

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, September 10, 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; Aleesha Nunley; Sally Polzin; Suzanne Egan; Jonathan Pope; Kathy Clancy

**The meeting was called to order at 7:05 p.m.**

**Flag Salute & Moment of Silence.**

**Council President Hardy** dedicated the Flag Salute and Moment of Silence as follows:

“The City Council together with the City Clerk and the Clerk of Committees would like to dedicate the Flag Salute and our Moment of Silence this evening to anyone and everyone who lost their lives when the terrorists’ planes crashed into New York’s World Trade Center, the Washington Pentagon and into a field in western Pennsylvania on September 11, 2001. Additionally, we would like to recognize those who stayed behind to face the worst while so many fled. We need to recognize that many left their families behind to do their duty. They did their job with dedication and compassion, giving all they had above themselves to the City of New York and our wonderful country. We would like to include those emergency workers who stayed behind in a time of crisis and stayed vigilant in their hometowns, ensuring that all emergency services continued to be provided as well as critically needed support services to their communities.”

**Council President Hardy** then said in light of the fact that this patriotic City has chosen not to conduct a public memorial to remember 9-11, she said she hoped that the full Council joins her in an Emergency Request to the Mayor, which she added she hoped Jim Duggan, CAO will immediately make known to the Mayor by texting the following:

“The City Council requests that an exactly 9:55 a.m. on Wednesday, September 11<sup>th</sup>, the bell at City Hall be tolled nine times and pause, then 11 more times and end. This is to show the City’s gratitude that was expressed by this Council a few moments ago. The Council, she said, further requests that this memorial process be conducted annually on the anniversary of 9-11 into the future.”

**By unanimous consent, the Council forwarded an Emergency Request to the Mayor through James Duggan, CAO.**

**Oral Communications: None.**

**Presentations/Commendations: None.**

**Consent Agenda:**

- **MAYOR’S REPORT**

1. Memorandum from General Counsel re: Remediation of Solomon Jacobs Park and abutting water sheet by National Grid (Refer P&D)
2. Memorandum from Public Health Director re: Council acceptance of a Mass. Department of Public Health Medical Reserve Corps Grant in the amount of \$13,340 (Refer B&F)
3. Memorandum from Fire Chief re: Council acceptance of an Emergency Preparedness Grant in the amount of \$6,030 (Refer B&F)
4. Memorandum from Harbormaster & pertinent material re: Draft Engineering & Market Feasibility Assessment for a Transient Marina (Refer B&F and P&D)

- **COMMUNICATIONS/INVITATIONS**

1. Invitation from Gloucester Education Foundation re: Celebration of its Programs on October 4, 2013 (Info Only)

- **APPLICATIONS/PETITIONS**

- **COUNCILORS ORDERS**

1. CC2013-040 (Verga) Request to review GCO Chapter 4 “Animals,” Article II “Dogs,” Sec. 4.15 through 4-22 and to consider whether to add the offense of “Running at Large Prohibited” to GCO Sec. 1.15 to allow for fines by non-criminal enforcement & signage to be placed in areas of concern (Refer O&A & Animal Control Officer)
2. CC2013-041 (Tobey) Request the Ordinances & Administration Committee review an ordinance for Council enactment re: that The City shall lease no property or structure unless funding is approved by a 2/3<sup>rd</sup> majority of the members of the City Council (Refer O&A)

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

1. City Council Meeting: 08/27/13 (Approve/File)
2. City Council Workshop: 08/26/13 (Approve/File)
3. Standing Committee Meetings: B&F 09/05/13 (under separate cover), O&A 09/02/13 (no meeting), P&D 09/04/13 (under separate cover) (Approve/File)

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

**Council President Hardy** asked to remove the City Council minutes of August 27, 2013 in order to amend the minutes on page 15 to the motion related to GZO Sec. 1.11 and deletion of Wetlands, Sec. 5.5 which she moved and the Council voted as follows:

**MOTION: On motion by Councilor Hardy, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to amend the City Council minutes on page 15 of August 27, 2013 as follows:**

**Motion voted on August 27, 2013:**

**MOTION: On a motion by Councilor Verga, seconded by Councilor Hardy, the City Council voted by ROLL CALL 6 in favor, 0 opposed, 3 (Theken, Tobey, Cox) absent, to Amend the Gloucester Zoning Ordinances by DELETING, pursuant to Sec. 1.11.2(3), Section 5.5.4 entitled "Lowlands";**

**Amendment:**

**MOTION: On a motion by Councilor Verga, seconded by Councilor Hardy, the City Council voted by ROLL CALL 6 in favor, 0 opposed, 3 (Theken, Tobey, Cox) absent, to amend the Gloucester Zoning Ordinance by DELETING pursuant to Section 1.11 Sec. 5.5 Lowlands in its entirety.**

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

**For Council Vote:**

1. **City Council votes taken on July 2, 2013 & August 27, 2013 re: Motion of City Council to ask Mayor to Recommend to the Council the immediate appropriation of 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 as of July 1, 2014; and Motion of City Council 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 the Building Inspector certification and any other required clearances, the Magnolia Fire Station for the remaining months of FY2014.**

**Councilor Tobey** said that he appreciated this matter staying on the Council docket. The purpose was to ask the administration to open Bay View on 24/7 basis and open Magnolia Station as of January 1, 2014. Mr. Duggan advised positive developments on one of these points.

**Jim Duggan**, CAO said that on July 2<sup>nd</sup> the City Council made a request to the Mayor who in turn authorized Fire Chief Eric Smith to open Bay View 24/7, which he did; and the Mayor will continue to honor that request. He said the Magnolia Fire Station was planned to open when the consolidation of the fire personnel occurred starting July 1, 2014 so that it would open with enough personnel. The site has been evaluated and needs a new electrical system, plumbing and a kitchen for which plans are going forward, he said. He told the Council it can expected to see an appropriation put forward by the Administration for the overtime to keep the Bay View Fire Station open, as the Fire Department's overtime account is down to \$81,000. He noted also with the appropriation request for overtime will be a request for the necessary funding to enable in coordination with the DPW, and any necessary contractors, for the complete rehabilitation of the Magnolia Fire Station which will be open and ready at the latest July 2014.

**Councilor Tobey** commented the Administration confirming with Mr. Duggan that the additional revenues needed on an overtime basis is why on a 24/7 Bay View will be open. He said he wished the same could be true with the Magnolia Fire Station but understood the physical problems for that building.

**Council President Hardy** said Magnolia Fire Station had mold and still does, and asked if an independent firm had been hired to assess the situation. **Mr. Duggan** said that it is part of the appropriation of the scope moving forward. A firm will be hired to remediate any mold found.

**Councilor Ciolino** commenting on the B&F Committee's list of items to be funded by Department of Revenue Certified Free Cash for FY2013 asked if \$100,000 will go into the Fire Department's overtime account. **Mr. Duggan** confirmed that proposal was planned to come forward from the Administration.

**Councilor Tobey** expressed his satisfaction with the progress shown. **Council President Hardy** then announced that no further action by the Council is required regarding this matter; and therefore the matter is considered closed.

**This matter is closed.**

**2. Motion for Reconsideration (Hardy): City Council vote taken on August 27, 2013 on whether or not to extend the Emergency Ordinance (City Council vote of 07/02/13) re: Fire Stations:**

**Council President Hardy** said that the vote was taken on August 27<sup>th</sup>. On August 28<sup>th</sup> she received several calls from City Councilors as to what the vote meant so she had filed a Motion for Reconsideration to be sure all Councilors were clear as to the purpose of the vote. The Council had no further questions regarding the vote to extend the Emergency Ordinance regarding the Fire Stations, and therefore, **Council President Hardy** with the assent of the Council withdrew her Motion for Reconsideration.

**This matter is closed.**

**3. Language for non-binding advisory Question to Voters (City Charter Sec. 9-7) that will appear as a ballot question on the 2013 Municipal Election Ballot regarding Use/Reuse of the Fuller School Building**

**Councilor McGeary** said that as the member of the Council charged with developing the language supporting the question on the Fuller Building site, he had prepared supporting language for three choices, which was the will of the Council expressed at the City Council Workshop on August 26, 2013. The three choices are:

- A) Is it the pleasure of the voters to repurpose the Fuller Building site for all or some city municipal offices;
- B) Is it the pleasure of the voters to repurpose the Fuller Building site for commercial or retail use;
- C) Is it the pleasure of the voters to repurpose the Fuller Building site for a mixed use which could include but not be limited to retail, commercial, non-profit or municipal use.

**Councilor McGeary** said that these options do not include reusing the Fuller Building site as a grammar school or any kind of school. The reason the non-binding ballot question language does not include that option was that it was the sense at the last City Council regularly scheduled meeting that the case had been made through the West Parish Study for which the City paid \$500,000, that the use of the Fuller School would be prohibitively expensive and would not meet the needs set forth by the School Committee for effective learning communities; would not even function as a Central Grammar II because it could not hold the elementary school population, he said. **Councilor McGeary** added that even if the City repurpose the Fuller Building site at a cost higher than \$100 million at best estimates, the City would have to at least build a West Parish School and possibly another school since the full build out of the Fuller Building would not accommodate three-fifths of the current school population. Therefore, the language as prepared and the questions as prepared do not refer to the Fuller Building site being used as a school option. **Councilor McGeary** reminded the Council they had been provided by him a document which contained two variations of explanatory language for each ballot question option (on file):

Variation #1 for a non-binding municipal ballot question:

“What is your preferred use of the Fuller Building Site? All options include the proposed use of the former Charlie Thomas field at the site as a municipal Public Safety Center.

- A) Relocate some or all city offices to the site.
- B) Develop the property as a commercial site.

- C) Develop the site for a mix of uses including governmental, non-profit and for-profit uses or some subset of those.

**Councilor McGeary** said the two variations he would offer the Council this evening, Variation #1 includes some examples what might be permitted under options A, B or C. Variation #2 does not include the examples so that voters are not steered in any particular direction, he pointed out.

Variation #1 Explanation of Options:

A) If you express a preference for this option you are saying that you prefer that the primary use of the Fuller Building site should be to house municipal offices. Under this proposal city offices, now scattered at several sites throughout the city, would be moved to the Fuller Building site on Blackburn Circle. This might include moving some or all of the functions now located at City Hall to the Site. Pursuing this option would result in substantial savings to the city which money could be used for other municipal purposes. The current auditorium could be retained as a city facility. Note: Under this proposal it is likely that there would remain some unutilized or underutilized space at the site as city offices alone probably not require all the space available. The use of that remaining space would require further analysis once the amount of space to be used for city offices is determined.

B) If you express a preference to this option, you are saying that you prefer to see the site developed for commercial use or retail use. Pursuing this option would maximize growth in the city's tax base; and therefore, tax revenues to support schools, public safety and infrastructure maintenance. Types of development that could be envisioned under this proposal include a "big box" store, an office park, small shopping center or market rate residential housing. This option could include retaining the current Fuller auditorium as a municipal facility.

C) If you express a preference for this option, you are saying you prefer maximum flexibility in developing the site. Pursuing this option might allow a mix of city offices and commercial development as envisioned in options A and B. There is also a provision for allowing a non-profit organization whose mission benefits city residents to develop all or part of the site. The proposal to move the YMCA from its current Middle Street location would be an example of use under this option. Such mixed use could combine savings in the city budget with some increase in tax revenue and benefits brought to the city by the non-profit organization.

**Councilor McGeary** explained that the second set of explanatory notes, labeled Variation #2 No Examples, deletes the references to specific examples and doesn't talk about big box stores, the YMCA, housing; it just says generically this is what it means:

Variation #2 Explanation of Options:

A) If you express a preference for this option, you are saying that you prefer that the primary use of the Fuller Building site should be to house municipal offices. Under this proposal city offices, now scattered at several sites throughout the city would be moved to the Fuller site on Blackburn Circle. This might include moving some or all of the functions now located at City Hall to the site. Pursuing this option would result in substantial savings to the city which money could be used for other municipal purposes. The current auditorium would probably be retained as a city facility. NOTE: Under this proposal it is likely that there would remain some unutilized or underutilized space at the site as city offices alone would probably not require all the space available. The use of that remaining space would require further analysis once the amount of space to be used for city offices is determined.

B) If you express a preference for this option you are saying that you prefer to see the site developed for commercial or retail use. Pursuing this option would maximize growth in the city's tax base; and therefore, tax revenues to support the schools, public safety and infrastructure maintenance. This option would include retaining the current Fuller auditorium as a municipal facility.

C) If you express a preference for this option you are saying you prefer maximum flexibility in developing the site. Pursuing this option might allow a mix of city offices and commercial development as envisioned in options A and B. There is also a provision for allowing a non-profit organization whose mission benefits city residents to develop all or part of the site. Such a mixed-use could combine savings in the city budget with some increase in tax revenue and the benefits brought to the city by the nonprofit organizations.

**Council President Hardy** asked for paper copy for the Council which City Clerk, Linda Lowe obtained from the Clerk's office and was distributed to the Council.

**Councilor Tobey** inquired whether the questions are going on the ballot or on the analysis that is supposed to accompany the non-binding ballot question would be voted on in total which was he said he was expecting do that there would be an opportunity to amend. **Council President Hardy** said that the Council would be better served by voting on the introduction to the question and each individual option and then the explanations; that there would be opportunities to amend each option and the explanations, and once voted an additional option could be voted to amend the question should that be the will of the Council. She noted she had offered at the Council workshop an option that would indicate making the Fuller Building site a school once again, but said she was shut out in a vote of 1 in favor, 5 opposed.

**Councilor Whynott** made the following statement: "We elect School Committee members to hire a qualified professional Superintendent, set budget priorities, and approve the budget and set overall policies for the school system. Schools are their one function. They determine that Fuller School can and/or will be used as a school again. The School Committee has been working on this issue for 10 years and has made the determination that the Fuller property cannot be a school again other than for temporary use. The City Council cannot change this; the Mayor cannot change this. Therefore, putting a school option on the advisory ballot question school will do nothing but raise some people's expectations unnecessarily."

**Councilor Whynott** added that it was his personal experience doing his own survey for at least four years or longer, 90 percent of those he spoke with were in favor of consolidation of City offices at the Fuller Building site.

He then said he can't support putting a school option in an advisory question on the municipal ballot.

**Councilor Ciolino** pointed out that the School Committee the following evening would take a vote on a non-binding ballot question of its own and suggested this is a duplication of effort on the part of the Council if it votes a school option for the Council's non-binding ballot question. He said it is the School Committee's purview to talk about other uses for the school.

**Councilor Theken** added that she, too, understood the same information will be put forward by the School Committee who is voting on their own ballot question the following evening. She would appreciate, she said, to have a simple question put forward by the Council to the voters excluding a school option.

**Council President Hardy** said what the School Committee vote tomorrow evening will have no bearing on what the Council does. She said the Council has every right to propose a question and should not be dependent upon what the School Committee does. It is a separate function from that of the Council she pointed out.

[Workshop] MOTION: On a vote of 6 in favor, 0 opposed, 3 (Theken, Tobey, Cox) absent, the City Council voted to recommend a preamble/introduction to a 2013 Municipal Ballot Non-Binding Advisory Question to read as follows:

"What is your preferred use for the Fuller School Building site? All options offer potential additional use of the former Charlie Thomas field as a municipal Public Safety Complex."

#### **DISCUSSION:**

**Councilor McGeary** said that this is the introduction to set the stage for voters to choose one of the three options.

**Councilor Tobey** said there is no study; no community consensus; nothing that establishes that the best site for a public safety building should be on the Charlie Thomas field; that work has yet to occur. The Administration would likely validate that, he said, and expressed concern by its inclusion in the preamble/introduction.

**Mr. Duggan** said that Councilor Tobey is correct, to say that nothing has been done yet. He said the first step will be a site analysis, and the City will hire the necessary consultant with input from the Police and Fire departments through the union with their command staff, on the scope of the consultant's task. Everyone has discussed having the Fuller site as a potential municipal public safety facility; but and it has to be determined that this is the best site. **Councilor Tobey** said that says that it isn't that a box to be checked to validate that is the right site for a municipal public safety facility, but rather there is an open-ended consideration of whether or not that is the place site for the facility which **Mr. Duggan** indicated verbally that was correct.

**Councilor McGeary** said the intent of the question, and the reason of adding, of "potential additional use," was that many people thought they would have to choose between the municipal public safety facility at the Fuller School site and one of the three options. All the three options could be pursued in conjunction with the development

of a public safety facility on the Fuller property. This was to underscore with voters that it is not an either or situation.

**Councilor Verga** said he supported this introduction. Things have changed since this question was originally proposed - the School Committee still had control of the school and was the reason he included the school option, he pointed out. But since then, he said, the school was declared surplus. He said has no problem pulling off the public safety facility. Each option can stand on its own, he concluded.

**Councilor Whynott** said he thought none of the above options would preclude the property of part of the property being used as a public safety facility option and makes sense leaving it on.

**Councilor Ciolino** said he recalled the Council had determined the use of the phrase "the Fuller Building," not the Fuller School building and asked the Council to delete the use of the word "school" and that the Fuller site should be referred to as the "Fuller Building site." **Council President Hardy** agreed with the Councilor.

**The word "School" was deleted by a vote of the Council with 8 in favor, 1 (Tobey) in opposition.**

**Councilor Tobey** pointed out that there was a great book written, "1984" where language was manipulated by a writer to whatever the writer wanted people to do. Fuller, he said, has been a school for generations of students and that this wordsmanship and gaming was concerning to him.

**Councilor Ciolino** objecting to Councilor Tobey's assertion said that this is to seek clarity and that the Council is trying to do the right thing.

**MOTION: On a motion of Councilor McGeary, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 9 in favor, 0 opposed to approve a preamble/introduction to a 2013 Municipal Ballot Non-Binding Advisory Question to read as follows:**

**"What is your preferred use for the Fuller Building site? All options offer potential additional use of the former Charlie Thomas field as a municipal Public Safety Complex."**

[Workshop] MOTION: On a vote of 6 in favor, 0 opposed, 3 (Theken, Tobey, Cox) absent, the City Council voted to recommend approving language for "Option A" to a 2013 Municipal Ballot Non-Binding Advisory Question to read as follows:

"Relocate some or all city offices to the site."

#### **DISCUSSION:**

**Councilor McGeary** said that this is the first of three choices voted at the workshop and is self explanatory. **Council President Hardy** asked to amend the language to "the Fuller Building site."

**By a vote of 9-0 the motion was amended.**

**Councilor Cox** asked to have made clear that would the City would own and manage the site. **Council President Hardy** said yes.

**Councilor Tobey** said he would vote for this option and the other two options that came forward from the workshop this evening. He asked for a vote on the totality of the question in order to offer an amendment to put in a school option at the completion of that vote.

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Whynott, the City Council voted by ROLL CALL 9 in favor, 0 opposed to approve language for "Option A" to a 2013 Municipal Ballot Non-Binding Advisory Question to read as follows:**

**"Relocate some or all city offices to the Fuller Building site."**

[Workshop] MOTION: On a vote of 6 in favor, 0 opposed, 3 (Theken, Tobey, Cox) absent, the City Council voted to recommend approving language for "Option B" to a 2013 Municipal Ballot Non-Binding Advisory Question to read as follows:

“Develop the Fuller Building site as a commercial site.”

**DISCUSSION:**

**Councilor Theken** asked who would develop the site. **Councilor McGeary** said it would have to be decided with **Council President Hardy** adding that would need to be decided between the Administration and the Council and is a possibility.

**Councilor Theken** said the Council is voting questions but there is no meaning behind them. **Councilor McGeary** said at the end the Council will vote the entire package and that the Councilor could vote it all down.

**Councilor Whynott** understood the phrase Fuller Building site, but developing the site commercially speaks to the whole parcel which he said is confusing and could mean more than the Fuller building site.

**Councilor McGeary** said he took the phrase to mean the footprint of the building and not the entire site.

**Councilor Cox** asked did option B mean the City would sell the property; if that couldn't be answered, the City shouldn't be landlords.

**Council President Hardy** reminded the Councilors it is for the use of the building not the ownership.

**MOTION: On a motion by Councilor McGeary, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 9 in favor, 0 opposed, absent, the City Council voted to approve language for “Option B” to a 2013 Municipal Ballot Non-Binding Advisory Question to read as follows:**

**“Develop the Fuller Building site as a commercial site.”**

[Workshop] MOTION: On a vote of 6 in favor, 0 opposed, 3 (Theken, Tobey, Cox) absent, the City Council voted to recommend approving language for “Option C” to a 2013 Municipal Ballot Non-Binding Advisory Question to read as follows:

“Develop the site for a mix of uses including governmental, non-profit and for-profit uses or some subset of those uses.”

**DISCUSSION:**

**Councilor McGeary offered to amend the word “site” to “Fuller Building site” to be consistent which was unanimously accepted by the Council.**

**Councilor McGeary** added that this is a catch all which covers A and B and includes the use of the site by a non-profit organization and would take the most thought and planning and allow the most varied of uses.

**Councilor Cox** confirmed that this is about use not ownership. She said she would look forward to the explanations for each option to flesh out the options. She also expressed her concern for the level of government options, meaning municipal offices included in options A and B. There has been a great deal of money spent on City Hall has had to improve it for public access with non-taxpayer money.

**Councilor Verga** said private donations went into the Fuller auditorium too. He said this is over thinking the options. Three concepts are being put forward because it was moving full steam ahead with one option before, and not considering the possibility of others. He said this ballot question is to get focused public feedback to learn what the public sees as the main option to possibly pursue and move forward on one or two options instead.

**Councilor Whynott** said if the commercial option wins, the City would retain the building, but if it was an option of leasing the property, that the maintenance should be put on the lessee.

**Councilor Ciolino** pointed out that the City is paying rent for City offices in several different locations in the City and that the money not spent on rent would go to Fuller's maintenance. From a business standpoint he asked why the City is renting facilities when there is a building owned like one such as this, he noted.

**Councilor McGeary** pointed out the language said “or some subset” which gives the widest range of opportunities.

**Councilor Cox** said when the explanation for option B is spoken about, it said to increase the tax base if the City is still the owner/landlord because the City would charge a rental fee that goes back into the General Fund.

**Councilor Ciolino** said even if the City consolidates all City offices into the Fuller building, it would still leave half of the building empty; that unused portion could be rented which could offset the cost of fixing the school for City offices. He asked it be put out there and find out what the City can get.

**MOTION: On a motion by Councilor McGeary, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 9 in favor, 0 opposed to approve language for “Option C” to a 2013 Municipal Ballot Non-Binding Advisory Question to read as follows:**

**“Develop the Fuller Building site for a mix of uses including governmental, non-profit and for-profit uses or some subset of those uses.”**

[Workshop] MOTION: On a vote of 1 (Hardy) in favor, 5 opposed, 3 (Theken, Tobey, Cox) the City Council voted to recommend to add Option D, “to reuse the Fuller Building site for educational purposes.”

**Councilor McGeary** put forward the motion and **Councilor Ciolino** seconded the motion for discussion purposes only, he pointed out.

#### **DISCUSSION:**

**Councilor McGeary** said this option was put forward at the Council workshop and was defeated.

**Councilor Tobey** said that said that the Council is putting together a list of options that seeking guidance from the voters on a reasonable array of possibilities for folks to choose one. There are those who don't want to use Fuller as a school anymore, he said. Councilor Whynott pointed out that is from elected officials, and he added that there is an election on November 5<sup>th</sup> and those bodies composition could change. The discussion on this issue that will go forward up to the election on November 5<sup>th</sup> will give the people in the community the ability to make their own decision, he said. **Councilor Tobey** pointed out the Council are the elected, not the elect and would poorly serve 20,000 voters if they don't have the opportunity to opt for a school because someone else has figured it out for them. He said he wrote a “My View” column recently in the Gloucester Daily Times which included a walk through the Fuller School Building saying that if one took their house closed the door, turned the water and heat off, it would smell musty. A thorough cleaning of the building and putting back which had been taken from the building by the City the building would be useable again, he said. A building worth \$17.2 million and a site worth \$500,000 more is not a tear down, he said, and that it is not fit for a school isn't true either. This motion as presented does not indicate whether that reuse would be permanent or temporary. He thanked Councilor Ciolino for casting this in the right light when it is wrong to pay rent when the City already owns this building. **Councilor Tobey** said that West Parish Elementary School is going to be torn down and students displaced for two years. They could keep the students together or go to Kondelin Road and take the old Rule Industries, adapt it as school and pay rent to two years, he pointed out, and that the building is situated in an industrial park at the beginning of the road that goes into it. He said a solid waste transfer station at the end of the road, a live railroad track behind it which in 1982 the then Council had serious questions about that building in which hazardous materials were being used and that its expansion would cause those materials to go into the wetlands behind the railroad tracks. **Councilor Tobey** said this issue is about responsible financial management and fiduciary responsibility the Council was sworn to uphold. If the Council doesn't put the question on, shame on the Council.

**Councilor Whynott** said that the Council will not have the decision to use the building as a school; the School Committee will have that decision. He said he did not wish to confuse the issue. This question will not preclude the use for use of the building as a temporary place to put the students, he said and reiterated that this is an advisory question only. It can't be used as a complete school because the School Committee said so, he pointed out.

**Councilor Verga** said one can't say the Fuller building is a teardown if one is thinking to put city offices in that same building. He pointed out he sat on the School Committee for the whole period that the City was going through a fiscal crisis and closed Fuller after listening to impassioned pleas from parents not to close their school. The School Committee at that time reached a public decision that was reaffirmed at least twice. The City Council does not have the ability to force them, he said, if the City is going to pump money into creating a school in a warehouse. **Councilor Verga** said he agreed the City should not be renting space for the purpose of a temporary building to house students. If the word temporary were part of the question he may support it. He never said this building was a tear down. It would be disingenuous to infer that Fuller should be a consolidated school, it is misleading. He would consider temporary.

**Councilor Tobey** proposed an amendment to the motion: **That the proposed option D is amended to read, “That the Fuller Building site be reused as a school on a temporary basis during construction of a new West Parish Elementary School,” which Councilor Verga seconded.**



**Councilor Tobey** said that one important fact is that the supposed vote to surplus is an oddly worded document from the point of view of what it legally purports to do. It says the School Committee gives the school up unless they need it again for a school, he noted. He said he didn't see that action as a barrier to the Council proceeding. He suggested this wording would be worthwhile that during those two years that people could have a change of heart on the Fuller School, he added.

**Councilor LeBlanc** said the building can be used for something but he wanted to highlight the location of the Fuller Building. All school buildings are set back in their own quiet area with the exception of Veterans which is in a downtown location with these elementary schools off street and each having their own good learning environment, he said. He pointed out students need nurturing in a good learning environment, but just as important is student safety. Sending kids to school adjacent to a shopping center where there are thousands of cars in and out every day, puts students in a situation where something out of the ordinary doesn't jump out and create concern. The school, he said, has the potential for security issues versus sending children to their neighborhood elementary schools. This is a poor learning environment and a safety concern for City students, he reiterated.

**Councilor Theken** noted that the temporary use was not brought forward at the workshop. She wished to hear from the School Committee, who are in the audience, and wanted to know why they are looking at the former Rule Industries versus the Fuller School building. They all talk about community based schools, she said.

**Council President Hardy** asked for the Council's unanimous consent to allow a School Committee member to speak, but **Councilor Tobey** objected to the School Committee speaking at this time because this is about getting the opinion of the voters and not that of the School Committee.

**Councilor McGeary** said speaking on the amendment to the language of a possible Option D, for the use of the Fuller Building as a temporary school, the preliminary estimate is that Kondelin Road would cost \$2 to \$3 million and then rental; the Fuller Building would cost upwards of \$9 million to renovate to use only as a temporary school. There is a third option which is to build a new West Parish School behind the current West Parish School and keep the school running during construction of the new school which is an option known as Scheme H in the preliminary design plan put forward he said. It increases the cost of the New West Parish School, **Councilor McGeary** noted, because there are some things that can't be done when the students are around, more care needs to be taken, some remediation has to be done, but the preliminary costs is only about \$800,000; and so he said there are other options other than Kondelin Road and the Fuller Building. **Councilor McGeary** said as to the notion that this hasn't been fully vetted, that a Councilor on a walk through figured out that as much as the consultants were paid \$500,000 to do this study and ascertain the use of the Fuller School, including its permanent use and its use as a temporary replacement for West Parish School, does it mean the City shells out another \$500,000 for each question until the City gets an answer it likes. **Councilor McGeary** said the City paid these experts who build schools who have been before the Council twice, who have said this is a non-starter, which the Council knows and has every reason to believe. The consultants' best recommendation as professionals who build schools for a living is that Fuller is a non-starter as a Central Grammar and as a temporary school and would oppose the amendment, he concluded.

**Councilor Cox** said of the three options are long term goals; having an option at best would give two years and go back to the voters and decide again, and amend question to all options offer additional options for temporary housing of the West Parish students, but this takes away from the three valid options to use. She didn't want to put an extra option on as this is a temporary use, she said. **Councilor Cox** said Fuller has a major highway running next to it, a shopping center abutting it, and a wetland on the property. She said it is not a viable option for a long-term school; and further it does not go with community-based schools, and the School Committee has rejected the building as a school she added. Option D, she said, with the amendment does not work.

**Councilor Ciolino** said if the Council goes with the use of a school temporarily, it means the school sits there empty with no definition of how to put the building forward into the future. Take what the experts have told the city that it is a non-starter as a school and move forward with turning it into a municipal complex with other possible uses he urged. He said there are consequences making the building a school again, which was another stall. The building's use as a school is over, and he said he would not support the option as a temporary school or a long-term school. The parents and the School Committee should be respected for what they do. He asked the Council vote down the option as a school.

**Councilor Whynott** said if putting this option in as a school on a temporary basis, if it in addition it said would you like to see the building as a temporary school rather than renting space that he would agree to. He never thought, he said, that the building would be looked at to be used as a temporary school. It should be a secondary option, not a main option he added.

**Council President Hardy** said that although School Committee has voted the building surplus as a school, the Mayor has not put it forward through the Mayor's Report to the Council; she has not put it to the Council for a vote. She said she would support the amending the main motion. She said people have the right to see the option,

and why should the Council preclude the school option. It is the Fuller Building site, and she said she has heard some School Committee members would be willing to consider Fuller versus Rule Industries for a temporary school.

**Councilor Verga** said he did not support the building as a long-term school. The temporary use of Pond Road as a City Hall annex is now 15 years old. He hoped the Administration goes with Option H for building West Parish at the same site.

**Councilor Theken** said she would not support the amendment or the option for a school on the non-binding question; that it should be up to the School Committee. Out of the respect for the School Committee that is working with the Council and out of respect for their office, she would respect their decision. She said her main concern is that all the West Parish children are kept together. She reiterated she would not vote for the amendment to the motion.

**Councilor Tobey** said he is grateful to Councilor McGeary that there are multiple estimates put forward on what it might take to get Fuller versus Rule Industries in use as a temporary school. Eighteen months ago the Superintendent said it would take \$5 million to bring up Fuller to a viable school, he noted. The School Committee has been heard on this often, but disagrees with their opinion on the Fuller School, he said. He would vote for the community, for the people in Ward 1, 2, 3, 4 and 5, to have a chance to be heard and vote on this and hoped the Council recognized is making a reason for them not to vote on this. He asked the Council to give voters the chance.

**AMENDMENT: That the proposed option D be amended that the “The Fuller building site be reused as a school on a temporary basis during construction of a new West Parish Elementary School which was voted by ROLL CALL 3 in favor, 6 (Theken, McGeary, LeBlanc, Whynott, Ciolino, Cox) opposed.**

**AMENDMENT FAILS.**

**Councilor Whynott** reiterated that Option D would skew the results as he previously stated and offered a brief amendment as an alternate which he immediately withdrew.

**Councilor Cox** suggested that this amendment belonged in the preamble/introduction.

**Councilor Tobey** suggested there could be two questions and do a question with a preamble without a school and do a second question do people feel the building should be used as a temporary place to house the West Parish School students while the new West Parish School is being built.

**Councilor Whynott** noted this is only one question.

**Councilor LeBlanc** noted the Chair of the School Committee is present and that he asked if Mr. Pope could step forward to the podium. There was no Council unanimous consent as several Councilors objected.

**Councilor McGeary** said why the Council should presume to tell what the voters can and cannot vote. The City hired a firm at a cost of \$500,000 to make a full study not just of the West Parish School but what options there were including the Fuller School. The consultants found that it would take just as a replacement for West Parish would be \$67 million as opposed to \$38 million for West Parish because of the nature of the building. The building was built in 1961 of precast concrete so that everything that needs to be done has to be jack hammered so it is a very expensive building to rehabilitate, he said. **Councilor McGeary** said to make Fuller a Central Grammar II, would be north of \$100 million, best estimate; and in addition, Central Grammar II would only house about 3/5 of the elementary school students, he said. That's Central Grammar II at \$100 million, West Parish at \$38 million and likely another Beeman, Plum Cove, East Gloucester for another \$38 million each and then it is over \$200 million which at some point doesn't make sense. He said that doesn't include the fact that the School Committee whom they elected to formulate and execute educational policy, that they want community-based schools for small children which they said was the best learning environment, but he asked the Council to leave that aside. **Councilor McGeary** said then there is the question; to be put forward to the voters as an advisory question so what can happen and then ignore it. If they know of virtue of studying the issue that this is simply not a viable option when the Council presents it to the voters that yes the City Council think it is rational to do this, then they are reinforcing the concept it could be done; and further it says to the voters you have this an option even though the Council knows it is never going to happen, he said and added it is just election year rhetoric. He reiterated that the building is not structurally unsound, it is educationally unsound; the spaces do not conform to what the State says what the requirements are for an elementary school in the 21<sup>st</sup> century, he said and added that to make them that way means tearing down load bearing walls, running conduit and pipe, HVAC and the like, and that's where the \$100 million comes from. The consultant, the architects who build school when asked by him if someone told them to build a school at the Fuller site what would be the first thing they would do, and they told him, “level it.” That building as City offices, an office complex, a YMCA or something he hadn't thought of yet does have good bones, but could be used for good use for tax generating uses; but it should not and could not be used as a school, he said, and to present

it to the voters as a school option is chasing something that cannot be. **Councilor McGeary** concluded his remarks by saying it is time to say voters - here are the options that the Council thinks are the best options for the City, which one you like.

**Councilor Tobey** said has 60 pictures that prove Councilor McGeary wrong on the ability for the building to be a school after a couple of months a good scrubbing and some necessary repairs from the damage that happened from the City's benign to active neglect. He said the City Council is culpable in the on-going destruction of the building, and his photos were not cherry picked he said, when trying to sell the City a building designed in the context not in a comprehensive assessment of a school system but to appease a neighborhood. **Councilor Tobey** said he hoped accountability comes home to roost.

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 2 in favor, 7 (LeBlanc, McGeary, Theken, Verga, Whynott, Ciolino, Cox) opposed to approve an Option D which reads as follows:**

**"To reuse the Fuller Building site for educational purposes."**

**MOTION FAILS.**

**Council President Hardy** offered option D: "Other" which would be an option for people to put in their own option which **Councilor Tobey** seconded. She said it might create more work for the City Clerk's office but is an opportunity for the people to let the Council know what else to use the building for.

**Councilor McGeary** asked does a referendum advisory question offer a provision for a write in space. **Ms. Lowe** said not by definition, no.

**Councilor Whynott** said having been the City Clerk for 17 years; he would not wish count and to try to interpret 17,000 votes. If "other" with a place for a check mark, he would agree with that, but a write in option would be inappropriate, he said and places an undue burden on the City Clerk's office.

**Councilor McGeary** reminded the Council that this is looking for some guidance from the voters. This option would not give a viable option. He would not vote for this as it flies in the face of the advisory question.

**Councilor Theken** said that this should not be a write in but a place for a check mark for other.

**By ROLL CALL the City Council voted 2 in favor, 7 (LeBlanc, McGeary, Theken, Verga, Whynott, Ciolino, Cox) the City Council to adopt an Option D for "Other".**

**Council President Hardy** asked for an option D for "None of the above." **Councilor LeBlanc** asked where does that leave the Council at the end of the day, and **Councilor McGeary** said this is looking for guidance but that option this does not provide guidance.

**Council President Hardy** withdrew the motion for an option D.

**This matter was put aside at 9:22 p.m. to move on to other agenda items and return at a later time in the meeting. Councilor Tobey stepped away from the dais at 9:22 p.m.**

**At 11:27 p.m. the Council returned to this matter.**

**Councilor McGeary** offered the following suggesting leaving the explanatory matter as general as possible, And seconded by Councilor Whynott which was offered under Variation #2 (on file):

A) If you express a preference for this option you are saying that you prefer that the primary use of the Fuller Building site should be to house municipal offices. Under this proposal city offices now scattered at several sites throughout the city would be moved to the Fuller Building site on Blackburn Circle. This might include moving some or all of the functions now located at City hall to the site. Pursuing this option would result in substantial savings to the city which money could be used for other municipal purposes. The current auditorium would probably be retained as a city facility. NOTE: under this proposal it is likely that there would remain some unutilized or underutilized space at the site as City offices alone would probably not require all the space available. The use of that remaining space would require further analysis once the amount of space to be used for city offices is determined.

**Ms. Lowe** said reminded the Council that there are only two sides to a ballot. **Councilor McGeary** suggested the striking the NOTE under this proposal. **Council President Hardy** said that “pursuing this option would save substantial savings to the City which money could be used...” **Councilor McGeary** said that part could be struck as well. So that immediately after the statement, “Pursing this option may result in substantial savings to the City,” the Council could eliminate everything thereafter. It should be Fuller Building site in the second and fifth line, he said.

**Councilor Tobey** said he would vote against this as it was an empty exercise.

**Explanation of Option A under Variation 2 as amended passes by ROLL CALL 8 in favor, 1 (Tobey) opposed.**

Explanation of Option B under Variation 2:

B) If you express a preference for this option you are saying that you prefer to see the Fuller Building site developed for commercial or retail use. Pursuing this option would maximize growth in the City’s tax base and therefore tax revenues to support schools, public safety and infrastructure maintenance. This option could include retaining the current Fuller auditorium as a municipal facility.

The Explanation of Option B under Variation 2 was moved by **Councilor McGeary**, seconded by **Councilor Whynott** and **Council President Hardy** that, “Pursuing this option may increase the City’s tax base,” which ends explanation B.

**Explanation of Option B under Variation 2 as amended passes by ROLL CALL 8 in favor, 1 (Tobey) opposed.**

Explanation of Option C under Variation 2:

C) If you express a preference to this option you are saying you prefer maximum flexibility in developing the Fuller Building site. Pursuing this option might allow a mix of city offices and commercial development as envisioned in options A and B. There is also a provision for allowing a non-profit organization whose mission benefits city residents to develop all or part of the site. Such a mixed use could combine savings in the city budget with some increase in tax revenue and the benefits brought to the city by the non-profit organization.

The Explanation of Option C under Variation 2 was moved by Councilor McGeary and seconded by Councilor Whynott. Council President Hardy asked to change a word in the third line from might to “may” and also on the second page strike the statement beginning “Such a mixed use.... The explanation would end with “...to develop all or part of the site.”

**Explanation of Option C under Variation 2 as amended passes by ROLL CALL 8 in favor, 1 (Tobey) opposed.**

**By unanimous consent of the Council, the meeting was extended at 11:30 p.m. to midnight.**

**MOTION: On a motion of Councilor Tobey, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 1 (Tobey) opposed to adopt the non-binding referendum language regarding the reuse of the Fuller Building site as follows:**

**“What is your preferred use for the Fuller Building site? All options offer potential additional use of the former Charlie Thomas field as a municipal Public Safety Complex.**

- A. Relocate some or all city offices to the Fuller Building site.**
- B. Develop the Fuller Building site as a commercial site**
- C. Develop the Fuller Building site for a mix of uses including governmental, non-profit and for-profit uses or some subset of those uses.**

**Explanation of Options A, B, and C:**

A) If you express a preference for this option, you are saying that you prefer the primary use of the Fuller Building site should be to house municipal offices. Under this proposal city offices, now scattered at several sites throughout the city, would be moved to the Fuller Building site on Blackburn Circle. This may include moving some or all of the functions now located at City Hall to the site. Pursuing this option may result in substantial savings to the city.

B) If you express a preference for this option you are saying that you prefer to see the Fuller Building site developed for commercial or retail use. Pursuing this option may increase the city's tax base.

C) If you express a preference for this option you are saying you prefer maximum flexibility in developing the Fuller Building site. Pursuing this option may allow a mix of city offices and commercial development as envisioned in options A and B. There is also a provision for allowing a non-profit organization whose mission benefits city residents to develop all or part of the site."

#### Committee Reports:

**Budget & Finance: September 5, 2013**

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Hardy, the City Council voted 9 in favor, 0 opposed to accept the September 10, 2013 Budget & Finance Committee Consent Agenda as follows:**

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Hardy, the City Council voted 9 in favor, 0 opposed to accept under MGL c. 44, §53A, a Mass. State FY2014 Formula Grant Allocation from the Mass Executive Office of Elder Affairs for a total of \$59,232.00.**

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Hardy, the City Council by voted 9 in favor, 0 opposed to permit the Council on Aging to apply for a federal Title III Older Americans Grant through SeniorCare, Inc. for a total of \$16,169.**

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Hardy, the City Council voted 9 in favor, 0 opposed to approve Supplemental Appropriation 2014-SA-1 in the amount of \$15,000 (Fifteen Thousand Dollars) to appropriate funds from the Highway Force Account, Account #294015 to the Public Services Paving Account, Account #101000.10.470.58415.0000.00.000.00.058 for the purpose of funding various paving projects throughout the City.**

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Hardy, the City Council voted by unanimous consent to permit the withdrawal of Special Budgetary Transfer Request (#2014-SBT-1) from the Police Department and render that number designation moot.**

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Hardy, the City Council voted 9 in favor, 0 opposed to approve Special Budgetary Transfer 2014-SBT-2 for \$3,000 (Three Thousand Dollars) from Registration, Contractual Services, Account #101000.10.163.52000.0000.00.000.00.052 to City Clerk, Employee Training Seminars, Account #101000.161.53004.0000.00.000.00.052 for the purpose of allowing the Assistant City Clerk to attend a NEACTC conference in November and for the City Clerk, Assistant City Clerk and staff to attend future conferences in FY14.**

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Hardy, the City Council voted 9 in favor, 0 opposed to approve Special Budgetary Transfer 2014-SBT-3 for \$1,500 (One Thousand Five Hundred Dollars) from Registration, Contractual Services, Account #101000.10.163.52000.0000.00.000.00.052 to City Clerk, Out of State Travel, Account #101000.161.57200.0000.00.000.00.057 for the purpose of allowing the Assistant City Clerk to attend a NEACTC conference in November and for the City Clerk, Assistant City Clerk and staff to attend future conferences in FY14.**

**\* \* \* END B&F CONSENT AGENDA \* \* \***

**The City Council recessed at 9:23 p.m. and reconvened at 9:30 p.m. with all Councilors at the dais.**

**Ordinances & Administration: No Meeting due to Labor Day Holiday, September 2, 2013****Planning & Development: September 4, 2013**

MOTION: On a 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 permit Fishbox Derby, Inc. on Sunday, September 15, 2013 to hold the Fishbox Derby ("Soapbox Car" Race) closing part of Rogers Street from 9:00 a.m. that day to 3:00 p.m. with the following conditions:

**1. Certificate of Insurance:**

A Certificate of Insurance naming the City of Gloucester as an additional insured party is to be filed with the City Clerk's Office on or before September 6, 2013.

**2. Road Closure Plans:**

Memoranda from the Police Department and Fire Department giving approval of the plans for the Fishbox Derby to be on file with the City Clerks office on or before September 6, 2013. Roads to be closed are to be marked with signage directing the public as to the duration of the closure and alternate routes. Any substantial changes, as determined by either the Police or Fire Chief or their designees to the route or related to safety issues will require Council approval.

**3. Refuse and Comfort Stations:**

All refuse and recycling due to this event must be removed by the organizer. Any portable toilets (with two handicap accessible) are to be provided and maintained by the organizer, placed the evening before the event or early in the morning of the day of the event and removed by 5:00 PM, September 15, 2013.

**4. Emergency Services:**

Emergency services shall be as determined by Emergency Medical Services Director, Sander Schultz.

**5. Staffing:**

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

**6. Notification of Immediate Abutters and Businesses to 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 businesses along the race route.

**7. Responsibility of the Fishbox Derby, Inc.:**

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 Fishbox Derby, Inc. 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** said this annual event is very well run, and is an asset to the City to which Council President Hardy added her endorsement of the event as well.

**MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted 9 in favor, 0 opposed to permit Fishbox Derby, Inc. on Sunday, September 15, 2013 to hold the Fishbox Derby ("Soapbox Car" Race) closing part of Rogers Street from 9:00 a.m. that day to 3:00 p.m. with the following conditions:**

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MOTION: On a 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 put forward to the City Council for a decision whether or not to place a non-binding ballot question on the November 2013 municipal election ballot on the matter of should the City should take steps to remove the City's harbor from the Designated Port Area.

**DISCUSSION:**

**Councilor Tobey** said P&D and the Council have been asked by the Mayor to withdraw her request for a non-binding ballot question on the Designated Port Area (DPA). He said he could think of no better way to inform the bureaucratic review now going on and the depth of the challenges the community faces moving forward. There was a letter in today's paper that said the Council should not undermine but said he could argue the DPA undermines the City and goes too far, and land banks too much property. The DPA, he said is undermining Gloucester because it goes too far. He suggested this would be very informative to put a question on the ballot to get a sense of what the community's sense is on the DPA and move forward a dialog.

**Councilor Tobey** then proposed a ballot question:

"Should the City of Gloucester seek to remove the DPA status from the inner harbor?"

He said that doesn't allow for scaling the DPA back. He said he would vote for the question as he proposed but may go too far. He asked the Councilors talk about how they might put forwarded a question that would inform the community, regulators, and others where the City wants to go.

**Councilor Verga** added that the Mayor put this forward and asked for withdrawal but in her original memo she proposed the following two question options:

***“Shall the City of Gloucester seek to remove itself from the State Designated Port Area program and in doing so turn over control of its working waterfront to local officials?”***

***OR “Shall the City of Gloucester retain its status as a State Designated Port Area thereby assuring protection of the inner harbor for marine industrial uses?”***

**Councilor LeBlanc** said he agreed that the DPA boundary needs to be reviewed to some point. He said he didn't agree with withdrawing the DPA from the harbor completely because parts of it need to be protected for the fishing industry. Fishing is not dead, he pointed out, and will rebound and DPA protection in part or for most of the harbor is important to that, he pointed out.

**Councilor Ciolino** said he would support some kind of non-advisory ballot question and agreed with Councilor Tobey. He recalled, he said, in 1970 the talk of the DPA would save the fishing industry and there was fear for condominiums to be built on the waterfront. He said there was a dilemma for the owner of the Building Center that if the City went with the DPA it would make his business a non-conforming use. The realization is that being a DPA by the State maybe is more helpful for New Bedford or Fall River where those cities own most of their waterfront but that is not the case in Gloucester, **Councilor Ciolino** said. He also noted one of the original selling points to impose the DPA was there would be money from the State to do repairs, but the only property that can receive Seaport Advisory Council money is publicly owned property. He said property owners are being strangled by the DPA. **Councilor Ciolino** said there is a concern for so many fishermen, who put their homes up for security for their boats and are losing their houses. He added that property owners in the DPA have put their homes up for security too. It is time that the people of Gloucester choose; and that if something is put on the ballot he would support it, he said.

**Councilor McGeary** said he would not support a motion to place this question before the voters. He said he is clearly aware of the downside of the DPA; the DPA the City is holding an asset for the entire Commonwealth. The City accepted the DPA with the understanding that money would flow to the City for infrastructure. There is the Harbor Plan Review process and a boundary review by the Coastal Zone Management; and also before the Council this evening will be two ad hoc motions to tweak the DPA in response to conditions on the ground. At some point, he said, it may become necessary to vote yes or no to the DPA. There are efforts to make the DPA more flexible and protect interests the City still has, he said; and the City wants to preserve the harbor infrastructure and preserve the marine industrial aspects of it. The objection, he said, is that it is a premature action.

**Councilor Cox** said she agreed with Councilor McGeary that this action would be premature to make a decision about the DPA. What better way, she said, however, to give CZM an indication of how the City feels about this issue is by having a question like this on the ballot to hear what the community has to say about it. She said there isn't enough time to educate people about the DPA between now and the election. While she would like to see what people feel about it, she said, she didn't know if this was the time to do it.

**Councilor Verga** said that at least with the suggested language from the Mayor it is an all or nothing matter which he didn't agree with. This would be rushing the question through, he noted, but he suggested waiting for the boundary review and the Harbor Plan Review. He agreed the action was premature.

Councilor Theken said this matter has been gone over for years and still people don't have a good understanding. As a Vice President of the Fishermen's Wives Association, she said she has been debating this confusing issue for years. This is an 11<sup>th</sup> hour run at a non-binding ballot question, but this is also about the City's culture, history and how it sets an example to the State. The Mayor asked the Council for time and to withdraw her request for a non-binding ballot question. She said there is hardship and that there should be some changes; but the changes should be looked at carefully. She said it is too soon and not enough time.

**Councilor Whynott** said that he couldn't support getting rid of the entire DPA as it does serve a purpose. To remove one parcel at a time is more appropriate, he said. He didn't agree, he said, that they don't trust the Marine/Industrial (M/I) zoning. He pointed out that the Beauport hotel is on beachfront property but is not within the DPA. The underlying zoning is M/I. Special Council permits do not set precedence, he added; everything is taken on its own merits. He said looking at areas of hardship on its own merits he could agree to.

**Council President Hardy** said she agreed with the Administration's belief that a non-binding question is an appropriate topic and read a portion of the Mayor's original 2012 memo to illustrate her point. She said she applauded the efforts of the Mayor when she made this proposal and had faith the Mayor would retain her goal to obtain voter sentiment. She said the people have a right to voice their opinion.

**Councilor Tobey** asked when the ballot questions must be in. **Ms. Lowe** said it would be the end of this week. Absentee voting starts two to three weeks before the election; and at the latest, no later than October 15<sup>th</sup> to get the ballots back. If the Council goes beyond mid-September, the ballots may not be ready in time for the November 5<sup>th</sup> election. Councilor Tobey said the Charter said that from the point of view to have P&D have its own workshop, if



the Council acts on this on September 24<sup>th</sup> would there be enough time. **Ms. Lowe** said that would probably still work; and if not absolutely in final form it would be problematic. **Councilor Tobey** said this should go back to P&D to go up or down and be voted on by the City council on September 24<sup>th</sup>.

**Councilor Verga** gave his assent for a P&D Workshop.

**Councilor Tobey** is looking for Councilors to come together at their own workshop so the Council can try to frame a question on what the voters would vote on.

**Councilor McGeary** said the question itself is plain but the education of the public is then a campaign. The question is a binary choice - either the City is in or out of the DPA, he said.

**Councilor Theken** reviewed the Councilors' thoughts on the DPA question and asked how the question would be framed.

**Councilor Whynott** reiterated his concern about educating voters in just two months.

**Councilor Tobey** suggested that the motion be withdrawn and that this matter be referred back to P&D to bring back a recommended question.

**Councilor Verga** withdrew the motion from the P&D Committee. It was pointed out that there is only one more question available to the Council for the municipal ballot and suggested this matter be placed on hold and for the Council to return to this matter until the next two matters are heard.

Upon returning to this matter and **Councilor Ciolino** returning to the Council dais at 10:58 p.m., **Councilor Verga** said with the preceding votes on the DPA he would ask this matter not be put forward.

**Councilor Tobey** said the sense is not to pursue during this election cycle. **Councilor Verga** said there is not a rush; that here are already changes that are asked to be made that he finds satisfactory. **Councilor Tobey** expressed his agreement.

**MOTION: On a motion by Councilor Verga, seconded by Councilor Tobey, the City Council voted by ROLL CALL 0 in favor, 9 opposed to put forward to the City Council for a decision whether or not to place a non-binding ballot question on the November 2013 municipal election ballot on the matter of should the City should take steps to remove the City's harbor from the Designated Port Area.**

MOTION: ON a motion of Councilor Tobey, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommended to City Council to file a Home Rule Petition with the Massachusetts State Legislature to have 65 Rogers Street (I4-C2) removed from the Designated Port Area.

#### **DISCUSSION:**

**Councilor Tobey** said that he brought the matter of a Home Rule Petition forward to remove I4-C2 from the DPA because the voters have a right to know how the Council and candidates feel about the property and its future. He said it should be clearly recognized there have been substantial changes in Gloucester since the heyday of the 1970s when the DPA was accepted. When he spoke at the P&D Committee meeting he recounted how he worked on the State Fish Pier for 7 or 8 summers watching hundreds boats fishing coming and going in the harbor, unloading their catches, thousands of jobs engaged in every aspect of a then credibly viable industry, processing, harvesting, lumping shipping, icing and all the services supporting those businesses. At the same time he'd see the freezers and multiple rafted cranes when lumpers (stevedores) could decide whether to work fresh or frozen fish; cargo was going out. This was before the 200 mile limit, he noted. Then cargo went away because that industry went to containerization with bigger boats with deeper drafts with deeper ports needed to accommodate them, and so cargo went away, he said. **Councilor Tobey** said that the fishing Industry is reduced greatly since the 1970's and asked how much land banking does the City need. It is private property owners paying the stiff, he added; and there is M/I status on much of the properties and State Chapter 91 on most of these waterfront properties which retains a high level of protection. He said as to I4-C2, it is landlocked and land banked by the City by a permanent bulkhead and a hard fought rebuilt lobster marina that isn't going to be reconfigured and a downtown that could benefit from redevelopment on that site within the M/I and Chapter 91 might bring for the rest of the community. He pointed out that the downtown could rebound with no down side to the fishing industry. It is time, he said, to be accountable; to say to the tax payers, that the City has given five years of good effort as well as this Community Development Director and that redevelopment could be on other sites with waterfront access that this property doesn't have.

**Councilor Tobey** urged the Council to petition the General Court to take I4-C2 out of the DPA.

**Councilor Whynott** said he could support this effort as it would not damage the harbor.

**Councilor Ciolino** said he would also support the Home Rule Petition effort. After 50 years of nothing happening on the property, it is time to change he pointed out. The property is landlocked, he agreed, and there is the Building Center, I4-C2, The Gloucester house, Latitude 43, the Brewery, and St. Peter's Park. The City-owned property doesn't belong, he said, in the DPA, especially with no dockage. It is time to try something different because if the state agrees with the petition the property may be able to be marketed to the City's advantage, he said.

**Councilor McGeary** said that he would oppose the Home Rule Petition. He said he believed this to be premature. There is a DPA boundary review and the Harbor Plan Review; that the clock is not ticking on this matter. It has been going on since the mid-1970's, he pointed out and the City has an on-going review process that should play out. He noted another matter is that this property is in the heart of the DPA. The state allows for the property to be a paid parking lot for the time being, he said, and that this is an attempt to move the City into a blue economy with water dependent uses, and so it is appropriate to land bank this property for several couple of years and would not support the Home Rule petition, he said.

**Councilor Cox** agreed with Councilor McGeary that this is premature and putting City-owned land and privately-owned land in the same situation.

**Councilor LeBlanc** also agreed with Councilors McGeary and Cox. He would not support this effort.

**Councilor Verga** said this property has not been used since before he was born. It has been three years since the City owned it but there is no bankable plan, he pointed out. He said this is the first opportunity to see change; that this is a way to start and he would support the Home Rule Petition.

**Councilor Whynott** said that this parcel has no water access. He reiterated his support for the Home Rule petition.

**Councilor Theken** said proposals that were allowable under the DPA were turned away for this property. Things can be done, she said, and pointed to the Cape Ann Brewery that is within the DPA; that if it is done correctly not done behind the scenes. She would not support a Home Rule Petition.

**Council President Hardy** said by removing the DPA restrictions for I4-C2 it would allow for an adequate RFP to be designed. She would support this effort.

**MOTION: On a motion of Councilor Verga, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 5 in favor, 4 (LeBlanc, McGeary, Theken, Cox) opposed, to file a Home Rule Petition with the Massachusetts State Legislature to have 65 Rogers Street (I4-C2) removed from the Designated Port Area.**

**Councilor Whynott** said without unanimous consent this vote will not reflect well with the State Legislator.

**MOTION: On a motion of Councilor Tobey, seconded by Councilor Ciolino, the City Council voted 4 (LeBlanc, McGeary, Theken, Cox) in favor, 5 opposed to reconsider the vote to file a Home Rule Petition with the Massachusetts State Legislature to have 65 Rogers Street (I4-C2) removed from the Designated Port Area.**

**MOTION FAILS.**

**MOTION: On a motion by Councilor Tobey, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council that it file with the Massachusetts State Legislature an Coastal Zone Management a letter stating the City Council endorsement and support for the efforts of the owners of the property located at 104 Commercial Street, Map #1, Lot 9, and 106 Commercial Street, Map #1, Lot 8, and operated as Cape Pond Ice from the Designated Port Area.**

**DISCUSSION:**

**Councilor Ciolino recused himself under M.G.L. c. 268A, that as he has a business relationship with Cape Pond Ice and the Mr. Memhard is his campaign treasure he would step down from the dais leave the auditorium until the Council concluded this matter.**

**Councilor Tobey** said the following: That a very compelling case has been made by the owner of the Cape Pond Ice property which is on the edge of the DPA, subject also to the M/I zoning and Chapter 91 regulations. This owner has a demonstrated sustained devotion to the fresh fishing industry. His business is in extreme peril. It is a business that is sustained despite the fact that the percentage of the product that goes to ice boats before heading out has collapsed to a minuscule percentage of what he does, but keeps it going. He is about to be victimized by a

banking system because of a level of debt on the building which he is able to sustain because of the incredible efforts to diversify. The problem is the bankers in Manhattan have rights to convert the nature of the debt because they have concerns of the viability of the business because of the DPA. When they do that there will be a collapsing of the period of repayment, and the banks will own the building. This is a good businessman and a family who is devoted to their business and community, who has worked for decades in the fishing industry and on behalf; and it is ruined he said. **Councilor Tobey** pointed out that the owner has asked for relief from the Mayor who acquiesced; the City's legislative delegation was asked for relief, and they have acquiesced; and so should the Council join that acquiescence. He asked that the Council recognize a business that is working hard, that remains devoted to City's fisheries in order to call off the banks and to allow this business to keep going. **Councilor Tobey** said this is a vote the Council can make in good conscience.

**Councilor McGeary** said he would support the Cape Pond Ice petition as this business is under extreme pressure. Perhaps changes might have benefited Mr. Memhard, but those changes will be too late and he would go under; and if he goes under there is no ice on the harbor. He said the DPA, contrary to its intention, is acting as a counterproductive regulation. The case is persuasive that this is an asset the City needs to preserve; and there is no recourse; the DPA designation should be removed from this property.

**Councilor LeBlanc** said that while he stated they shouldn't pick and choose who removes their property from the DPA, Mr. Memhard made a case for this property to be relieved of the DPA. He would support this removal of the Cape Pond Ice property, he said.

**Councilor Verga** said he would vote no for a ballot question on the DPA, but with this vote and the one just previous is direct and specific to the two parcels, which was in response to an inquiry by **Councilor Theken**.

**Council President Hardy** said at P&D the Chair allowed two speakers to speak to the Committee in favor of releasing the Cape Pond Ice from the DPA regulations, and that she asked unanimous consent of the Council for two people to speak against to the Council, which it assented.

**Councilor Verga** said he supported this effort because time is not the friend here. It is fair to support this effort and all the Council is doing is signing on to a letter to the legislature, he pointed out.

**Councilor Cox** said she would support this effort. Earlier she said she would not support I4-C2's removal as it was City owned. This property is at the edge of the DPA and a compelling case has been made; it is a right to make that case, she said.

**Councilor McGeary** said that the Council is voting to support an act of the legislature and the Council is telling their legislators and the General Court of their support.

**Council President Hardy** said although at P&D she had expressed her support of this matter, she would listen to a rebuttal.

**Anne Molloy**, Ocean Crest Seafood and Neptune Harvest, Commercial Street said her property is next door to Cape Pond Ice, literally six inches away from her building. She said she empathized with Mr. Memhard's problem; and yet her company had to lay people off just last week. She noted that Mr. Memhard had a right to make a living, and that her company did too. When fishing got tough, her company started using the rest of the fish to make fertilizer. But now there may be no fish to make it from, she noted. The last two weeks she has worked on two grants to bring two potential projects to the City. She said it is about developing new products and figure out a way which they are trying to do to stay financially viable. She said she viewed removing parcels from the DPA as very unfair. She said her company offered for Mr. Memhard's property along with the Birdseye property but in both instances was refused. She pointed out that Mr. Memhard just put a second story on his building but yet he is pressed for money. She said Mr. Memhard has turned a profit which didn't sound like financial peril to her. The Birdseye property, she said, is a good example of M/I zoning. It is the City's fault, she said, that the businesses are placed in this position. It is a domino effect, she said with removing parcels one at a time from the DPA. She said the City has a wait and see attitude. The M/I zoning is still going strong, but if Cape Pond Ice goes, she reiterated that it will be a domino effect. What if Mr. Memhard is out of the DPA, then the property will be bought out, she suggested. A clause should be put in, she said, that Mr. Memhard should not be able to sell the property for 10 years once it has been removed from the DPA to protect the property. There are other businesses are hurting that would follow Mr. Memhard she said. It is up to the State; she noted, and asked the Council to let them do their job. She said Fort businesses are being pushed to the brink. This vote is a question of what the Council and City will support in the Fort and the businesses still there, she said. Ms. Molloy noted that the only two things not allowed in the DPA are yacht marinas and residential. She said she is fighting for her livelihood in Gloucester. The DPA protects the City from non-compatible uses; and if Mr. Memhard comes out of the DPA, she said she would pursue her

property's removal as well. She reiterated her belief to the Council that it should be 10 years that the properties can't be sold once removed from the DPA.

**Angela Sanfilippo**, President Fisherman's Wives Association said that this issue is about the soul of the community that has been decided by the Council without much public input. These spectators have fought for the soul of the community for 35 years she said, and reiterated that the public has had no say in this change. She said that this is an injustice to democracy. She noted recently she hosted a group of students with the University of Rhode Island who met with fishermen, went to the Maritime Center and discussed what was going on; and the Chair of the History Department was in attendance who upon hearing the fishermen's stories said he heard that democracy is broken. This is what is happening here, she said. The Council will change the soul of Gloucester with this vote, she pointed out. If businesses like Cruiseport, Captain Carlo's, The Brewery can be developed under the DPA, why can't Cape Pond Ice do 50 percent water dependent use within the DPA she said. She urged the Council to educate itself on the DPA of what is allowable.

**Councilor Theken** asked to hear a rebuttal to the two speakers, but **Council President Hardy** objected saying that the proponents had spoken at the P&D Committee meeting of September 4<sup>th</sup>, and those statements are on file in the minutes. **Councilor Theken** continued to raise her objection to **Council President Hardy** in order that members of the public could state their opinion. **Council President Hardy** continued her objection with **Councilors Cox** and **Whynott** adding that they, too, were under the impression that both sides would be heard.

**MOTION: On a motion by Councilor Verga, seconded by Councilor Hardy, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 1 (Ciolino) recused, 1 (Theken) present, that City Council file with the Massachusetts State Legislature an Coastal Zone Management a letter stating the City Council endorsement and support for the efforts of the owners of the property located at 104 Commercial Street, Map #1, Lot 9, and 106 Commercial Street, Map #1, Lot 8, and operated as Cape Pond Ice from the Designated Port Area.**

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Tobey, the City Council voted 1 (Theken) in favor, 7 opposed, 1 (Ciolino) recused to Reconsider the vote that City Council file with the Massachusetts State Legislature an Coastal Zone Management a letter stating the City Council endorsement and support for the efforts of the owners of the property located at 104 Commercial Street, Map #1, Lot 9, and 106 Commercial Street, Map #1, Lot 8, and operated as Cape Pond Ice from the Designated Port Area.**

**MOTION FAILS.**

**Scheduled Public Hearings:**

1. **PH2013-004: Whether the City Council should adopt MGL c. 32B, §21, §22, and §23 relating to Health Care Reform**

**The meeting was extended by 30 minutes by unanimous consent of the Council.**

**This public hearing is opened.**

**Mr. Duggan** said this Mayor's request was withdrawn by the Administration because with the agreement with the City's unions to enter the State's Group Insurance Commission (GIC).

**Sally Polzin**, Personnel Director said the Mayor asked for this withdrawal as the City came to an agreement with the City's unions under Section 19 of the same law, and passed unanimously with all the City unions. The changeover, she pointed out, will take place as of January 1, 2013. There will be a health fair with vendors and the GIC in attendance on October 15<sup>th</sup> at O'Maley School, she said. She asked the Councilors to please refer constituent questions to the Personnel office. The comparison booklets with rates from the GIC will go out at the end of this week, she said. Her office, she noted, has already been talking to people, particularly retirees about health insurance plans. **Ms. Polzin** said that staff does not need to attend the GIC health fair scheduled for October 15<sup>th</sup> at the O'Maley School in order to enroll. The deadline to enroll in a health plan is the 23<sup>rd</sup> of October when a choice has to be made; but if there is a qualifying event, GIC will make an exception but there is no default, you have to choose.

**Councilor Tobey** asked how much the City saved as projected from where the City is now and what were the give backs that the municipal and school employees made in moving to the GIC.

**Ms. Polzin** said she gave the Council a spreadsheet (on file) which gave several scenarios. They don't know what the savings are until the employees choose their plans, she said. If a lot of employees migrate to the less

expensive plans the City could save upwards of \$1 million, she noted, but a projection is impossible to make. Since the City is entering the GIC in January, when the assumption is made for a year, FY14 rates will be used, and the GIC could raise rates, but the savings could be considerable. **Councilor Tobey** said in the late 1980's the City had three insurance plans, and the point was to get everyone in the same plan to have stability and realize savings. Older employees, he pointed out, migrated to the highest cost plan. He said with an older workforce, won't the migration to the more expensive plans cost the City more. **Ms. Polzin** said some retired people will be forced into the indemnity plan because they are snowbirds and that plan is more expensive, and is at 75/25. She said number of people have said the less expensive plans have good coverage in the area. There are a lot of doctors within these plans in Cape Ann and on the North Shore that folks currently have now.

**Councilor Theken** said she agreed with the Mayor's request for withdrawal. She added that she worked closely with the Administration on the plans within the GIC. She said with seniors, she would like another health fair be done just for them. **Ms. Polzin** said the GIC won't do it. She said that the Personnel office staff is trained to assist the retirees and the City employees. **Councilor Theken** said it is not true not all doctors take all the plans. She urged people to bring a list of doctors to the health fair to be sure they're on the plan they are considering. Some local doctors are not contracted yet with the GIC plans through the health insurers.

**Councilor Cox** asked if the Personnel Office has worked with CATA to offer bus service to and from the health fair and asked that the Personnel Department be sensitive to the staff's needs. **Ms. Polzin** said it was a good idea and look into it. **Councilor Cox** and **Ms. Polzin** addressed some of the rumors about which hospitals are excluded from the GIC health insurance plans, with two of the biggest, Mass Eye and Ear and Mass General, being said they are excluded in particular which is untrue. **Ms. Polzin** said there is a great deal of misinformation circulating adding that she and her staff will review all options with any employee who needs that service.

**Councilor Ciolino** said if one signs up for a plan at the health fair and it doesn't suit a person's need is the employee stuck. **Ms. Polzin** said the open enrollment plan will happen again in July, and then the wait is one year to change.

**Council President Hardy** asked about pre-existing conditions. **Ms. Polzin** said that is part of Obamacare. Council President Hardy pointed out some patients have considerable health care costs. Is there a special rider for those employees? **Ms. Polzin** said there is a great deal of misunderstanding about; and said that Tier 3 under the GIC is experimental cancer drugs, and most people do not have that Tier as part of their plan. In negotiations with the unions, a savings account was set up, a Health Reimbursement Account (HRA) and set up a \$193,238 account for retirees especially, and anybody who has that kind of an issue can go to the PEC requesting relief, she said. The vendors at the Health Fair will be Tufts, Harvard Pilgrim, Fallon, Health New England, Indemnity through Unicare, and Neighborhood Health Care.

**Council President Hardy** said a year ago the adoption of this Health Care law was rejected at City Council and came back again as an option and never got an opportunity to be voted because the Mayor withdrew the request and substituted the GIC plan. At the PEC there was a discussion and her name was used inappropriately as that she would vote for the adoption of the MGL chapters. She said it was patently untrue that she would not support nor never agreed to support this adoption of MGL c. 32B, §21, §22, and §23.

**Councilor Theken** confirmed that the retired teachers are already in the GIC and that stays the same. They will not be covered on the dental plan in place and will need to look at the Altus plan.

**This public hearing is closed.**

**MOTION: By unanimous consent, the City Council voted 9 in favor, 0 opposed to permit the Mayor to withdraw her request that the Council adopt MGL c. 32B, §21, §22, and §23 relating to Health Care Reform.**

**2. PH2013-041: Amend GCO Chapter 17, Article II, Police Department, Sections 17-16, 17-17 and 17-18 re: Police Chief Process**

**This public hearing is opened.**

**Those speaking in favor:**

**Suzanne Egan**, General Counsel said that this is the amendments to the Police Chief ordinance. This was tweaked in order to make it user friendly in hiring a new Police Chief. The requirements were softened to give the selection committee to use equivalencies and look at education and experience. The second way it was changed the selection committee can choose their chair and vice chair and work closer with the consultants. Those are essentially the changes within the ordinance.

**Those speaking in opposition: None.**

**Communications: None.**

**This public hearing is closed.**

MOTION: On motion by Councilor LeBlanc, seconded by Councilor McGeary, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the Gloucester Code of Ordinances, Chapter 17, Article II, Police Department, Sections 17-16, 17-17 and 17-18 as shown on revisions dated July 15, 2013 and as incorporated herein.”

**DISCUSSION:**

**Councilor Theken** said that many months and much deliberation to ensure all changes were appropriate and all was reviewed by General Counsel. The Committee looked hard at equivalencies.

**Councilor McGeary** said he was on the Police Chief Selection Committee. The language was too specific and so that is why the language was softened to weigh apples and oranges.

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

**MOTION: On motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent to AMEND the Gloucester Code of Ordinances, Chapter 17, Article II, Police Department, Sections 17-16, 17-17 and 17-18 as shown on revisions dated July 15, 2013 and as incorporated herein.”**

## ARTICLE II. POLICE DEPARTMENT

Amend Article II Police Department in its entirety as follows:

**17-16** Police Chief: No Changes

**17-17** Selection of police chief; qualifications.

The chief of police shall be selected by the mayor and have the following qualifications or equivalent qualifications as the mayor deems appropriate:

(a) The chief of police shall be a law enforcement professional with 15 years or its equivalent experience in federal, state, county, municipal or military policing, at least five years or its equivalent in a progressively responsible law enforcement management position;

(b) The chief of police shall have a master's degree ~~or~~ related experience in the law enforcement area. ~~or~~ Other educational background may be substituted for a graduate degree.

(c) Preference may be given to candidates who have experience with the following:

1. A multi-lingual and multi-cultural law enforcement environment in municipalities with a population of 30,000 or more residents and possess managerial experience, in the command structure similar to the Gloucester Police Department,
2. With the second language reflecting the linguistic diversity of the citizens of Gloucester,
3. Possess a minimum rank of lieutenant or higher for a minimum of three years in a policing environment or equivalent experience or demonstrated expertise,
4. a nationally recognized police leadership programs, such as the Senior Management Institute for Police, and the FBI National Academy, or a nationally recognized college based graduate program;
5. financial management, innovations in police operations, and information technology as it pertains to law enforcement;

6. labor relations, community relations, mediation and facilitation skills; and including staff development, training, community policing and use of crime data for deployment and decision-making.
7. Equivalent education, skills, and experience may be substituted for any of the above.

**17-18** Selection of police chief; manner of appointment.

(a) The candidates for chief of police shall be reviewed by a screening committee consisting of the following nine (9) individuals:

- (1) The personnel director, ~~who shall serve as the chair of the screening committee;~~
- (2) One member of the City Council to be appointed by the president of the City Council;
- (3) Two members of the general public to be appointed by the president of the City Council, with at least one of said members being a representative of the city's socioeconomic and racial and ethnic segments;
- (4) ~~Four members~~Three members of the general public to be appointed by the mayor
- (5) A public safety official appointed by the Mayor;:-
- (6) Present or former member of the Gloucester Police Department appointed by the Mayor.

The mayor ~~may shall~~ appoint appropriate support personnel to facilitate the operations of the screening committee. The committee ~~may shall~~ elect a chair and vice-chair ~~to preside in the absence of the personnel director from its membership.~~

(b) The Mayor shall select a qualified recruitment and assessment consultant from the list of qualified consultants as determined by the screening committee to assist the screening committee with its analysis of potential candidates for chief of police. The consultant and screening committee ~~may shall~~ hold public meeting(s) to develop the screening criteria. The ~~Personnel Director and the~~ consultant, in consultation with the screening committee, shall recruit qualified candidates; and administer the screening process. The process may consist of, without limitation, a written exam, a professionally administered assessment center and a psychological evaluation.

(c) After the assessment center has been completed, the screening committee shall hold public interviews of the finalists. The committee shall vote a list of no more than five and no less than three unranked qualified candidates for chief of police and shall submit such list to the mayor. All votes taken by the screening committee shall be by majority vote of those present. If the screening committee determines that there are fewer than three candidates for chief of police, the screening committee shall nonetheless send the names of the candidate(s) to the mayor. The mayor may choose to commence a new selection process if the screening committee submits a list of fewer than three candidates or for any other reason designated in writing.

(d) The mayor shall appoint a candidate from the list, subject to a comprehensive background investigation and confirmation of the City Council. Prior to confirmation, the City Council shall be provided with a copy of the contract negotiated with the candidate selected by the mayor. The contract may not be subsequently amended without the approval of the City Council. The term of the contract shall be for at least three years, but no longer than five years. The mayor may reappoint said Chief for subsequent contractual terms of three (3) years subject to City Council confirmation.

(e) Upon such time as the mayor shall become aware of a vacancy in the office of chief of police, the mayor shall ~~within a reasonable period of time~~ notify the City Council that a vacancy has occurred within three (3) business days. The mayor shall thereafter commence the process to fill the vacancy, in the manner prescribed herein.

**FINAL COPY:**

## Chapter 17 POLICE

## ARTICLE II. POLICE DEPARTMENT

Amend Article II Police Department in its entirety as follows:

**17-16** Police Chief

a) The mayor shall appoint the police chief who shall hold the office for a term of at least three years but no more than five years. The appointment of the police chief shall be subject to confirmation by the city council. The police chief is exempt from the provisions of chapter 31 of the General Laws.

b) Within thirty days of the position of the chief of police being declared vacant, the mayor shall appoint a temporary police chief who shall serve until a permanent chief is selected in accordance with the provisions hereof.

**17-17** Selection of police chief; qualifications.

The chief of police shall be selected by the mayor and have the following qualifications or equivalent qualifications as the mayor deems appropriate:

(a) The chief of police shall be a law enforcement professional with 15 years or its equivalent experience in federal, state, county, municipal or military policing, at least five years or its equivalent in a progressively responsible law enforcement management position;

(b) The chief of police shall have a master's degree or related experience in the law enforcement area. Other educational background may be substituted for a graduate degree.

(c) Preference may be given to candidates who have experience with the following:

8. A multi-lingual and multi-cultural law enforcement environment in municipalities with a population of 30,000 or more residents and possess managerial experience, in the command structure similar to the Gloucester Police Department,
9. With the second language reflecting the linguistic diversity of the citizens of Gloucester,
10. Possess a minimum rank of lieutenant or higher for a minimum of three years in a policing environment or equivalent experience or demonstrated expertise,
11. a nationally recognized police leadership programs, such as the Senior Management Institute for Police, and the FBI National Academy, or a nationally recognized college based graduate program;
12. financial management, innovations in police operations, and information technology as it pertains to law enforcement;
13. labor relations, community relations, mediation and facilitation skills; and including staff development, training, community policing and use of crime data for deployment and decision-making.
14. Equivalent education, skills, and experience may be substituted for any of the above.

**17-18** Selection of police chief; manner of appointment.



(a) The candidates for chief of police shall be reviewed by a screening committee consisting of the following nine (9) individuals (Councilor Hardy discussed specifying quorum as 5 members, but I am not sure of the language that was decided or if there was consensus on this):

- (1) The personnel director
- (2) One member of the City Council to be appointed by the president of the City Council;
- (3) Two members of the general public to be appointed by the president of the City Council, with at least one of said members being a representative of the city's socioeconomic and racial and ethnic segments;
- (4) Three members of the general public to be appointed by the mayor
- (5) A public safety official appointed by the Mayor;
- (6) Present or former member of the Gloucester Police Department appointed by the Mayor.

The mayor shall appoint appropriate support personnel to facilitate the operations of the screening committee. The committee shall elect a chair and vice-chair from its membership.

(b) The Mayor shall select a qualified recruitment and assessment consultant from the list of qualified consultants as determined by the screening committee to assist the screening committee with its analysis of potential candidates for chief of police. The consultant and screening committee shall hold public meeting(s) to develop the screening criteria. The consultant, in consultation with the screening committee, shall recruit qualified candidates; and administer the screening process. The process may consist of, without limitation, a written exam, a professionally administered assessment center and a psychological evaluation.

(c) After the assessment center has been completed, the screening committee shall hold public interviews of the finalists. The committee shall vote a list of no more than five and no less than three unranked qualified candidates for chief of police and shall submit such list to the mayor. All votes taken by the screening committee shall be by majority vote of those present. If the screening committee determines that there are fewer than three candidates for chief of police, the screening committee shall nonetheless send the names of the candidate(s) to the mayor. The mayor may choose to commence a new selection process if the screening committee submits a list of fewer than three candidates or for any other reason designated in writing.

(d) The mayor shall appoint a candidate from the list, subject to a comprehensive background investigation and confirmation of the City Council. Prior to confirmation, the City Council shall be provided with a copy of the contract negotiated with the candidate selected by the mayor. The contract may not be subsequently amended without the approval of the City Council. The term of the contract shall be for at least three years, but no longer than five years. The mayor may reappoint said Chief for subsequent contractual terms of three (3) years subject to City Council confirmation.

(e) Upon such time as the mayor shall become aware of a vacancy in the office of chief of police, the mayor shall notify the City Council that a vacancy has occurred within three (3) business days. The mayor shall thereafter commence the process to fill the vacancy, in the manner prescribed herein.

#### **17-19 Powers and duties of police chief**

The police chief shall manage the police department. He/she shall be responsible for the discipline and efficiency of the department. He/she shall have control of the department, its officers and members, the care of the police station, the care and custody of all the property of the department and shall keep a record of its business.

#### **17-20 Appointment and removal of officers**

The mayor shall have the power to appoint all police officers and patrolmen who shall hold their office at the discretion of the mayor and with the exception of the Chief of Police are subject to the laws pertaining to civil service and to the collective bargaining agreement. The Chief of Police is exempt from civil laws and the terms of the collective bargaining agreement. All police officers are required to be citizens of the United States and within nine months of his/her appointment, to reside within 15 miles of the limits of the City of Gloucester as required by chapter 41 section 99A of the General Laws.

**17-21** Composition

The police department shall consist of the police chief, and as many lieutenants, sergeants and patrolman as may be deemed necessary. The department shall also include supporting administrative staff.

**17-24** delete

**3. PH2013-042: Amend GCO Chapter 8, Article II, Fire Department, Sections 8-16, 8-17 and 8-18 re: Police Chief Process**

**This public hearing is opened.**

**Those speaking in favor:**

**Ms. Egan** said that the amendments to the Fire Chief ordinance serve the same purpose as that of the Police Chief Ordinance.

**Those speaking in opposition: None.**

**Communications: None.**

**This public hearing is closed.**

**Councilor Tobey returned to the dais.**

**MOTION:** On motion by Councilor LeBlanc, seconded by Councilor McGeary, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the Gloucester Code of Ordinances, Chapter 8, Article II, Fire Department, Sections 8-16, 8-17 and 8-18 as shown on revisions dated July 15, 2013 and as incorporated herein.

**DISCUSSION: None.**

**MOTION:** On motion by Councilor Theken, seconded by Councilor LeBlanc, the City Council voted by **ROLL CALL 9** in favor, 0 opposed to AMEND the Gloucester Code of Ordinances, Chapter 8, Article II, Fire Department, Sections 8-16, 8-17 and 8-18 as shown on revisions dated July 15, 2013 and as incorporated herein.

Chapter 8 FIRE

ARTICLE II. FIRE DEPARTMENT

Amend Article II Fire Department as follows:

8-16 Fire Chief

(a) Within ~~thirty-three (3) business~~ days of the position of the fire chief being declared vacant, the Mayor shall appoint a temporary fire chief who shall serve until a permanent chief is selected in accordance with the provisions hereof.

(b)

8-18 Screening of Fire Chief; manner of appointment.

(a) The candidates for fire chief shall be reviewed by a screening committee consisting of the following ~~nine (9)~~ individuals:

(i) The Personnel Director, ~~who shall serve as the Chair of the Screening Committee;~~

(iv) ~~Four members~~ ~~Three members~~ of the general public to be appointed by the Mayor with at least one of said members being a representative of the City's socioeconomic and racial and ethnic segments;

- (v) A public safety official appointed by the Mayor;
- (vi) Present or former member of the Gloucester Fire Department appointed by the Mayor.

The Committee ~~may shall~~ elect a chair and vice chair ~~to preside in the absence of the chair~~ from its members. The Mayor may appoint appropriate support personnel to facilitate the operations of the screening committee.

(e) Upon such time as the Mayor shall become aware of a vacancy in the office of Fire Chief, the Mayor shall ~~within a reasonable period of time~~ notify the City Council that a vacancy has occurred within three (3) business days. The Mayor shall thereafter commence the process to fill the vacancy, in the manner prescribed herein.

Subsections 8-18 (b) and (c) shall remain in effect and be renumbered as 8-21 (b) and (c).

Consecutively renumber the remainder of Article II Fire Department as follows:

- 8-22 Physical examination of firefighters
- 8-23 Appointees must signify willingness to obey rules
- 8-24 Firefighters to have motor vehicle license
- 8-25 Military substitutes
- 8-26 Fire chief to act as forest warden
- 8-27 Aid to other cities, towns or fire districts
- 8-28 Destruction of building to prevent spread of fire

#### **FINAL COPY:**

#### Chapter 8 FIRE

#### ARTICLE II. FIRE DEPARTMENT

Amend Article II Fire Department as follows:

Delete sections:

- 8-16 Composition
- 8-17 Appointments

Add and replace with the following:

#### 8-16 Fire Chief

(c) The Mayor shall appoint the fire chief who shall hold the office for a term of at least three years but no more than five years. The appointment of the fire chief shall be subject to confirmation by the City Council. The fire chief is exempt from the provisions of chapter 31 of the General Laws

(d) Within three (3) business days of the position of the fire chief being declared vacant, the Mayor shall appoint a temporary fire chief who shall serve until a permanent chief is selected in accordance with the provisions hereof.

#### 8-17 Selection of Fire Chief; qualifications.

The fire chief shall be selected by the Mayor and have the following qualifications or equivalent qualifications as the mayor deems appropriate:

- (a) The fire chief shall be a fire safety professional with 15 years or its equivalent experience in federal, state, county, municipal or military firefighting, at least five years or its equivalent shall be in a progressively responsible fire safety management position;
- (b) The fire chief shall have a bachelor's degree. Related experience or other educational background may be substituted for an undergraduate degree.
- (c) Preference may be given to candidates who have experience with the following:
  - i) a multi-lingual and multi-cultural fire safety environment in municipalities with a population of 30,000 or more residents and possess managerial experience in the command structure similar to the Gloucester Fire Department,
  - ii) a second language reflecting the linguistic diversity of the citizens of Gloucester.
  - iii) holding the minimum rank of deputy chief or higher for a minimum of three years in a fire fighting environment or equivalent experience or demonstrated expertise;
  - iv) a nationally recognized fire leadership program or its equivalent
  - v) financial management, innovations in fire operations, and information technology as it pertains to fire safety;
  - vi) labor relations, community relations, mediation and facilitation skills; and including staff development and training,
  - vii) the equivalent education, skills, and experience may be substituted for any of the above.

8-18 Screening of Fire Chief; manner of appointment.

- (a) The candidates for fire chief shall be reviewed by a screening committee consisting of the following nine (9) individuals:
  - (i) The Personnel Director,
  - (ii) One member of the City Council to be appointed by the President of the City Council;
  - (iii) Two members of the general public to be appointed by the President of the City Council, with at least one of said members being a representative of the city's socioeconomic and racial and ethnic segments;
  - (vii) Three members of the general public to be appointed by the Mayor with at least one of said members being a representative of the City's socioeconomic and racial and ethnic segments;
  - (viii) A public safety official appointed by the Mayor;
  - (ix) Present or former member of the Gloucester Fire Department appointed by the Mayor.

The Committee shall elect a chair and vice chair from its members. The Mayor may appoint appropriate support personnel to facilitate the operations of the screening committee.

- (b) The Mayor shall select a qualified recruitment and assessment consultant to assist the screening committee with its analysis of candidates for fire chief. The consultant and the screening committee may hold public meetings

to develop the selection criteria. The Personnel Director and the consultant shall recruit qualified candidates and administer the selection process. The process may consist of, without limitation, a professionally administered assessment center and a psychological evaluation.

(c) After the assessment center has been completed, the Screening Committee shall hold public interviews of the finalists. The Committee shall vote a list of no more than five and no less than three unranked qualified candidates for fire chief and shall submit such list to the Mayor. All votes taken by the Screening Committee shall be by majority vote of those present. If the Screening Committee determines that there are fewer than three candidates for fire chief, the Screening Committee shall nonetheless send the names of the candidate(s) to the Mayor. The Mayor may choose to commence a new selection process if the Screening Committee submits a list of fewer than three candidates or for any other reason designated in writing.

(d) The Mayor shall appoint a candidate from the list, subject to a comprehensive background test and confirmation of the City Council. Prior to confirmation, the City Council shall be provided with a copy of the contract negotiated with the candidate selected by the Mayor. The contract may not be subsequently amended without the approval of the City Council. The term of the contract shall be for at least three years but no more than five years.

(e) Upon such time as the Mayor shall become aware of a vacancy in the office of Fire Chief, the Mayor shall notify the City Council that a vacancy has occurred within three (3) business days. The Mayor shall thereafter commence the process to fill the vacancy, in the manner prescribed herein.

#### 8-19 Powers and duties of Fire Chief

The fire chief shall manage the Fire Department. He/she shall be responsible for the discipline and efficiency of the department. He/she shall have control of the department, its officers and members, the care of the fire stations, the care and custody of all the property of the department and shall keep a record of its business.

#### 8-20 Composition

The Fire Department shall consist of the fire chief, who is not subject to the civil service laws, and as many officers, mechanics, inspectors and firefighters subject to the civil service laws as may be deemed necessary. The department may also include supporting administrative staff.

Delete subsection 8-18(a) and replace with the following:

#### 8-21 Qualifications and appointment of firefighters

(a) The Mayor shall have the power to appoint all firefighters who shall hold their office at the discretion of the Mayor subject to the laws pertaining to civil service and to the collective bargaining agreement. The fire chief is exempt from civil service laws and the terms of the collective bargaining agreement. All firefighters are required to be citizens of the United States and within nine months of his/her appointment, to reside within 15 miles of the limits of the City of Gloucester as required by chapter 41 section 99A of the General Laws.

Subsections 8-18 (b) and (c) shall remain in effect and be renumbered as 8-21 (b) and (c).

Consecutively renumber the remainder of Article II Fire Department as follows:

- 8-22 Physical examination of firefighters
- 8-23 Appointees must signify willingness to obey rules
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- 8-25 Military substitutes
- 8-26 Fire chief to act as forest warden
- 8-27 Aid to other cities, towns or fire districts
- 8-28 Destruction of building to prevent spread of fire

**Unfinished Business: None.**

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

**Councilors' Requests to the Mayor:**

**Councilor Whynott** requested that the Mayor ask the DPW to leave the Port-A Potty on the Boulevard at the tennis Court to remain for the winter months.

**Councilor Verga** announced there would be a neighborhood meeting at the Magnolia Library on Monday, September 16, 2013 at 6:30 p.m. to talk about the proposed rezoning of the Inn at Magnolia.

**Councilor Cox** reminded the public that the Downtown Development Meeting will take place on Tuesday, September 17, 2013 at 6 p.m. in Kyrouz Auditorium.

**Councilor Tobey** said that Chris Orlando, owner of Kids Unlimited, the children's clothing store on Main Street has agreed to organize the City Council's community Halloween Party at Kyrouz Auditorium. He said he would do all he could remotely and surveyed the Council as to whom was available to help. **Councilor Ciolino** said the Downtown Merchants Association has confirmed their organization would financially sponsor the Halloween Party so that it is now a group effort.

**Councilor LeBlanc** thanked everyone involved with the New Balance Track and Field at Newell Stadium dedication ceremony which took place on Friday, September 6<sup>th</sup> which he said was an outstanding event that the City can now be very proud of. He also thanked the Administration with Mr. Duggan and Council President Hardy for guiding the Mother of Grace Club through their ceremony and parade this weekend and said something like this means a great deal to the City's heritage.

**Councilor Theken** announced to those retirees that are involved with the City's change to GIC she is making herself available to assist them in making their informed choices for health insurance. She also said she had a wonderful day in Lanesville at the celebration of the Lane's Cove Fish Shack. She pointed out that the group received a CPA grant but didn't need it in the end because the group did so much of the work with private donations and so returned the money to the City.

**Council President Hardy** thanked Clerk of Committees, Dana Jorgensson, for collaborating on the 9/11 dedication of the Council's Flag Salute and Moment of Silence. She noted she herself is a member of CERT, and that Ms. Jorgensson is a former Emergency Medical Technician who served in New York City that day.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 11:50 p.m.**

Respectfully submitted,

Dana C. Jorgensson  
Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.**