

GLOUCESTER CITY COUNCIL MEETING

Tuesday, August 13, 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; Kenny Costa; Max Schenk; Valerie Gilman; Melissa Teixeira; Hans Baumhauer

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

Flag Salute & Moment of Silence.

Oral Communications: None.

Presentations/Commendations: None.

Consent Agenda:

- **MAYOR'S REPORT**

1. Memorandum from Assistant Director of Public Works & proposed rules & regulations for New Balance Track & Field at Newell Stadium (Refer O&A)
2. Memorandum from Community Development Director re: recommendations from Community Preservation Comm. For Round 4 FY13 Funds (Refer B&F)
3. Essex National Heritage Commission (ENHC) grant in amount of \$2,650 award to City of Gloucester Visitors Welcome Center & Request City Council acceptance of said grant (Refer B&F)
4. Memorandum from Police Chief requesting Council acceptance of FY2014 State 911 Dept. Support & Incentive Grant \$61,796 (Refer B&F)
5. Memorandum from Public Health Director requesting Council acceptance of Public Health Emergency Preparedness Grant 2013-2014 for \$170,644 (Refer B&F)
6. Memorandum from Senior Project Manager of the Grants office Requesting City Council vote taken on 5/28/13 to approve & Accept anticipated HOME funds in amount of \$59,559 be amended to accept an additional amount of \$2,419 for new total of \$61,987 (Refer B&F)
7. Memorandum, Grant Application & Checklist from Harbormaster re: Clean Vessel Act Pumpout Boat Grant Program (Refer B&F)
8. Letter from Susan Kelly re: 1st Gloucester Garden Tour & request Council acceptance of donated \$2,502 proceeds of tour to Support maintenance of HarborWalk butterfly gardens (Refer B&F)
9. Memorandum from Fire Chief requesting permission to pay FY13 training reimbursement w/FY14 funds for \$498.07 (Refer B&F)
10. Memorandum & relevant material from Harbormaster regarding two Land Management Agreements/Grants
 - a) Restoration of the County Public Landing located on Stacy Boulevard next to The Tavern (Refer to Conservation Commission & P&D)
 - b) Creation of a fishing pier off of Stacy Boulevard located to the west of the Blynman Canal (Refer to Conservation Commission & P&D)
11. Reappointments:

Community Preservation Committee	TTE 02/14/16	Charles Crowley (Open Space & Rec. Mbr.)
Planting Committee	TTE 05/14/16	William F. Taylor, Bonnie Angus

New Appointments:

Waterways Board	TTE 02/14/14	Robert Gills (Economic Development Mbr.)
Planting Committee	TTE 05/14/16	Susan Kelly (Refer O&A)

- **COMMUNICATIONS/INVITATIONS**

- **INFORMATION ONLY**

- **APPLICATIONS/PETITIONS**

1. Special Events Application from Essex County Velo to hold Gloucester Gran Prix Cyclo Cross Race at Stage Fort Park September 28 and 29, 2013 (Refer P&D)

- **COUNCILORS ORDERS**

1. CC2013-031 (Verga) Request Traffic Commission to investigate traffic flow on Englewood Road in Magnolia to determine whether Current signage is adequate or whether additional signage is required (Refer TC & O&A)
2. CC2013-032 (Whyntott/Hardy) Request that Administration arranges to have lighting installed at the new bocce court (Refer P&D)
3. CC2013-033 (McGeary) Amend GCO c. 22, SEC. 22-270 "Prohibited parking at all times" by deleting "East Main Street from Bass Avenue to entrance to Quincy Market Cold Storage Building off East Main Street" (Refer TC & O&A)
4. CC2013-034 (LeBlanc) Amend GCO c. 22, Sec. 22-287 "Disabled veteran, handicapped parking" re: Riggs Street #6 (Refer TC & O&A)

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

1. City Council Meeting: 07/23/13
2. Standing Committee Meetings: B&F 08/08/13 (under separate cover), O&A 07/29/13, 08/05/13, P&D 08/07/13

Items to be added/deleted from the Consent Agenda:

Councilors Cox, Verga and Hardy asked to remove Items #1 under Applications and Petitions, Special Events Application from Essex County Velo to hold Gloucester Gran Prix Cyclo Cross Race at Stage Fort Park September 28 and 29, 2013.

Councilor Cox asked that this matter be referred to B&F as well as P&D because it is the intent of the Administration to charge for parking during this event and wanted to know why and for what fee, she said. After a brief discussion After a brief discussion between the Council President and Chairs of B&F and P&D whether or not to refer this matter to B&F, **Councilor Tobey** said that he would not be able to attend the special P&D meeting of August 15th for professional reasons, but he added he wished to make clear he supports this event 100 percent; that reasonable accommodations can be and should be made and did not believe that charging for parking for an international event that puts the City on the map made any sense whatsoever.

Council President Hardy confirmed with P&D Chair, **Councilor Verga** that this matter would come forward for a vote of the Council from P&D Committee as he was adding the Special Event Application to his Committee's special meeting agenda on August 15th in addition to a review of the reparations made to Stage Fort Park from the 2012 Cyclo-Cross event. Additionally, it was confirmed that the 2013 Cyclo-Cross event would come forward to the Council at a full public hearing at the next regularly scheduled City Council meeting of Tuesday, August 27, 2013.

Council President Hardy also wished to pull Item #1 under the Mayor's Report, Memorandum from Assistant Director of Public Works & proposed rules & regulations for New Balance Track & Field at Newell Stadium.

Councilor Verga also asked that Item #11 be pulled, Appointments and Reappointments.

Council President Hardy then spoke to the Mayor's Report Item #1 Memorandum from Assistant Director of Public Works and proposed rules and regulations for New Balance Track & Field at Newell Stadium. She announced her appointment of Councilor LeBlanc to the New Balance Track and Field at Newell Stadium Committee.

Councilor Whynott spoke to the Council Order on lighting for the Bocce Courts by saying that the Administration should be involved in assisting to see perhaps if there could be a public/private collaboration to install lighting there. At **Council President Hardy's** suggestion, a Councilors' Request to the Mayor on the matter would be submitted by the end of the week.

Councilor Verga said that he wished to highlight the reappointments and new appointment to the Planting Committee. He noted that the membership of that Committee was still short of members which he had asked the Administration to reconstitute along with the Cemetery Committee. He reminded residents that they are needed to step forward to fill these open positions and to advise their interest to the Mayor's office.

By unanimous consent the Consent Agenda was accepted as amended.

Committee Reports:

Budget & Finance: August 8, 2013

Budget & Finance Consent Agenda dated August 13, 2013:

MOTION: On a motion by Councilor McGeary, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed to accept the Budget & Finance Committee Consent Agenda dated August 13, 2013 as follows:

Permission to Apply for Grants:

- **MOTION: On a motion by Councilor McGeary, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed to recommend to the City Council to permit the Fire Department's application for a U.S Department of Homeland Security/Federal Emergency Management Agency passed through the Massachusetts Emergency Management Agency (MEMA) for the Emergency Management Performance Grant (EMPG) in the amount of \$6,030 for the purpose of relocating and setup of the Gloucester Emergency Operations Center (EOC) to the O'Maley Middle School.**
- **MOTION: On a motion by Councilor McGeary, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed to permit the Fire Department's application for a U.S Department of Homeland Security/Federal Emergency Management Agency passed through the Massachusetts Emergency**

Management Agency (MEMA) for a grant in the amount of \$5,000 to aid in the recruitment of volunteers to the Community Emergency Response Team and the Medical Reserve Corps and to help volunteers in setting up the opening of a shelter/area of refuge on Cape Ann.

- **MOTION: On a motion by Councilor McGeary, seconded by Councilor Cox, the City Council voted 9 in favor, 0 to permit the Office of the Mayor to apply for an Essex National Heritage 2013 Visitor Center Grant through the National Park Service for a total of \$2,600.**

Acceptance of Grants:

- **MOTION: On a motion by Councilor McGeary, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed under MGL c. 44, §53A to accept a \$5,000 grant from the Bruce J. Anderson Foundation for the purpose of continuing work on the restoration of the Works Progress Administration (WPA) Murals located in City Hall, Gloucester, Massachusetts.**
- **MOTION: On a motion by Councilor McGeary, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed under MGL Chapter 44, §53A to accept a grant from the Massachusetts Department of Public Health, Bureau of Substance Abuse Services for a one-year extension funding of the Underage Drinking Prevention Grant totaling \$80,000. The purpose of this grant is to prevent underage drinking among Gloucester youth.**
- **MOTION: On a motion by Councilor McGeary, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed under MGL Chapter 44, §53A to accept an Opioid Abuse Prevention Regional Collaborative services grant from the Massachusetts Department of Public Health, Bureau of Substance Abuse Services in the amount of \$100,000.**

END B&F CONSENT AGENDA.

MOTION: On a motion by Councilor Ciolino, seconded by Councilor Cox, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council permission to reimburse \$780.00 to Jonathan Pope for the purchase of a 24-inch by 8-inch cast bronze memorial plaque from The Plaxx Companies, Inc. invoice No. 10479 dated 5/24/2013, with no purchase order in place.

DISCUSSION:

Councilor McGeary said that this was a rush due to the press of time for obtaining a plaque honoring Alphonse Swekla originally to have been placed in the O'Maley School Auditorium, purchased by Jonathan Pope, School Committee Chair. It was charged to his personal credit card; and while that action is discouraged, there were extenuating circumstances, he said. **Councilor McGeary** added that since no one was available from the School Administration at the B&F meeting of the 13th, the Committee felt the matter should be voted outside of a consent agenda.

Councilor Ciolino asked what the plaque said and where it will be placed. **Hans Baumhauer**, Business Manager for the School Department said that the plaque is in the Superintendent's office currently but did not know what it exactly read. It will go in the commons area in the O'Maley School. This plaque is for a dedication to former Superintendent of Schools and City Councilor Alphonse Swekla.

Councilor Whynott confirmed Mr. Swekla's family was pleased with the new location for the memorial plaque.

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Councilor McGeary said the second motion that would have come forward out of the August 8th meeting had to do with the reappropriation of funds for capital projects that were not expended for the purpose of costs associated with the repair of the Lane's Cove Breakwater. However, he noted there is still some uncertainty as to how much

money is left over from the Good Harbor Footbridge repair project, and noting that no one was present representing the Administration this evening he asked the Council to postpone the vote on this matter until its next regularly scheduled meeting in order to get a definitive total. Currently the remaining funds in that account, he said, are \$61,000 but that could change. So rather than appropriate an amount of money that may not exist he said he did not wish to appropriate money until a final total was confirmed.

Kenny Costa, City Auditor said there appears to be \$61,000 remaining in the Good Harbor Footbridge Repair account, but it needs to be verified with the CFO and the DPW Director. He also noted there were open purchase orders remaining, and invoices are still coming in possibly. **Councilor McGeary** said there may be some additional monies available and asked that this matter be continued. **Councilor Ciolino** agreed with the postponement.

By unanimous consent of the Council, the matter of the repurposing of City funds to a fund to repair the Lane's Cove Breakwater was postponed to August 27, 2013.

Ordinances & Administration: August 5, 2013

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the withdrawal of CC2013-023 to add one (1) handicapped parking space across from 200 Washington Street near Knowlton Square.

DISCUSSION: None.

MOTION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted 9 in favor, 0 opposed to allow the withdrawal of CC2013-023 to add one (1) handicapped parking space across from 200 Washington Street near Knowlton Square.

MOTION: On motion by Councilor LeBlanc, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the withdrawal of CC2013-025 to Amend GCO Sec. 22-270 (Parking prohibited at all times) re: Green Street southwesterly side beginning at a point 213' from its intersection with Perkins Street.

DISCUSSION: None.

MOTION: On a motion by Councilor Theken seconded by Councilor LeBlanc, the City Council voted 9 in favor, 0 opposed to allow the withdrawal of CC2013-025 to Amend GCO Sec. 22-270 (Parking prohibited at all times) re: Green Street southwesterly side beginning at a point 213' from its intersection with Perkins Street.

Councilor Theken noted there is a Council Order before O&A asking create two-way traffic on a portion of Fort Square. She said there will be a site visit by the Committee and a demonstration with an 18-wheeled truck that has yet to be scheduled and will not take place this month. There is, she said, no set date for this matter to return to the O&A Committee at this time.

Planning & Development: August 7, 2013

MOTION: On a motion by Councilor Ciolino, seconded by Councilor McGeary, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend pursuant to MGL c. 40, §14 to accept a grant by owners Elizabeth M.P. Etrie, John R. Etrie, and Carol P. Etrie of a sewer and drain easement of 15 feet wide and 92.81 feet long +/- for a total of 1,392 square feet for the public purpose of repairing or replacing existing drain pipe and to install a new sewer pipe and manholes located at 40 Mt. Vernon Street as shown on a plan drawn by Hancock Survey Associates dated March 20, 2013 entitled "Exhibit Easement Plan of Land in Gloucester, MA" with nominal consideration to be paid as damages to the owners of 40 Mt. Vernon Street.

DISCUSSION:

Councilor Verga said that initially this easement was being worked out with the Archdiocese of Boston and the property was purchased then transferred to the Etrie's. This is related to the CSO project, he noted, and the work

has already been done related to a common sewer that passes from Green Street onto Mt. Vernon Street. This action allows the easement to be put in place, he said.

MOTION: On a motion by Councilor Verga, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 9 in favor, 0 opposed pursuant to MGL c. 40, §14 to accept a grant by owners Elizabeth M.P. Etrie, John R. Etrie, and Carol P. Etrie of a sewer and drain easement of 15 feet wide and 92.81 feet long +/- for a total of 1,392 square feet for the public purpose of repairing or replacing existing drain pipe and to install a new sewer pipe and manholes located at 40 Mt. Vernon Street as shown on a plan drawn by Hancock Survey Associates dated March 20, 2013 entitled "Exhibit Easement Plan of Land in Gloucester, MA" with nominal consideration to be paid as damages to the owners of 40 Mt. Vernon Street.

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to permit the Magnolia Annual 1K and 5K Road Races to benefit the Magnolia Library on Saturday, August 24, 2013 with the following conditions:

1. Certificate of Insurance:

A Certificate of Insurance naming the City of Gloucester as an additional insured party is to be filed with the City Clerk's Office on or before August 16, 2013.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the amended plans for the Magnolia Annual 5K Road Race, including road closures, to be on file with the City Clerks office on or before August 13, 2013. Roads to be closed are to be marked with signage directing the public as to the duration of the closure and alternate routes. Traffic and parking plan and police detail information by the Police Chief or his designee is to be filed with the City Clerk and the DPW Director or his designee on or before August 13, 2013. After City Council approval if either the Police Chief or the Fire Chief, or their designees, determine that a substantial change(s) has been made to the route then the applicant shall obtain City Council approval for the change(s).

3. Refuse and Comfort Stations:

All event refuse and recycling must be removed by the organizer. Any portable toilets (with two handicap accessible) are to be provided and maintained by the organizer, placed the evening before the first day of the event or early in the morning of the day of the event and removed by 9:00 p.m. Saturday, August 25, 2013.

4. Emergency Services:

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

5. Staffing:

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

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

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

7. Responsibility of the Magnolia Annual 5K organization:

The applicant is also required to obtain any necessary approvals from the Licensing Board, the Board of Health and the Licensing Commission. It is the sole responsibility of the Magnolia Annual 5K organization to ensure that all required documentation is timely filed with the appropriate City departments as indicated. Failure to comply with any conditions precedent may result in permit revocation.

DISCUSSION:

Councilor Verga explained this is the 37th annual Magnolia Road Race. The only change was the organizers asked for an additional road closure on Lexington Avenue (from 8 a.m. to 4 p.m. the day of the race), he noted. At the time of the P&D meeting, the Committee had not received memoranda from the Fire and Police Chiefs indicating their support for that road closure. Since that time, memos were received from both Chiefs indicating approval for a road closure of Lexington Avenue and are on file.

Council President Hardy asked if notices would be posted on roadways in Magnolia several days in advance which **Councilor Verga** confirmed signs are already in place.

MOTION: On a motion by Councilor Verga seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to permit the Magnolia Annual 1K and 5K Road Races to benefit the Magnolia Library on Saturday, August 24, 2013 with the following conditions:

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

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

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For Council Vote:

1. Memorandum from General Counsel dated July 23, 2013 re: Mayor's Withdrawal of Request to Adopt Mass General Law Chapter 32B, §21-§23

Council President Hardy said the matter related to the City's adoption of MGL c. 32B, §21-§23 was put in front of the Council some time ago which has been discussed in Committee for a while now; and that in order for this matter to be withdrawn it needs Council approval. She said she would not vote in favor of the withdrawal so she can move on to address something coming forward in the first public hearing which is on the City health insurance matter.

Councilor Tobey added that he, too, would oppose the request for withdrawal. He pointed out that when this matter came before the Council the last time the Council asked for the Personnel Director to be present to answer questions, and that a detailed memo was to be sent by the Personnel Director to the Council (on file). Although a memo was sent as requested, it was cursory at best, he said. **Councilor Tobey** said that in the documentation it stood out that any estimated savings to the City was just that, estimates. He said that the public deserves better explanations, and is a reason to have the public hearing go forward.

Councilor McGeary said if the Council votes to approve the withdrawal would it make the public hearing moot; which **Council President Hardy** replied, "Yes," and that was why she was objecting to the withdrawal.

MOTION: On a motion by Councilor Hardy, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 0 in favor, 9 opposed to permit the withdrawal of the Mayor's Request to Adopt Massachusetts General Law Chapter 32, §21-§23.

MOTION FAILS.

Scheduled Public Hearings:

1. **PH2013-004: Whether the City Council should adopt MGL Chapter 32B, §21-§23 relating to Health Care Reform**

This public hearing is opened.

Council President Hardy made the following statement: "This public hearing was continued to this evening pending receipt of a report from the Personnel Director at the request of Councilor Tobey. Although this public hearing is moot because the City has already adopted what the Administration calls a State GIC insurance plan, the Council will open the public hearing and dispose of same but not before those who would like to comment have the opportunity to do so." She then asked if there was anyone present who wished to discuss the matter of whether the City Council should adopt MGL Chapter 32B, §21-§23 relating to Health Care Reform in favor or in opposition, no one stepped forward.

Communications:

Linda T. Lowe, City Clerk confirmed there were no communications on this matter received by the Council.

Councilor Comments:

Councilor Tobey objected to the closure of the public hearing until the Personnel Director appears before the Council and asked that this matter be continued until that time and that if the Personnel Director would be unavailable the Administration should notify the Council in advance as to why she would not be able to attend.

Council President Hardy pointed out that the Council is in receipt of the Personnel Director's memorandum on the subject and said that she understood that the Mayor interpreted that a report as the Personnel Director need not be here in person this evening.

Councilor Tobey noted that there is a City Charter, and that the Council should deeply care that there is supposed to be dialog between the Administration and the Council because it is the only way the Council can do its job effectively. One way communication is a recipe for failure, he said.

By a unanimous vote of the Council the public hearing was continued to September 10, 2013.

This matter is continued to September 10, 2013.

2. **PH2013-040: Amend GCO Sec. 22-287 by Deleting 1 handicapped parking space in front of Harold Avenue #8**

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Councilor Questions: None.

This public hearing is closed.

DISCUSSION:

Councilor LeBlanc said a life-long resident passed away and so the parking space can now be eliminated.

Councilor Whynott said that neighborhood residents had commented to him that this area's parking is limited and returning a space to regular street parking will be appreciated.

MOTION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 9 in favor, 0 opposed to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by DELETING one (1) handicapped parking space in front of Harold Avenue #8.

3. **PH2013-035: Use/reuse of the Fuller School Building and long-term Elementary School Facilities Planning (Continued from July 16, 2013)**

This public hearing is opened.

Council President Hardy said at the last public hearing the Council heard from 19 people at that time.

David Lufkin, 31 Prospect Street with a daughter at Beeman School and member of their PTO, as well as a school volunteer noted he was a former teacher at the secondary level in Beverly and Danvers High Schools. He said both schools are quite large and are not as a warm learning environment. Younger students, he said, who are having their first learning experience are best served by neighborhood elementary schools. He asked the Council to not support the use of the Fuller School as a consolidated elementary school; while it may be more cost effective, it has to be balanced with sound educational values.

Melissa Teixeira, School Committee member said she supported the facts and comments of the School Committee made at the last Council meeting when this public hearing was opened.

Lisa Fornero, 3 Addison Street said that she supports smaller schools as a teacher and parent. But as a tax payer one has to be realistic about the City's financial future, she added. There is another model that could be a compromise between the two sides, she noted, which is to have small elementary schools consolidated under one roof. It is not one big school, but rather several small schools share the one physical facility. This retains the style of the smaller schools with separate principals, teaching staff and administration, but sharing custodial staff, gymnasium, cafeteria and outdoor space. There is still the small school feel but it is under one roof, she said and added that this model is used by other school districts, one of which she works for as a teacher. This is, she said, a good alternative.

Lisa Groleau, 598 Western Avenue said she does not support a mega-school and prefers small schools and supported the School Committee's efforts. She added that the current system works well and did not wish to see it stop.

Rebecca Twalipo 96 Prospect Street said younger students benefit from smaller settings which feel more like a community which she said her own son has told her as much as well. Once a student is older they are better able to handle larger environments with more students, she said.

Graziella Paone, 4 Cedarwood Road said she has watched a terrible slide in the condition of Fuller School. She said she is in favor of smaller schools and asked the audience to stand if they were for small schools; and about two-thirds of the audience present stood.

Muffy White, 47 Haskell Street said she moved to Gloucester 9 years ago specifically to East Gloucester because of the reputation of the neighborhood school, expressing pride in their neighborhood school and that her family would leave the school system should the district move to a consolidated elementary school model.

Jim Cook, 2 Great Ledge Lane spoke to the choice he made to live in West Gloucester to put his four children deliberately in that neighborhood school and supported a small school environment. He suggested the Fuller School property be leased to a business to use it for a small office community to bring tax dollars to the City.

Sandy Jones, 1 Granite Court said she is a YMCA member and an employee of that organization. She supported the YMCA's interest in moving to the Fuller School location saying that it would be an appropriate place for the YMCA to expand to. She also noted that by moving the YMCA to the Fuller School would bring more people to Gloucester Crossing. She pointed out an organization that could use the auditorium and another sports organization that is looking to partner with the YMCA could also be interested in creating an indoor arena, all of which would bring more people to Gloucester Crossing and fill empty storefronts. She encouraged the ballot question to move forward.

Rachel Refalo, 225 Bray Street said she supported the small school model.

Frank Caputo, 50 Magnolia Avenue said he has two children in the school system and was opposed to any consolidation of elementary schools to the Fuller School. He also suggested a YMCA would be a better option for the Fuller School site.

Councilor Tobey pointed out that the School Committee voted at its last meeting on a West Parish option and if it involves a teardown, where the students would go in that case.

Valerie Gilman, Vice Chair, School Committee said on the School District's website there is a section designated for West Parish/MSBA which is has current information, and she discussed the content found there. All the building committee minutes are posted there and as well as the full educational documents that backs up the Dore Whittier presentation to the Council, she noted. **Ms. Gilman** said that last Wednesday the School Committee voted 5-0 to approve the scheme of a new West Parish in the existing location of the current building which, she said, was the cheapest estimate. She encouraged the Council to watch that meeting on CATV. The vote came with many answers to questions which were a result, she said, of the hard work of the Building Committee which was an effective process in her opinion.

Councilor Tobey asked where students will go when the school is a construction site for two years. **Ms. Gilman** said that the Superintendent listened to the West Parish community parents that they wanted to keep the children together during the building process. The School Department is looking into different options in the community and is in the process of finding ADA compliant facilities in the City. The cost of fixing Fuller is exorbitant, she said, to make it habitable for two years during the construction of a new West Parish school, which were part of the conversation. The School Committee is looking at an alternative but didn't know, she said, exactly where at this time.

Councilor Tobey said a decision was made for a tear down, but the School Committee doesn't know where the kids will go. **Ms. Gilman** said that the School Committee is confident a place will be found to house the students together.

Communications:

Linda T. Lowe said there were three further communications received since the first portion of this public hearing on July 16th (on file): **Teresa Leaman**, (no address given) a West Parish School parent supported neighborhood schools; **Jayne Sacco**, 84 Magnolia Avenue, also a West Parish parent supported smaller neighborhood schools; **Tara Bush** (no address given) said she would like to see the Cape Ann YMCA at the Fuller School site.

Councilor Questions:

Councilor McGeary said he was told if the City were to put a public safety center on the grounds of the Fuller School in the area already been declared surplus, at the site of the former field hockey field, it would render the site useless as a school because there would be insufficient recreation area according to State guidelines. **Ms. Gilman** said that as a parent of an elementary school student, if there was no place for children to play at recess it would be a problem; but she could not speak to the legality or State guidelines. She suggested there would need to be a certain amount of recreational area for elementary students, but she did not know what it was.

Councilor Tobey said the good news in the course of two meetings the Council has received lots of input, ideas, brainstorming and dialog, but asked what the next step would be. He said he knew there was tentative language for a non-binding ballot question on the Fuller School. He asked how the conversation gets moved forward because there needs to be a safe environment, in a public environment in a sustained way in order to ask open-ended questions. **Council President Hardy** commented that the public hearing could be continued.

Councilor Tobey said he appreciated that folks spoke from the YMCA who has a vision who need to share it in a public and sustained way.

Councilor LeBlanc said the dialog is great this evening. He asked that the Administration to bring a plan forward for preserving the Fuller School because if not, there will be nothing that can go there, be it the YMCA or something else. The roof must be fixed because without it the building will deteriorate to nothing, he added.

Council President Hardy confirmed this request would be made as a Councilor Request to the Mayor.

Councilor McGeary said that dialog needs to be narrowed; and based on the input from professional educators, architects and parents, the use of the Fuller building as a public school is not in the cards, he said. He noted there is language for the November ballot. He said the Council needs to stop talking about Fuller being a school and save the building for what it can be used for. There have been suggestions for City offices, a commercial space with the YMCA included, preserving the auditorium as a public facility, or perhaps commercial development aligned with Gloucester Crossing, he said. **Councilor McGeary** pointed out that there are many school buildings that have been put back into good use. He asked the Council to consider options for the ballot but not the school option.

Councilor Ciolino said he agreed with Councilor McGeary. He suggested the public hearing be closed. He said the school should be referred to as the Fuller building because the state won't fund a school there, nor do the parents want it. The Council, he said, needs to move forward and work with the Administration, reiterating that the school option should be off the table. The reason he voted against this being on the ballot for a non-binding question in December was to not put the school option as a choice in the ballot question language.

Councilor Whynott agreed that the public hearing should be closed. He noted a discussion point can always be placed on the Council agenda with ground rules. He suggested the next meeting should have a discussion point of the non-binding ballot question as time is of the essence. He said he agreed also that the Fuller building will not be a school again. The site should be made for the best use of the citizens of Gloucester; he said and pointed out the site is 13 acres which could hold consolidated City offices and a YMCA.

Councilor Cox extended her thanks to the public hearing participants. She agreed the site should not be a school and supported a non-binding ballot question on what to do with the building and close the public hearing. She urged the reframing of the non-binding ballot question. The community should have a say in how the building site should be used, she said.

Council President Hardy said the Council has heard clearly that those who have attended both portions of this public hearing do not want a school in the Fuller building, but there is conversation among parents that it is not out of the realm of possibility to combine two schools.. To rebuild all elementary schools is financially prohibitive, she said, and asked parents to consider smaller elementary consolidation options, but she also said she would also like to hear about more options for the use of the Fuller School site. **Council President Hardy** said she was not opposed to a continuation of the public hearing or for a call for a special one-item agenda City Council meeting. There is not enough time for a charette to happen on the subject, she said, and that it is clear Fuller should not be a school. However, she said she didn't agree it should not be taken off as an option on the non-binding ballot question.

Councilor Theken said that there is confusion on the issue of the non-binding ballot question, and commented that people voted their School Committee into office; and that body made their decision what to do with the Fuller School which she said should be respected. The Fuller site is 13 acres and much can be done with it, she said. She pointed out that this is just a non-binding question for the ballot. She reminded the Council that the Community Preservation Act took three times on the City ballot before it was approved. She cautioned the Council to word this ballot question carefully. She did not agree, she said, in leasing the Fuller School as the City's track record as a landlord is poor. She noted a possible option for a combined arts center pointing to the building's auditorium and the large cafeteria which could be used for a culinary arts program. **Councilor Theken** said she agreed with small schools. She said she trusts the School Committee and their decision process and did not agree Fuller should be a school again.

Councilor Tobey said he didn't say he wanted to continue the public hearing. Rather, he wanted to have an on-going community dialog of an open-ended participatory process to serve the City for the next 30-40 years for the elementary school configuration. The West Parish parents should recognize that their vision is being fulfilled that will lead to a new West Parish School construction. They have to do no more, he said, than to tour the West Parish building and watch rain fall in the hallway outside the principal's office. He cautioned that the new building needs to be well maintained by the City. He asked who parents in the audience of Ward 2 or 3 elementary children and only two hands were raised in the audience. **Councilor Tobey** said it was those two neighborhoods that don't have schools in it. Their neighborhoods used to have a school which was Fuller School staffed by talented professionals who knew the names of every kid in that school. There were thriving communities of a different sort, he said. He was told by Salem State educational professionals that there are many points of view of optimal school size but what matters are resources and talented staff, he noted. He said people say Wards 2 and 3 don't need a school; the likely spot (Fuller School) needn't be considered; 10 years from now the Council will be held in low esteem by the public for the bad decisions they make by taking the Fuller School option out of play. That will shape the long-term capital planning of the fiscally responsible process that the City needs to go through which, he said, is what should be foremost.

Councilor Whynott said he agreed with Councilor McGeary about the taking away the school option, and that keeping the public hearing open would not be constructive. He agreed that a large elementary consolidated school was not appropriate. He asked the hearing be closed and place on the next Council meeting a discussion of the ballot question.

Council President Hardy said the Council voted on December 11, 2012, for language on a non-binding ballot question with 8 Councilors in favor, 1 (Ciolino) opposed on the question on the future of the Fuller School:

“What is your preferred use for the Fuller School site? All options offer potential additional use of site for municipal Safety (Police/Fire) Building”

- A. Relocate municipal offices to an ‘under one roof’ complex
- B. Renewed use as a Public School
- C. Lease and/or sell property”

Council President Hardy said the Council understands the language needs further amending to expand it or simplify it. If the Council votes nothing, this is the question that goes on the ballot, she said.

Councilor McGeary said the Veteran's School was known as the Ward 2 School because it is in Ward 2 with a significant amount of its catchment area is Portuguese Hill and the in-town Prospect Streets neighborhoods, Maplewood Avenue. There is a school closely located to the downtown which he knew because he lived near it, and he said the school does serve the purpose of an in-town school. As to the future of the elementary schools, he reminded the Council that it approved funding for a study by the School Committee on what exactly the shape of the elementary education will take in the City over the next 20-30 years. He said he was assured that one of the things that will be looked at is some consolidation of the schools, likely not a mega-school; but some consolidation could be envisioned to save money but to also retain the scale of neighborhood schools. His reading of the charter gives

wide latitude on the non-binding ballot question, he said, and the Council is not bound by the vote of December 11th as to the question's language.

Councilor Cox clarified said that Veteran's School is located in Ward 2 on its border which is also used as a Ward 1 polling location, she said, but it is clearly located in Ward 2.

Councilor Verga said the reason he and the Council President reintroduced the non-binding ballot question was because it seemed there was great momentum to make the Fuller School a YMCA without any public input. He said the goal is achieved by placing this question on the November ballot to get a conversation going on the building's future. He said as a former School Committee member and Chair who planned for effective learning communities that he was not surprised to hear that the small school scheme is favored. Private conversations about what will happen [to the Fuller site] between entities and other public officials which exclude the Council and the public are not appropriate, **Councilor Verga** said. This ballot question, he said, would force the matter into the public limelight and that it should go forward in the spirit of cooperation to make something happen.

Councilor Ciolino said there is a need for dialog for the education of the City's children and suggested reinstating joint School Committee/Council meetings. The Fuller building, he said, needs to be taken out of the conversation and to move forward to working towards other uses for the site.

This public hearing is closed.

Council President Hardy discussed with the Council that the non-binding ballot question language needs to be finalized by the September 10th City Council meeting. With the assent of the Council, a workshop was set for August 26, 2013 at 7 p.m. in Kyrouz Auditorium in order to work on the ballot question language in an open forum so that the Council could vote on September 10, 2013 for the final amended language. **Councilor Ciolino** asked that the Administration be asked to attend the workshop and **Councilor LeBlanc** asked if the 13 acres includes the parcel set aside for the combined Police and Fire building at the Fuller site.

The Council recessed at 8:36 p.m. and reconvened at 8:43 p.m.

4. PH2013-037: SCP2013-004: 20 Biskie Head Point Unit #1, GZO Sec. 5.5.4 Lowlands

This public hearing is opened.

Those speaking in favor:

William Manuel, consultant with Wetlands & Land Management, Inc. of Danvers, MA and acting as representative for the owner and applicant, Adam DeSanctis, for a Lowlands Permit under Gloucester Zoning Ordinance, Sec. 5.5.4 for the property located at Biskie Head Point #20, Unit 1 on the Annisquam River. This application for a Special Council Permit to install a new pier which is a relocation of an existing pier that is presently at the site. The reason, he said, is to gain access to permanent water. Meetings have already been held with the Shellfish Constable who has supported this alternate proposal because it is a benefit of improving the site in terms of the clam flats. He pointed out on the site plan before the Council (on file) the active clam flat.

Mr. Manuel described the state of the present float installation as:

An existing long stair heads down over the coastal bank leading to a ramp and existing floats that rests directly on the clam flat at low tide with any boats tied up to the floats also sit on the bottom at low tide. These are anchored to the clam flats with old anchors, chains and ropes which scour the clam flats at low tide. It has no new technologies that the Shellfish Constable and Conservation Commission require. He pointed out a house high on the bluff and a long wooden stair as well as the Annisquam River Bridge.

Mr. Manuel then discussed the proposed new float system which would be accessed by a new footpath instead of a constructed wood stairway. There would be a set of stairs to negotiate a rocky area which would lead to a 4 foot by 26 foot wooden pier supported on the headlands by anchoring into bedrock. There would be a single concrete pedestal affixed to exposed rock supporting the seaward end of the pier leading to a reused 30 inches by 40 foot seasonal aluminum ramp leading to six (6) access floats 4 feet by 16 feet access floats to a single-end float 10 feet by 20 feet which sits in permanent water as would any boats that tie up to it.

The project has been issued an Order of Conditions by the Conservation Condition. One of the conditions is that no boats can tie up to any of the access floats, he said.

Mr. Manuel said this project provides an improvement as it sits above the clam beds with floats having wood standoffs. Each of the floats, he noted, are anchored by a helical anchor screwed into the mud with vertical elastic roads or cable which rise up and down vertically with the tide. The project moves the entire float system from one end of the clam flat as opposed to bifurcating it now, he said.

Mr. Manuell reiterated there was an Order of Conditions from ConCom, and that the Shellfish Constable has provided his comments (on file) within the application.

Those speaking in opposition: None.

Communications: None.

Councilor Questions:

Councilor Ciolino asked how many boats would be tied up on this dock. **Mr. Manuell** said the property owner owns one boat. It is a 10 x 20 end float he pointed out. The owner has a 26 foot boat which is all that end float can handle; and that there would be no additional boats tied up there due to the Order of Conditions, he said. He does not have a City mooring. He said he didn't know if the 26 foot boat was there now; this is for one boat for the owner. **Councilor Ciolino** said these float systems tend to expand into mini-marinas and he confirmed there would only be one boat on the dock. He asked if the owner has a City mooring which **Mr. Manuell** confirmed the owner did not. The owner can tie up as many of his own boats as he wished, **Council President Hardy** said, and not other boats or to create a business there or have dock rental space without permission of the appropriate City boards.

Councilor McGeary confirmed with Mr. Manuell that the access floats would not rest on the flats as they were supported up off the clam flats by 30 inches with wood stand-offs at low tide. **Mr. Manuell** also said the owner has a Chapter 91 permit in process as well as reviewed by the Army Corps of Engineers along with this Council permit before the float system can be constructed.

This public hearing is closed.

MOTION: On motion by Councilor Hardy, seconded by Councilor Tobey, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant a Special Council (SCP2013-004) Lowlands Permit pursuant to §5.5.4 of the Gloucester Zoning Ordinances to Adam DeSanctis, 100 Unicorn Park Drive, Woburn, MA for the property at Biskie Head Point #20, (Assessors Map 232, Lot 3, Unit 1), zoned R-10, for the purpose of constructing a pathway, stairs, a 4 feet by 26 feet wooden pier with metal framing, supported by a concrete post affixed to exposed rock leading to a 30 inch by 40 foot seasonal aluminum ramp leading to 6 access floats (4 feet by 16 feet each) and a single-end float (10 feet by 20 feet) in the Annisquam River in compliance with Section 1.8.3 as shown in the application and as shown on Site Plan of Land by American Land Survey Associates, Inc. of Gloucester, MA dated February 1, 2013; further, that this application is in harmony with the general purpose and intent of the ordinance.

DISCUSSION:

Councilor Verga said that this application has met all the requirements as stated under GZO Sec. 5.5.4 (Lowlands).

Council President Hardy said the Shellfish Warden has filed the appropriate paperwork and is agreement with this plan.

MOTION: On a motion by Councilor Verga, seconded by Councilor Ciolino, the City Council voted by **ROLL CALL 9** in favor, 0 opposed to recommend to the City of the Gloucester Zoning Ordinances to Adam DeSanctis, 100 Unicorn Park Drive, Woburn, MA for the property at Biskie Head Point #20, (Assessors Map 232, Lot 3, Unit 1), zoned R-10, for the purpose of constructing a pathway, stairs, a 4 feet by 26 feet wooden pier with metal framing, supported by a concrete post affixed to exposed rock leading to a 30 inch by 40 foot seasonal aluminum ramp leading to 6 access floats (4 feet by 16 feet each) and a single-end float (10 feet by 20 feet) in the Annisquam River in compliance with Section 1.8.3 as shown in the application and as shown on Site Plan of Land by American Land Survey Associates, Inc. of Gloucester, MA dated February 1, 2013; further, that this application is in harmony with the general purpose and intent of the ordinance.

5. PH2013-041: Amend GCO Chapter 17, Article II, Police Department, Sections 17-16, 17-17 & 17-18 re: Police Chief Selection Process
6. PH2013-042: Amend GCO Chapter 8, Article II Fire Department, Sections 8-16, 8-17 and 8-18 re: Fire Chief Selection Process

These public hearings are opened.

Council President Hardy said that the Police and Fire Chiefs were not available for this public hearing. She spoke with the Mayor prior to the meeting and informed her that due to their lack of their attendance the public hearings would be continued to September 10, 2013 when the Chiefs should be available to the Council.

These public hearings are continued to September 10, 2013.

- 7. PH2013-043: SCP2013-005: 3 Mansfield Street & 24 Washington Street, GZO Sec. 2.3.1.8 conversion To or new multi-family dwelling, seven or more dwelling units; Sec. 1.10.1 & 3.1.6(b) for a building height over 35'; and section 1.10.1 & 3.2.2(a) for a decrease in the minimum lot area & open space per dwelling unit**

This public hearing is opened.

Those speaking in favor:

Attorney Robert J. Coakley, 64 Middle Street, representing the applicant, James Santo, Trustee, a local business owner who owns the properties at the corner of Mansfield and Washington Streets (as noted above). He said also present was Attorney Lisa Voisine of his office and Joseph Luna, Architect for the project who lives in the City.

Background:

Mr. Coakley said it was 1 year, 11 months ago that the Donut Jim's building burnt down. It has taken that long to get to this point, he noted, because Mr. Santo did not have the best of advice. He had gone to the Zoning Board of Appeals (ZBA) and got approval for a building that ultimately couldn't be built and formed the basis for a Special Council Permit that was submitted a while ago. When Mr. Coakley came on as Mr. Santo's lawyer, he took the matter back to the ZBA and received necessary relief to build the building before the Council in this new Special Council permit application. The old Special Council Permit (SCP) application was too daunting, he said, and so it was withdrawn in favor of this refilled current SCP application. He noted one miscalculation although the plans the Council has seen properly depicted the property but there was a mathematical error which was corrected prior to the P&D Committee meeting. **Mr. Coakley** said at that meeting Councilor Hardy pointed out possible confusion between one set of height calculations which he said was based on a benchmark not average grade which is required. He crossed out and amended on the official plans on file the height calculations on C-02A.

Property Ownership:

Mr. Coakley said Mr. Santo is before the Council in two capacities – he is the owner as Trustee of the Santo Family Trust, 24 Washington Street (a.k.a. Donut Jim's) which Mr. Santo has owned continuously since 1987. He purchased a while back 3 Mansfield Street which is still there and purchased it individually. There are two separate entities owning two separate properties. He showed the Council the Proposed Plan of Land dated September 29, 2013 (on file). He said he has asked the City Assessors currently treat the properties as merged. He said he clarified the fact that an earlier lot plan shows Lots 6-36 and Lots 6-37. He has asked the City Assessor to keep the lots separate as there has been no deed to put the properties into a common entity or no merger by operation of law or under the zoning laws; and so are separate entities, he said.

He noted that after the fire almost two years ago, Mr. Santo asked the Building Inspector what can be done with the property, who informed Mr. Santo under State law and City zoning ordinance he could rebuild on the same footprint that preexisted the fire on both properties in substantially the same form. **Mr. Coakley** said a good example of that is the Lorraine Building of rebuilding on the same footprint and same height after a fire. He pointed out the aerial photograph submitted by Mr. Luna (on file) it shows a building that was once there; and since the building was there, Mr. Santo could rebuild on that area.

Structures Prior to Fire:

Mr. Coakley showed an enlarged original plan for two structures to the Committee which he described as the old Donut Jim's shop which most recently Savoir, a gourmet wine and cheese shop before the fire with three apartments above at 24 Washington Street. In the building behind it at 3 Mansfield Street there were three apartments. This totaled six apartments and one commercial unit on the main floor.

Filing under the Zoning Ordinance:

Under the current definition of multi-family, it includes a business that is located on the ground or first floor level with apartments above, **Mr. Coakley** noted. When this application was re-filed, the project was moved down by one category, he said, as this is now filed as seven or more under the multi-family definition. The commercial space is about 800 square feet. The applicant doesn't anticipate a restaurant with seating in the commercial unit. When the ZBA reinstated a parking exception for the retail use, the retail use excluded any potential restaurant with seating which requires additional superseding criteria for relief, he said.

Overview of Project and forms of relief:

Mr. Coakley said that Mr. Santo concluded the biggest neighborhood issue was parking. The six original apartments that had one legal parking space only with a half space when occupied left a car protruding onto the City

sidewalk. The new design allows for 10 parking spaces on the Mansfield Street of the project. He said Mr. Santo has a structure is sensitive to the neighborhood of modular construction which can be erected quickly once the foundation is laid, not tying up traffic on Washington and Mansfield Streets for unduly during construction. The exterior, he noted, would be trimmed out.

There is also a request for a height exception which **Mr. Coakley** said heights have been reconstructed to approximately what they were before the fire. Donut Jim's, he said, was 35 feet in front and a lesser peak of 31 feet in back. The new structure excluding the penthouse on the top floor, the parapet roofline seen on both Washington and Mansfield Streets is 33 feet, he said. The roofline the public will see is 33 feet which is less than what the houses were in back he pointed out. **Mr. Coakley** said the closest neighbor at 5 Mansfield Street owned by Regina Ciamartaro shown in a reconstruction (on file) with all its additions over the years is about 35 to 37 feet. The structure, if the Council allows he said, what the public will see is a perception of 33 feet tall but in actuality is not, is less than the preexisting structures.

Showing a drawing of the proposed project on Mansfield street, **Mr. Coakley** said that Mansfield Street slopes down from Washington Street; and based on the surveyor's calculation of average grade the top of the penthouse ridges is at 45 and a half feet above average grade. Therefore the applicant is seeking a 15 feet, 6 inch height exception, he said.

He mentioned Sean Malone, Civil Engineer from Newburyport whose drawings have been given to the DPW Director (on file). The curb cut will be a continuous one to gain better access to the garages. There are still some requests to be complied from the DPW Director to do that curb cut he noted. After the initial review by the DPW Director, the City Engineer then met with Mr. Malone to review how the project will tie in by one line to City water and sewer services and then be separately metered and routed throughout the building.

Mr. Coakley noted that the first apartment over the commercial unit is the smallest and does not have parking. The other five units have garages for each unit in which two normal-sized vehicles can fit into. The ZBA gave relief for the one apartment that does not have parking on site. There are a total of 10 spaces for five apartments taking 10 cars are off of the street. He also pointed out these units are two bedroom apartments.

Mr. Coakley then said by redesigning the footprint of the building, noting the original footprint had been on the rear of the property and by the Tedeshi's shopping center. He said that when Mr. Luna became involved in the project, he said that could not be built because the design Mr. Santo had obtained had been created by the modular company who was looking to fit in all the boxes but not to State building code. The building was slid forward by five feet, and by doing so, he pointed out, it also allowed for rear access to Washington Street. It also opens a corridor, he noted, where there is a chain link fence separating the two properties from Tedeshi's. **Mr. Coakley** said that the opening in back, he said, is deemed by the applicant wide enough to allow firefighting services in the event of another fire. Noting the corridor passes down to the rear of the applicant's property and over to a fence, he said the applicant had suggested it be gated, but P&D suggested it be a solid fence instead to stop cut through which was made a condition of the Special Council Permit and was a benefit to the closest neighbor.

The third relief is the open space per unit and lot area per unit; and **Mr. Coakley** said that the footprint of this project is smaller than the preexisting footprint. He said this is a small lot with no open space to speak of. The design allows for a small rooftop deck for some open space, he noted. The access to that area is by stairwell through penthouse enclosures and comes out to 11 foot x 11 foot patio area. He said the applicant has offered screening on the 5 Mansfield Street side as well as no open flame fires allowed, no charcoal grills, no chimeraas. These conditions that the Council could adopt in approving this plan, but if not chosen, he said those conditions Mr. Santo intends to write into any lease for any unit or if this is a condominium document that is written in with strict trash control as well, **Mr. Coakley** added.

Architectural Aspects of the Project:

Joseph Luna, Luna Design, Project Architect made the following points:

- That the primary roof is below 35 feet but local zoning does not exclude penthouse roofs; with the roof decks are the only open space.
- There are 10 parking spaces and 700 feet of retail space.
- In an effort to provide defensible outdoor space the design has it placed on the roof. The access is through a penthouse roof access to be viable.
- The building is constructed in modules; and each home is an independent structural wall and fire rated. If there was a fire in any unit, they are sprinklered. The fire is contained within one unit and is designed in a bulkhead type of construction.
- The building will be a wood frame construction and clad in cement fiberboard (on file) or similar type of cladding with cornice trim.

- This is a gateway building to the downtown.
- There will be no windows facing the immediate abutter which is by code.
- The site was sloped going down Mansfield Street. The roof is consistent, he said.

Mr. Coakley added that in showing a three dimensional layout of the modular units it is not the same scale as the plans but is a representation (A0.0 on file). The plans submitted by Mr. Luna and Mr. Malone are the plans to scale and are the plans on which the ZBA based their decision, he said. The fire occurred September 15th two years ago. A month from tonight if this project before the Council weren't approved, Mr. Santo's fall back is to get two building permits and rebuild what was there before. He suggested that this is better for the neighborhood, safer and more efficient use of the property and removes 10 cars off the street.

Mr. Luna said by building code the old structures cannot be built. There was a shared fire escape between the two structures. It is not even a possibility to put back what was there because it does not meet current building codes, he added. He said this is the best solution to get the same number of units and build something aesthetically pleasing. The new building will meet all current building codes. This design, he said, is a viable solution for its density, is a safer building and takes cars off the street.

James Santo, property owner at 3 Mansfield Street and 24 Washington Street said he apologized this project has taken as long as it has and in turn apologized to the neighbors, the Council and the City. He said a great deal of work went into this design and plans. His name will be on this building, he pointed out, and with a business in town it is important to him that the perception be positive. He said the design works well with the neighborhood and will attract nice tenants to the property that will spend money downtown and uplift the neighborhood.

Six Criteria under GZO Sec. 1.8.3:

Mr. Coakley made the following statements:

Social and Economic Needs: For the multi-family of 7 or more units, this property is the gateway to the downtown. It is the same number of units as was there before the fire. This provides reasonably priced housing and continues commercial use which goes back some years.

Traffic Flow and Safety: There is no added traffic to the neighborhood, and this project adds to traffic safety due to 10 off street parking.

Adequacy of Utilities and Other Public Services: There are more efficient water and sewer connections and drainage with the new building. The firewall separation is also an improvement over the preexisting structures with a new fire suppression system. The entire building can't go up in flames, as pointed out early – it is compartmentalized. The creation of a five foot corridor to the rear is an advantage to the neighborhood.

Neighborhood character and Social Structure: The neighborhood character is met by a more aesthetically pleasing structure, is safer as it is code compliant, and is consistent with the buildings in the neighborhood. The heights of the buildings there before were higher than what the public will see now walking and driving by.

Qualities of the Natural Environment: This is an urban landscape. There are no green lawns or landscaping.

Potential Fiscal Impact: There is the restoration of lost tax revenues. There is no negative impact on the school system over what previously existed because it is the same number of bedrooms is being built.

Separate from GZO Sec. 1.8.3:

Height Exception: The height exception is 15 feet, six inches which is consistent with the neighborhood. The Forbes School apartment building across the street is as tall if not a taller structure. There is no view obstruction; there is no overshadowing. The penthouses are set back and is accounting for the additional height which don't create any overshadowing also.

New Utilities: There is no impairment of utilities. In addition to water and sewer, all storm runoff will be handled by going into the City's new CSO new line on Mansfield Street.

Open Space per Unit and Lot Area per Unit: The last special permit is for the open space per unit and lot area per unit. Almost every multi-family permit the Council approved in the last five years all sought this type of relief. In a downtown urban situation the lots are small. This is consistent with neighborhood character and with the density in the neighborhood. This used to be a business district before it was changed to R-5 area but there are many commercial entities adjacent to the project's property. It is combined utilization of residential and commercial use.

Mr. Coakley then asked for the Council's vote in favor of the project.

Those speaking in opposition:

Regina Ciaramitaro, 5 Mansfield Street a resident there of 28 years said of primary concern is the close proximity of the new building to her property which she said was right on the property line. She said she understood the new building will have sprinklers and fire walls which are to code which helps to prevent that building being destroyed. She said it does nothing if a fire starts on her property. There is no way for any fire apparatus to access her property because they cannot get through the back of 3 Mansfield Street. That open space is behind the

applicant's property and is not hers, she pointed out and reiterated there is no space between the new building and her building to fight a fire. **Ms. Ciaramitaro** also expressed concern for the rooftop decks with any open fire created by chiminarias or grills as well as any loose deck furniture blowing over to her property in high winds. She pointed out the property has been an eyesore since the fire with nothing done to maintain it. When construction starts, she said, there will be rodents and asked what assures these rodents won't end up in her house. She welcomed development but said she had a problem with how close this is to her home and asked why it could not be further away from her property.

Phyllis Parady, 14 Mansfield Street spoke in support of Ms. Ciaramitaro and also spoke, she said, for Paula Burns at 6 Mansfield Street who asked she express concern regarding the traffic issues. She asked also whether this project would be rental units or condominiums. As far as vehicles, she said two normal-sized cars would be in the garages but asked about larger vehicles. She asked the Council to take into account her concerns and that of Ms. Ciaramitaro's.

Communications: None.

Councilor Questions:

Councilor Whynott said the building is built to the property line and asked how many feet is it to the abutter's house. **Mr. Coakley** said that the building of Ms. Ciaramitaro is three feet from the property line. He said it is not wide enough for a fire truck to come there and that a fire ladder cannot be put between the buildings. The fire would not be fought in that manner because it is not being allowed. Rather, he said, it would be fought from the front or the back of the building. **Mr. Coakley** said with the new construction it is more likely with Ms. Ciaramitaro's house would catch on fire and spread to the applicant's property not the other way around as her building is very old construction. He pointed out that the closest proximity between the two buildings is five feet and widens out another six feet towards the Tedeshi's property. The new building is more compliant, he said. **Mr. Luna** said from the corner of the existing house to the abutter it is about seven feet. The original structure was closer; this new structure is pulled back from what was original footprint. He said the original conditions were worse. As far as fighting the fire, he said there are no windows on that side of the building. The firewall partitions are rated to withstand a fire of one hour. It is tested by United Laboratories which certified the firewalls to burn one hour; additionally the units are sprinklered. The rating is applicable to the interior and exterior side, **Mr. Luna** said. The applicant, he said, is as worried about the abutter's home catching fire and burning as they are about 3 Mansfield Street. This is a safer party wall, he said, and in terms of life safety it is better than what was there originally.

Councilor Verga asked about rodents; that if the building is razed what are the requirements to contain the situation. **Mr. Coakley** said to tear the building down there is a separate permit application and an inspection has to be done as to rodents and asbestos. Because of the proximity to the street, the advantage is that the property can be accessed by a wrecking ball and truck there. A portion of Mansfield Street would be cordoned off. There were would also be a police detail there as well. **Councilor Verga** said a pest inspection would have to be done. **Mr. Coakley** confirmed there has to be an inspection as part of the demolition permit process which has to be approved by the Building Inspector and is taken into account for rodent control prior to demolition.

Councilor Cox asked about one building with two separate lot owners. **Mr. Coakley** confirmed it is legal and said that if the applicant were to receive this permit, as part of the building permit application after getting the demolition permit, at that point the applicant would abandon building two separate structures and build one consolidated structure. At that point the ownership would come to be one single entity with one single assigned lot.

Councilor Cox inquired about the parking of two vehicles in the narrow garages. **Mr. Luna** said it is tandem parking. The garage is about 35 and half feet which allow two standard-sized cars parked in a tandem manner.

Councilor Cox expressed concern for parking on sidewalks. **Mr. Luna** said there is one single curb cut which is related to ADA compliance; and in review for public safety it was to give more maneuverability. It is the best way to handle backing out, he said. The garage doors will have glass inserts so a driver can see in either direction, accommodations to make it as safe as possible. He assured there is no sidewalk but one continuous curb cut.

Councilor Cox said the curb cut is still a sidewalk. She expressed concern for vehicles overhanging the curb cut that would inhibit the passage of pedestrians. **Mr. Coakley** said they would accept a condition of no overhanging of a vehicle on the sidewalk. **Councilor Cox** said that is already a City ordinance. She also asked about trash receptacles which **Mr. Coakley** said trash would be kept in garages and would be only put out the night before trash collection. Additionally, in response to a concern expressed by **Councilor Cox**, **Mr. Coakley** said that the building owner or owners would be responsible for collecting the snowfall and also clean the City sidewalk. **Councilor Cox** said that there is no space between the units there is no place to move the snow if it is not a service that doesn't remove the snow completely from the building. She said is the owner's responsibility that the snow is not on the sidewalk and not on the street.

Councilor Ciolino noted the five foot open space for fire protection from the plaza next door. There was a condition that there would be no gate but a fence. **Councilor Verga** confirmed it was in the P&D motion. **Councilor Ciolino** said there should be a minimum height of five feet for the fence. Council President Hardy said the Building Inspector has regulations and codes on fence height. **Councilor Ciolino** asked that the fence minimum be five feet which **Mr. Coakley** said was acceptable. **Mr. Coakley** said the applicant would accept no umbrellas on the roof decks.

Councilor Theken asked if these units were to be condos or rental units. **Mr. Coakley** said it is a form of ownership. There is a huge financial investment by Mr. Santo on this property and could be either depending on market conditions. **Councilor Theken** said that it will be either rental units or a condominium trust or association. **Mr. Coakley** said condominium by-laws would have to mirror any conditions placed on the Special Council permits; and that Mr. Santo would be responsible for his tenant. **Councilor Theken** said if these are condo units, where there are by-laws which dictate rules, she asked this be disseminated to the neighbors. Mr. Santo will be responsible for his tenants, **Mr. Coakley** confirmed if these remain rental units in his ownership.

Councilor McGeary asked how far back is the penthouses are set back from the edge of the roof from Mansfield Street. **Mr. Luna** said that it is roughly 3 and a half feet out and from the indented roof line about the same distance. The penthouses are fixed and at 10 feet.

Councilor McGeary said a condition is put in to not have a gate in the fence. **Ms. Ciaramitaro** said she would rather not have a gate. She has a double gate that faces 3 Mansfield Street. She has new fencing on her property and said a gate on 3 Mansfield Street serves no purpose to her. She asked that the fence go the entire length of the property. **Mr. Luna** said the five foot walkway is by code with occupant egress to it. A gate is a point of confusion, he said. The fence goes along the back and the building becomes the edge. **Councilor McGeary** asked will there be a property manager to cover the maintenance of this property week to week. **Mr. Santo** said there is little green space, if any, and there is minimal maintenance. He would take responsibility for it, he said. As to the fence, Tedeshi's has railroad ties and a fence on top of that and **Mr. Luna** added the existing fence will be replaced in its entirety and will be coordinated with the existing railroad ties and will look better than what is there now.

Councilor LeBlanc said he and Mr. Santo have had several discussions regarding the maintenance plan and snow removal which need to be addressed, he said. An absentee landlord is not acceptable, he said, and through meeting with neighbors, he reminded Mr. Santo that the neighbors will be vigilant; any issues will need to be immediately addressed. He urged Mr. Santo to listen to what is being said by the Council and neighbors.

This public hearing is closed.

Councilor Tobey left the meeting at 10:13 p.m.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant James Santo, Trustee of Family Realty Trust and James Santo individually, Special Council Permits (SCP2013-005) for the property located at 3 Mansfield Street and 24 Washington Street, Assessors Map 6, Lots 36 & 37, zoned R-5 pursuant to Sections 1.8.3 and 2.3.1.8 (new multi-family dwelling, 7 or more units) of the Gloucester Zoning Ordinance to replace six (6) residential units and one (1) commercial unit (all destroyed by fire) with same for a total of seven (7) units. This permit is made with the plans approved by the Zoning Board of Appeals dated May 1, 2013 and revised May 20, 2013 drawn by Sean P. Malone, P.E., PLS, Oak Consulting Group, Newburyport, MA and dated May 23, 2013; and "Elevation Plans" dated May 20, 2013 by Luna Design Group, Danvers, MA all as incorporated in the July 26, 2013 ZBA Decision, and as approved with these special permits and with the following conditions:

1. That a fence on the Tedeshi's side of the property will not have any gate to permit access to #5 Mansfield Street.

DISCUSSION:

Additional conditions were proposed by Councilors LeBlanc, Ciolino and Cox and added by friendly amendment that the fence height will be a minimum of five feet; that the property owner has responsibility for property maintenance including snow removal according to Gloucester City Ordinances; and that rooftop utilization is restricted with no open flame, but gas grills are permitted.

. **Mr. Luna** added that there are storage units on the penthouses to store lawn future and gas grills and is taken into account in the overall design in response to a concern by neighbors for loose rooftop items and as expressed by **Councilor Cox**. **Councilor President Hardy** said her reasons for supporting this application were the same as those she gave at the P&D Committee meeting of August 7, 2013.

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to grant James Santo, Trustee of Family Realty Trust and James Santo individually, Special Council Permits (SCP2013-005) for the property located at 3 Mansfield Street and 24 Washington Street, Assessors Map 6, Lots 36 & 37, zoned R-5 pursuant to Sections 1.8.3 and 2.3.1.8 (new multi-family dwelling, 7 or more units) of the Gloucester Zoning Ordinance to replace six (6) residential units and one (1) commercial unit (all destroyed by fire) with same for a total of seven (7) units. This permit is made with the plans approved by the Zoning Board of Appeals dated May 1, 2013 and revised May 20, 2013 drawn by Sean P. Malone, P.E., PLS, Oak Consulting Group, Newburyport, MA and dated May 23, 2013; and "Elevation Plans" dated May 20, 2013 by Luna Design Group, Danvers, MA all as incorporated in the July 26, 2013 ZBA Decision, and as approved with these special permits and with the following conditions:

- 1. That a fence on the Tedeshi's side of the property will not have any gate to permit access to #5 Mansfield Street;**
- 2. Fence height will be a minimum of five feet;**
- 3. That the property owner has responsibility for property maintenance including snow removal according to Gloucester City ordinances;**
- 4. Rooftop utilization is restricted with no open flame, but gas grills are permitted.**

MOTION: On motion by Councilor Ciolino, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant James Santo, Trustee of Family Realty Trust and James Santo individually, Special Council Permits (SCP2013-005) for the property located at 3 Mansfield Street and 24 Washington Street, Assessors Map 6, Lots 36 & 37, zoned R-5 pursuant to Sections 1.8.3, 10.10.1 and 3.2.2(a) (decrease minimum lot area and open space per dwelling unit of the Gloucester Zoning Ordinance to replace six (6) residential units and one (1) commercial unit (all destroyed by fire) with same for a total of seven (7) units. The reduction of minimum lot area per dwelling unit is from 2,500 square feet to 1,736 square feet for a total reduction of 764 square feet. Minimum open space per dwelling unit is to be reduced from 1,250 square feet to 486 square feet for a total reduction of 764 square feet. This permit is made with the plans approved by the Zoning Board of Appeals (ZBA) dated May 1, 2013 and revised May 20, 2013 drawn by Sean P. Malone, P.E., PLS, Oak Consulting Group, Newburyport, MA; "Elevation Plans" dated May 20, 2013 by Luna Design Group, Danvers, MA, all as incorporated in the July 26, 2013 ZBA Decision, and as approved with these special permits.

DISCUSSION:

Council President Hardy noted some plans had been revised and received by the City Clerk's office. She then said she supported this application for all the reasons she stated at the P&D Committee meeting of August 7, 2013.

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to grant James Santo, Trustee of Family Realty Trust and James Santo individually, Special Council Permits (SCP2013-005) for the property located at 3 Mansfield Street and 24 Washington Street, Assessors Map 6, Lots 36 & 37, zoned R-5 pursuant to Sections 1.8.3, 10.10.1 and 3.2.2(a) (decrease minimum lot area and open space per dwelling unit of the Gloucester Zoning Ordinance to replace six (6) residential units and one (1) commercial unit (all destroyed by fire) with same for a total of seven (7) units. The reduction of minimum lot area per dwelling unit is from 2,500 square feet to 1,736 square feet for a total reduction of 764 square feet. Minimum open space per dwelling unit is to be reduced from 1,250 square feet to 486 square feet for a total reduction of 764 square feet. This permit is made with the plans approved by the Zoning Board of Appeals (ZBA) dated May 1, 2013 and revised May 20, 2013 drawn by Sean P. Malone, P.E., PLS, Oak Consulting Group, Newburyport, MA; "Elevation Plans" dated May 20, 2013 by Luna Design Group, Danvers, MA, all as incorporated in the July 26, 2013 ZBA Decision, and as approved with these special permits.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant James Santo, Trustee of Family Realty Trust and James Santo individually, Special Council Permits (SCP2013-005) for the property located at 3 Mansfield Street and 24 Washington Street, Assessors Map 6, Lot 36 & 37, zoned R-5 pursuant to Gloucester Zoning Ordinance Sections 1.8.3 and Sec. 3.1.6(b) for a building height in excess of 30 feet, with a height for the

building located at #3 Mansfield Street/24 Washington Street to be 45 feet and six inches (for a total height increase over 30 feet of 15 feet, 6 inches). This permit is made with the plans approved by the Zoning Board of Appeals dated May 1, 2013 and revised May 20, 2013 drawn by Sean P. Malone, P.E., PLS, Oak Consulting Group, Newburyport, MA; and Elevation Plans" dated May 20, 2013 by Luna Design Group, Danvers, MA, all as incorporated in the July 26, 2013 ZBA Decision and as approved with these special permits.

DISCUSSION:

Councilor Theken said she was in favor of the height exception after speaking to other neighbor sand that neighbors are willing to work together. **Council President Hardy** said she supported the height exception based on her remarks at the P&D Committee of August 7, 2013

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to grant James Santo, Trustee of Family Realty Trust and James Santo individually, Special Council Permits (SCP2013-005) for the property located at 3 Mansfield Street and 24 Washington Street, Assessors Map 6, Lot 36 & 37, zoned R-5 pursuant to Gloucester Zoning Ordinance Sections 1.8.3 and Sec. 3.1.6(b) for a building height in excess of 30 feet, with a height for the building located at #3 Mansfield Street/24 Washington Street to be 45 feet and six inches (for a total height increase over 30 feet of 15 feet, 6 inches). This permit is made with the plans approved by the Zoning Board of Appeals dated May 1, 2013 and revised August 9, 2013 drawn by Sean P. Malone, P.E., PLS, Oak Consulting Group, Newburyport, MA; and Elevation Plans" dated August 9, 2013 by Luna Design Group, Danvers, MA, all as incorporated in the July 26, 2013 ZBA Decision and as approved with these special permits.

Unfinished Business: None.

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

Councilors' Requests to the Mayor:

Councilor

Councilor Verga requested through the Mayor to the DPW to repair a broken post at the tennis courts at Stage Fort Park.

Councilor Cox thanked Boston Fence replacing the Parisi Ball Field fence while setting up for the Gloucester Blues Festival which was very neighborly, she said.

Councilor Ciolino said the Rotary Club has its annual pancake breakfast this Saturday at the Gazebo at Stage Fort Park and funds go to local charities. Also the Harbor Festival is going on Saturday and Sunday at the park as well. The DDC is planning a thank you for the YMCA Clean Team. There will be an event a week from Wednesday at Papa Gino's and a presentation will be made. The Building Center is sponsoring the event.

Councilor LeBlanc reiterated his request that the Administration to put forward a plan for the repair of the Fuller School roof.

Councilor Theken said Saturday night is a block party downtown. She thanked the Annisquam Village Players for allowing her to share their musical, Chicago. She noted she would send an email link to the Council for a recent Boston Globe article about important Medicare issues.

Councilor Cox said the Fisherman's Memorial is starts at 5 p.m. on Saturday.

A motion was made, seconded and voted unanimously to adjourn the meeting at 10:28 p.m.

Respectfully submitted,

**Dana C. Jorgenson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Written Statement by Sandra Jones on the Fuller School site.**
- **Related to PH2013-043: SCP2013-005: 3 Mansfield Street & 24 Washington Street the following documents were submitted by Attorney Robert Coakley:**

- 1. Proposed Plan of Land located in Gloucester MA prepared by American Land Survey Associates, Inc. dated September 29, 2012 color enhanced (black and white copy previously on file with application)**
- 2. Aerial photograph with “Assumptions of Construction Phasing of 5 Mansfield Street- Gloucester, MA (previously submitted to the P&D Committee)**
- 3. Color Photograph of property from Washington Street post fire**
- 4. Copy of letter to City Assessor, Nancy Papows re: 3 Mansfield Street/24 Washington Street dated July 30, 2013**
- 5. Document entitled “Proposed Votes” and “Proposed Conditions” totaling 4 pages including cover sheet undated (previously submitted to P&D Committee)**