

GLOUCESTER CITY COUNCIL MEETING

Tuesday, September 24, 2013 – 7:00 p.m.

Kyrouz Auditorium – City Hall

-MINUTES-

Present: Vice Chair, Councilor Sefatia Theken; Councilor Joseph Ciolino; Councilor Melissa Cox; Councilor Steve LeBlanc, Jr.; Councilor Paul McGeary; Councilor Greg Verga; Councilor Robert Whycott

Absent: Council President Hardy; Councilor Tobey

Also Present: Linda T. Lowe; Jim Duggan; Kenny Costa; Jeff Towne; Mike Hale; Joanne Senos

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

Flag Salute & Moment of Silence.

Oral Communications: None.

Presentations/Commendations:

1 of 1: CIAB 2013 Annual Report by CFO Jeffrey Towne

Jim Duggan, CAO said that the Chair of the Capital Improvement Advisory Board (CIAB) had a schedule conflict and expressed her apologies for being unable to attend this evening. He described the CIAB as being a board that advises the Mayor regarding the City's potential capital improvements requests after that board has vetted each offering; with members appointed by the Mayor and confirmed by the City Council. He offered that the Administration has been reactionary to Capital Improvement requests previously; but moving forward the City should be in an annual routine to make a presentation to the Council on its capital requests. He noted implementation of a standard process by which all department heads now submit capital improvement requests, coordinated by the Community Development Director, Tom Daniel; the Planning Director, Gregg Cademartori; and Chief Financial Officer, Jeff Towne. He said the departmental requests were due on September 6th. **Mr. Duggan** added that the capital requests put forward by the City's department heads are now being evaluated by the Administration and will be moved forward to the CIAB who continue to meet during the administrative review process simultaneously. The next round of capital improvements requests will be forwarded to the CIAB for their review and recommendation soon, he said.

Jeffrey Towne, CFO said that the City's Capital Improvement Plan 2013-2017 process started in the spring of 2012 with department managers and heads submitting what capital projects and items they wanted to see go forward to the Administration for eventual approval for a loan order or cash payment through free cash whose project/item definition is any project over \$100,000 in value and has a useful life of over five years or more. **Mr. Towne** said things like police cruisers, vehicles for the Assessor's office would not be included; but that items do include: land acquisition, building renovations, construction of buildings, ball fields, Newell Stadium; anything that meets the definition could be put into the Capital Improvement Plan. All requests do not necessarily end up on the approved plan; some are rejected, it was noted.

Mr. Towne said when he was first employed by the City in 2008 and met the CIAB, at that time the departmental capital requests were presented in toto that is, whatever came forward went forward. The CIAB tried to make recommendations on what was presented to them, but didn't have a frame of reference as to what the City could afford, or be able to look at a longer range plan to anticipate what capital improvements were going to come forward, he said, and was really a one-year plan. This, he said, was an on-going frustration of the CIAB, and so helped to drive the process to bring forward what is before the Council for the first time in his tenure as Treasurer/Collector, a comprehensive plan of General Fund only capital improvements that meet the definition.

He briefly gave an overview of the contents of the Capital Improvement Plan 2013-2017. **Mr. Towne** said this plan only includes General Fund projects and items because the Department of Public Works Water Master Plan will be finalized soon and the Sewer Master Plan will then be started. Those Master Plans will be incorporated into the five year plan when they are done, he added. He said once that is done, the Council will have a solid 10-year Capital Improvement Plan as per the City Charter.

Mr. Towne said with that with Mr. Cademartori's help all capital projects were formatted, presented to the Mayor who reviewed the proposed capital projects based on the Administration's priorities; then the City debt outstanding for the General Fund, debt coming off-line for the General Fund was reviewed, and then a price was put on everything with numbers placed on projects on an affordability basis.

Mr. Towne pointed out this portion of the plan before the Council is broken down by:

- Building and/or building replacement projects (4),
- City building improvements and/or land improvement projects (7);
- School building improvement projects (6);
- Vehicle replacements (3)
- Two projects that don't fit into any other category and are listed under "Other", (2)
- Major Construction (2) – new West Parish School and Combined Public Safety Building

Mr. Towne noted that the DPW salt shed is coming forward this evening under the public hearing regarding a loan order; public restrooms in the downtown area is something the City Council has been requesting and has made the Capital Improvements list in a further out year until planning is completed.

Some of the projects Mr. Towne highlighted were: the American Legion boiler; City Hall boiler replacement; Wingersheek septic system improvements; fire alarm wire upgrades at City Hall; repair to Central and outlying fire stations; landfill closure; recreation equipment; windows and doors; accessibility improvements, HVAC system improvements in the schools, etc. This broke down for the first time for the CIAB the list of items with the affordability attached to each project. He noted this document would be made available on the City website.

Councilor McGeary asked to confirm whether it is correct that the items in the loan order to be presented under a public hearing this evening have been reviewed and prioritized by the CIAB. **Mr. Towne** said that with the exception of the DPW building addition which came forward this summer, the capital items were presented to the CIAB in May 2012 who began deliberations on it in the fall of 2012 and responded to the Administration in the spring of 2013. The \$1 million for the DPW addition came after this report was done, he said. Everything else was in the report and was reviewed with the CIAB who didn't see any general issues associated with it, but didn't put priorities on it until they have the full picture with water and sewer in order to make a recommendation to the Mayor. **Councilor McGeary** asked whether in terms of FY15 budget, will the Water and Sewer Master Plans be done so that the CIAB can weigh in and have the big picture they've been waiting for.

Mike Hale, DPW Director said for this submission there is a fair amount of water issues included in the capital planning. The Water Master Plan takes on other projects that are upcoming. He said for the next five to 10 years there is enough in the current Capital Improvement Plan for the Council to review. Sewer is in this year's Capital Plan for review, but there is some long-range planning that may involve secondary wastewater treatment plant. He said the City is trying to move that project further out by identifying higher priorities today, such as pump stations and collection systems. **Mr. Hale** said the secondary wastewater treatment plant is a moving target but will be included for a five year plan. **Councilor McGeary** said in terms of the CIAB mandate to look at a 5 year priority plan, even though the master plans are not yet complete, there will be a five-year agenda for water and for sewer, and the General Fund so the CIAB has the big picture. **Mr. Hale** said that would be the case and that there will be dollar amounts listed for annual investment within the distribution system and collection system and if the CIAB needs specifics that are cued up already.

Mr. Towne added that the Capital Improvement Plan, with the full knowledge of the CIAB, is a fluid document. He pointed out unexpected priorities come up and priorities shift and change every year, he said. If there are resources available outside of taxpayer dollars that will prioritize projects to move to a faster track to maximize funds from grants and other financial resources that do not affect the General Fund or sewer and water user rates.

He advised that he and Mr. Cademartori met several times with the CIAB and staffed every board meeting. The CIAB requested and did meet with the Fire and Police Chiefs and the DPW Director who made presentations and discussed details of their department's projects with the board.

Mr. Towne said the main concerns of the board were that there is a lot in the City that needs maintaining, including many vehicles, boilers, roofs, etc. He said the board asks how does the City balance maintenance with spending money on new items; infrastructure that needs to be maintained with the resources at hand and had four major points: the analysis of the draft which said maintenance and obsolescence; more information was asked for on the biggest projects, water and sewer especially; and the board was looking for more detail. He said some plans, such as the public safety building, is still not firm and is described in generalities because the plans are not yet available, but the board needs to know more of the details in order to make their review and a recommendation. He also said that the board wants to know where the City is on existing water work and wants to know about sustainability. A key issue is how to balance available resources, balance it with grants and free cash; what debt goes on the water and sewer rates, what will hit the tax rate, how much debt is coming off line, and now does the City afford all that is in front of the board. Added in to that equation, **Mr. Towne** said, are the City's contracts, Unfunded Pension Liability and set priorities. The board's suggestion is to keep going forward but wants more detail and a more comprehensive plan. He said this year there will be another five year plan, until the Water and Sewer Master Plans are complete, then a 10 year plan will be drafted over the next two to three years which makes

debt planning easier. **Mr. Towne** reiterated what projects would come under the upcoming public hearing for a loan order for FY13 capital improvements.

Councilor McGeary suggested that it would be helpful to the Budget & Finance Committee to have during the budget hearings a solid sense of what is planned for capital improvements for FY15 as well as the CIAB recommendations for those capital improvements. He said the B&F Committee wants to look at that too during the budget process in order to weigh that plan as part of the overall budget process in setting priorities with the Administration. **Mr. Towne** said the goal is to do just that; and that there are clear directives to department heads to have a report by budget season for presentation to B&F.

Councilor Theken expressed her appreciation for the receipt of the Capital Plan 2013-2017. **Mr. Towne** said he could not have done the plan without the assistance of Planning Director, Gregg Cademartori.

Consent Agenda:

- **MAYOR'S REPORT**

1. Memorandum from CFO re: Loan Order for Private Way Repairs & Betterments related to High Popples Road, Jacque Lane, Mayflower Lane and Stewart Avenue in the amount of \$350,000 (Refer B&F)
2. Memorandum from Fire Chief re: new Commonwealth of Mass. Permit & inspection requirements required under 527 CMR 33 Hazardous Materials Process or Processing (new fee implementation) (Refer B&F)
3. Memorandum from DPW Director re: request permission to pay invoices from previous fiscal years with current fiscal year funds (Refer B&F)
4. Memorandum from Harbormaster re: Agreement with Massport for funding, purchasing & installation of conservation moorings for the Purpose of eelgrass mitigation (Refer B&F)
5. Memorandum & pertinent material from Planning Director re: Land Disposition Committee Recommendations on 6 Stanwood Street, 19A, 19R & 23B Harbor Loop and 4 Lane Road (Refer P&D)
6. New Appointments: Cultural Council TTE 02/14/16 Karl Pulkkinen, Caroline Haines (Refer O&A)
 - **COMMUNICATIONS/INVITATIONS**
 - 1. Capital Improvement Plan FY2013-2017 (Refer B&F)
 - 2. Communication from Bill Thoms regarding reconsideration of restrictions of pay-as-you-throw (PAYT) municipal trash collection prgm. (Refer B&F)
 - **INFORMATION ONLY**
 - **APPLICATIONS/PETITIONS**
 - **COUNCILORS ORDERS**
 - 1. CC2013-042 (Cox) Amend Chapter 22, Sec. 22-282 "Establish angle parking spaces in front of Commercial Street #27 (Refer O&A & TC)
 - **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
1. City Council Meeting: 09/10/13 (Approve/File)
2. Standing Committee Meetings: B&F 09/19/13 (under separate cover), O&A 09/16/13, P&D 09/18/13 (no meeting) (Approve/File)

Items to be added/deleted from the Consent Agenda:

Councilor McGeary asked to remove the Budget & Finance Committee minutes dated 09/19/13 and said in the case of the B&F minutes, the name of Jim Caulkett was inadvertently left in the list of those in attendance at the meeting, when in fact Mr. Caulkett did not attend.

By unanimous consent the City Council approved the correction to the B&F Committee minutes.

Linda T. Lowe, City Clerk explained that there was an error in a vote in the September 10, 2013 minutes on page 20, and the reconsideration of the vote taken by the Council regarding a letter of endorsement from the Council to support the efforts of the owners of Cape Pond Ice to remove their Commercial Street parcels from the Designated Port Area. The words "to remove the property" needs to be inserted after the words "Cape Pond Ice."

MOTION: On a motion by Councilor Verga, seconded by Councilor Whynott, the City Council voted 6 in favor, 0 opposed, 2 (Tobey, Hardy) absent, 1 (Ciolino) recused, to amend the City Council minutes of September 10, 2013 for a vote taken that the City Council file with the Massachusetts State Legislature and 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 to remove the property from the Designated Port Area.

A vote by the City Council immediately followed for a Motion for Reconsideration with 2 in favor (Cox Whynott), 5 opposed, and 2 absent (Tobey, Hardy).

By unanimous consent the Consent Agenda was accepted as amended.

Committee Reports:

Budget & Finance: September 19, 2013

Budget & Finance Consent Agenda:

MOTION: On a motion by Councilor McGeary, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent, to adopt the Budget & Finance Committee Consent Agenda dated September 24, 2013 as follows:

MOTION: On a motion by Councilor McGeary, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent, to accept under MGL c. 44, §53A, a Mass. Department of Public Health Medical Reserve Corps Grant in the amount of \$13,340 for assisting the North Shore/Cape Ann Region in preparing for public health emergencies and enhance its Medical Reserve Corps capacity to respond in same.

MOTION: On a motion by Councilor McGeary, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent to recommend to the City Council to accept under MGL c. 44, 53A a U.S Department of Homeland Security/Federal Emergency Management Agency passed through the Massachusetts Emergency Management Agency (MEMA) Emergency Management Performance Grant (EMPG) in the amount of \$6,030 for the purpose of relocating and setup of the Gloucester Emergency Operations Center (EOC) to the O'Maley Middle School.

MOTION: On a motion by Councilor McGeary, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent to recommend to the City Council to accept for its files the Memorandum from the Harbormaster and pertinent materials regarding the Draft Engineering and Marketing Feasibility Assessment for a City of Gloucester Transient Marina.

Ordinances & Administration: September 16, 2013

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to permit the withdrawal of Council Order CC2013-028 (LeBlanc).

DISCUSSION:

Councilor LeBlanc said he had requested the withdrawal of his order after conferring with members of the affected neighborhood and the Traffic Commission several times with no resolution is forthcoming or any way to enforce changes to curb train parking that might be made in the Code of Ordinances, and so the withdrawal of the Council Order is appropriate.

MOTION: On a motion by Councilor Whynott, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent, to permit the withdrawal of Council Order CC2013-028 (LeBlanc).

Councilor Whynott also advised the Council that two Council Orders, CC2013-029 and CC2013-031 both were requests for traffic studies and recommendations to be made by the Traffic Commission. Those recommendations for appropriate signage have been forwarded to the Department of Public Works by the O&A Committee and so those two Council Orders are considered complete and closed.

Planning & Development: September 18, 2013 – No Meeting.**Scheduled Public Hearings:**

1. PH2013-049: Amend GCO Chapter 22, Sec. 22-287 "Disabled veteran, handicapped parking" Re: deleting one handicapped parking space in front of Cleveland Street #20

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Councilor Questions: None.

This public hearing is closed.

MOTION: On a motion by Councilor Whynott, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent, to Amend GCO Chapter 22, Sec. 22-287 “Disabled veteran, handicapped parking” by DELETING one handicapped parking space in front of Cleveland Street #20.

On an inquiry by **Councilor Cox, Councilors Whynott and Theken** discussed the process by which handicapped parking space signage is removed by the DPW and how the requests are processed.

2. PH2013-050: Loan Order #2013-003: Loan Authorization in the amount of \$2,475,000 re: FY13/14 Capital Projects

This public hearing is opened.

Those speaking in favor:

Mr. Duggan said he was expressing the Administration’s support for this loan order authorization. Contained in this loan order of note, **Mr. Duggan** said, is the financial software installation which has strong support of the City’s financial team, the CFO and City Auditor. There is \$135,000 earmarked is for fire station repairs, chiefly for the Magnolia Fire Station repairs, he pointed out. Because the roof of that station was replaced recently, this number was reduced from \$175,000, he said.

Those speaking in opposition: None.

Communications: None.

Councilor Questions:

Councilors Cox, Ciolino and Theken asked when the new street sweeper will be available and was the current street sweeper operational. **Mr. Hale** said the street sweeper should be in by the spring but may have to wait because of EPA rules on emissions on construction equipment, and one of the City’s vendors has no sweepers that meet the EPA Tier 4 emissions requirements, and so this procurement process may take some time. The current street sweeper is semi-operational, down more than it is up. It was purchased new in 2006 but is near the end of its usefulness, he said. **Mr. Hale** added the DPW is reviewing new models carefully to get the most features on it that will be able to go the distance.

Councilor McGeary asked for details on the DPW salt shed and the DPW addition. **Mr. Hale** said the salt shed is old and holds about 600 tons of salt which is what was needed when it was a supplement to sand. He said now only salt is used. They use about 6,000 ton of salt a year and want a shed that holds about that. A multi-day storm uses all 600 tons; and then the DPW has to go to Chelsea to buy more road salt and truck it back to Gloucester; this process is done at a premium. **Mr. Hale** said he would like to have the new salt shed in place for this winter storm season, but it could be a challenge. He noted that the DPW building addition is a construction project governed by MGL Chapter 149, and so a design firm will need to be retained to produce plans for this prefabricated building.

Councilor McGeary asked whether the new City Hall boiler would be in place for this coming heating season. If the boiler were taken down now, it would be a gamble, **Mr. Hale** said. He pointed out that this boiler is the oldest Cleveland Brooks boiler active on the East Coast. It has been serviced for the year to buy time to get the new City Hall boiler designed properly and installed; and the system will include at least valving. Heat zoning in City Hall, he said, will be difficult because it is an historic building which has certain restrictions and has to be taken into consideration working through design options. **Mr. Hale** pointed out the City Hall boiler is in the initial stages of the boiler replacement. He gave the example of the recent boiler replacements at the high school which were about \$250,000 each without any piping involved and cost more with the piping. Natural gas as a heating fuel is being looked into also, he noted, and that gas lines are already in Dale Avenue. There is a variety of different technologies that can be used for this system, and would be custom built and so the boiler has a 10 week lead time, finished manufacturing, he said.

This public hearing is closed.

MOTION: On a motion by Councilor Cox, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to adopt the following loan order:

Ordered: That up to \$2,475,000 is appropriated for the following purposes in the following amounts:

<u>Amount</u>	<u>Purpose</u>
\$ 1,000,000	DPW Building Addition
\$ 500,000	Financial Software Purchase/Installation
\$ 350,000	Salt Shed
\$ 250,000	City Hall Boiler Replacement
\$ 240,000	Street Sweeper
\$ 135,000	Repairs to Fire Stations

Including the payment of all costs incidental or related thereto; that to meet this appropriation, the Treasurer, with the approval of the mayor is authorized to borrow \$2,475,000 under Chapter 44 of the Massachusetts General Laws or any other enabling legislation; that the Mayor and any other appropriate City official is authorized to contract for and expend any federal, state or private aid available for the project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

DISCUSSION:

Councilor McGeary explained the \$500,000 is the initial cost for the first phase of the financial software. **Mr. Towne** said it will be closer to \$750,000 and about \$225,000 is earmarked to come from the Capital Projects Stabilization Fund which includes all the modules. The plan, he said, was to do two additional years of free cash appropriations for the software package and is what was called for in the capital project funding. **Mr. Towne** explained that by the Council authorizing the debt, the City will be able to purchase the software but will probably not pay it through debt but pay it through free cash appropriation. He said the financial software will be a phased-in program over two to three years start to finish. Part of the program is getting most of the software the City already uses, because the vendor bought the system the City uses; it will be the implementation of it and conversion of the data, the writing of the chart of accounts (an outside firm will be hired to draft this portion of the system), he said. **Mr. Towne** added that he and the City Auditor will have to work with all departments because it will change the way data is inputted; and they will also work with the School Department’s Director of Finance. The total cost will be about \$750,000 which will be a phased in program over two and a half to three years. It may be a year and a half to put in the first module. There is a lot of planning to do and it will include the School financial team and will be better than the software currently in use.

Councilor Theken inquired about the vendor; and **Mr. Towne** said this company is in over 230 municipalities in the state and there will be an annual maintenance contract.

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent to adopt the following loan order:

Ordered: That up to \$2,475,000 is appropriated for the following purposes in the following amounts:

<u>Amount</u>	<u>Purpose</u>
\$ 1,000,000	DPW Building Addition
\$ 500,000	Financial Software Purchase/Installation
\$ 350,000	Salt Shed
\$ 250,000	City Hall Boiler Replacement
\$ 240,000	Street Sweeper
\$ 135,000	Repairs to Fire Stations

Including the payment of all costs incidental or related thereto; that to meet this appropriation, the Treasurer, with the approval of the mayor is authorized to borrow \$2,475,000 under Chapter 44 of the Massachusetts General Laws or any other enabling legislation; that the Mayor and any other appropriate

City official is authorized to contract for and expend any federal, state or private aid available for the project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

3. PH2013-052: Amend GCO Chapter 21, Article IV “Repair of Private Ways”, Sec. 21-80 through 21-85

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Councilor Questions: None.

This public hearing is closed.

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Whycott, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the Gloucester Code of Ordinances, Chapter 21, Article IV, Repair of Private Ways, Sections 21-80 through 21-85 as shown on revisions dated August 22, 2013 and as incorporated herein.

DISCUSSION:

Councilor Verga said that a lot of road repairs were approved earlier in the calendar year, but there is no City funding source for it. That is when he and Councilor McGeary discovered that the ordinance in place had a 50:50 split in funding with the abutters who would share the cost; and this was unworkable. He said Councilor McGeary, himself and the Legal Department revised the ordinance into a more fair and useable format. Funding, the Councilor said, still remains a problem, however.

Councilor McGeary said prompting this review were a number of internal inconsistencies in the ordinance that was very confusing. The significant changes not already in place: The proposed revised ordinance allows that if somebody really wants to get their road paved, and the City doesn't have the funding for it, following the model set up with the Page and Way Streets sewer betterment project, they could pay for it entirely themselves, he noted. **Councilor McGeary** added that the City would front the money and better the abutters' tax bills. For purposes of moving a project along initially, an estimate of the DPW Director although by the time that the project is done, abutters will be required to submit to the DPW a complete set of full engineering plans. Also cleaned up in a prior review process was the notification of abutters because that portion of the ordinance had required a more expensive notification process. **Councilor McGeary** thanked the Legal Department, Councilors Hardy and Verga, Assistant Legal Counsel Vickie Caldwell and Paul Keane, City Engineer, all of whom worked to craft the revised ordinance as presented to the Council this evening.

Councilor Theken extended her thanks to the DPW Director and Ms. Lowe also for their assistance in a process that was, she said, by no means a quick one. By working together, it created a better way for people to go through this process.

Councilor Verga said as a result of all the hard work of the Council and City staff, prior to this presented revised ordinance, it was a multi-step process, and a confusing one at that, and then after paving the City would consider looking at a possible taking of the road for a public way. He said that the paving process meant roads could be paved such that they then could under a separate process be accepted as a public road. He noted that any roadway that is considered a public road is more public miles eligible for State Chapter 90 funds which the City uses to improve its public roadways.

MOTION: On a motion by Councilor Theken, seconded by Councilor Cox, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent to AMEND the Gloucester Code of Ordinances, Chapter 21, Article IV, Repair of Private Ways, Sections 21-80 through 21-85 as shown on revisions dated August 22, 2013 and as incorporated herein.

FINAL LANGUAGE:

Chapter 21

STREETS, SIDEWALKS AND OTHER PUBLIC PLACES

ARTICLE IV. REPAIR OF PRIVATE WAYS***Sec. 21-80. Intent; definitions; exclusions; city not required to maintain.**

(a) Definitions. The following words, terms and phrases, when used in this article shall have the meanings ascribed to them in this subsection except where the context clearly indicates a different meaning.

Abutter and *abutting owner* means all persons holding ownership rights in property abutting a private way and all persons holding ownership rights in any property the access to which, by necessity, requires travel over such private way.

Abutting parcel means any property actually abutting the private way regulated by this article and any property the access to which, by necessity, requires travel over such private way.

Private ways.

(1) The term "private way" includes, within the scope of this article, statutory private ways and dedicated private ways.

- a. The term "statutory private ways" means those ways which have been laid out pursuant to M.G.L. c.82, §21 and are subject to M.G.L. c. 84, §§23-24. Such ways are open to the same type and extent use as public ways.
- b. The term "dedicated private ways" are those ways which were not laid out under statutory authority but are open to free public use of a nature and extent sufficient to constitute evidence of the permanent intention of abutting property owners to abandon private rights in the ways.

(2) The term "private ways" within the scope of this article does not include permissive private ways or unconstructed (paper) ways.

- a. The term "permissive private ways" means those ways that have not been laid out by a public authority or dedicated to public use and are wholly the subject of private ownership. A permissive private way is open to public use solely by the continuing permission or license of the owner or abutter; such owner or abutter displays a continuing intent to exercise dominion over the way and may, for example, post the way with signs limiting or prohibiting public use.
- b. The term "unconstructed" or "paper ways" means those ways or portions thereof that have been created on paper by a deed, easement, plan or other instrument or by subdivision or approval not required (ANR) plan under the Subdivision Control Act, but have not yet been paved, improved or otherwise constructed on the ground.

(b) Pursuant to Chapter 325 of the Acts of 2002 and Massachusetts General Laws c.84, §12 and c. 40, § 6N, this article is intended to establish the process by which temporary and permanent repairs may be made to private ways and to facilitate the performance of permanent repairs upon private ways in the city so that they may become eligible for conversion to public ways.

(c) In order to qualify for permanent or temporary construction or repair under this article, all private ways otherwise eligible must have been open to the public for six or more years and must abut four or more occupied residences or operating businesses.

(d) None of the ways described in this section are of the type of which the city has an existing duty of maintenance or repair for which the city is liable in damages for defects. Abutters to private ways are responsible for the maintenance of such ways. Constructed private ways must be maintained so that there are no defects to impede the

safe passage of emergency vehicles. Nothing in this article is intended to create any duty to maintain or repair such private ways or to subject the city to any liability for defects therein.

(Ord. of 11-18-1980, §1; ord. of 4-10-2012(01))

Cross reference – Definitions and rules of construction generally, §1-2.

Sec. 21-81 – Type and extent of work.

(a) Permanent construction or repair to private ways shall be performed with the goal of improving the way such that it becomes eligible for conversion to a public way. Such permanent construction or repair shall include, but not be limited to, the construction, resurfacing and reconstruction of private ways consistent with the standards set forth in the current edition of the City of Gloucester Planning Board's "Rules and Regulations Governing the Subdivision of Land," section 2.2.7 and Appendix C. Permanent construction or repair may also include the installation and construction of drainage systems.

(b) Temporary construction or repair shall include the filling of potholes in the subsurface of private ways and repairs to the surface materials, but shall not include significant excavation, regrading, drainage work, or the resurfacing thereof. Oiling and tarring of private ways by the city shall not be permitted.

(Ord. of 11-18-1980, §2)

Cross reference – Definitions and rules of construction generally, §1-2.

Sec. 21-82 – Permanent or temporary construction or repair, when available.

(a) Permanent construction or repair may be performed by the city upon approval of the abutters' petition by the city council in accordance with the procedures set forth in sections 21- 84 and 21-85.

(b) Temporary construction or repair may be performed by the city upon a determination by the director of public works that the condition of a way adversely affects the safety of the inhabitants and that construction or repair of a permanent nature is unnecessary to cure the condition, or upon determination that the condition of the way constitutes an emergency which requires the immediate performance of construction or repair in order to protect the health or safety of the inhabitants of the city. Such temporary repair shall not be considered as maintenance of the private way nor shall the way be considered a public way as a result of any repair.

(Ord. of 11-18-1980, §3)

Sec. 21-83 – Funding for approved construction or repair.

(a) Up to one hundred percent of the total cost of performance of approved permanent construction and repair work, including the cost of all plans or specifications shall be paid by the abutting owners, the amount to be so paid to be divided by the number of abutting parcels and assessed to the owners thereof. Any amount to be paid by the city shall be paid from funds appropriated to a separate account in the yearly city budget or from the capital improvement program.

(b) In any case involving construction or repairs consisting less than \$4,000.00, the city may satisfy its financial obligation under subsections (a) and of this section through the provision of either in-kind services or cash payment of the amount established pursuant to this section. In-kind services may be performed by the department of public works if, in the judgment of its director, the department has the existing capability to render such performance. Where the cost of construction or repair exceeds \$4,000.00, the work shall be awarded to private contractors by means of the applicable bidding procedures.

(c) The city shall not require that abutting owners pay a cash deposit as a prerequisite to the performance of approved work. However, betterments shall be assessed and collected for such work in accordance with the provisions of M.G.L. c. 80, §1 et. seq. and other applicable laws.

(d) In the case of temporary repairs, the city shall be obligated to pay 100 percent of the total cost.

(Ord. of 11-18-1980 §4)

Sec. 21-84 - Meeting and vote by abutting owners.

(a) Prior to submitting any petition under this article, and after notice to all abutters, a meeting of all abutting owners must be held. The meeting shall be called by any three or more abutting owners. Notice of the meeting, stating the date, time and location thereof, shall be given at least seven days in advance by posting the notice in the city clerk's office and by mailing the notice to all abutting owners by certified mail, return receipt requested. A receipt by electronic mail or other proof of certified mailing shall be deemed sufficient evidence that notice has been given to abutting owners.

(b) At the meeting of abutting owners as required by subsection (a) of this section, separate votes shall be taken and recorded to determine whether certain repairs are to be sought and whether such repairs shall be paid for pursuant to the terms of this article. A majority of the abutting owners must attend the meeting and must vote in favor of both issues in order to qualify for construction or repair under this article. Each property, whether held singly, jointly or by a trust or corporation, shall be entitled to cast one vote by the designated or agreed-upon representative of the owners, and who must be in attendance at the meeting. The official record of the meeting, including the attendees and the votes cast shall be included with the petition for permanent repairs to a private way when the abutters present the petition to the city clerk as described in section 21-85, below.

(Ord. of 11-18-1980, §6; Ord. of 4-10-2012 (01))

Sec. 21-85 – Procedural prerequisites for petitions to city council for permanent construction or repair.

(a) Any performance of permanent construction or repair as set forth in this article is subject to the availability of funding and must be authorized by a majority vote of the city council.

(b) Abutters to a private way shall begin the process of seeking permanent repair to the way by making a written request for a preliminary assessment from the city engineer as to whether the way could be improved to meet the specifications contained in the Planning Board's "Rules and Regulations Governing the Subdivision of Land," section 2.2.7 and Appendix C, and be eligible for potential conversion to a public way. Such requests must be signed by a minimum of three abutters to the way.

(c) The city engineer shall issue a preliminary assessment in writing as to the potential for the private way to be converted to a public way within 60 days of receiving such request. The city engineer shall rely on the guidelines contained in the Planning Board's "Rules and Regulations Governing the Subdivision of Land," section 2.2.7 and Appendix C in making the assessment. The city engineer shall also consult with the fire chief as to emergency access requirements needed. As part of the project, the city engineer shall prepare a preliminary estimate of the cost of the project. The engineer's preliminary cost estimate is for guidance of the petitioners only and does not replace the full set of engineering plans required in section 21-85 (g) below.

(d) Upon receiving a favorable preliminary assessment from the city engineer as to the potential conversion of the way to a public way, abutters seeking the permanent repair of a private way shall submit to the city council a petition signed by no less than 51 percent of the abutting owners of the private way subject to the proposed construction or repair. The submittal of the petition must conform to the requirements of subsections (d) through (j) of this section and subsections (a) and (b) of Sec. 21-84.

(e) Petitioners shall use only official petition forms, available from the city clerk's office upon request. The petition form shall specify the intended share of the cost of the project to be borne by the petitioners and the cost estimate prepared by the city engineer as specified in Section 21-85 (c).

(f) The original petition and an official record of the votes cast at the abutters' meeting, as required by section 21-84, shall be submitted to the city clerk. All petitions must plainly indicate that a meeting of the abutting owners has been held and votes recorded as provided in accordance with Section 21-84. The city clerk shall file a copy of the petition with the mayor's office and with the director of public works.

(g) The original petition and official record of the votes cast at the abutters' meeting must be accompanied by the abutters' proposal for permanent repair of a private way, including a set of engineering plans, prepared and signed by a registered engineer qualified in the field. Such plans shall be of sufficient detail to indicate the nature and extent of the work requested and the quantity and type of material necessary. Such plans shall also indicate an estimated cost of the requested construction or repair.

(h) Within 30 days after the filing date of the petition, the mayor and the director of public works shall review the petition and the plans in accordance with the standards set forth in the Planning Board's "Rules and Regulations Governing the Subdivision of Land," section 2.2.7 and Appendix C, and shall submit to the city council their recommendation as to whether the plans are consistent with the standards contained therein and whether the permanent repair or construction of the way could result in its eventual conversion to a public way.

(i) The city council must hold a public hearing upon the petition within 60 calendar days of filing thereof, except that in a particular case the council, by two-thirds vote thereof, may extend the deadline for hearing by a maximum of 30 days. Review of the petition by the city council shall include a determination whether the construction or repair is required by public convenience and necessity.

(j) Notice of the council's decision shall be posted and a copy thereof shall be mailed to all abutting owners.

(Ord. of 11-18-1980, §5)

- 4. PH2013-052 Amend GCO Appendix C ("The Personnel Ordinance") and Appendix B ("The Compensation Plan") and Appendix A ("Classification Plan") re: to amend Pay Grade for positions of City Clerk and Assistant City Clerk; to change Principal Clerk position title to that of Vital Records Specialist/Clerk; to amend pay grade for the position of "Vital Records Specialist/Clerk"; change position title of Assistant Registrar to "Elections Specialist/Assistant Registrar" and to amend pay grade for position of Election Specialist/Assistant Registrar; and whether the City Council should approve the reorganization plan of the City Clerk's department as submitted to the City Council by the City Clerk on June 17, 2013.**

This public hearing is opened.

Linda T. Lowe, City Clerk referred the Council to the materials in the Council packet (on file) on the City Clerk's Department's reorganization. She said this reorganization, unlike that of all other City departments (excepting the City Auditor's) falls under Sec. 7-1 of the City Charter because the department works under the City Council versus other departments which fall under Sec. 7-2 who work under the City's Administration. She noted that the O&A Committee has worked very closely with her and that a great deal of input from staff members and the Council went into this documentation. **Ms. Lowe** said contained in the documentation are job descriptions that are being made more current by updating them to reflect new technology and to create a strong emphasis on departmental cross-training.

Ms. Lowe explained that her department is has four full-time and one part-time staff with a department head for a total of 5 ½ staff who handle an enormous amount of time-sensitive work which requires cross-training in order to work cooperatively when there are events such as elections, as run by her office. **Ms. Lowe** also emphasized that each position requires an in-depth knowledge of various local and state laws. She noted that as with any other reclassification plan, she said, this reorganization is reclassifying positions and not the persons in them. The reorganization will run the department more efficiently and recognizes the difficulty of the work undertaken by this staff, she pointed out. **Ms. Lowe** added that while this is not about the persons in the positions, she is proud of her staff, all specialists who work hard and do an excellent job. This plan, she said, will be beneficial to the staff of her department. She noted the presence of the Assistant City Clerk and the Clerk of Committees, members of the City Clerk's Department.

Those speaking in opposition: None.

Communications: None.

Councilor Questions:

Councilor McGeary commented the ordinance reflects the changes in the duties in the City Clerk's office and that the Council all benefits from these changes. He said he would support the reorganization.

Councilor Ciolino asked about the additional costs by the pay grade increases, and was the money put aside in anticipation of this reorganization in the FY14 budget. **Councilor McGeary** explained that the money was set aside in Department 900 during the budget process for FY14 in anticipation that the cost of the reorganization would be available to fund the increases. **Ms. Lowe** added about \$10,000 was set aside. **Mr. Towne** confirmed that the funds are in Department 900, and it will take a transfer by the Council to release the funds.

This public hearing is closed.

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Theken, the Ordinances & Administration Committee voted 2 in favor, 0 opposed, 1 (Whynott) present to recommend to the City Council to amend the Gloucester Code of Ordinances, The Personnel Ordinances, Appendix C., Compensation, Appendix B to change the pay grade for the position of City Clerk from Pay Grade M9 to M10 retroactive to July 1, 2013.

DISCUSSION:

Councilor Whynott said that he would vote present on this first motion for the pay grade increase for the City Clerk because it would not be appropriate for the former City Clerk to judge the position of the City Clerk.

Councilor Ciolino offered his support and said that this is a good change to put this department in parity with all other City departments.

Councilor McGeary also offered his enthusiastic support.

Councilor Theken said it was up to her Committee to review this reorganization. All the staff came to the O&A Committee to discuss the changes in job descriptions and in the organizational structure of the City Clerk's department. There was a lot of input and time taken on this reorganization although the department is small but because this is such a key City department accessed by the entire community, and so it was important to make a careful consideration. She said the entire Clerk's staff works very hard and would support this motion as well as all those coming forward. She thanked the department staff for their patience and hard work.

MOTION: On a motion by Councilor Whynott, seconded by Councilor Cox, the City Council voted by ROLL CALL 6 in favor, 0 opposed, 1 (Whynott) present, 2 (Tobey, Hardy) absent to amend the Gloucester Code of Ordinances, The Personnel Ordinances, Appendix C., Compensation, Appendix B to change the pay grade for the position of City Clerk from Pay Grade M9 to M10 retroactive to July 1, 2013.

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Code of Ordinances, The Personnel Ordinances, Appendix C., Compensation, Appendix B to change the pay grade for the position of Assistant City Clerk from GMAA M5 to M6 retroactive to July 1, 2013.

DISCUSSION: None.

MOTION: On a motion by Councilor Whynott, seconded by Councilor Cox, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent, to amend the Gloucester Code of Ordinances, The Personnel Ordinances, Appendix C., Compensation, Appendix B to change the pay grade for the position of Assistant City Clerk from GMAA M5 to M6 retroactive to July 1, 2013.

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 2 in favor, 0 opposed, 1 (Theken) recused, in connection with the City Clerk Reorganization Plan to recommend to the City Council to Amend the Personnel Appendix A and B of Section 4 of the Personnel Ordinance designated as Appendix C of the Gloucester Code of Ordinances retroactive to July 1, 2013 as follows:

1. That Appendix A, Classification Plan, be amended by changing the title of the position of "Assistant Registrar" to "Elections Specialist/Assistant Registrar";
2. That Appendix B, Compensation Plan, be amended by setting the compensation for said position of "Election Specialist/Assistant Registrar" from an AFSCME Pay Grade 7 to AFSCME Pay Grade 8.

DISCUSSION: None.

Councilor Theken said that she would recuse herself from the vote regarding the position of Elections Specialist/Assistant Registrar due to being the sister-in-law of the staff member currently holding that position.

MOTION: On a motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 6 in favor, 0 opposed, 1 (Theken) recused, 2 (Tobey, Hardy) absent, in connection with the City Clerk Reorganization Plan to Amend the Personnel Appendix A and B of Section 4 of the Personnel Ordinance designated as Appendix C of the Gloucester Code of Ordinances retroactive to July 1, 2013 as follows:

- 1. That Appendix A, Classification Plan, be amended by changing the title of the position of “Assistant Registrar” to “Elections Specialist/Assistant Registrar”;**
- 2. That Appendix B, Compensation Plan, be amended by setting the compensation for said position of “Election Specialist/Assistant Registrar” from an AFSCME Pay Grade 7 to AFSCME Pay Grade 8.**

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, in connection with the City Clerk Reorganization Plan to recommend to the City Council to Amend the Personnel Appendix A and B of Section 4 of the Personnel Ordinance designated as Appendix C of the Gloucester Code of Ordinances retroactive to July 1, 2013 as follows:

- 1. That Appendix A, Classification Plan, be amended by changing the title of the position of “Principal Clerk” to “Vital Records Specialist/Clerk”;**
- 2. That Appendix B, Compensation Plan, be amended by setting the compensation for said position of “Vital Records Specialist/Clerk” from an AFSCME Pay Grade 6 to AFSCME Pay Grade 7.**

DISCUSSION: None.

MOTION: On a motion by Councilor Whynott seconded by Councilor Cox, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent, in connection with the City Clerk Reorganization Plan to Amend the Personnel Appendix A and B of Section 4 of the Personnel Ordinance designated as Appendix C of the Gloucester Code of Ordinances retroactive to July 1, 2013 as follows:

- 1. That Appendix A, Classification Plan, be amended by changing the title of the position of “Principal Clerk” to “Vital Records Specialist/Clerk”;**
- 2. That Appendix B, Compensation Plan, be amended by setting the compensation for said position of “Vital Records Specialist/Clerk” from an AFSCME Pay Grade 6 to AFSCME Pay Grade 7.**

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend to the City Council to accept the City Clerk’s Reorganization Plan based on the chart and new job descriptions as submitted to the City Council on June 17, 2013 in accordance with the City Charter Sec. 7-1 retroactive to July 1, 2013.

DISCUSSION: None.

MOTION: On a motion by Councilor Whynott, seconded by Councilor Cox, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent, to accept the City Clerk’s Reorganization Plan based on the chart and new job descriptions as submitted to the City Council on June 17, 2013 in accordance with the City Charter Sec. 7-1 retroactive to July 1, 2013

For Council Vote:

- 1. Amendment to City Council vote taken on September 10, 2013 re: Explanation of Option “A)” so as to remove the words, “on Blackburn Circle”**

Ms. Lowe said that so as not to cause voter confusion, the words, “on Blackburn Circle” were inadvertently left within the body of the explanation for option A) when voted at the September 10th City Council meeting, for the Council’s non-binding ballot question to appear on the municipal ballot on November 5, 2013. She asked that the Council remove those words at this time.

MOTION: On motion by Councilor Cox, seconded by Councilor Verga, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Tobey, Hardy) absent, to remove the words, "...on Blackburn Circle...." from the Explanation of Option A) of the City Council's non-binding ballot question to appear on the November 5, 2013 municipal ballot regarding the Fuller Building site as voted on September 10, 2013.

FINAL LANGUAGE:

"Explanation of Option A:

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. 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."

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 1 (Whynott) in favor, 6 opposed, 2 (Tobey, Hardy) absent to reconsider the vote on the removal of the phrase "...on Blackburn Circle..." from Explanation of Option A of the City Council's non-binding ballot question to appear on the November 5, 2013 municipal ballot regarding the Fuller Building site as voted on September 10, 2013.

Unfinished Business: None.

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

Councilors' Requests to the Mayor:

Councilor McGeary said the DPW will hold its annual household hazardous waste day Saturday, September 28th at the DPW yard on Poplar Street, and for a list of accepted items please, go to www.gloucester-ma.gov or contact the DPW, 978-281-9785.

Councilor Ciolino wished good night to the citizens of Gloucester.

Councilor Verga offered his thanks to the organizers to the year's final summer Block Party and said that he enjoyed playing bass guitar in the Springsteen tribute band with Chief of Police, Leonard Campanello and Joe Thomas from Giuseppe's Restaurant. They'll look to get Fire Chief Eric Smith to join them, a drummer.

Councilor Cox reminded the public that the compost facility this Saturday. At the Rocky Neck Railways the same day at 10 a.m. will be a special display showcasing the schooner Adventure and the Phyllis A. She also thanked all the residents who came out for her recent ward meeting making it a success.

Councilor Theken said on October 15th there is a health fair for City employees to learn more about the offerings of the State's Group Insurance Commission from 12:30 p.m. to 4:00 p.m. She encouraged City and school employees to call the Cape Ann Medical Center to ask if they take a particular GIC plan through certain providers to ensure their current doctors participate in any plan they may be considering. She pointed out that doctors may not be informed and not contracted with the plans under the GIC, she said, and added that just because the doctor takes Harvard Pilgrim insurance it doesn't mean their practice takes all the Harvard plans. **Councilor Theken** also noted Medicare open enrollment starts October 15th. On October 29th at 10 a.m. there is a meeting at the Rose Baker Senior Center regarding open enrollment choices, and Gloucester and Rockport seniors can call her to schedule appointments now. She reminded the community that there are free flu shots available through clinics being held around the City; for more information go to www.gloucester-ma.gov.

Ms. Lowe thanked the Council for the passage and support of her department's reorganization plan.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:25 p.m.

Respectfully submitted,

**Dana C. Jorgenson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.