment and training of personnel. While the chalk marks would work, they wouldn't gain any time, and might actually lose more time. It can be an effective measure, but not as effective as a data recorder. **Councilor McGeary** stated given January through March is a slack season in the downtown, if they were going to do a test to find out how enforceable and what impact it would have, would it not be a logical time to do it. **Chief Campanello** pointed out that during the same timeframe for the 2013 pilot program, in the first quarter of 2012 parking enforcement officers issued 1,340 parking citations. As for being a slow season, it is less than other time periods but is not negligible. The citation statistics were only for Main Street overtime meter parking.

**Councilor Verga** asked if there was an upgrade available for the scanners to do what is needed. **Chief Campanello** said he was not aware of an upgrade and of the cost the City would incur. It would involve the hardware manufacturer would have to be involved, as well as the ticket processing center the City uses in adjusting the software. He could not speak to the arrangement between the ticket processing company and the City. He didn't have information on it at this time.

**Councilor Theken** commented that Main Street parking meter funds were supposed to be earmarked for several purposes, and that meter fees were increased by 25 cents for that reason. **Jim Duggan**, CAO explained as to the 25 cent increase, every year \$20,000 goes to the DDC to make Main Street inviting. There are 159 operating parking meters on Main Street from the intersection with Spring Street to Washington Street. For the trial period proposed that is \$25,000 approximately in revenue that would be sacrificed. With regards to whether the company that serves the handheld scanner, the City would not be charged more. It is still a \$2.10 charger per ticket processed. That doesn't include any variable that would come into play with the violations. It is labor intensive. The cost of the electronic scanners and the investment in staff training won't be captured if they do this for three months. They will have to review the chalking of tires if the Council passes this. The Chief has been here for three weeks and will make necessary changes that the Administration will look at. They have to make sure there is coverage during peak months. There is a balance that they will try and address. **Councilor Theken** pointed out they need to look at the hours for parking enforcement personnel and distribute them accordingly so there is adequate coverage with no gaps. **Mr. Duggan** assured there is a parking enforcement person on duty on Mondays also.

**Councilor Ciolino** pointed out this has been discussed in the past that they would put informational stickers on the meters regarding the anti-shuffling ordinance. He asked if they could please consider this for the springtime. **Mr. Duggan** said he would have an answer by the end of the week and submit it to the City Clerk to distribute that information to the Council. **Councilor Ciolino** asked about chalking tires and how it works in wet conditions. **Chief Campanello** stated it works inadequately. **Councilor Ciolino** asked if parking kiosks are taking up more of parking enforcement personnel's time. **Chief Campanello** stated the conversation he had with his staff about kiosks has only been in relation to this public hearing. **Councilor LeBlanc** stated Councilor Tobey had said they can't be addicted to parking revenue. **Mr. Duggan** confirmed the violations were 1,340 at \$15 per ticket, for a total of \$45,000. **Councilor LeBlanc** expressed it is about money, but it also turnover of vehicles. Without the parking meters, he expressed it would be a "free-for-all" and goes against prompting turnover of parking. **Mr. Duggan** stated another concern is employees parking on Main Street. He pointed out the parking on I4-C2 is free, and they can park there.

**Councilor Tobey** stated that 1,340 tickets were written during the same time period last year. That is that is 17 per day. There are 91 days, with one out of every 7 days parking is free. They are writing two tickets per hour. **Chief Campanello** stated that total number of citations is for Main Street only. **Councilor Tobey** stated he was not impressed. If they embarked on the pilot program they would have to “allocate some yet undetermined resource on Main Street”. Should they not put more resources on Main Street if there is a need for more parking enforcement? It appeared to him they’re not doing a very good job. **Chief Campanello** stated they would like more parking enforcement personnel. The kiosks do take up a significant amount of time for them. **Councilor Tobey** asked should they be doing more by way of notice on the anti-shuffling ordinance. **Chief Campanello** stated he has not been here long enough to make statements on the questions the Councilor is asking. Any police leader would want to have the resources to enforce the parking ordinances, every request of the type of enforcement the City expects. It is not always feasible. **Councilor Tobey** asked should they have better signage to the anti-shuffling ordinance. **Chief Campanello** stated, “Yes”. **Councilor Tobey** asked perhaps the Chief could talk to other communities to find how they have enforced their no meter situation and suggested a possible continuance of the public hearing for two weeks so that the Chief can do his research on that matter.

**Councilor Cox** stated if she gets a ticket on Main Street during the trial months and wished to fight the ticket, what does the City have to do to prove that person was there for one hour or three hours? **Chief Campanello** stated for years scanning devices didn’t exist. They do now and more accurately depict the violations. When they go back to non-use of the devices and use other manners of enforcement, it may muddle the outcome. **Councilor Cox** agreed with a continuance with the public hearing but asked it be continued beyond two weeks to also allow her to speak further with the downtown merchants.

**Councilor Ciolino** asked when the Chief to also come back with information on how other communities handle no meters. He pointed to the example of the town of Melrose that has no meters in their downtown, but has off-street parking in back of the stores. If there are huge parking alternatives, such as downtown parking garages, it would skew the numbers. He asked the Chief to make sure they know how much off-street parking those communities.

**Councilor Verga** asked if they can also find out about the software. He would also like more information on the anti-shuffling enforcement and the plans for that enforcement not signage related.

**Councilor McGearry** asked if they find out from the vendor if the hand-held devices are upgradable for a non-meter situation and what that would cost.

**Council President Hardy** asked whether they propose to cover the meter heads or remove them for a possible trial period. **Mr. Duggan** stated it would be too labor intensive to remove 159 meter heads and replace them at the end of the trial period. **Council President Hardy** said she would also like to know what they are doing about informing the public about the anti-shuffling ordinance. **Mr. Duggan** explained that the enforcement division was greatly reduced because of retirements. They are doing their best to rebuild parking enforcement. The priorities were to put patrol officers on the street. It is a work in progress to invest in that enforcement. **Council President Hardy** thanked the police for their coverage for the outlying areas of the City. She pointed out that enforcement for other parking situations are in need of improvement.

**Councilor Tobey** asked the Administration to coordinate this information for the Council. He asked the DDC to have a further meeting on this subject as he wished to be present for it. He asked that the DDC consider this pilot program an opportunity to market the City. He encouraged the Chief to look to Hingham, Portsmouth, and other smaller communities like Gloucester.

**This public hearing is continued to November 27, 2012.**

5. PH2012-076: Amend GCO Chapter 25, Article II, Div. 1, Sec. 25-15, “Definitions” re: Taxi cab license CORI system
6. PH2012-077: Amend GCO Chapter 25, Article II, Div. 1, Sec. 25-57 “Same-To be approved by Chief of Police” re: Taxi cab license CORI system
7. PH2012-078: Amend GCO Chapter 25, Article II, Div. 1, Sec. 25-58(b)(c)(d)(e) “Qualifications of Applicant” re: Taxi cab license CORI system
8. PH2012-079: Amend GCO Chapter 25, Article II, Div. 1, Sec. 25-63(b) “Licensee’s identification card”  
Re: Taxi cab license CORI system

**These public hearings are 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 Whynott, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the GCO by ADDING a new definition "CORI" as follows: "CORI" shall mean an official report obtained from the Mass. Criminal Offender Record Information System and shall be a confidential report as required by State law. A CORI report received for the purposes of Chapter 25 shall not be disseminated beyond the authorized requestor and the City Police Chief or his designee."

**DISCUSSION:**

**Councilor Theken** explained this and the following three changes to the GCO were all endorsed by the O&A Committee and brought forward by Councilor Whynott and the City Clerk to modernize this section of the ordinance. **Councilor Whynott** stated these are things that have been done all along but that the ordinance needs to reflect the newest rules for the CORI (Criminal Offender Record Information) system.

**MOTION:** On motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the GCO by ADDING a new definition "CORI" as follows: "CORI" shall mean an official report obtained from the Mass. Criminal Offender Record Information System and shall be a confidential report as required by State law. A CORI report received for the purposes of Chapter 25 shall not be disseminated beyond the authorized requestor and the City Police Chief or his designee."

**MOTION:** On motion by Councilor Whynott, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND GCO Sec. 25-57 by DELETING Sec. 25-57 in its entirety and ADDING new Sec. 25-57 as follows: "No license shall be issued under this division until the City Clerk, on behalf of the Licensing Commission, and as an authorized CORI representative, has requested and received as satisfactory State CORI report on the applicant. If there is any question as to whether the CORI report is satisfactory, the City Clerk shall refer the CORI to the Chief of Police or his designee for a determination of whether the CORI report is satisfactory. The decision of the Police Chief shall be final and shall determine if a license shall be approved or denied."

**DISCUSSION: None.**

**Councilor Ciolino stepped away from the dais.**

**MOTION:** On motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, 1 (Ciolino) absent to AMEND GCO Sec. 25-57 by DELETING Sec. 25-57 in its entirety and ADDING new Sec. 25-57 as follows: "No license shall be issued under this division until the City Clerk, on behalf of the Licensing Commission, and as an authorized CORI representative, has requested and received as satisfactory State CORI report on the applicant. If there is any question as to whether the CORI report is satisfactory, the City Clerk shall refer the CORI to the Chief of Police or his designee for a determination of whether the CORI report is satisfactory. The decision of the Police Chief shall be final and shall determine if a license shall be approved or denied."

**Councilor Ciolino returned to the dais.**

**MOTION:** On motion by Councilor Whynott, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND GCO Sections 25-58(b), 25-58(c), 25-58(d) and 25-58(e) DELETING Sections 25-58(b), 25-58(c), 25-58(d) and 25-58(e) in their entirety and ADDING NEW subsection 25-58(b) as follows: "No license shall be issued to the applicant who has been denied and that they may, within three (3) business days of such notice, request in writing a hearing before the Licensing Commission, or otherwise the denial shall be final."

**DISCUSSION: None.**

**MOTION: On motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND GCO Sections 25-58(b), 25-58(c), 25-58(d) and 25-58(e) DELETING Sections 25-58(b), 25-58(c), 25-58(d) and 25-58(e) in their entirety and ADDING NEW subsection 25-58(b) as follows: “No license shall be issued to the applicant who has been denied and that they may, within three (3) business days of such notice, request in writing a hearing before the Licensing Commission, or otherwise the denial shall be final.”**

MOTION: On motion by Councilor Whynott, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND GCO Sec. 25-63 (Licensee’s identification card) by DELETING in Sec. 25-63(b) the statement, “the City Manager, the inspector of motor vehicles.”

**DISCUSSION: None.**

**MOTION: On motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND GCO Sec. 25-63 (Licensee’s identification card) by DELETING in Sec. 25-63(b) the statement, “the City Manager, the inspector of motor vehicles.”**

**9. PH2012-080: Application for License of Flammable and Combustible Liquids, Flammable Gasses and Solids re: 27-37 Harbor Loop**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications:**

**Questions: None.**

**This public hearing is closed.**

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 grant Kristensen Realty, LLC as owner, for Cape Ann Fuel & Ice, Inc., a License of Flammable and Combustible Liquids, Flammable Gases and Solids for the property at 27-37 Harbor Loop for the storage of 19,800 gallons of Combustible Liquids –under M.G.L. Chapter 148, Sec. 13 and regulations thereunder as well as Gloucester Code of Ordinances, Chapter 8, Fire Prevention and Protection, Article I, In General and sections thereunder.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to grant Kristensen Realty, LLC as owner, for Cape Ann Fuel & Ice, Inc., a License of Flammable and Combustible Liquids, Flammable Gases and Solids for the property at 27-37 Harbor Loop for the storage of 19,800 gallons of Combustible Liquids –under M.G.L. Chapter 148, Sec. 13 and regulations thereunder as well as Gloucester Code of Ordinances, Chapter 8, Fire Prevention and Protection, Article I, In General and sections thereunder.**

**10. PH2012-081: SCP2012-011: Magnolia Avenue #46 (former Blynman School), GZO Sec. 2.3.2(13) Operate a Museum & Cultural Center**

**This public hearing is opened.**

**Those speaking in favor:**

**Attorney Mark Nestor**, 45 Middle Street representing the Magnolia Historical Society (MHS) explained that they submitted the winning bid to buy this property from the City in June 2012 to operate a museum and cultural center. According to the provisions of the zoning district where the property is located they are not allowed to have such a designation, and so they must have a Special Council Permit. The Blynman School has been there since 1895. It operated until approximately 2007. For the last five years the building and property have fallen into disrepair. It needs significant work which MHS is willing to do. The Village of Magnolia is full of history dating back over 100 years. The MHS has not been able to lay out all that the exhibits, documents, archives held in the second and third

floor of the Magnolia library, the MHS' "treasure trove" of historic items. It is not handicapped accessible either. They propose to create a cultural museum where there is universal access; to have meetings, and are looking to tie into the schools to encompass educational matters. They are losing historic icons around them in the area; the old Blynman hotel is going to become condos. They wish to preserve this community treasure, and asked the Council to support the MHS in this endeavor. He noted almost every abutter to the property has signed off in favor of this proposal and submitted a small petition signed by abutters in support of the MHS application (placed on file).

**Frank Caputo**, 50 Magnolia Avenue, a direct abutter of the property expressed he was in favor of a museum. MHS keeps the property and building clean and neat. He looks forward to their being his neighbor. **Bill Shofner**, 57 Magnolia Avenue lives directly across from the schoolhouse and supports this "wholeheartedly." **Eileen Kelley**, 42 Magnolia Avenue also expressed her support the Blynman School becoming a museum.

**Those speaking in opposition: None.**

**Communications: None.**

**This public hearing is closed.**

**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 grant the Magnolia Historical Society a Special Council Permit (SCP2012-011) for the property located at Magnolia Avenue #46, Assessors Map 174, Lot 3, zoned R-30 pursuant to Sec. 1.8.3 and Sec. 2.3.2 (13) of the Gloucester Zoning Ordinances "Philanthropic Institution," in order to operate a Museum and Cultural Center in the former Blynman School.

#### **DISCUSSION:**

**Councilor Tobey** explained this is a wonderful thing when a community comes together to preserve a part of itself. This is to be commended and encouraged. He thanked the folks of Magnolia who are making this happen.

**Councilor Verga** commented the RFP for the sale of the property had a requirement that the building only be used as a museum which he said was the smart thing to do. It was "only natural" that they should adopt this. The property has been cleaned up by all the volunteers of the MHS and no longer exists as a dump. He wholeheartedly supported this change to a museum, and expressed the hope that the Council would as well.

**Council President Hardy** stated there was concern about a club or two going into the building under a sublease or holding weekly meeting there, to which **Attorney Nestor** responded, "No" on all the use of the building by outside entities for meetings. **Council President Hardy** stated the P&D Committee was in favor of this and expressed she was pleased this would happen.

**MOTION:** On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted **BY ROLL CALL 9 in favor, 0 opposed to grant the Magnolia Historical Society a Special Council Permit (SCP2012-011) for the property located at Magnolia Avenue #46, Assessors Map 174, Lot 3, zoned R-30 pursuant to Sec. 1.8.3 and Sec. 2.3.2 (13) of the Gloucester Zoning Ordinances "Philanthropic Institution," in order to operate a Museum and Cultural Center in the former Blynman School.**

#### **11. PH2012-082: SCP2012-012: Kondelin Road #16, GZO Sec. 5.13.3.1(a) and Sec. 5.13.7 (PWSF)**

**[Note: This Special Council Permit Application differs from previous modifications to PWSF's due to the original installation pre-dating the enactment of a PWSF Zoning Ordinance.]**

**This public hearing is opened.**

**Those speaking in favor:**

**Attorney Daniel D. Klasnick**, Duval & Klasnick LLC of Westboro, MA representing Bell Atlantic Mobile of Massachusetts Corporation Ltd. d/b/a Verizon Wireless explained to the Council that his client was applying for a Special Council Permit to modify the PWSF to allow Verizon Wireless to address expand coverage gap in 4G LT technology service in the City of Gloucester to provide improved wireless data service on a tower located at 16 Kondelin Road. There is an existing 12 antennas located at 232 feet on the 340 foot guy tower. There is existing equipment on the ground located in a common shelter in the existing fenced area. They propose to remove 12 antennas from the existing wireless service facility on the tower and replace them with 12 new antennas at the same height. They will also add six lines of 1-5/8 inch co-axial cable inside the existing cable tray to support the additional requirements. There won't be any physical change to the ground equipment or facility. In support of Verizon's application they included photo simulations (on file). At 232 feet they will not notice a change in the

antennas. It is de minimus change in the appearance of the facility. Also included were coverage maps (on file) and an RF affidavit (on file) certifying the need for the facility to fill a substantial gap in 4G coverage. They are utilizing a piece of existing infrastructure at a location that has been identified by the City as suitable for wireless service to enhance their existing service.

**Those speaking in opposition: None.**

**Questions:**

**Councilor McGeary** stated that this does not increase range, it just moves the technology from 3G to 4G which **Mr. Klasnick** stated was the case. He also noted that based upon comments made by Councilors at the P&D meeting Verizon Wireless will contact the City with regards to potentially issuing an RFP for the 15 Hickory Street water tower for a new wireless facility. He had sent correspondence and had spoken to Donna Compton, City Purchasing Agent and hoped an RFP will be issued for that location. Additionally, Verizon Wireless is actively seeking a location nearer to the downtown area to address identified coverage issues. He expressed his hope to come before the Council early next year there will be another application for a new facility in the downtown area to further enhance service in the City.

**This public hearing is closed.**

**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 grant Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless a Special Council Permit (SCP2012-012) for modification of an existing Wireless Communications Facility pursuant to Sections 5.13.3.1.a and Sec. 5.13.7 to remove twelve (12) existing antennas and in their place to install twelve (12) new antennas in their place and add six (6) lines of 1 and 5/8 inch co-axial cable inside the existing cable tray on a tower at Kondelin Road #16 (Assessors Map #198, Lot #39). All replacement antennas are to be substantially similar to the dimensions of the existing antennas to be replaced on the tower owned by American Tower Management, Inc. zoning classification G-I with the following condition:

- That Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless is not to impede use of the communication tower located at 16 Kondelin Drive by Gloucester public safety organizations to maintain and install hardware necessary to their communications systems.

**DISCUSSION:**

**Council President Hardy** asked if there would be any radio frequency changes. **Mr. Klasnick** stated the radio frequency standards will be maintained. Verizon Wireless included a detailed RF Study on the cumulative addition in their application. They will continue to be compliant and be within 1 percent of FCC standard.

**MOTION:** On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted **BY ROLL CALL 9** in favor, 0 opposed to grant Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless a Special Council Permit (SCP2012-012) for modification of an existing Wireless Communications Facility pursuant to Sections 5.13.3.1.a and Sec. 5.13.7 to remove twelve (12) existing antennas and in their place to install twelve (12) new antennas in their place and add six (6) lines of 1 and 5/8 inch co-axial cable inside the existing cable tray on a tower at Kondelin Road #16 (Assessors Map #198, Lot #39). All replacement antennas are to be substantially similar to the dimensions of the existing antennas to be replaced on the tower owned by American Tower Management, Inc. zoning classification G-I with the following condition:

- That Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless is not to impede use of the communication tower located at 16 Kondelin Drive by Gloucester public safety organizations to maintain and install hardware necessary to their communications systems.

**12. PH2012-083: SCP2012-013: Great Republic Drive, GZO Sec. 5.13.3.1(a) and Sec. 5.13.7 (PWSF) Modification**

**This public hearing is opened.**

**Those speaking in favor:**

**Attorney Klasnick**, also representing Bell Atlantic Mobile of Massachusetts Corporation Ltd. d/b/a Verizon Wireless in this Special Council Permit modification explained this application is extremely similar to application

just taken up by the Council previously, in that it is to upgrade Verizon's service to 4G technology. This installation is on a City-owned water tank. They have 12 antennas located at 104 feet on a 120 foot tank within an existing fenced in area. There are 12 antennas located on the tank that Verizon maintains. They will take those 12 antennas off and replace with same number of new antennas to support the 4G service and also add six lines of 1-5/8 inch co-axial cable. There will be no change to the equipment shelter located at the base of the water tank inside the fenced area.

**Those speaking in opposition: None.**

**Questions:**

**Council President Hardy** noted that the tower is owned by the City and asked much Verizon Wireless pays the City for the lease. **Mr. Klasnick** stated it is \$27,600 annually.

**This public hearing is closed.**

**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 grant Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless a Special Council Permit (SCP2012-013) for modification of an existing Wireless Communications Facility pursuant to Sections 5.13.3.1.a and Sec. 5.13.7 to remove twelve (12) existing antennas and in their place to install twelve (12) new antennas in their place and add six (6) lines of 1 and 5/8 inch co-axial cable inside the existing cable tray on a water tank at Great Republic Drive (Assessors Map #296, Lot #1). All replacement antennas are to be substantially similar to the dimensions of the existing antennas to be replaced on the water tank owned by the City of Gloucester zoning classification R-20 with the following condition:

- That Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless is not to impede use of the communication tower located at 16 Kondelin Drive by Gloucester public safety organizations to maintain and install hardware necessary to their communications systems;
- That all replacement antennas will be painted to match the water tank to which the antennas and cables are affixed;
- And that all previous conditions of the original Special Council Permit adopted by the Gloucester City Council on April 30, 2002 remain in place.

**DISCUSSION:**

**Council President Hardy** asked if Radio Frequency standards would be maintained. **Mr. Klasnick** responded it would.

**MOTION:** On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted **BY ROLL CALL 9** in favor, 0 opposed to grant Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless a Special Council Permit (SCP2012-013) for modification of an existing Wireless Communications Facility pursuant to Sections 5.13.3.1.a and Sec. 5.13.7 to remove twelve (12) existing antennas and in their place to install twelve (12) new antennas in their place and add six (6) lines of 1 and 5/8 inch co-axial cable inside the existing cable tray on a water tank at Great Republic Drive (Assessors Map #296, Lot #1). All replacement antennas are to be substantially similar to the dimensions of the existing antennas to be replaced on the water tank owned by the City of Gloucester zoning classification R-20 with the following condition:

- That Bell Atlantic Mobile of Massachusetts Corporation Ltd., d/b/a Verizon Wireless is not to impede use of the communication tower located at 16 Kondelin Drive by Gloucester public safety organizations to maintain and install hardware necessary to their communications systems;
- That all replacement antennas will be painted to match the water tank to which the antennas and cables are affixed;
- And that all previous conditions of the original Special Council Permit adopted by the Gloucester City Council on April 30, 2002 remain in place.

The Council recessed at 9:18 p.m. and reconvened at 9:34 p.m.

3. PH2012-075: RZ2012-005: Amend GZO Sec. 3.1.8 re: Lot Frontage

**This public hearing is opened.**

**Those speaking in favor:**

**Gregg Cademartori**, Acting Community Development Director explained that this zoning amendment was proposed to the Council by the Zoning Board of Appeals (ZBA) which is a less common way a zoning amendment can be initiated. Frank Wright who worked on the zoning ordinance review task force that resulted in the release of the 2008 ordinance knew this provision in depth. Between the 2008 issuance of the zoning ordinance, a key provision in the definition of lot frontage was inadvertently left out. It creates a predictable way in which new lots are created as administered by the Planning Board in the subdivision process as well as the Approval Not Required (ANR) process. It will restore a requirement that the required frontage for the zoning district, whatever it is, needs to be carried into the depth of a lot until a building is constructed on the lot. Without the provision, there is the ability to have the required frontage for a district and an unknown width of a lot until a structure is built on it. It creates an unpredictable environment. Since the 2008 release, the definition as stated here has been enforced by the Building Inspector, even though it has been absent. Most of the people who have been involved in land use and development in the City have been aware of the prior provision and have consistently continued to file applications as if it was in place. This is fully supported by the Planning Board and the ZBA to reinstate the definition of lot frontage that requires lot frontage be carried to the buildable portion of the lot.

**Those speaking in opposition: None.**

**Communications: None.**

**Questions: None.**

**This public hearing is closed.**

**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 AMEND the Gloucester Zoning Ordinance Sec. 3.1.8 by DELETING in its entirety the definition of "Lot Frontage" as set forth therein, and ADDING a new definition of "Lot Frontage" as follows:

"Lot Frontage: That portion of a lot fronting upon and having access to a street or public way. Except as authorized by the Planning Board pursuant to Section 5.20, compliance with the lot frontage requirement shall be determined by measuring the shortest distance, on a line parallel with the frontage street or way, within that portion of a lot between the frontage street or way and the principal building. Unless authorized by variance from the Board of Appeals, access to a lot must be over its frontage."

**DISCUSSION: None.**

**MOTION:** On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to AMEND the Gloucester Zoning Ordinance Sec. 3.1.8 by DELETING in its entirety the definition of "Lot Frontage" as set forth therein, and ADDING a new definition of "Lot Frontage" as follows:

"Lot Frontage: That portion of a lot fronting upon and having access to a street or public way. Except as authorized by the Planning Board pursuant to Section 5.20, compliance with the lot frontage requirement shall be determined by measuring the shortest distance, on a line parallel with the frontage street or way, within that portion of a lot between the frontage street or way and the principal building. Unless authorized by variance from the Board of Appeals, access to a lot must be over its frontage."

**13. PH2012-034: Rezoning #2012-003: Atlantic Road #107 and #125, Amend GZO to create a new Existing Hotel Overlay District (Cont'd from 09/25/12)**

**Those speaking in favor:**

**Attorney J. Michael Faherty**, representing his clients, Bass Rocks Ocean Inn, Inc. (Bass Rocks), Tracey Muller, President; and Bonmal, Inc. (Atlantis Oceanfront Inn a/k/a Atlantis), Jan Bordinaro, President for a hotel overlay district, 107 and 125 Atlantic Road informed the Council that these two properties are contiguous properties, as shown on one plan as submitted to the P&D Committee on October 17, 2012 (on file). This is a zoning amendment request made under GZO Sec. 1.11 and MGL c. 40A, §5.

Lots/Hotels Descriptions: 107 Atlantic Road (Bass Rocks) was described as being approximately 65,780 square feet of land (Bass Rocks). 125 Atlantic Road (Atlantis) property was described as being approximately 64,400

square feet. There are 53 existing rooms in the Bass Rocks facility, and 40 existing rooms in the Atlantis facility. These properties are unique to Gloucester in that they were constructed in the 1950's and '60's forward. The Mueller family has owned the Bass Rocks facility since 1946, and the Atlantis has had two owners since its construction in 1960. The purpose of this zoning amendment is to facilitate an upgrading in the capacity, the size and shape of the guest units within the facility. The current facilities is the same spatial capacity and shaped system as in 1963. There have been no real changes to these facilities for more than 45 to 48 years.

Revenue Statistics/Employee Statistics: The following revenue figures that follow are collected completely by the owners of these facilities and are this year's figures. There is no public cost to collect this money. Room taxes for the Atlantis are \$117,000 of which \$60,000 is direct to the City. Real estate taxes are over \$28,750; meals taxes are \$12,250. There are 32 total employees, not all full-time. The Atlantis has a gross payroll of over \$340,000. Room taxes for the Bass Rocks are \$175,000 of which \$90,000 is direct to the City. Real estate taxes are \$32,892. There are 25 employees, and an annual payroll of over \$300,000. Combined totals are \$150,000 to the City in room tax; real estate tax in excess of \$60,000; meals tax \$12,250, and a total payroll of approximately \$645,000.

Physical Description of Facilities: These facilities are hotels that have people sleeping there and enjoying what is expected of Cape Ann. There are no functions held there; there are no weddings or conference facilities. They are "heads in the beds" facilities. Reiterating the reason for the request for zoning relief, **Mr. Faherty** explained that the current ordinance is a "non-starter" in terms of making any changes to these facilities. The zoning ordinance section related to dimensional requirements currently for hotels, motels and motor inns in the R-20 district required minimum lot area of 40,000 square feet which both of these lots have. Upon getting into the minimum lot area per guest units and open space per guest units, they are "non-starters." Under these requirements, they would be left with a property with approximately 12-13 units on either of these facilities. They have operated for more than 50 years in their current configuration with 40 and 53 units respectively without any difficulty. At issue is what was expected in a hotel, motor inn or motel 50 years ago is different than expectations for a facility for today's tourist market. The rooms are relatively small. The bathroom facilities are smaller than expected in an upgraded hotel. These rooms need to be expanded in size in order to provide variety for families traveling with children, folks traveling with other adults. Such considerations make the market a bit different; and having a homogenous set of standardized rooms, all of which are the same size and shape is not what makes the current market. These owners need this relief to remain competitive, not only against the other City hotels; but two already licensed, but not constructed, hotel facilities plus a third facility under review by the Council now. This is necessary for them to remain competitive entities within the City. **Mr. Faherty** expressed his belief his clients have earned that right to remain competitive by their history and existing contributions.

Proposed Zoning Ordinance-Agreement on Language: **Mr. Faherty** reported that with respect to some neighbors that there is an agreement on the draft language contained in this plan which is the Council's decision to vote on. **Attorney Ralph Pino**, 46 Middle Street, representing Jane Fonzo, Tom Berger and Andre Robert stated he was in agreement with Mr. Faherty's assertion. There were this new version has been given to the Council late today. The language removes a couple of the strong objection points that they had, some dimensional issues as well as the "As of Right" section.

**Mr. Faherty** stated he had submitted to the City Clerk a copy of the proposed amendment today (on file).

**Council President Hardy** called a brief recess at 9:50 p.m. to receive paper copy for the Council, and reconvened the meeting at 9:53 p.m.

Sectional Review of Proposed Zoning Amendment: **Mr. Faherty** noted under the proposed GZO Sec. 5.26, in response to a question raised by the Council President at P&D, the name of the overlay is now "107 and 125 Atlantic Road Hotel Overlay District" (ARHOD). They also provided a plan depicting both lots on one plan stamped by Richard Loud, Registered Professional Land Surveyor (on file).

Sec. 5.26.1 Purpose: This section is, "...to encourage the continued use of properties within its bounds for a hotel, motel, or motor inn..." "The ARHOD is designed to encourage expansion of the area's existing uses and economic vitality by permitting the alteration, expansion or replacement of existing Hotels and supporting uses, consistent with the goals of the City. Among the objectives of the ARHOD are: (a) To facilitate the alteration, expansion, replacement of existing or new Hotels in the ARHOD together with uses accessory thereto; (b) to stimulate the general economy of the City by creating jobs and generating real estate and other tax revenue; and (c) To encourage the appropriate use of land."

Review of Sec. 5.26.2 Overlay District Language dated October 23, 2012:

"Sec. 5.26.2.1 Map: The ARHOD is an overlay district that encompasses land shown on Gloucester Assessors' Map 72, Lots 1 and 3. Such land is also shown on the map entitled "Structure Location Plan at 107 & 125 Atlantic Road, Located in Gloucester, MA," dated September 21, 2012, incorporated herein by reference and hereby made a part of the City's official zoning map. Sec. 5.26.2.2 Establishment: The ARHOD is an overlay district superimposed

on the underlying zoning district(s) [underlying district is R-20]. The underlying zoning shall remain in full force and effect. To the extent that any provision in this Section 5.26 is in contradiction or conflicts with any other provision of this ordinance, the provisions of this Section 5.26 shall control. Sec. 5.26.2.3: The City Council shall be the special permit granting authority for any required special permits granted pursuant to this Section 5.26, and the issuance of such special permits shall satisfy the procedural criteria set forth in this Section 5.26 and other relevant sections of this Ordinance.” **Mr. Faherty** commented this would also apply to possibly the site plan review depending upon the size of the project mentioned previously to the Council. “Sec. 5.26.2.4 Standard to be Applied: Special Permits required under this Section 5.26 shall be granted under the standards of Section 1.8 (Special Permits) and Section 5.7 (Major Projects).”

**Mr. Faherty** explained the next section, Section 5.26.3 Uses, is the section that presented the most difficulty with respect to explanation and understanding. “Section 5.26.3.1 Uses Allowed by Right: (a) Uses allowed by right in the underlying zoning district(s) shall continue to be allowed in the ARHOD.” **Mr. Faherty** stated the R-20 district that underlies the overlay, any use that is allowed by use in that district would continue to be allowed in the overlay. That is no change from anything that has happened so far. “(b) Existing principal Hotel uses and existing uses accessory or incidental to a Hotel use shall also be allowed by right.” **Mr. Faherty** commented that there was an issue raised at the last Standing Committee meeting whether these properties would continue to be non-conforming. He said at that time, and reiterated, that to the extent the buildings would be non-conforming; they would be cured by at least the dimensional requirements. But the hotel uses by this paragraph, “existing;” and existing remaining accessory uses would also be confirmed now as being legal uses of the property. It creates no new uses. That is covered further along in the proposed ordinance. **Mr. Faherty** stated for this next section, they had eliminated any expansion of the hotel without the necessity of a Special Permit. “Sec. 5.26.3.2 Uses Authorized by Special Permit: In addition to the uses permitted by right or by special permit in the underlying zoning district(s), the following uses shall be permitted subject to the issuance of a Special Permit issued by the City Council: (a) Alterations, expansions, or replacement of an existing Hotel; and (b) New independent accessory uses and other new uses customarily accessory to or incidental to a Hotel use.” **Mr. Faherty** said that would require and trigger the use of a Special City Council Permit. Existing accessory or incidental uses are by right. Anything new or different requires a permit from the City Council. “Sec. 5.26.3.3 Prohibited Uses: Any use not specifically allowed by right or by Special Permit within the ARHOD or in the underlying zoning district(s) is prohibited.” **Mr. Faherty** commented this is standard clause that is used throughout the Gloucester Zoning Ordinances.

Discussion/Description of Dimensional Requirements of Sec. 5.26:

“Section 5.26.4 Dimensional Requirements: Sec. 5.26.4 Dimensional Table: All buildings and structures permitted pursuant to the ARHOD shall conform to the following Dimensional requirements, which shall be incorporated into a separate table under ARHOD:”

Minimum lot area (sf) 40,000/Dimensional Table: **Mr. Faherty** commented the minimum lot area remains at the 40,000 square feet. The minimum lot area per guest unit (sf) 750; and minimum open space per guest unit (sf) 200(i) are changed from the existing ordinance. They had presented evidence to both the Planning Board and to the Standing Committee at an earlier meeting that suggested that a minimum lot area of 750 square feet was more than sufficient to sustain the uses of these properties. They have been there a long time. There haven’t been uses, and challenged people to come up with any evidence or example that these have not been good neighbors who have kept their properties up to very high standards. The minimum open space per guest unit (sf) right now is 3,500 square feet. Having presented evidence to this fact, if there is have a hotel unit about 250 feet, it requires 3,500 feet of space outside the hotel as a corresponding or compensating factor, which he said makes no sense at all. Two hundred square feet of open space per guest unit is “reasonable.” Head note (i) “Or, at the option of the land owner, a contiguous area of “open space,” as currently defined in this Ordinance of not less than 10,000 square feet all located in the front yard of the premises.” **Mr. Faherty** commented he knew that those who had dealt with Special Council Permits were familiar with situations where folks come in reporting they have satisfied the open space requirement or are asking for a reduction. They end up with pockets of green space and open space throughout the project which has to be added up which might add up to the total sum necessary for the open space requirement. Given the use of these properties, it made more sense to continue the open field in the front of the buildings; that between the open buildings and the ocean and that a contiguous area touching each other of 10,000 square feet is a more appropriate delineation of open space and would serve a better function than having a series of 200, 300 feet pockets of open around the buildings. It is 200 feet per unit, or 10,000 square feet in the front yard. As to minimum lot width and lot frontage they satisfy those requirements and there are no changes. The front yard is 30 feet, and the side yards are 20 feet. There is a head note (ii) with regard to the front and side yard, “Or, the set back existing on site on the date of the adoption of this amendment to the Zoning Ordinance, whichever is less. For new construction outside the footprint of the buildings that exist as of the date of the adoption of this Section 5.26, the

setbacks listed above shall apply.” **Mr. Faherty** explained the reason this was important was that (pointing out the Atlantis on the site plan set before the Council), was that the only part of the facility that doesn’t meet this dimensional requirement is in the front yard in the corner of the restaurant which is a little less than two feet shy of 30 feet. All other requirements exceed the proposed requirements throughout the entire facility. That means that if there was new construction in that area it would have to conform. That becomes the set back for that building, and it is allowed. A distance of about 1-1/2 feet is the only dimensional requirement relief being sought. As for the Bass Rocks facility, the manse, the tall building at the beginning of the property where the offices and dining facility are located, there is a distance that doesn’t conform to the curvature of the road. The road came after the building. This is not a case of someone building closer to the land. The only other distance requirement is similarly on the left-hand side of the property. There is a four foot differential between the 30 foot set back and the corner of the building. In all other instances it meets all the other requirements. These facilities are well situated on the properties, centrally located, and not “jammed” up against any other properties. Head note (iii) on the side yards, “For the purpose of alterations, expansions, or replacement of an existing Hotel pursuant to Section 5.26.3.2(a) only:” **Mr. Faherty** commented that would be a Special Council Permit. “... if a side yard abuts a lot containing a one-or two-family residential dwelling, the setback for an addition to the Hotel higher than the existing height of the Hotel building as of the date of the adoption of this Section 5.26, but not for any addition to or alteration or replacement of the Hotel at or below the existing height, from only the side yard property line that abuts the lot containing the one-or two-family dwelling, shall be 75 feet.” **Mr. Faherty** added that it means to the extent that there is a one-or two-family dwelling that abuts this overlay, in that area for any increase in height, the setback for that portion of the building would be 75 feet from the property line. On the overhead views on display before the Council, **Mr. Faherty** commented the only property that would affect is the Fonzo property. Any construction which increases the height of the existing building, the construction itself would be set back 75 feet from that property line. If there are no one- or two-family dwellings, and there are none now, the Bass Rocks Golf Course is the immediate rear abutter of the property, and the Elks Lodge is the only abutter on the other side of the property. He stated there was a letter from the Elks Lodge in indicating they favor this proposal (The City Clerk and the Clerk of Committees did not have the referenced letter in their respective Council files as of the date of this public hearing.). The only abutter to the east is the Atlantic Ocean. Head note (iii) continues, “Additionally, any such upper portion set back from the side yard property line pursuant to this footnote shall not contain windows facing that side yard unless installed for ventilation purposes only.” They were asked to do that and did so. Minimum rear yard is 30 (ii) feet; maximum building height is 30 feet (iv). They included in the same head note that the building height could be authorized by relief with a Special Council Permit as the Council did for the other Hotel Overlay District (head note iv). The language in head note (iv) conforms to the language in the zoning ordinance, “In the ARHOD features such as chimneys, skylights, television antennae and building mechanicals shall not be included in the determination of building height. The City Council may authorize an increase in building height above the maximum by special permit pursuant to Sec. 3.1.6.” The last head note (v) refers to principal buildings: “For the principal buildings existing on site on the date of the adoption of this Section 5.26: 10 feet or whatever currently exists on site on the date of the adoption, whichever is less. For new construction, no principal building shall be closer to another principal building on the same site than the sum of their respective heights; provided however, that the City Council may by special permit authorize a reduction in said distance upon a finding that such reduction does not pose an impediment to service access or access for public safety.” They are saying that whatever the distances are between the buildings, it is only on the Bass Rocks facility which has more than one building. Sec. 5.26.5 Off Street Parking Requirements: They have agreed they will meet all the parking requirements; that even if they have an excess of parking, they will not reduce the parking below what it is already. There will be no reduction, even if the amount they need by ordinance is less. Section 5.26.6 Submissions: Sec. 5.26.6.1 Contents: Applications are the same as with any special permit application before the Council. Sec. 5.26.7 Relief by Special Permit: The last section mirrors the relief that was granted to the hotel overlay in the Fort, that if there is any non-compliance under the Special Council Permit process, it is the City Council and no one else who has the authority to grant relief from compliance.

**Without objection the City Council moved to Councilor Questions after initial presentation by applicant’s representative.**

**Councilor Tobey** noted this comes down to three primary “headlines”: 1) Current uses and dimensions as the sites now exist are sanctioned by this amendment. **Mr. Faherty** indicated, “Yes”. 2) The dimensions for potential expansion are specified; again **Mr. Faherty** indicated, “Yes.” 3) No potential expansion or change of use shall occur without Special Council Permit; and **Mr. Faherty** indicated that was correct.

**Councilor McGearry** asked if there is anything pro or con that would prevent at a future date to these properties becoming one complex if one party were to sell out to the other. **Mr. Faherty** stated that would require a special

permit. **Councilor McGeary** rejoined that even if there were no alterations to the buildings, just a combination in to a single facility. **Mr. Faherty** stated any combination of the lots would require a special permit; but not if a person bought out the other and kept it as two separate facilities and commenting there would be no reason to not keep them as separate facilities because they have different clientele; it would not require a special permit. That would be no different than if sold to a stranger. If there was any combination of the facilities or an annexation of facilities, that would require a special permit. **Councilor McGeary** noted under Sec. 5.26.2(a) which says, "alterations, expansion or replacement of an existing hotel," if hypothetically one or the other hotel wanted to enlarge the rooms there, not add any, that would still call for a special permit. It would be an alteration in use. **Mr. Faherty** stated if there was an exterior change to the building then, "Yes." Internal changes within the building would not result in a special permit being prompted. He confirmed to the Councilor an enlargement of the footprint would require a special permit.

**Councilor Ciolino** noted under Sec. 5.26.2.4 Standards to Apply, a special permit would be granted under the standards of Sec. 1.8 Special Council Permits; and Sec. 5.7 is Major Projects. He asked for a description of what would trigger Major Projects and what it would entail. **Mr. Faherty** stated that if it is more than 30 units, and there are already more than 30 units, it would by necessity as written trigger the Major Project requirement. The Major Project requirement only requires some additional plans be submitted, stamped plans and that a referral to the DPW and to the Planning Board for a report and a recommendation. That still falls within the Council's jurisdiction to issue a permit. **Councilor Ciolino** stated the applicant can do the special permit process and the Major Projects process in parallel. **Mr. Faherty** stated it was one and the same process. There are just some submittal requirements are a little different for Major Projects. **Councilor Ciolino** asked if a Major Project triggers a utility and traffic study to which **Mr. Faherty** stated not necessarily. Reports are gotten from the DPW. If they determined there was inadequate roadway or the like, that would trigger a traffic study. If the determination by the DPW was that there was adequate roadway, there would not be a difference to the road, and then it wouldn't trigger a traffic study. **Councilor Ciolino** stated that those issues would be addressed. **Mr. Faherty** said they would be addressed by the appropriate City agencies through their reports.

**Council President Hardy** expressed concern about the word "replacement" as it appeared Sec. 5.26.1(a) "To facilitate the alteration, expansion, replacement of existing or new Hotels in the ARHOD together with accessory uses thereto;" She asked the definition of replacement and did it mean if the owners were to tear down the buildings would that be considered a replacement. **Mr. Faherty** stated it would and would trigger a Special Council Permit under the dimensional requirement. The use of the word, "replacement," if one looks at general language in most zoning ordinances and in State statute they talk of alternation, expansion, replacement. There was an issue raised as, if, for instance, someone took down a balcony and put in a new balcony that would be an alteration. It is also replacement. It is intended to be inclusive, so that there is no issue what is being required. Since everything goes in front of the Council for a permit, he expressed the opinion that it is as much of an issue as it was previously because it is jurisdictional. **Council President Hardy** commented "replacement" could be major, minor, or could be demolition of the entire building and wished to have the semantics in place and that where the word "replacement" is used, it would trigger a Special Council Permit. **Mr. Faherty** responded, "Yes." **Council President Hardy** commented when and if this was approved, it would be her intent and her interpretation of it. She agreed with **Mr. Faherty** that it would trigger a Special Council Permit. She asked if that was also the stance that would be taken as it relates to Sec. 5.26.2(a) "alterations, expansion, replacement of existing Hotel;" that it would trigger a Special Council Permit. **Mr. Faherty** clarified that the changing out of a window may be a replacement of a window but is not a replacement of a hotel. A replacement of windows or a door is not a replacement of the hotel. Any structural component or any external change of the building triggers a Special Council Permit. **Council President Hardy** then stated the word "replacement" would then trigger a Special Council Permit no matter where it is used throughout the amendment. It also appears in head note (iii) under Sec. 5.26.4.1, the word "replacement" is used. New construction was used in the old ordinance and "new construction is used in the amended ordinance. **Mr. Faherty** confirmed that new construction is in head note (ii) which says that it is 30 feet or a set back existing on the site at the time of adoption, which he read again. They would lose the protection of those lesser requirements which are in three instances on these two properties. They would be replaced by the requirements up above. **Council President Hardy** indicated she knew that this had all been agreed to but wished to have it made clear what those terms actually mean so some years down the road it will be plain as to the intent.

**Councilor McGeary** followed up by noting **Mr. Faherty** spoke of replacement of a balcony and that **Mr. Faherty's** understanding is that it would require a Special Council Permit. **Mr. Faherty** agreed that a replacement of a balcony, changing its shape, size would require a Special Council Permit; but replacing balusters, painting, structural elements required by law to be added, etc., would not trigger a Special Council Permit. He noted the letters from private citizens in support of the ARHOD, and a petition submitted to the City Clerk's office in support of the

zoning ordinances being amended for the ARHOD. He submitted to the Council another 70 petition signatures (placed on file) in addition to the 479 previously submitted (on file).

**Summary:** **Mr. Faherty** stated he would not go into the appropriateness of a Hotel Overlay District in this instance as it was adequately addressed by Mr. Cademartori at the Standing Committee. The purpose is to preserve the underlying R-20 zoning and streamline the permitting process through the City Council. These are realistic and reasonable dimensional requests. This is to preserve revenue stream and enhance it for the growth of these hotels, and for the City. On behalf of his clients he thanked those in the audience who remained to show their support of this request for a zoning amendment.

**Mr. Pino** stated this matter has come before several Planning Board hearings; numerous P&D meetings, and a site visit, of which many of the Council had attended. It has been well discussed and negotiated over a period time. His client and other neighbors were adamantly opposed to the original presentation on some of the dimensional issues which have been modified in tonight's proposal. The Planning Board was in favor of some dimensional changes recognizing that some of the hotel dimensional requirements were unrealistic. They were opposed to the "Of Right" provisions that were contained right up to today. The Planning Board was unanimously opposed to the "Of Right." Of main concern to the neighbors, they wanted to know what is going to be built; to have input to what is being built; and have real plans and conditions. He expressed they think the agreement resolved at 4 p.m. today is consistent with his clients' needs. His clients are supporting the petition as it reads this evening which has eliminated the "Of Right" and changed some of the dimensional requirements.

**Those speaking in opposition:**

**Karen Boudreau**, 33 Chapel Street stated her understanding there were significant changes at 4 p.m. today and expressed concern as to how the public would know what is being commented on. If the public is to be involved they should be apprised of what is coming forward. As a resident, she expressed awareness of processes, master plans, zoning plans, etc. She was not certain what can be done within these facilities within the framework that currently exists. Could they expand the dining room; what special permits would be required for a function area if they don't change the footprint. She was not familiarly enough with what was presented to know all of that. She expressed concern these kinds of zoning measures are a "slippery slope." There are a number of motels, small hotels, and inns in the City. She expressed she hoped with all the work that goes into master planning, zoning that they would not overlook all the processes that establish the zoning procedures. She said she also did not understand why they would not require just the process as it exists for special permits for these businesses. She did not want to see these concepts are ignored.

**Council President Hardy** called for a show of hands in support of the zoning ordinance proposal. The Clerk of Committees indicated that she counted approximately 35 people. No had was raised among those attending in the auditorium when the Council President asked for a show of plans from those in opposition to the proposal.

**Brandon Waterman**, 6 Armstrong Lane an employee of the Bass Rocks Motor Inn was in favor of the hotel overlay. The small improvements will open up the hotel for more guests. They have had to turn away potential guests because they don't have enough room. It is better for the growth of Gloucester to adapt to changes in the economy and to keep tourists in the City and not stay elsewhere. **Kevin O'Maley**, 215 Western Avenue, a commercial and charter fisherman, stated he promotes folks coming to Cape Ann. Two of the finest places to stay are the Atlantis and the Bass Rocks. For them to provide the best product possible, he supports the overlay so that these guests can have a first class experience and spread the word about the City. **Mark McDonough**, owner of Alchemy and Latitude 43 Restaurants spoke to the "local multiplier effect" and stated this will not just benefit the tourist industry or the visitor-based economy, but it affects builders, banks, accountants, lawyers. Economic studies show that when money comes into the economy it is recycled over and over and can be 10 times more than the immediate affect. **Peter Van Ness**, 11 Magnolia Avenue stated the City is better off with these hotels than without them pointing to their direct financial contributions through real estate, rooms and meals taxes. The City is better off with these hotels being locally owned. Room upgrades and additional rooms will not change the neighborhood. The sooner that the Council gives the go-ahead to the hotels upgrades, the sooner the City gets more tax dollars which he estimated would be about \$40,000 more annually. **Robert Ryan**, 3 Blake Court expressed his support of the ARHOD. This is another good thing to expand the City's tax base. Recounting the financial contributions through taxes to the City as put forward by Mr. Faherty, and because the facilities employ 50 people he was in support. He added that more rooms mean more tourists spending their money in the City. **Charles Bonnano**, 87 Atlantic Road, a summer resident of over 50 years stated he did not know the present owners of these properties personally, but he has been impressed with the way the owners maintain their properties. He has sent many guests to them who are always satisfied with their stays. The agreed-to language is in the best interest of all parties involved. He expressed his confidence in the attorneys and principals, and neighbors in working out the details to assure growth. He stated he was pleased that this all came together without years of fighting which speaks well of

all who were involved. **Jane Frederick**, 96 Washington Street is a 15 year employee of the Atlantis Oceanfront Inn who has bought a home and raised her family on Cape Ann. They promote Cape Ann as a whole. This would expand tourism in Gloucester. **Jessica O'Leary** 41 Crafts Road has worked at the Atlantis for 10 years. As a single parent, the Atlantis provides her with working wages. They are taking care not of just their property but of their people. No one wants to just to make an eyesore or take away from the beauty of the Back Shore. **Denise Foley**, 57 Western Avenue speaking on behalf of the Port Community Alliance expressed that group was in support the ARHOD.

**Communications:**

**Linda T. Lowe** reported they received a petition on October 22, 2012 consisting of approximately 400 signatures in favor of the proposal provided by Attorney Faherty, which was made available to the Council by means of the Council tablet drop boxes. In favor, they received communications from: Bob, Ryan, 3 Blake Court; Hannah Goodall of 2 Harriet Road; Robert Heidt on behalf of the Cape Ann Chamber of Commerce; Jeffrey Mueller of Gloucester; Donna R. Desoni, Circle Consulting, Gloucester; and in opposition communications from: Gordon Baird, 27 Fort Hill Avenue; Jane Fonzo, 129 Atlantic Road; Tom Berger, 133 Atlantic Road and Sally Rowely-Williams, 13 Atlantic Road.

**Questions: None.**

**This public hearing is closed.**

**Councilor Tobey** stated the Committee Report yields a motion that would approve the proposal as originally filed, and therefore would not capture the compromise put before the Council tonight; and so asked consent to put forward a version of that motion that does capture the compromise put forward this evening. Without objection from the Council, the Councilor was instructed to proceed by **Council President Hardy**.

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 under Gloucester Zoning Ordinance Sec. 1.11.5 to AMEND the Gloucester Zoning Ordinances by enacting Section 5.26 entitled "107 & 125 Atlantic Road Hotel Overlay District" for the parcels located at Atlantic Road #107 and #125, Assessor's Map 72, Lots 1 and 3, as submitted to the City Clerk's office on October 17, 2012, which is attached hereto and incorporated herein by reference, and AMEND the Gloucester Zoning Map to create a 107 & 125 Atlantic Road Hotel Overlay District located at Atlantic Road #107 and #125, Assessor's Map 72, Lots 1 and 3 in the R-20 District as shown on the plan entitled "Structure Location Plan at 107 & 125 Atlantic Road located in Gloucester, MA," as signed by Richard G. Loud, R.P.L.S, dated 09/21/12, to accompany an amendment to the Gloucester Zoning Ordinance 107 & 125 Atlantic Road (f/k/a Back Shore Existing) Hotel Overlay District, dated October 23, 2012 as presented and authenticated by Attorney J. Michael Faherty and incorporated herein by reference.

**DISCUSSION:**

**Councilor Tobey** stated this has been a long and arduous process of review by the Planning Board and the P&D Committee. He expressed the belief they have built a record that indicated that while the original proposal might be appropriate under law and zoning policy, it was not optimal from the point of view of those who live nearby. They saw an impressive good faith effort by all to find a way to make this work. There are two pre-existing businesses with a long and commendable history, and a neighborhood with residents who had concerns that warranted consideration. This proposal was crafted through dialog, communication, compromise and negotiations; and he would vote for this zoning amendment and urged the Council to do the same. For the record, Mr. Faherty has authenticated the document which he referenced in the motion which captures all the proposals for language changes referred to earlier in the public hearing as well as had been reviewed by Attorney Pino who concurred this did capture the compromise Councilor Tobey then handed the document into the custody of the Clerk of Committees **Without objection the Council at 11:00 p.m. extended the meeting by a half hour.**

**Councilor Verga** expressed he was pleased by the compromise which for a while looked like it may not be able to be reached. He said it was a good thing for a couple of businesses on the Back Shore and good for the City.

**Councilor McGeary** expressed he would support the amended ordinance and commended all involved recognizing it was a long and arduous process to reach consensus. He encouraged the Council to vote in favor. The impetus behind this request was to avoid two good businesses and neighbors having to go through an unnecessarily long, drawn-out process to expand their businesses to compete in the modern world. He hoped if and when they come forward with a proposal the Council will perform their due diligence but to also act expeditiously to help forestall the costs that come with delay.

**Councilor Ciolino** stated he was also pleased with the compromise. He went to all the Planning Board meetings. At that time, the issue he brought up was about the “By Right” provision. Neither the Council nor the neighborhood should give up their rights. The Commercial Street Hotel Overlay District was done with no “by right” provision, so the Council could get public input. Whoever does the development goes through the Special Council Permit process. He did not object to the project; the hotels are well run; but zoning needs to be consistent. If they did the Fort property with no “by right,” and the ARHOD with no “by right,” it gives a message to whomever is an applicant for another overlay, that the “by right” will not be on the table. They will not give away the rights of the Council or the neighbors. The problem with this procedure is the dimensional requirements of GZO Sec. 3.2.6. That section needs to be overhauled as it is outdated. The reason they had to come forward with the overlay is that the dimensional table is outmoded. He would not support the overlay this evening, although he wants the project to go forward. The process they have in place is flawed and urged the Planning Director to look at the dimensional ordinance for revision. He is voting against the process not the project.

**Councilor Theken** expressed she, too, was pleased both sides came to an agreement. She also appreciated hearing from the employees of the hotels. They need to move forward. She said she would never have voted a zoning amendment that included “by right.” The agreement was a positive for the City, and would vote for the ARHOD.

**Councilor LeBlanc** also would support the ARHOD, saying these are well established businesses, and that they should not only build to survive but to build to thrive. He, too, expressed he was pleased to hear of the agreement.

**Councilor Cox** stated she would also support the overlay amendment. She expressed appreciation to the citizens who showed up to speak in favor and opposition as well at the public hearing.

**Council President Hardy** stated with the elimination of the “by right” provision she can vote in favor of the ARHOD. She expressed she was very pleased with the compromise. She looks forward to the project coming before the Council and will see that the Council acts as expeditiously as they can under the law.

**MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 1 (Ciolino) opposed under Gloucester Zoning Ordinance Sec. 1.11.5 to AMEND the Gloucester Zoning Ordinances by enacting Section 5.26 entitled “107 & 125 Atlantic Road Hotel Overlay District” for the parcels located at Atlantic Road #107 and #125, Assessor’s Map 72, Lots 1 and 3, as submitted to the City Clerk’s office on October 17, 2012, which is attached hereto and incorporated herein by reference, and AMEND the Gloucester Zoning Map to create a 107 & 125 Atlantic Road Hotel Overlay District located at Atlantic Road #107 and #125, Assessor’s Map 72, Lots 1 and 3 in the R-20 District as shown on the plan entitled “ Structure Location Plan at 107 & 125 Atlantic Road located in Gloucester, MA,” as signed by Richard G. Loud, R.P.L.S, dated 09/21/12, to accompany an amendment to the Gloucester Zoning Ordinance 107 & 125 Atlantic Road (f/k/a Back Shore Existing) Hotel Overlay District, dated October 23, 2012 as presented and authenticated by Attorney J. Michael Faherty and incorporated herein by reference.**

**A motion was made, seconded and voted unanimously by the Council to change the vote of the motion to enact GZO Sec. 5.26 to 9 Councilors in favor, 0 Councilors opposed.**

**For Council Vote:**

**Councilor Tobey left the meeting at 11:11 p.m.**

**1. Warrant for State/Presidential Election**

**MOTION: The City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to adopt the warrant for the State Election and Presidential Election to be held November 6, 2012.**

**2. CC2012-056 (Verga) Request Letter to MassDOT to allow placement of directional sign on Rt. 127 (Western Avenue) re: Magnolia Woods**

**MOTION: City Council voted 8 in favor, 0 opposed, 1 (Tobey) absent, to direct the City Clerk to forward a letter to Mass DOT asking that the City be allowed to place a directional sign on Rte. 127 (Western Avenue) approximately 500 feet before the entrance to the City of Gloucester facility known as Magnolia Woods which shall advise motorists of the location of the entrance to Magnolia Woods.**

**3. CC2012-059 (McGeary) Council vote in favor of Ballot Question #6 “Budget for All”**

**Councilor McGeary** explained to the Council that he asked this resolution be placed on the agenda at the request of Gloucester citizens in order for the Council to be able to vote to express support of Ballot Question #6 to change national budgetary expenditures away from military spending and support those of social policies. **By special request of Councilor McGeary, and with the permission of the Council, Jeanne Gallo**, 2 Harvard Street was allowed to address the Council who stated they seek the Council's endorsement on Ballot Question #6, "Budget For All" referendum to redirect the country's economic priorities and made a brief statement in support of the Council's voting in favor of a resolution. She submitted in writing to the Council a copy of the ballot question and an explanatory text which accompanied it for the record. **Councilor Verga** stated this ballot question is non-binding but it sends a message that the USA does not need to outspend its allies ten times over as to the military. **Councilor Whynott** would not support this motion and expressed the belief it is not the right time to cut the Defense budget. **Council President Hardy** stated she would not support this vote. She expressed her opinion that the City Council should not be taking a position on ballot questions. Rather, they should vote as individuals and would not "advertise" to the public how she would vote on anything. Her opposition is to the premise, and it is not the City Council's place to tell the voters how to vote.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Verga, the City Council voted 6 in favor, 2 (Whynott, Hardy) opposed, 1 (Tobey) absent that the City Council records itself as favoring a "YES" vote on Ballot Question #6 on the November 6, 2012 ballot which is commonly referred to as "the budget for all" and which asks:**

**"Shall the state representative from this district be instructed to vote in favor of a resolution calling upon the Congress and the President to:**

- 1. Prevent cuts to Social Security, Medicare, Medicaid, and Veterans benefits, or to housing, food and unemployment assistance;**
- 2. Create and protect jobs by investing in manufacturing, schools, housing, renewable energy, transportation, and other public services;**
- 3. Provide new revenues for these purposes and to reduce the long-term federal deficit by closing corporate tax loopholes, ending offshore tax havens, and raising taxes on incomes over \$250,000; and**
- 4. Redirecting military spending to those domestic needs by reducing the military budget, ending the war in Afghanistan and bringing U.S. troops home safely now."**

**Unfinished Business: None.**

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

**Councilors' Requests to the Mayor: None.**

A motion was made, seconded and voted unanimously to adjourn the meeting at 11:22 p.m.

Respectfully submitted,

Dana C. Jorgensson  
Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- **Photographs of Stage Fort Park re: condition of park after September 29-30, 2012 Essex County Velo Cyclo-Cross Event by David Dow**
- **Copy of petition in support of Special Council Permit application by Magnolia Historical Society to operate a museum and cultural center in the former Blynman School, Magnolia Avenue #46 submitted by Attorney Mark Nestor**
- **Authenticated copy of "107 & 125 Atlantic Road Hotel Overlay District" Sec. 5.26 language to amend Gloucester Zoning Ordinances by Attorney J. Michael Faherty as handed into the custody of the Clerk of Committees by Councilor Bruce Tobey**
- **Addendum to petition with additional signatures submitted to City Council on October 22, 2012 in support of 107 & 125 Atlantic Road Hotel Overlay District submitted by Attorney J. Michael Faherty**

- **Full text of remarks made by Jeanne Gallo with additional information regarding Ballot Question #6, taken up under “For Council Vote,” Item #3**
- **Graphic entitled, “Defense Spending, US vs. 9 next largest nations by spending” submitted by Councilor Paul McGeary**