

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, November 26, 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

**Absent:** Councilor Whynott

**Also Present:** Linda T. Lowe; Jim Duggan; Kenny Costa; Jeff Towne; Nancy Papows; Tim Good; Bethann Godhino; Gary Johnstone

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

**Flag Salute & Moment of Silence.**

**Oral Communications: None.**

**Presentations/Commendations: None.**

**Council President Hardy** said that she has been honored and privileged to serve as the Gloucester City Council President for the past four years and announced she would not be seeking another term on January 1, 2014. She said she would be passing the gavel thanking her fellow Councilors for their support, and that it had been a pleasure working with them during her tenure as Council President.

**Consent Agenda:**

- ***MAYOR'S REPORT***

1. Memorandum from Harbor Planning Director re: City Council acceptance of the remaining \$200,000 Seaport Advisory Council Floating Docks Grant (Refer B&F)
2. Memorandum from Police Chief re: City Council acceptance of FY14 Bulletproof Vest Grant in the amount of \$9,298.22 from the U.S. Department of Justice and the Executive Office of Public Safety & Security of the State of Massachusetts (Refer B&F)
3. Memorandum from Director of Finance for the Gloucester Public Schools requesting permission to pay for services/goods Procured without a purchase order in place in the amounts of \$384, \$769 and \$1,846.70 (Refer B&F)
4. Review & Recommendations for the Disposition of Real Property for the Gloucester House sign located at 45 Rogers Street (Refer P&D)
5. New Appointments: Tourism Commission (At Large Member) TTE 02/14/2016 Laura Baker (Refer O&A)
  - ***COMMUNICATIONS/INVITATIONS***
    1. Communication from the Gloucester Harbor Community Development Corporation re: initial ideas for harbor enhancement (Info Only)
    2. Communication from the Auditor of the Commonwealth re: State funding for Cities and Towns for the 2013 U.S. Senate Special Elections (Info Only)
  - ***COUNCILORS ORDERS***
    1. CC2013-057 (Cox) Request the City Council with the mayor's approval to adopt MGL c. 60, § 1 re: exemption of motor vehicle Tax for prisoners of war or the surviving spouses of former prisoners of war (Refer O&A & B&F)
    2.
      - ***APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS***
        1. City Council Meeting: 11/12/13 (Approve/File)
        2. B&F Minutes 11/21/13 (under separate cover) (Approve/File)

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

By unanimous consent the Consent Agenda was accepted as amended.

**Committee Reports:****Budget & Finance: November 21, 2013**

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to accept the Budget & Finance Committee's Unanimous Consent Agenda dated November 26, 2013 as follows:

**Special budgetary transfers**

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to approve Special Budgetary Transfer 2014-SBT-4 for \$10,000 from Pensions, Non-Contributory Pensions, Account #101000.10.911.51870.0000.00.000.00.051 to Purchasing, Advertising, Account #101000.10.138.53480.0000.00.000.00.052 in order fully fund the advertising account for FY14.

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to approve Special Budgetary Transfer 2014-SBT-5 for \$533.72 from Vocational School Assessment, Account #101000.10.942.56200.0000.00.000.00.056 to Veterans Services, Salary/Wages Full-time, Account #101000.10.543.51100.0000.00.000.00.051 to fund a step increase in wages that occurred after the FY14 budget was set.

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to approve Special Budgetary Transfer 2014-SBT-6 for \$30,000 from Vocational School Assessment, Account #101000.10.942.56200.0000.00.000.00.056 to Veterans Services, Medical, Account #101000.10.543.57720.0000.00.000.00.057 in order to fully fund the Veterans Services medical account for Fiscal Year 2014.

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to approve Special Budgetary Transfer 2014-SBT-7 for \$10,000 from Vocational School Assessment, Account #101000.10.942.56200.0000.00.000.00.056 to Police-Parking, Parking Meter Maintenance, Account #101000.10.218.52570.0000.00.000.00.052 for the purpose of buying additional parts and equipment.

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to approve Special Budgetary Transfer 2014-SBT-8 for \$580.41 from General Fund-Special Reserve, Salary/Wages Permanent Positions, Account #101000.10.900.51100.0000.00.000.00.051 to Police Parking, Salary/Wages Permanent Positions, Account #101000.10.218.51100.0000.00.000.00.051 for the purpose of clearing an estimated deficit in this account.

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to approve Special Budgetary Transfer 2014-SBT-9 for \$3,777.59 from General Fund-Special Reserve, Salary/Wages Permanent Positions, Account #101000.10.900.51100.0000.00.000.00.051 to Police Administration, Salary/Wages Permanent Positions, Account #101000.10.210.51100.0000.00.000.00.051 for the purpose of clearing an estimated deficit in this account.

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to approve Special Budgetary Transfer 2014-SBT-10 for \$2,053.20 from Police-Uniform, Salary/Wage-Permanent Position, Account #101000.10.211.51100.0000.00.000.00.051 to Police Administration, Temporary Upgrade, Account #101000.10.210.51170.0000.00.000.00.051 for the purpose of funding this account due to a contractual cost.

*Acceptance of grants requiring no cash match by the city*

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to accept under MGL c. 44, Sec. 53A a FFY2012 US Department of Homeland Security/FEMA Emergency Management Performance Grant through the Federal Emergency Management Agency (FEMA) and the Massachusetts Emergency Management Agency (MEMA) in the amount of \$5,000 for the purpose of purchasing “go kits” for 50 Medical Reserve Corps (MRC) and Citizens Emergency Response Team (CERT) volunteers.

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to accept under MGL c. 44, Sec. 53A a grant through the Federal Emergency Management Agency (FEMA) and the Massachusetts Emergency Management Agency (MEMA) a FFY2012 State Homeland Security – Citizen Corps Program in the amount of \$7,500 for the purpose of

building the Medical Reserve Corps (MRC) capacity during public health emergencies throughout the North Shore and Cape Ann.

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to accept under MGL c. 44, Sec. 53A a grant from the Massachusetts Cultural Council in the amount of \$6,470 to the Gloucester Cultural Council for the purpose of supporting cultural projects in the City of Gloucester by the Gloucester Cultural Council.

Payment of invoices without a purchase order in place

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Whynott) absent, to authorize payment of outstanding invoices from the Town of Ipswich Police Department incurred by the Department of Public Works for services received in FY13 from the Ipswich Police Department for a net total of \$1,536.00 for services and to be paid from the current FY14 Water Enterprise-Contract Services, Account #610000.10.450.52000.0000.00.000.00.052 without a purchase order in place as follows:

Ipswich Police Department	Inv. #2505	Dated 4/24/13	\$1,344.00
Ipswich Police Department	Inv. #2522	Dated 4/25/13	<u>\$ 192.00</u>
		NET TOTAL:	\$1,536.00

MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 8 opposed, 1 (Whynott) absent, to authorize payment under MGL Chapter 44, §64 of outstanding invoices incurred by the Department of Public Works for services received in FY13 from the Town of Ipswich Police Department for a net total of \$1,536.00 and to be paid from the current FY14 Water Enterprise Account #610000.10.450.52000.0000.00.000.00.052 as follows:

Ipswich Police Department	Inv. #2505	Dated 4/24/13	\$1,344.00
Ipswich Police Department	Inv. #2522	Dated 4/25/13	<u>\$ 192.00</u>
		NET TOTAL:	\$1,536.00

(End Consent Agenda)

Councilor McGeary, upon the Council’s favorable vote on the B&F Unanimous Consent Agenda, thanked Council President Hardy for her Council leadership over the last four years.

Supplemental Appropriation from Stabilization Fund (requires a two-thirds majority of the Council)

MOTION: On a motion by Councilor Cox, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend that the City Council approve Supplemental Appropriation 2014-SA-5 in the amount of \$100,000 (One Hundred Thousand Dollars) from the Stabilization Fund, Fund Balance Account #840000.10.000.35900.0000.00.00.00.000 to Fire Department, Salary/Wage Overtime, Account #101000.10.220.51300.0000.00.000.00.052 for the purpose of providing additional overtime funds to maintain appropriate staffing levels.

**DISCUSSION:**

Councilor McGeary explained as the Administration had promised in July 2013 when the budget was passed, they would come forward from time to time as Fire Department overtime funds were depleted the Stabilization Fund would be tapped into the Stabilization Fund, and that once Free Cash was certified, use that funding source to keep the fire stations opened. In this particular case, he said, it is about the Bay View Fire Station. The \$100,000 will cover an expected overrun of \$20,000 plus \$80,000 additionally for overtime, according to the Fire Chief, he said. Councilor McGeary added that the Fire Chief had assured the B&F Committee that the \$80,000 would keep Bay View, West Gloucester and Central Station open through the holidays and into the first part of the year.

Councilor Ciolino said some Free Cash should be going to the Stabilization Fund now that the Department of Revenue has certified the City’s FY13 Free Cash; and asked would this \$100,000 be folded into the total free cash

put into the Stabilization Fund, expressing his concern that this \$100,000 may not be replaced in the Stabilization Fund but would be comingled or forgotten in the overall funding of the Stabilization Fund.

**Jeff Towne**, CFO said this overtime transfer was proposed October 28<sup>th</sup> and has just made its way through to the Council, and at that time Free Cash wasn't certified. He said at that time the Fire Department was about to start deficit spending for overtime; and this money will assure that the Bay View Station remains open. He added it was a timing issue more than a funding source issue. **Mr. Towne** said that the goal is to put the funding back with Free Cash for this \$100,000 plus a disbursement over and above that number to the Stabilization Fund. Should this have to be funded again, money will be set aside from Free Cash to provide overtime funding to keep the Bay View Station open, he said.

**Councilor McGeary** inquired as to how much money is in the Stabilization Fund and **Mr. Towne** said that a about \$2.75 million and this transfer will drop the Fund to \$2.65 million. He noted that \$4.2 million for FY13 was certified for the General Fund. **Councilor McGeary** asked if it was the Administration's intent moving forward that in addition to replacing this \$100,000 in the Stabilization Fund some additional monies might be put into the Fund to which **Mr. Towne** noted that the Mayor had yet to make that determination but is working on that matter now.

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Whynott) absent, to approve Supplemental Appropriation 2014-SA-5 in the amount of \$100,000 (One Hundred Thousand Dollars) from the Stabilization Fund, Fund Balance Account #840000.10.000.35900.0000.00.00.000 to Fire Department, Salary/Wage Overtime, Account #101000.10.220.51300.0000.00.0000.00.052 for the purpose of providing additional overtime funds to maintain appropriate staffing levels.**

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Hardy, the City Council voted by ROLL CALL 0 in favor, 8 opposed, 1(Whynott) absent, to reconsider the vote approving 2014-SA-5 in the amount of \$100,000 for the purpose of providing additional overtime funds to maintain appropriate staffing levels from the Stabilization Fund to the Fire Department's Salary/Wage Overtime account.**

**MOTION FAILS.**

#### **Supplemental Appropriation**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend that the City Council approve Supplemental Appropriation 2014-SA-3 in the amount of \$35,000 (Thirty Five Thousand Dollars) from the Highway Force Account, Account #294015 to Public Services Paving, Account #101000.10.470.58415.0000.00.0000.00.058 for the purpose of funding various paving projects throughout the City.**

#### **DISCUSSION:**

**Councilor McGeary** said money in the Highway Force account is set aside for the purpose of funding small paving projects throughout the City, but does need to be officially transferred into the Public Services Paving account.

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Whynott) absent to approve Supplemental Appropriation 2014-SA-3 in the amount of \$35,000 (Thirty Five Thousand Dollars) from the Highway Force Account, Account #294015 to Public Services Paving, Account #101000.10.470.58415.0000.00.0000.00.058 for the purpose of funding various paving projects throughout the City.**

**MOTION: On a motion by Councilor McGeary, seconded by Councilor Cox, the City Council voted by ROLL CALL 0 in favor, 8 opposed, 1 (Whynott) absent, to reconsider the vote approving 2014-SA-3 in the amount of \$35,000 for the purpose of funding the City's spring paving program from the Highway Force Account to the DPW Public Services Paving account.**

**MOTION FAILS.**

**Special budgetary transfers for reorganization of the offices of the City Clerk and Registrar**

**MOTION:** On a motion by Councilor Cox, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend that the City Council approve Special Budgetary Transfer 2014-SBT-11 in the amount of \$1,234.00 (One Thousand Two Hundred Thirty Four Dollars) from General Fund, Special Reserve, Account #101000.10.900.52000.0000.00.000.00.052 to Registration, Salary/Wage-Permanent, Account # 101000.10.163.51100.0000.00.000.00.051 to partially fund salary increase as a result of the City Clerk's Department reorganization.

**DISCUSSION:**

**Councilor McGeary** explained that the City Clerk's Department reorganization had been approved by the Council in July 2013. The funds to support the reorganization were set aside during the budget review in Department 900, Special Reserve pending the formal approval of the reorganization. This transfer and the one that follows complete that funding process, he pointed out.

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by **ROLL CALL 8** in favor, **0** opposed to approve Special Budgetary Transfer 2014-SBT-11 in the amount of **\$1,234.00 (One Thousand Two Hundred Thirty Four Dollars)** from General Fund, Special Reserve, Account #101000.10.900.52000.0000.00.000.00.052 to Registration, Salary/Wage-Permanent, Account # 101000.10.163.51100.0000.00.000.00.051 to partially fund salary increase as a result of the City Clerk's Department reorganization.

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by **0** in favor, **8** opposed, **1** (Whynott) absent, to reconsider the vote approving 2014-SBT-11 in the amount of **\$1,234.00** to partially fund a salary increase as a result of the City Clerk's Department reorganization from the General Fund, Special Reserve account to Registration, Salary/Wage-Permanent account.

**MOTION FAILS.**

**MOTION:** On a motion by Councilor Cox, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend that the City Council approve Special Budgetary Transfer 2014-SBT-12 in the amount of \$12,323 (Twelve Thousand Three Hundred Twenty Three Dollars) from General Fund, Special Reserve, Account #101000.10.900.52000.0000.00.000.00.052 to City Clerk, Salary/Wage-Permanent, Account # 101000.10.161.51100.0000.00.000.00.051 to fund salary increases as a result of the City Clerk's Department reorganization.

**DISCUSSION: None.**

**MOTION:** On a motion by Councilor Cox, seconded by Councilor Ciolino, the City Council voted **BY ROLL CALL 8** in favor, **0** opposed to approve Special Budgetary Transfer 2014-SBT-12 in the amount of **\$12,323 (Twelve Thousand Three Hundred Twenty Three Dollars)** from General Fund, Special Reserve, Account #101000.10.900.52000.0000.00.000.00.052 to City Clerk, Salary/Wage-Permanent, Account # 101000.10.161.51100.0000.00.000.00.051 to fund salary increases as a result of the City Clerk's Department reorganization.

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted **0** in favor, **8** opposed, **1** (Whynott) absent, to reconsider the vote approving 2014-SBT-12 in the amount of **\$12,323.00** to partially fund salary increases as a result of the City Clerk's Department reorganization from the General Fund, Special Reserve account to City Clerk, Salary/Wage-Permanent account.

**MOTION FAILS.****For Council Vote:**

**1. City Charter Sec. 2-11(c) Cox re: PH2013-063: Amend GCO c. 2 “Administration”, Article II “City Council” by adding a new section entitled “Approval of Funds for Lease of Real Estate by City”**

**Council President Hardy** noted this matter was halted at the closure of the Public Hearing at the City Council meeting of November 12th.

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 0 in favor, 2 (LeBlanc, Whynott) opposed, 1 (Theken) present, to recommend to the City Council to Amend the GCO by ADDING a new Section 2-28 to Chapter 2 Administration, Article II "City Council" as follows:

"Section 2-28 Funds for Lease of Private Property.

Prior to the City entering into any lease of private property for a period or term of at least one year, said lease shall be submitted to the City Council for approval by its Budget & Finance Committee for funding of the lease. The lease shall then be put before the City Council for its approval."

**DISCUSSION:**

**Councilor Tobey** said that the acquisition of a property by lease commits the City to serious obligations that are capital in nature. He pointed out that if the City proposes to bond in order to buy something, the Council has to approve it; and he said this is no different or less important. He said discussions did occur for the Charter School lease that the community did not get to observe or participate in with no give and take on issues. **Councilor Tobey** said it was the give and take on such issues is important, and that the community is made better by having it. It was in this light that he brought the Council Order forward in hopes, he said, that the Council would join him in encouraging that kind of open dialog before an acquisition by lease is undertaken. A lease warrants discussion and review by the City's legislative body, he said.

**Councilor Ciolino** expressed his support of the Code of Ordinances amendment. He pointed out that more leases will be made for interim spaces for schools and public services. He said he didn't think any department of the City should commit to a lease without at least running it past the Council and acknowledge where funding for the lease would come from for its short- or long-term funding.

**Councilor McGeary** opposed the amendment because he said he believes that the framers of the Charter intended that the Administration have fairly wide latitude in the administration of the City. He pointed out the Council has the power of the purse which is significant. If this Mayor or any mayor were to enter into a lease without consulting the Council, he or she does it at their peril. He would, he said, encourage a mayor to do that but was reluctant to require that it be done especially in that there are times action must be done quickly. **Councilor McGeary** acknowledged that once a deal is done the Council is under some pressure to approve that deal but the Council is not obligated to do so. He pointed out that if the Mayor should enter into a bad deal the Council wouldn't be doing its due diligence if they agreed to continue funding the deal. He noted that in checking with the City Solicitor she said that all leases that the City enters into, even multi-term/multi-year leases are subject to funding so that leases can be broken. **Councilor McGeary** said that is sufficient protection. Encouraging the Mayor to run it by the Council first is wise, he said, concluding that this requirement is just another hindrance to forward progress.

**Councilor LeBlanc** said the Mayor has her duties and the Administration makes its decisions. He said he agreed with Councilor McGeary that the Council can step in and have its say should they disagree. He added that he would not support the amendment to the Code of Ordinances.

**Councilor Theken** said this she voted present at O&A to hear both sides on the matter. She said she is not saying this Mayor is doing anything wrong, but that the Council needs to know what is going on. A property is looked at in terms of longevity, such as the CATA building lease, which was done as a group decision, she said. She pointed out also that the City will have to do several leases very soon and expressed her concern. **Councilor Theken** said is not about what this Administration has done but is about placing something in the ordinance moving forward.

**Councilor Cox** agreed it is not about this particular Mayor's administration as to why she will vote to support this amendment, but that the issue is about checks and balances. The Council doesn't want to have to not fund a second year of a lease because it thinks a bad decision was made, she said. Rather, she pointed out, the Council is readily available for a Special City Council meeting if something came up and said the Council can come together and talk a matter out. It is poor business practice to not fund a lease once entered into, **Councilor Cox** said. With

this check and balance in place, it will prevent anything like this from happening again, she pointed out saying it is an important step to have in place.

**Councilor Verga** added his support to the amendment. He said there is always time to schedule a meeting and let the public weigh in as well as the Council. He pointed out the Council is the public, and there is an opportunity to remove friction so that there is a clear process; discussion taking place, and a system of checks and balances.

**Councilor McGeary** said it is true the particular case of the Charter School was funded without having to go before the Council, which he said was a unique set of circumstances. In the traditional manner, before the lease could be signed and executed, a Supplemental Appropriation or a Special Budgetary Transfer would have to come before the Council in order to fund the lease. While it did happen, he said, it is very unusual, and this is legislating to the exception as opposed to the norm. **Councilor McGeary** reiterated there is a process in place which is the budgetary transfer process and called the amendment overkill.

**Jim Duggan**, CAO said that there was a misunderstanding some months ago, explaining that the night the budget was passed there was a meeting with the West Parish community regarding about swing space to house their students during the building of a new school. He said originally the discussion was that the space would include the former Charter School and St. Ann's as two separate locations, but the West Parish community made clear they didn't want their students split up; and then budget was passed. **Mr. Duggan** said that the intent was not to move the School Administration to the Charter School. His conversation with the owner of the building did not commence until just before July 4<sup>th</sup>, he pointed out, and there were no long standing discussions and negotiations. There were long conversations about the availability of the building, but not that the School Administration would go into the building. **Mr. Duggan** closed his remarks by saying that there was a perception the lease was done in an underhanded, purposeful way without full disclosure, and he said that was not the case; rather this was an unusual and special situation.

**Councilor Tobey** reminded the Council that whatever the intent or perception, it is not the night that the budget is passed when the Council does something important but is the votes taken at the end of the fiscal year to backfill accounts that are of consequence. An account was used to pay for that lease, he pointed out. He asked the Council to remember that during the review of accounts in late June, if the DPW maintenance account comes up short, he said he hoped the Council asks questions and is an important aspect of the Council's public charge. **Councilor Tobey** also noted as to the nature of the Charter enacted in 1975, and the drafters of the Charter didn't intend for an unlimited strong Mayor Charter. Rather, they intended a system of checks and balances because there was a history of a perception that the City manager at that time was doing whatever he wanted; and the City Council was powerless, and the community didn't want that to continue. To allow a perception what the people intended is wrong, he said, and demeans the role of the Council. **Councilor Tobey** opined that the Council President must defend the Council because then they are defending the will of the voters for this Charter, for the checks and balances. This ordinance, he said, is going back to the checks and balances, and that the Council owes it to the community to bring these matters forward to be discussed in the open.

**Councilor Theken** reiterated this was not placing blame, but was about duty of the Council. This isn't just about the Charter School or West Parish swing space she pointed out. The Council can work together and make sure that the Administration works together with them to ensure everything is in check, and she further reiterating her support of the amendment.

**Councilor Ciolino** added that in the past few months the ITT Rule building was being looked at for swing space for West Parish in an industrial park; and that without this amendment the Council wouldn't have any control of the leasing of that space which he termed inappropriate for a temporary school. The Council, he said, should not give away its powers; the Council should be part of the conversation. He, too, reiterated his support of the amendment.

**Councilor McGeary** said he stands behind no one in defense of the Council's true prerogatives and as a Councilor would defend those powers that have been reserved to the Council under the Charter; that there are significant checks in the Charter on the Mayor, who is limited to a two year term, subject to the approval of the voters. The Council holds the power of the purse, and if they choose not to exercise that power it is the Council who is at fault, he said. **Councilor McGeary** said the Council has powers reserved to it under the Charter which should be exercised whenever needed; but the Council should not be expropriating powers that under the Charter are reserved for the Mayor and the Administration. He additionally pointed out there was a division of powers, and the Council should honor those divisions. He said the Council should not be quashing the Administration's prerogatives as established under the Charter as it is a question of the structure of government and honoring that structure as adopted in 1975. **Councilor McGeary** said the Council has the ability to stop runaway government if it chooses, but the Council must choose to do so.

**Councilor Cox** said this action is based on a decision which is the first time something like this has happened, but this is how the Council learns and is how change is made. Should it happen again and the Council didn't act on it first, then it is the Council's fault, she said, and reiterated this is why she said she supports the amendment. She pointed out the Administration was asked to discuss the matter with the Council and it was told no. This is a necessary step, she said.

**Councilor LeBlanc** quoted Sec. 1-3 Form of Government from the City Charter: "...The executive branch shall never exercise any legislative power, and the legislative branch shall never exercise any executive power..." which he said upholds what he had put forward earlier – that the Administration has its powers and the Council has its powers also. **Councilor LeBlanc** pointed out there are sufficient checks and balances with the funding having to come before the B&F Committee for review and then to the Council. He said he continues to support Councilor McGeary in opposition to the amendment to the Code of Ordinances.

**Council President Hardy** said she would support the amendment. The Charter also provides the Council the power to make law. In doing so, she said, it can create new power. The Charter is a double edged sword, she noted, in that the Council can make the law and change the ordinances. Any time checks and balances can be improved; she said she would support it.

**Council President Hardy**, after rereading the proposed amendment to the Council proposed an amendment that reads, "said lease shall be submitted to the City Council for referral to its Budget & Finance Committee," rather than as originally written "for approval by its Budget & Finance Committee." She said this amendment is proposed because no amendment lives and dies in committee; everything has to come back to the Council. The amendment was seconded by **Councilor Theken** and the **Council voted 8 in favor, 0 opposed, 1 (Whynott) absent to amend the main motion language.**

**Councilor McGeary** said in response to an earlier remark to the Council President, he did not question the power of the Council to enact this law but was questioning the wisdom of enacting this law.

**MOTION: On a motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 6 in favor, 2 (LeBlanc, McGeary) opposed, 1 (Whynott) absent, to Amend the GCO by ADDING a new Section 2-28 to Chapter 2 Administration, Article II "City Council" as follows:**

**"Section 2-28 Funds for Lease of Private Property.**

**Prior to the City entering into any lease of private property for a period or term of at least one year, said lease shall be submitted to the City Council for referral to its Budget & Finance Committee for funding of the lease. The lease shall then be put before the City Council for its approval."**

**MOTION: On a motion by Councilor Tobey, seconded by Councilor Verga, the City Council voted 2 (LeBlanc, McGeary) in favor, 6 opposed to reconsider the vote to amend the GCO Sec. 2-28 Funds for Lease of Private Property.**

**MOTION FAILS.**

**Scheduled Public Hearings:**

- 1. PH2013-064: Tax Classification in accordance with MGL c. 40, §56 and GCO Sec. 2-26 to determine the percentage of the local tax levy for the fiscal year 2014 to be borne by each class of real and personal property**

**This public hearing is opened.**

**Those speaking in favor:**

**Nancy Papows**, Principal Assessor announced that values and new growth for FY14 were certified by the Department of Revenue on November 26, 2013. She then reviewed the Tax Classification Information for Fiscal Year 2014 (on file) with the Council:

Page 4 – A Comparison of Fiscal 2014 Values by Class: The Residential class this year represents 88.80 percent (\$4,586,592) of the total value of the City, and Commercial/Industrial/Personal Property (CIP) class represents 11.20 percent (\$5,781,836,364). The total value of the property in the City is up approximately 1 percent from FY13. Based on sales analysis, the residential class as a whole has been relatively stable though some sectors saw



slight increases in value such as apartments and vacant land. The Commercial and Industrial classes also had slight increases this year.

Pages 5 and 5A – Fiscal Year Parcel Counts, Values, and percent of Total Taxable City Value: The table on these pages shows the parcel counts and the assessed values of each class from 1990 to present.

Page 6 and 6A – Previous Classification Factors and Resulting Tax Rate: The table shows the historic shift factors adopted over the years. On the bottom of 6A it shows the most recent shifts adopted; and the 1.06 shift factor has been adopted for the last eight years, shifting a portion of the residential tax burden to the CIP classes.

Page 7 – Calculating the Maximum Allowable Levy: The table shows the calculation of the maximum allowable levy for FY 2014. It starts with the levy limit from FY13 and added to that is the Prop 2-1/2 increase and new growth from Residential and CIP classes which results in the FY14 levy limit. Added to that is the Pole's Hill debt exclusion (which runs through 2019); and sewer debt shift, which results in the maximum FY14 allowable levy at \$67,551,877. That figure divided by the total value of all parcels in the City results in the FY14 tax rate at a factor of 1.0 is a tax rate of \$13.08. The tax rate at a factor of 1.0 would result in all properties paying the same rate for all classes of property. At a factor above 1.0, a portion of the residential tax levy would shift to a different class.

Page 8 – FY14 Tax Rate at a Factor of One = \$13.08, Shift in Tax Rate: This shows approximate tax rates that would result from the various shifts to the CIP class. The maximum shift allowed by the State is 1.5 percent this year.

Page 9 and 9A – Comparison of Levy by Class at Various Shift Factors: Pages 9 and 9A further shows the levy by class and approximate shift of the levy and also shows the approximate excess levy capacity that results which is approximate based on a rounding of the tax rates.

Page 10 – Change in Tax Dollars at Various Shifts: This shows the actual change in tax dollars for properties at different levels in terms of valuations. For instance, a property value at \$500,000 is the closest to the average single family home in Gloucester which is \$453,632 this year. At last year's shift factor that would save the residential taxpayer \$50 per year, while the CIP taxpayer would pay an additional \$395. The extreme as shown at the bottom of the page shows that a \$1 million property at a 1.5 shift saves the residential taxpayer \$830 annually while the CIP taxpayer would see an increase of \$6,550.

Page 11 – Open Space Discount and Residential Exemptions. This page explains the open space discount. There are no parcels defined as open space in the City at this time.

Page 12 and 12A Residential Exemptions (Cont'd) and Page 13 – Small Commercial Exemption: The Mayor has not opted to adopt either the Residential or Small Commercial Exemptions.

**Ms. Papows** said she is not making a recommendation and that it is up to the Council to decide what shift factor to adopt.

**Peter Webber**, 83 High Street, Rockport representing the Cape Ann Chamber of Commerce, Senior Vice President who said that he reiterated the Chamber's stance of as small a shift factor as possible from residential to commercial. He lauded the Council for holding the shift at 1.06 percent and finding a balance between residential and commercial. He pointed out page 10 of the packet, and asked that the Council consider moving to a shift factor of 1.03 percent saying it would be a relatively minor impact on residential property owners. Using the \$500,000 for a single family residential home, it would be a \$50 shift and a \$400 for CIP classes at that level. He urged the Council to move forward in a downward direction in a stepped manner that would help all the commercial and industrial property owners in the City to allow them to stay here, and to strengthen their position in the community without adversely affecting residential owners.

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions:**

**Ms. Papows** confirmed for **Councilor Ciolino** that the Council adopted a tax factor of 1.06 for the past eight years.

**Councilor McGeary**, noting there was new growth asked **Ms. Papows** to review that information. **Ms. Papows** said residential and commercial new growth is measured each year by the Assessor's Office which is changes in the tax base as a result of construction activity, new parcels, and new condominium conversion and is an allowable increase in addition to Proposition 2-1/2 – that is added to the levy limit from the previous year. Councilor McGeary pointed out that if a home is assessed at a higher value this year from last year, it is not considered new growth. **Ms. Papows** noted that was correct; that new growth does not include market adjustments, just actual additions to the base.

**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 that the City Council adopt a TAX CLASSIFICATION FACTOR OF 1.06 percent for Fiscal Year 2014.

**DISCUSSION:**

**Councilor McGeary** said that this is in keeping with eight years of practice to move very slightly the tax burden from residential owners who are often inadvertently overtaxed as a consequence of the way properties are assessed living in a seashore community. This is small gesture but an important statement that those who are least able to afford an increase in taxation are getting a little help from the City and is why he said voted for this in committee and was unanimously recommended by B&F for this tax classification factor.

**Councilor Ciolino** said he would support the holding of the tax classification at 1.06 percent because of stability. While he has been an advocate in the past for moving the shift factor down, this year he would prefer it remain as is for stability purposes.

**Councilor Cox** proposed to amend the tax classification factor for adoption to 1.03 percent for Fiscal Year 2014 which was seconded by **Councilor Ciolino**. **Councilor Cox** said she was willing to try this slightly lower rate as a good gesture for the commercial base and not an undue burden on the residential base.

**Councilor Theken** said she would not support 1.03 percent. She would rather hold the rate, she said, at 1.06 percent. Businesses have write offs, she pointed out, but residential single home property owners don't. Most homes are one family, and it is difficult for the single family home owners. She pointed out it is also about the two and three family buildings. When the tax rates go up that burden is passed on to the tenants through their rent. The rate is stable now and she urged keeping it as it is until the sewer and water debt is determined along with other capital issues in the City.

**Councilor Ciolino** added his support to Councilor Cox's amendment.

**On a vote of 2 in favor, 6 opposed, 1 (Whynott) absent, the motion to amend the tax factor to 1.03 percent for Fiscal Year 2014 failed.**

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Whynott) absent, the City Council adopt a TAX CLASSIFICATION FACTOR OF 1.06 percent for Fiscal Year 2014.

**MOTION:** On a motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 0 in favor, 8 opposed, 1 (Whynott) absent, to reconsider the vote adopting the City's TAX CLASSIFICATION FACTOR OF 1.06 percent for Fiscal Year 2014.

**MOTION FAILS.**

**Unfinished Business:** None.

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

**Councilors' Requests to the Mayor:**

**Councilor Cox** wished everyone a Happy Thanksgiving. She noted cooking starts tomorrow for Thanksgiving meals for delivery by the American Legion. The Legion is happy to have volunteers she noted. For a meal to be delivered, please contact her. She also mentioned the Lobster Trap Tree is being built Saturday at 10 a.m. and that anyone who can help will be greatly appreciated. She also thanked the Fire Department for the use of their ladder truck to place the star on top of the lobster trap tree.

**Councilor Ciolino** reminded everyone about the December 1, 2013 Christmas Parade stepping off at 3 p.m. He invited bands and those with a holiday theme to join the parade. Julie and Jim LaFontaine are the Grand Marshals. He invited the community to come and enjoy the festivities.

**Councilor LeBlanc** noted that there will be a firefighter of the year award at the MIT campus in Kresge Auditorium, and eight Gloucester Firefighters will be honored on Thursday, December 19<sup>th</sup>. He also announced there will be a second detail on the lower end of Maplewood Avenue to ease congestion there and thanked Police Chief Campanello for his assistance. He also wished everyone a Happy Thanksgiving.

**Councilor Theken** reminded the community of the open enrollment Medicare deadline is December 7<sup>th</sup>. She urged folks to heed the deadline, and if they need help to seek her out in her professional capacity at the Addison

Gilbert Hospital. She also noted the community is so fortunate to have so many dedicated volunteers who make so many things happen that make a difference.

**Councilor Theken** also lauded the work of Jeff Towne, CFO who is leaving the City's employ saying that he has been a pleasure to work with. The Council then rose to give Mr. Towne a standing ovation.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 8:20 p.m.**

**Respectfully submitted,**

**Dana C. Jorgenson**  
**Clerk of Committees**

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