

SPECIAL GLOUCESTER CITY COUNCIL MEETING

Tuesday, July 2, 2013 – 7:00 p.m.

Kyrouz Auditorium – City Hall

-MINUTES-

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

Absent: None.

Also Present: Linda T. Lowe; Jim Duggan; Kenny Costa; Fire Chief Eric Smith; Jonathan Pope; Kathy Clancy; Melissa Teixeira; Deputy Fire Chief Stephen Aiello; Captain Tom LoGrande; Val Gilman; Tony Gross

The meeting was called to order at 7:06 p.m.

Flag Salute & Moment of Silence.

Unanimous Consent Calendar:

1. *City Auditor's Recommendation for the appointment of Aleesha Nunley to the position of permanent Assistant City Auditor under the Gloucester Code of Ordinances Sec. 2-109* (Refer B&F)

By unanimous consent, the City Council referred the single item Unanimous Consent Calendar to the B&F Committee.

[Note: The two agenda items before the Council were taken up as Item #2, then returning to Item #1 and then again to Item #2.]

For Council Vote under City Charter Sec. 2-11(b) – To adopt as an emergency measure in involving the health and safety of the people under City Charter Sec. 2-11 (a) and (b):

1. That the Council asks the Mayor to immediately appropriate the monies needed to reopen the fire outstations in Bay View and Magnolia on a 24-7 basis until the terms of the new fire contract, which enables that, to begin.

Councilor Tobey explained that Item #2 which he has asked the Council move forward is that the City Council, as the appointing authority, direct the City Auditor, who works for the City Council, to not sign any lease for any facilities to be leased for use of any agency or department of the City until the City's fire outstations are reopened on a 24-7 basis. He said he had raised this matter before the Council and the community during FY14 budget deliberations; that money was going to be spent on renting a preschool building when the City already owns a building that could be restored and maintained. Through the Gloucester Daily Times, he said, the Council learned the lease for the preschool is likely to be awarded. He pointed out he would not put forward the measure to be voted on this evening if he knew that the Administration was committed to funding such a lease whereby it has to come before the Council for approval and the Council could have a public hearing on it and finally and hear from the City's taxpayers whether the City should spend money to rent a building or spend money to fix something it already owns. He asked the Chief Administrative Officer, Jim Duggan, how this lease would be paid for and what process it would entail. By unanimous consent of the Council, Mr. Duggan was permitted to respond to Councilor Tobey's question.

Jim Duggan, CAO said that the funding for the potential lease agreement for the former Charter School in the Blackburn Industrial Park will come from the DPW's Dept. 472, Public Properties-School Buildings, utility and maintenance accounts of which a portion was already earmarked for utilities and maintenance expenses of the Fuller building. This will be an internal transfer to sufficiently fund the lease payments in addition to the janitorial services, supplies and maintenance of that building.

Councilor Tobey said he didn't recall hearing that information from the Administration during the budget discussions before the Council nor did he recall it being discussed with the B&F Committee. **Mr. Duggan** said it was not. Responding to **Councilor Tobey's** inquiry if that was an honest approach to spending taxpayer money, **Mr. Duggan** said, "No, it was not discussed at B&F." **Councilor Tobey** then asked would the Administration bring

it before the Council for its approval since it was done with subterfuge, in his opinion, at the B&F Committee level and in the public hearing process through which the Council enacted the budget. **Mr. Duggan** said, "No."

Councilor Tobey said it was disheartening when people who serve the community for a long time are coming to him to say that the only way we may get the City to stop destroying the buildings it owns and live up to its fiduciary responsibilities, would be to sue the City. He then asked for the resumption of the order of the City Council's agenda. He also acknowledged the presence of Mrs. Barbara Jobe who he said was the reason which prompted him to bring forward the first order.

Mr. Duggan said the baseline terms of the lease were not negotiated until just recently, the day before the Times article due to unforeseen circumstances. He said nothing was discussed with the landlord prior to the B&F Committee's budget review and prior to the passage of the budget with regards to a lease whatsoever. **Councilor Tobey**, suggesting that the date was that the Request for Proposal (RFP) was issued for the possible building to rent in May, asked had there been a plan to fund the lease at that time. **Mr. Duggan** said the School Committee made a request to the Administration to take the necessary steps to explore possibly moving the school administration, transportation and preschool to the Charter School building. The Administration is exercising that request, he said.

Councilor Tobey asked if this Administration committed to spending any money to the maintenance of the \$17 million valued Fuller School. **Mr. Duggan** said, "No;" at \$609 per square foot for renovations for 10,000 square feet is an estimated \$6 million which is a small portion of the building. **Councilor Tobey** said the bones of the building are there; the building will stand and be restored. He pointed out it takes will of which he sees none and that **Mr. Duggan** had said there is none - that no money will be spent to which **Mr. Duggan** agreed.

Councilor Theken expressed concern for the affected children. She said she understands that the funding comes from the DPW for the lease and asked if that was leftover money leftover and where does it come from because it wasn't voted for at B&F. **Mr. Duggan** said he would appear at a B&F Committee meeting and the Council and explain the terms of the lease once they are finalized. He reiterated that the funding sources for the lease is the DPW's Dept. 472, and explained that in the budget process money was set aside for maintenance and utilities of City and school buildings. The portion of funds is being used that would have been earmarked for utilities and maintenance of the Fuller building is being applied to a building that can house the School Administration, the preschool and the school transportation department so that it can function in a solid environment, he said, with all school buses stationed there. Fuller School, **Mr. Duggan** said, will be used for cold storage of DPW maintenance supplies, and the DPW maintenance office will be relocated to the DPW yard in building space available there.

Council President Hardy asked if the DPW's Dept. 472 Facilities had enough funds to pay for the lease and maintenance of the former Charter School now. **Mr. Duggan** confirmed that there was enough money. **Council President Hardy** said when Dept. 472 was being discussed at B&F during the budget review there were overtures as to how this money was to be spent, and said she didn't recall hearing it would be spent for rental and maintenance of the Charter School building. **Mr. Duggan** said the line items were for the maintenance and utilities of City buildings, which included the Fuller building. Earmarked within the Facilities budget, a portion was for the Fuller Building now will apply towards lease payments for the Charter School building. It will, he said, cover all the rent, maintenance and utilities. **Mr. Duggan** said that would all come out of Dept. 472. Specific details, he said, need to be worked out; but in the base of the lease it is approximately \$261,000. It will cover janitorial services, supplies, and will supply regular scheduled maintenance to the building.

Council President Hardy said she didn't think there was enough money in Dept. 472 to cover \$261,000 for the lease. **Mr. Duggan** said the Chief Financial Officer and DPW Director assured him that Dept. 472 has the necessary funds to be able to have it drawn to transfer into contractual services, and will be enough. **Council President Hardy** asked what would happen if three months into the lease it was discovered there was a need for more funding asking where the transfer of funds will come from without coming to the City Council. **Mr. Duggan** questioned under what circumstances more money would be needed. **Council President Hardy** reiterated she her belief there was not enough money in Dept. 472.

Council President Hardy said the Fuller School needs to be fixed. **Mr. Duggan** reiterated that the Administration is proceeding with the Charter School lease and respecting the School Committee's request. They are moving forward and the funding source will come from Dept. 472. He said the Administration will be happy to talk to B&F and give a full explanation, and by then by the next meeting the details of the lease, the specifics, in the event of the issue, who the Administration calls, will be worked out.

Agreeing with **Councilor Theken's** suggestion, **Council President Hardy** said the Council should schedule a public hearing and perhaps squeeze in a B&F meeting before that. She then asked how many square feet would the lease be for at the former Charter School building. **Mr. Duggan** said the lease is for 21,900 square feet with room to expand for the preschool should that be needed, taking up the entire building. **Council President Hardy**

commented it is a lot of square footage for three uses. **Mr. Duggan** said currently School Administration uses 10,000 square feet at the Fuller building.

Councilor McGeary noted Mr. Duggan no on doing anything to the Fuller building to support it, and presumed that meant pipes will be drained, etc., and the school will be mothballed; and spend the necessary funds to preserve it, with that money is available in Dept. 472. **Mr. Duggan** said he didn't know if the funds came from Dept. 472 for the mothballing of the building, but he would identify that source of funding with the DPW Director. **Councilor McGeary** said if the Administration makes an incorrect assumption on funding and if something unforeseen occurs, and the Administration has to come back to the Council. He said he wondered if perhaps it would be good to put this lease before the Council, even though it appears legally that the Administration has the right to transact this business by internal transfer within the DPW accounts. **Councilor McGeary** suggested it would be wiser to have this discussion before the Council. He said he did not like tying this discussion to an emergency preamble as he said he did not think this was an emergency. However, he stated here is some urgency about this matter, and said he would like the Administration to commit to a public forum, whether at B&F or a public hearing before the Council which he noted he would prefer, to outline for the public what exactly this entails – what will be done with the Fuller School; the former Charter School building; what are the costs; who pays for what and where are the funds coming from. **Councilor McGeary** said while legally the Administration might not have to do that, politically it would be expedient. **Mr. Duggan** said he would commit to the conversation but said he wished to be clear that the Administration is going to proceed with the specifics of the lease and would share those particulars with the Council at a public hearing. **Council President Hardy**, on inquiry by **Councilor McGeary**, confirmed that the City Council would not have to vote on the leasing of the former Charter School building because it is not City property; it is not a lease of a City asset, which was also confirmed by **Councilor Tobey**.

Councilor Ciolino said the transfers would come before B&F for transfers. **Mr. Duggan** said it is not required. **Councilor Ciolino** asked would the preschool would be opened by September if the lease is signed. **Mr. Duggan** said it will be August 15th to give enough time for the preschool, the School Administration and the Transportation Department to be settled into the new location before the start of the school year. **Councilor Ciolino** asked about the installation of telephone systems, etc., and the actual cost of these moves. **Mr. Duggan** said that is to be worked out and an RFP will be issued for that service. Internal staff through DPW will help to coordinate the move with the School Administration.

Councilor Ciolino noted the Fuller building can't be used as a school unless millions of dollars are spent on renovations. **Mr. Duggan** expressed his agreement, and said as of the previous day, the next submission to the Massachusetts School Building Authority (MSBA) was made, and one of the four scenarios reviewed by the School Committee and the West Parish building committee and approved to be submitted to the MSBA was the Fuller building renovation at a price of \$67 million; whereas other scenarios were in the \$30 million range, or at \$609 per square foot. In order to move the student population, teachers and administration would be taking 65,000 square feet that the contained in the West Parish School now but in order for that population to go into the 85,000 square feet of the Fuller building it would cost \$67 million to renovate. **Councilor Ciolino** said that the City has to say the Fuller will never be used as a school again. He said the discussion has to be had of what to do with that building other than a school use. The proposals need to come back to the table, he said, and asked is there a plan once the move is made to move the last occupants of that building. **Mr. Duggan** said currently there is no long-term plan for the building which they would make a presentation to the City Council on what potential options that the Administration could go forward with. **Councilor Ciolino** said there are many uses for the Fuller building but it would not be a school. **Mr. Duggan** said shuttering the building is the first step.

Councilor Verga asked what the term of the building's lease is which **Mr. Duggan** informed the Councilor it is a three year lease with no escalation.

Councilor Cox said that the question of the future use of the Fuller building is on the municipal ballot for November as a non-binding question so that there will be public input. She said it is important that the School Administration and preschool be in place for September and expressed concern all will be ready for the start of the school year.

There was a discussion by the Council of the non-binding advisory question on the Fuller School whether it was actually voted by the City Council to which **Linda T. Lowe**, City Clerk, was able to confirm the non-binding question was voted by the Council to be on the November municipal ballot but that the language of the question remains to be finalized before the printing of the ballot.

Councilor Tobey responding to an inquiry by **Councilor McGeary** said his goal is to try to avoid the necessity of any votes on this matter because there might be opportunities in the future to have the public weigh in on the wisdom of this lease and not spending a dollar on Fuller. He said he also understood Mr. Duggan's position is that Administration going to do proceed to fund the lease with internal transfers and is willing after the fact to have the

Council discuss it in a public hearing and also. **Mr. Duggan** said the Administration would share the details of the lease and noted the lease signing has not been scheduled; the particulars are still being worked out. The Administration, he said, would be happy to share it with the Council if they wish to have a public hearing. **Mr. Duggan** reiterated again that it is the intent of the Administration to support the School Committee's request and enter into the lease agreement for the former Charter School building.

Councilor Tobey asked that the minutes of the FY14 budget meetings, the Council votes on the budget and fiscal year end transfers done in the last Council meeting in June, that the Council receives extracts as soon as possible specific to the discussions had by the Council about the lease, its financing and who is doing what to whom in terms of its consideration. **Councilor Tobey** asked when the lease is anticipated to be signed. **Mr. Duggan** said he still needs to work out particular details with the Superintendent of Schools and the Chair of the School Committee, but said he expected it to be within two weeks. **Councilor Tobey** asked when Mr. Duggan expected the City Auditor to exercise his statutory roll without which there can be no binding contract under Massachusetts law, certifying the availability of funds by signing the contract. **Mr. Duggan** said he wasn't sure about a date.

Councilor Tobey moved and Councilor Verga seconded that the City Council should adopt, pursuant to City Charter Sec. 2-11(a) and (b), a declaration that an emergency exists involving the health and safety of the people that as the City Council is the appointing authority to direct the City Auditor to not sign any lease for any facilities to be leased for use by any agency or department of the City until the fire outstations are reopened on a 24-7 basis.

Councilor Theken asked if this lease was discussed by the School Committee. She said this is being considered an emergency because no one knows about this lease. She said she didn't believe the School Committee made their request to the Administration in a vacuum. She then said she would not support a declaration of an emergency on this matter as the Council had not heard from the School Committee members who were present and could respond to Councilor questions at this time. **Council President Hardy** said this was why the Council would hold a public hearing on the matters of the Charter School lease and the Fuller building.

Councilor LeBlanc asked Mr. Duggan if he could assure the Council that in year 2 and year 3 of the lease that no money from the school budget will be used to fund this lease. **Mr. Duggan** said no money will be taken from the school budget to fund year 2 and 3 of the lease.

Councilor Verga said he agreed with Councilor Tobey to not have had to make this emergency declaration, but added it seemed it was either an oversight or purposely not mentioned during the budget process on the Administration's part regarding the Charter School lease, and not spend one dollar on Fuller which was just confirmed. Because of those reasons, he said, he would support the emergency order, adding it would be better, however, to cooperate.

Councilor Ciolino expressed his concern for the order in which matters are being taken up from the Council agenda noting this matter is supposed to tie into the Fire Department and funding the full-time opening of the Bay View and Magnolia Stations and the funding. He expressed further concern that by moving forward with the second agenda item before taking up the fire station opening matter it was changing the intent of the Council action, as the second matter is tied to the first.

Councilor Tobey announced he withdrew the motion for the emergency order on the lease matter to accommodate the possibility that the Administration will reopen Magnolia and Bay View 24/7.

Councilor Whynott asked if the City Auditor was asked to not sign the lease would it be legal or did he have a fiduciary responsibility to sign it. **Mr. Costa** said that typically he checks to see if the funding is available. As to the legality of withholding his signing off on the lease, this is something he would check with the Department of Revenue's legal division. In this instance he would not approve the purchase order so it would not hit the General Ledger. There would be nothing to accompany a contract. This is something he would have to do research on, he said, as he's never come across this situation before. **Councilor Whynott** asked if the Council told Mr. Costa to wait two weeks would it be something the Auditor could do to which **Mr. Costa** said he could.

Council President Hardy said should Dept. 472 run out of money and be unable to accommodate the lease, there would have to be transfer of money which **Mr. Costa** confirmed. **Council President Hardy** said such a transfer; say from DPW Dept. 470 to Dept. 472, would have to come before the Council. **Mr. Duggan** said if there is a necessity to transfer money in the Administration would look at other DPW funding sources first but would not hold out any other department's funding. **Council President Hardy** asked and received confirmation from Mr. Duggan that a transfer of funds between DPW departments to continue payment on the lease would have to come to the Council for approval of the transfer.

The emergency preamble proposed by Councilor Tobey was voted unanimously by the Council to be withdrawn.

Councilor Tobey speaking to the first matter proposed on the agenda said he linked the two issues because he was concerned to learn through the newspaper that the City had money to lease a building but not the ability to provide public safety services to reopen outlying fire stations. In a year they will be, due to the new Fire contract, he noted. But in the interim, he pointed out, there was one near tragedy in Lanesville and now another and announced he would move for an emergency declaration so the Council can ask the Mayor, as the law requires, to recommend an appropriation of money for the reopening Magnolia and Bay View fire stations for the balance of the fiscal year. **Councilor Tobey** pointed out that under the law the City Council cannot increase a proposed budget appropriation for Fire Services. It can for schools because of an exception in the law, but there is no such exception for anything else. The Council can only approve as much as the Mayor recommends; the Council can cut but not increase funding, he said. **Councilor Tobey** said he was asking that the Mayor to recommend the increase in funding to the Fire Department's overtime account because of the near tragedy that the Jobe family faced because the Bay View Fire Station was closed. He noted the presence of Mrs. Barbara Jobe in the audience and asked the Council that she be heard.

Without objection by the Council, Mrs. Jobe was invited to speak to the Council.

Barbara Jobe, 8 Duley Street expressed her thanks for the Council, the Fire Chief, the Council to see that the stations in 2014 be open 24/7 making a huge difference in the future but asked what happens in the meantime. There are 14,222 residential units in Lanesville with outbuildings, sheds, she said; and a low estimate with 2 people per residents is 2,900 affected people. She told of an incident of a 73 year old Lanesville resident who in May tumbled down her cellar stairs and grievously injured, and it took 11 minutes for her to get help, she said. Mrs. Jobe said in her family's case, it was 12 minutes because the Bay View Fire Station was closed on June 23rd; Bay View was open for the day shift but closed for the evening shift. She said the average ambulance response time is 6 minutes anywhere in the City, but it didn't explain the lag time. **Mrs. Jobe** noted there are many projects for revenue to be spent on in the City, but the Bay View fire station closing for even a day is a lifesaving issue. Life safety issues, she said, should be first priority before anything else. She asked if the Council felt comfortable with taking chances with 2,900 lives. She said the Mayor gave the Council a budget that didn't give the funding for Bay View to be open. She said this is life and death, pointing out it is statistically proven that lives are saved with shorter response times. She said what this says is that the lives of Lanesville residents do not matter although they pay their taxes. After a Lanesville woman died in a house fire near to the Bay View Fire Station several years ago, the station was reopened full time, but that hasn't been for some time. **Mrs. Jobe** asked how long is too long for anyone to wait for help in an emergency. The response time from Bay View Fire Station to her house is 3 to 4 minutes she pointed out and reiterated that life safety issues are the most important before everything else.

Councilor Tobey moved and Councilor Whynott seconded that the City Council should vote pursuant to City Charter Sec. 2-11(a) and (b) the City Council declares that an emergency exists involving public health and safety due to the fact that the Magnolia and Bay View Fire Stations are not open on a 24/7 basis.

Councilor Tobey asked if the Administration is willing now to recommend appropriations to fully cover for the balance of the fiscal year the opening 24/7 of Magnolia and Bay View Fire Stations.

Mr. Duggan, speaking directly to Mrs. Jobe, said on behalf of the Mayor, the Administration was pleased to hear Mr. Jobe is on the road to recovery and expressed the Administration's apology for what happened to him. He then said the Mayor has authorized Chief Smith to backfill to 16 firefighters in order to open Bay View, which will be closely monitored and reviewed constantly, he assured. As the Fire Department's overtime account, when it is depleted, the Administration will come back before the Council in November at the time of Free Cash Certification to regenerate those funds. As to Magnolia, **Mr. Duggan** said it is Chief Smith's directive that he is not willing to put any staff at this time in that station. He said it is dry with a new roof and has a new heating system; there is work to be done to remediate the building: electrical, kitchen, asbestos removal and mold issues. **Mr. Duggan** said Council President Hardy has been in his office consistently over six years as to when is Bay View going to be open; and said the time the station is open needs to be increased, and they have increased the time. He pointed out there is \$140,000 in a capital plan that is pending before the Council; that money will be used over the course of the year to fix the building correctly. On July 1, 2014 with the consolidation of the Fire Department from three groups to four groups, the agreement is that there is an opportunity to open those stations up. He also commended the leadership of the Fire Department and the rank and file for forging this new agreement with the Firefighter's union.

Councilor Tobey asked is money in place for the restoration of the Magnolia Station. **Mr. Duggan** said there is money pending. The \$140,000 he just spoke of was postponed as part of the capital projects that are pending before the Council awaiting a report by the CIAB. **Councilor Tobey** said once that money is approved by the Council, how long it will be to open Magnolia. **Mr. Duggan** said with private vendors and City staff it will be ready for full operation by July 1, 2014; and it will take that long with funding is available.

Councilor Tobey spoke of Bay View saying that the position of the Administration is to spend the \$100,000 and come back in November and see what can be done thereafter. He asked if the Administration could commit to fund the overtime for the balance of the fiscal year. **Mr. Duggan** said that he cannot promise that Bay View would be open 24/7. The Fire Chief has the authorization, he said, to backfill to staffing of 16 firefighters per shift starting at 7 a.m., tomorrow which would be closely monitored but said he could not guarantee that whatever the circumstances that Bay View might be closed for a shift and so could not promise.

Councilor Tobey said that no one in the room created the situation that the stations are closed. He said he lived with one of these situations as Mayor and had to close stations. At the first opportunity he reopened them when there was money. He said he found the cost and time to fix Magnolia was concerning. The reason in 1995 as Mayor he moved to reopen the buildings is that people's lives were at risk and found a way to keep open the outstations open. The bad times that fell upon the City because of state aid cuts and recession; the outstations were closed, and when it went away the City could take action. He noted state aid is back, \$80,000 more than was originally appropriated. There was over \$4 million in Free Cash last year; the economy is expanding; the City is growing slowly, he said. The right thing can be done now, he pointed out; the City is doing better, and the Council should give the City the level of public safety it deserves. The first step is to vote the emergency order; the second step is for the Mayor to fund the money to reopen those stations 24/7; and the third step is for the Council to approve the money. Councilor Tobey said he would support this motion. He agreed that personnel should not be in a building that makes them sick and understood why it will take time to reopen Magnolia Fire Station. This is a good start; he said and asked the Council to vote for step 1 so the Council can then vote on a motion to ask the Mayor to appropriate the money.

Councilor Verga said he would support this Council action noting it would be great if Magnolia could be open 24/7 but agreed that personnel should not be stationed in a building that is sick pointing out the City already does that with City Hall. He said he was discouraged that the City was looking at a year timeframe to reopen the Magnolia Fire Station. It was asked at one point for an inspection report and expressed his hope the Administration would come forward with a list of what needed to be done to remediate that station and a timeframe in which it is to be accomplished. But short of that, he said, this is a good start.

Councilor Ciolino said if Magnolia is not going to be open for the foreseeable future, he asked what the opening schedule for West Gloucester is. **Mr. Duggan** said that is part of the minimum manning schedule under contract and will open up 24/7. When manning goes to 16 it opens up Bay View and when it goes to 18 it opens Magnolia, he said. **Councilor Ciolino** said one of the items to be funded with Free Cash on the B&F mid-year list is that \$100,000 was supposed to go to overtime for the Fire Department. He said the Fire Department could spend the overtime account now aggressively. **Mr. Duggan** said by early November Free Cash would be certified, and the Administration would take a hard look at what the level is, the department's run rate and invest earlier into Fire Department overtime if necessary. Although this matter is on the agenda for the first meeting in January at B&F, that matter could be addressed earlier, in November, he said. **Councilor Ciolino** suggested that the stations need to be opened. He agreed with Councilor Tobey that once Free Cash is certified that Magnolia Station should be opened and in January with an influx of Free Cash that both outlying stations can be open and is a workable plan. **Mr. Duggan** noted a week ago there was a team meeting with Chief Smith, the DPW Director and Facilities Manager to assess the Magnolia Station, and he would get Councilor Verga an itemized list. Chief Smith, he said, has been adamant to see that the station is ready for July 1, 2014. **Councilor Ciolino** also suggested in order getting the Magnolia Station open by January the work should be put out to bid to get it done at once rather than doing it piecemeal.

Council President Hardy said she and Councilor Verga had asked that the mold and asbestos in the Magnolia Station be looked at through an independent review. **Mr. Duggan** said it would be done by an outside vendor that is under contract.

Councilor Whyntott added his support of the emergency preamble.

Councilor LeBlanc said he would support this motion. He added that it is vital that all citizens of Gloucester feel safe. He expressed his respect for Chief Smith's stance of not putting any staff in the Magnolia Station until it is fully livable. He, too, asked the Administration to speed up the process to renovate that station.

Councilor McGeary said he would not support the emergency preamble, in part because there is a commitment by the Administration to staff Bay View which was a more critical issue. He said he understood the

Administration to have said they will allow the Chief to spend whatever is necessary to maintain 16 people on staff which implies that Bay View is open; to which **Councilor McGeary** said Mr. Duggan was indicating his agreement by nodding yes. The Council understands that no one can predict every eventuality, but that it is the Administration's intention that that Bay View will be open 24/7 for FY14 barring something unforeseen. **Mr. Duggan** said it is the Administration's intent to see that Bay View is open through the fiscal year. He reiterated there would be certain milestones that will be reviewed, the level of run rate, the amount spent to that date at the time of Free Cash certification. The Administration will put money back into the overtime account if needed and will come back later in the fiscal year if necessary. He said it is the Administration's goal, although not guarantying it, to have Bay View open 24/7 to the best of their ability. **Councilor McGeary** said the Auditor prepared an up-to-the-minute expenditure list on overtime for salary and wages overtime, Account 51300, through today; and \$585,000 has been spent. He noted there was about \$350,000 in the budget, and there is another \$100,000 being spoken of in Free Cash; and there is a request on the January B&F funding wish list for \$100,000 from somewhere assuming the funding will needs to be the same amount. **Mr. Duggan** reminded the Council that the previous year \$246,000 was invested from Free Cash into the Fire Department's overtime account. The Administration is not objecting to making that investment again mid-fiscal year, he said.

Councilor McGeary asked how many days Bay View been closed in June. **Fire Chief Smith** said it was closed 25 percent of the time. **Councilor McGeary** noted that the Chief has been doling out overtime in two week increments (which constitutes a pay period), and said there was a small reserve of overtime funding left. **Councilor McGeary** suggested that in theory that money could have been used to open Bay View more than it had. **Chief Smith** said staffing is a moving target with vacations, injuries and sick leave and accounts for the small remainder. **Councilor McGeary** said based on this intent; he did not see the need to declare a public emergency so would vote against it.

On a question of procedure by **Councilor Cox**, **Councilor Tobey** said the Council can't make the Administration use the money, but they can ask for the Administration put the money forward for Council approval. He said he was marking the motion to accommodate Councilor Ciolino's request; and therefore, he would offer motions to request the Mayor to recommend to the Council for a full year overtime funding for Bay View and starting January 2014 for the opening of Magnolia. If the building inspector says firefighters can't go into the station, then they can't. If the emergency preamble is scaled back it would guarantee 24/7 opening for Bay View and get money in place and get Magnolia Station funded for renovation open for January 2014.

Councilor Theken said her priorities were safety and seniors. She would support full time staffing of Bay View 24/7. She asked how the funding of the repair of Magnolia Station would be worked because she did not want to put firefighters in jeopardy by putting them into Magnolia Station before it is completely ready for staffing.

Councilor Ciolino asked how the new motion would affect the Charter School lease. **Councilor Tobey** said that he would be willing to continue item #2 until the next regular meeting of the City Council and see what transpires in the meantime. The City Auditor will have to pass on the internal transfers.

Council President Hardy said the next regularly scheduled meeting of the City Council would then be on the 16th of July to accommodate the issue of the Charter School building lease. **Councilor Tobey** said he would not pursue the second agenda matter now that he knew it would be on the Council's agenda on the 16th and the City Auditor would be reviewing matters then.

Councilor McGeary said a B&F meeting can be scheduled. He said he understood an ordinary to ordinary account transfer can be done, and there is nothing to stop the Administration from doing so. **Mr. Costa** confirmed it is a bookkeeping entry. **Councilor McGeary** asked if it could be done as a Special Budgetary transfer. **Mr. Costa** said it could, but it is unusual.

MOTION: On motion by Councilor Tobey, seconded by Councilor Whynott, the City Council voted by ROLL CALL 9 in favor, 0 opposed that pursuant to City Charter Sec. 2-11(a) and (b) the City Council declares that an emergency exists involving the health and safety of the people in large areas of Gloucester due to the closure of the Bay View and Magnolia Fire outstations which leaves thousands of Gloucester residents in the dangerous situation of having inadequate fire and lifesaving services protection because the outstations are not open on a 24/7 basis.

Councilor Tobey moved pursuant to the emergency preamble, and seconded by Councilor Ciolino, that the City Council ask the Mayor to recommend to the Council the immediate appropriation of the full funding needed to reopen immediately on a 24/7 basis the Bay View Fire Station pending the terms of the new Fire contract enabling that to occur as a matter of course on July 1, 2014.

Councilor Tobey said this was a stopgap measure to give the Council the ironclad assurances that were not forthcoming this evening that Bay View Fire Station will be open every hour of every day.

Councilor Whynott requested a detailed description of how the station opening would be funded. **Councilor Tobey** said it would come to the Council with that statement attached to justify it if it comes to the Council.

Councilor McGeary said currently there is \$350,000 in the Fire Department overtime account; it would be acceptable if that was spent presumably and by the time the Free Cash certified, sources of income for the overtime could be identified, but the motion says immediate. **Councilor Tobey** said that Free Cash is being certified in the large amounts recently seen by the City because the Administration has been inadequately funding important public services and being too conservative in estimating revenues. He said he wished to accomplish through this effort to stop that methodology. Funding, he said, of critical day-to-day service should not be contingent on Free Cash but on appropriations on an existing General Fund which he said was good municipal financial practice and said he wished which the City should return to. **Councilor Tobey** said he would then have the Administration come back requesting the City approves Free Cash several times for that use. He said he wanted to see this as part of the General Fund just as it was in comparable financial times in recent history.

Councilor McGeary said that this Budget & Finance Committee did increase significantly revenue estimates above the revenue estimates of the Administration and did tap into Free Cash at a much higher rate than the Administration first recommended. He expressed his concern saying that there were some good compromises such as finding more money for the schools. **Councilor McGeary** said it is unfortunate that after all that revenue work the B&F Committee found \$127,000 in additional revenue and the state cut was about the same, although \$80,000 in state aid came back and suggested it would be more appropriate to wait and see how things play out first.

Councilor Tobey said when he became Mayor the City's bonds were junk and when he left they were A1 and that the period is the same as it was in 1998 - 2001. He commended B&F for taking the first step and urged they take the second and third step with more realistic approach. He didn't wish, he said, to wait after the two recent incidents in Lanesville.

Councilor Whynott said he did not wish to see a certain amount of money put aside to keep the outlying fire station open; rather, he wished to see the overtime replenished on an on-going basis.

MOTION: On motion by Councilor Tobey, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 9 in favor, 0 opposed pursuant to the emergency preamble under City Charter Sec. 2-11(b) to ask the Mayor to recommend to the Council the immediate appropriation of the full funding needed to reopen immediately on a 24/7 basis the Bay View Fire Station pending the terms of the new Fire contract enabling that to occur as a matter of course on July 1, 2014.

Council President Hardy reminded the Council that the emergency measure proposed under Charter Sec. 2-11(b) automatically expires upon the completion of the 61st day. The Council would have to place this matter on another agenda in order to extend it. **Councilor Tobey** said if the declaration of an emergency comes back in 61 days which is the limit of an emergency order, this matter would be moot because the money didn't come forward. Because this is passed on an emergency basis this recommendation goes to the Mayor immediately and not subject to Mayoral veto, he said.

Councilor Tobey moved reconsideration of the Council vote Mayor to recommend to the Council the immediate appropriation of the full funding needed to reopen immediately on a 24/7 basis the Bay View Fire Station pending the terms of the new Fire contract enabling that to occur as a matter of course on July 1, 2014, seconded by Council President Hardy and was voted by ROLL CALL 1 (Whynott) in favor, 8 opposed.

MOTION FAILS.

Councilor Tobey moved pursuant to the emergency preamble, and Councilor Verga seconded that the Council ask the Mayor to recommend to the City Council the immediate appropriation for the funds needed to reopen on January 1, 2014, subject to Building Inspector certification and any other required clearances, the Magnolia Fire Station for the remaining months of FY2014.

Councilor Tobey said this proposal is a reasoned balance approach to get the Magnolia Fire Station open. If the Administration, he said, would undertake with a good faith effort to get the building fixed and put the money forward to get the staff and equipment there, a good thing will be done. This will engage the function of representative government carrying forward the desires and needs of the people that the Council serves.

Councilor McGeary said he would oppose this Council action, in part while he understood the urgency and concern of Magnolia residents, there is a fire station in West Gloucester and while not as close as the Magnolia station, it is closer to Central Station relationally than Bay View. With the long timeline for the station's repair, he said it makes sense because the Administration intends to use the City's own DPW workers to save costs, and by necessity it will take longer because it would be squeezed in around other duties. He said this was a prudent thing to do; and the one year timeline outlined by the Administration for Magnolia is fine, he said. The building is not habitable and will require considerable work to be made habitable, he pointed out; and while it could be done as a crash program, **Councilor McGeary** said that would come from other capital expenses on the capital expenditures which are to be put forward and so the only way to do that is to hire outside contractors at a greater cost. He concluded it is an appropriate compromise to shoot for July 1, 2014 for the reopening of the Magnolia Station.

Councilor Verga said he would support the revised motion which covers the concerns of the sick building as he did not want firefighters breathing unhealthy air. This is an emergency, he said, and it is long overdue to make something happen there. If there is a date certain included, the motion, it protects the City if the building is not ready but also forces the City to get going and get it done, he noted.

Councilor Theken said the Council is being hypocritical in that the City is not willing to put students into Fuller because of its condition and the mold there, and yet they will put firefighters into a building that is in bad shape. There have been no reports on the station's condition, no estimate of costs. She also asked if firefighters would be hired to open the station. Bay View, she said, deserves to be open. She said she could not support this motion unless she received assurances that West Gloucester would be open 24/7 guaranteed. **Fire Chief Smith** said due to the staffing levels currently in the department to open Magnolia station would have to be done with overtime. There aren't, he pointed out, enough bodies per shift to manage it which is why under the contractual consolidation this will be taken care of in a year. Noting he has been working with the DPW Director and Facilities Manager, it is realized it will take time to get a full assessment of the building, and the cost is being worked on now. West Gloucester, **Chief Smith** said, is pretty much guaranteed to be open with a staffing of 14 as is stipulated in the current contract. He said he did not believe that West Gloucester station is in jeopardy. If Bay View is open he said he could guarantee that West Gloucester would be open as well. **Councilor Theken** stated she was satisfied with the Chief's answer and was reassured.

Councilor Ciolino said he would support this Council action because there is an end date. Under Councilor Tobey's motion it will be signed off by the Building Inspector who would not sign off on the habitability if it was not ready. He urged that outside vendors be hired to get rid of the mold and asbestos and do what needs to be done, and use Free Cash to get it ready by January 1, 2014 target date.

Councilor Whynott said that if there is a plan (to rehabilitate and open the Magnolia Station) it should be aggressive. He said the plan should be for January 2014. He added that the Fire Department does the best they can for staffing but there are no guarantees.

Councilor LeBlanc said that he felt the same way about Magnolia as he did about Bay View; and while there is the West Gloucester station, people deserve the protection of all the fire stations being open and ready to serve the public. The Council owes it to the citizens of Gloucester to give them proper safety measures. There is a plan, and it should be followed.

Councilor Theken said the Magnolia station is supposed to open July 2014 regardless with this Council action. This is not forcing the Administration; this is to get reports and to target an opening date and see that the Magnolia Station is fixed and staffed. She also spoke of funding sources to keep the stations opened. **Councilor Theken** said she lived in West Gloucester and wanted to see all stations opened. She also mentioned East Gloucester's fire station was closed many years ago permanently, and those residents were also a considerable distance from Central Station and subject to longer response times as well.

Councilor Ciolino assured the Council that Free Cash will be certified in November, and said this is a discussion about priorities. The Administration is hearing what the Council is saying; he pointed out, and said that the first priority is to keep those two outlying fire stations opened.

Councilor Tobey said he wished to make three points – the maintenance of a building that is important to public safety shouldn't be squeezed in. Councilor Ciolino said the work should be contracted out. The DPW Director is an AICP, a planner, not an architect or an engineer. The Council should commit to this action to get this work done by January 1st. With the money committed, the Council could then move forward to then fund the men and women to staff the Magnolia Fire Station at that time. Proximity to West Gloucester is a thin to rest one's public safety hopes on, and Ward 5 is a very big area. If there is an emergency of the end of Wingsheek Road, the bridge is up, and there is an emergency on Flume Road, he expressed concern for public safety if the Magnolia Station is closed. He urged the Council to not be comforted in West Gloucester's fire station alone and thanked the assurance already built into the contract. As **Councilor Tobey** said he had yet to see the pricing on the new Fire

contract, he suggested that the Auditor do a price projection of what this new Fire contract will be vis-à-vis, will the new staffing alignment of three groups versus four groups save the City money.

Councilor Theken said she wanted it on the record she would want a revisit in January on station openings.

MOTION: On motion by Councilor Tobey, seconded by Councilor Hardy, the City Council voted by ROLL CALL 8 in favor, 1 (McGeary) opposed pursuant to the emergency preamble under City Charter Sec. 2-11(b) to ask the Mayor to recommend to the City Council the immediate appropriation for the funds needed to reopen on January 1, 2014, subject to Building Inspector certification and any other required clearances, the Magnolia Fire Station for the remaining months of FY2014.

Councilor Tobey moved, and Council President Hardy seconded the reconsideration of the vote to ask the Mayor to recommend to the City Council the immediate appropriation for the funds needed to reopen on January 1, 2014, subject to Building Inspector certification and any other required clearances, the Magnolia Fire Station for the remaining months of FY2014 and by ROLL CALL the City Council voted 2 (Whynott, McGeary) in favor, 7 opposed.

MOTION FAILS.

2. That the City Council as the appointing authority direct the City Auditor to not sign any lease for any facilities to be leased for use of any agency or department of the City until the fire outstations are reopened on a 24-7 basis

Council President Hardy noted Dr Richard Safier, Superintendent of Schools; and School Committee members, Jonathan Pope, Chair; Kathy Clancy, Val Gilman, Melissa Teixeira, and Tony Gross were present.

Councilor Tobey said that on Tuesday, July 16th that whatever happens between the City Auditor, B&F and the Administration regarding the lease for the preschool, there is to be a public hearing by the Council to seek public input on the future of Fuller School and the future potential configuration of elementary school building needs seeking opinions from the public at large but also from the School Administration and Committee. Subject to that public hearing being scheduled, advertised and posted, he said he would not move on item #2 and asked that be continued to the agenda of the January 16th meeting. **Councilor Tobey** clarified for Councilor Ciolino that it would be his hope that the discussion would be on the options of Fuller School, the total building, not just the move of the Administration, preschool and transportation department to the Charter School. He said it is a big issue, more than the decline of the \$17 million building and is also about whether or not there will be a \$100 million dollar plus capital expenditure investment in the elementary schools going forward as well.

Councilor Ciolino agreed there should be a discussion on the Fuller School, but that it should be focused on the move to the Charter School, and then possibly has a separate hearing/meeting on the overall picture of the Fuller School because that is a consuming meeting. He said he was concerned of the preschool children being caught in the middle of the discussion. He said he would rather have that discussion first then take up the Fuller School under a separate meeting. **Councilor Tobey** said the Council has nothing to do with the Charter School lease which the CAO has said the Administration is moving forward with. He said if people want to talk about the lease the night of the public hearing that is fine, but he made clear he did not want to have people leave with the impression the Council held the lease hostage and the kids are going to be stuck in a moldy, deteriorating building which could have been avoided if the Fuller building had been maintained. **Council President Hardy** added that the Administration did address the situation and responded where the funds will come from; and the City Auditor said as long as the funds are located, the City Auditor is obligated under the law to sign off that the funds are available and the lease for the Charter School is moot then. If the funds are available the Administration can move forward to lease the former Charter School building, and **Mr. Duggan** reiterated that the Administration is moving forward on the Charter School lease.

Councilor McGeary requested that in framing the discussion for the public hearing the Council needs to divorce the language that links the signing of the lease to the keeping fire stations open on a 24/7 basis. This is now a discussion on the future of the Fuller School, and it is wrong to tie it to the Fire Department.

On inquiry by **Councilor LeBlanc**, **Councilor Tobey** said he was looking to hear from the public what the Fuller building should be; what the future configuration of elementary schools should be and is a start of a conversation.

Council President Hardy said this is going to be a structured respectful public hearing for the purpose of beginning a discussion. There is no anticipation of a Council vote.

Councilor LeBlanc expressed his understanding but added that this should be a School Committee process for a public hearing.

Councilor Tobey said the City owns the building and the City through the Mayor and Council has to raise money to do anything to the building.

Council President Hardy announced there is no Council Meeting on July 9th and the agenda for the 9th will be carried over to the 16th.

This matter is continued to July 16, 2013.

Unfinished Business: None.

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

Councilors' Requests to the Mayor:

Councilor Ciolino looked forward to seeing everyone at the July 3rd Horribles Parade.

Councilor LeBlanc congratulated the Fiesta Committee on a successful St. Peter's Fiesta.

Councilor Theken wished everyone a happy and safe Fourth of July holiday.

Councilor Cox said the Fishtown Horribles Parade Committee looks forward to seeing everybody at the parade, concert and fireworks.

Councilor Verga wished Councilor Cox a happy birthday. He also noted a letter from the Fisheries Commission Chair, Mark Ring in support of Attorney General Martha Coakley acting as counsel to the State's lawsuit against NOAA regarding the newly reduced catch limits put in place on May 1, 2013 given to the Council just prior to the meeting. He said he would work with the City Clerk to compose a resolution for the Council so that it may join the Fisheries Commission by adding its support. With no objection for the Council, this matter would appear on the City Council agenda of July 16th under "For Council Vote,"

A motion was made, seconded and voted unanimously to adjourn the meeting at 9:12 p.m.

Respectfully submitted,

**Dana C. Jorgensson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Letter from Mark Ring, Fisheries Commission Chair in support of Attorney General Coakley as counsel in the State's lawsuit against NOAA regarding new catch share limits.**