

GLOUCESTER CITY COUNCIL MEETING

Tuesday, May 27, 2014 – 7:00 p.m.

Kyrouz Auditorium – City Hall

-MINUTES-

Present: Chair, Councilor Paul McGeary; Vice Chair, Councilor Sefatia Theken; Councilor Jacqueline Hardy; Councilor Steve LeBlanc, Jr.; Councilor Greg Verga; Councilor William Fonvielle; Councilor Paul Lundberg

Absent: Councilors Cox and Whynott

Also Present: Linda T. Lowe; Kenny Costa; John Dunn; Suzanne Egan; Fire Chief Eric Smith; Sander Schultz

The meeting was called to order at 7:02 p.m.

Flag Salute & Moment of Silence was dedicated to Gary Thornton, who recently passed away unexpectedly who was a friend of Councilor LeBlanc. Additionally, the Moment of Silence was dedicated to Salvatore Lovasco, known as Gunga Din, a World War II veteran and well-known tavern keeper and publican.

Oral Communications: None.

Consent Agenda:

- **MAYOR'S REPORT**

1. Special Budgetary Transfer Request (2014-SBT-36) from the Department of Public Works (Refer B&F)
 2. Special Budgetary Transfer Request (2014-SBT-37) from the Department of Public Works (Refer B&F)
 3. Special Budgetary Transfer Request (2014-SBT-38) from the Department of Public Works (Refer B&F)
 4. Special Budgetary Transfer Request (2014-SBT-39) from the Department of Public Works (Refer B&F)
 5. Special Budgetary Transfer Request (2014-SBT-40) from the Department of Public Works (Refer B&F)
 6. Special Budgetary Transfer Request (2014-SBT-41) from the Department of Public Works (Refer B&F)
 7. Special Budgetary Transfer Request (2014-SBT-42) from the Department of Public Works (Refer B&F)
 8. Special Budgetary Transfer Request (2014-SBT-43) from the Department of Public Works (Refer B&F)
 9. Special Budgetary Transfer Request (2014-SBT-44) from the Department of Public Works (Refer B&F)
 10. Memorandum from Community Development Director & Public Health Director re: City Council acceptance of Get Fit Gloucester! Mass in Motion Year 6 grant award in the amount of \$25,000 (Refer B&F)
 11. Memorandum from Community Development Director re: update on the Downtown Work Plan & a summer outdoor movie Series at 65 Rogers Street (Info Only)
- **COMMUNICATIONS/INVITATIONS**
 - **INFORMATION ONLY**
 - **APPLICATIONS/PETITIONS**
1. Special Events Application: request to hold Downtown Block Party Series on July 19, August 16, & September 20, 2014 (Refer P&D)
- **COUNCILORS ORDERS**
1. CC2014-023 (Verga/LeBlanc) Request the City Council vote to request that the MassDOT Highway Division to approve installation of a "Blind Person" traffic sign on Essex Avenue and LePage Lane (FCV 06/10/14)
- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
1. City Council Meeting: 05/13/14 (Approve/File)
 2. Standing Committee Meetings: B&F 05/22/14 (under separate cover), O&A 05/19/14, P&D 05/07/14, 05/21/14 (under separate cover) (Approve/File)

Unanimous Consent Calendar:

1. Letter from Gloucester Fishermen Athletic Association re: Donation in the amount of \$2,500 to be used specifically for providing Supervisory/security personnel at Newell Stadium for evening and weekend hours until July 1, 2014. (Refer B&F)

Items to be added/deleted from the Consent Agenda & Unanimous Consent Calendar:

Councilor Verga asked to remove Item #1 of the City Council Meeting minutes of 05/13/14 and Item #2 of the Planning & Development Minutes of 05/21/14 under approval of minutes. He explained that the City Council minutes of April 13, 2014 in describing his comments misstated the point he was making about proposed changes in the leash law. He said he was pointing out that areas such as Stage Fort Park, Goose Cove and other reservoirs need to be focused on because they are being misused. He noted he did not want to make them official off-leash areas but wanted to learn what can be done in terms of more vigorous enforcement of the city's leash laws. As to the May 21 P&D minutes, **Councilor Verga** noted that the vote shown on Page 4 should read, "2 in favor, 0 opposed, 1 (LeBlanc) absent."

By unanimous consent the Consent Agenda and Unanimous Consent Calendar were accepted as amended.

Committee Reports:

Budget & Finance: May 22, 2014

MOTION: On a motion by Councilor Fonvielle, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to accept the Budget & Finance Committee's Unanimous Consent Agenda dated May 27, 2014 as follows:

1. *Special Budgetary Transfer (2014-SBT-35) from Police Department*

MOTION: On a motion by Councilor Fonvielle, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to approve Special Budgetary Transfer 2014-SBT-35 for \$1,235.15 from Police-Administration, Sick Leave Buy-Back, Account #101000.10.210.51920.0000.00.000.00.051 to Police Administration, Telephone Services, Account #101000.10.210.53410.0000.00.000.00.052 for the purpose of providing telephone services and secure internet connection to the Gloucester Police Department.

2. *Memorandum from Director of Veterans Services requesting to repurpose the \$2,000 free cash appropriation*

MOTION: On a motion by Councilor Fonvielle, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to permit the repurposing of Supplemental Appropriation 2014-SA-57 in the amount of \$2,000 from General Fund – Undesignated Fund Balance (“Free Cash”) appropriation, Account #101000.10.000.35900.0000.00.000.00.000 to Veterans Services, Public Relations, Account#101000.10.543.578900.0000.00.000.00.057 that was approved by the City Council on March 25, 2014 to now be used for the purchasing of flags, poles, stands, carrying harnesses, emblems and the upkeep of memorials throughout the city.

3. *Memorandum from Community Development Director re: City Council acceptance of a Commonwealth of Massachusetts “Our Common Backyard” grant in the amount of \$200,000*

MOTION: On a motion by Councilor Fonvielle, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to accept under MGL c. 44, §53A a grant from the Massachusetts Office of Energy and Environmental Affairs for the “Our Common Backyards Grant Program” in the amount of \$200,000 for the purpose of improvements to Palazola Playground also known as “The Oval Playground” and including the language of the resolution to apply and accept the grant funds for the Palazola Playground as follows:

- Whereas:** Palazola Playground off Centennial Avenue (aka The Oval) provides important recreational Facilities to Gloucester residents including an athletic field and play structure, the Improvements to this facility are a city priority as evidenced in the most recent Open Space and Recreational Plan; and
- Whereas:** The city acquired the Oval (Assessor's Map 22, Lot 17; Essex South Registry of Deeds Book 34601 Page 437) through a grant o the City of Gloucester on December 5th 1945;
- Whereas:** The Oval Improvements Project will install new accessible play equipment and paths, etc; And
- Whereas:** The Executive Office of Energy and Environmental Affairs, (EOEEA) is offering reimbursable grants to cities and towns to support the preservation and restoration of urban parks through the Our Common Backyards grant program and
- Whereas:** Site preparation and installation of the improvements will cost a total of \$227,400 (Hundred, Twenty Seven Thousand Four Hundred Dollars) and the city has allocated \$27,400 (Twenty Seven Thousand Four Hundred Dollars in Community Development Block Grant Funds for the improvements; and
- Whereas:** The Budget and Finance Committee of the Council has reviewed and approved this Resolution as required by city ordinance,

NOW, THEREFORE, BE IT RESOLVED THAT

1. **The Mayor has been authorized to apply for a \$200,000 Our Common Backyards grant from the Executive Office of Energy and Environmental Affairs; and**
 2. **The City Council, hereby agrees to accept such grant and the dedication of \$27,400.00 in Community Development Block Grant funds to serve as a match; and**
 3. **The Mayor is hereby authorized to take such other actions as are necessary to carry out the terms, purposes, and conditions of this grant to be administered by the Community Development Department;**
 4. **The City hereby permanently dedicates the entire 2.71 acres as described in Attachment A to park and recreation purposes under MGL Chapter 43 Section 3 and Article XCVII of the Massachusetts Constitution; and**
 5. **This resolution shall take effect upon passage.**
4. *Memorandum, Grant Application & Checklist from Community Development Director re: City Council acceptance of a Mass Electric Vehicles Incentive Program (EVIP) grant award in the amount of \$40,000*

MOTION: On a motion by Councilor Fonvielle, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to accept under MGL c. 44, §53A a Massachusetts Electric Vehicle Incentive Program grant in the amount of \$40,000 from the Massachusetts Department of Environmental Protection.

5. *Memorandum, Grant Application & Checklist from Public Health Director re: City acceptance of a one-year extension in the amount of \$80,000 of the Underage Drinking Prevention Grant from the Bureau of Substance Abuse Services*

MOTION: On a motion by Councilor Fonvielle, seconded by Councilor LeBlanc the City Council voted 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to accept under MGL c. 44, §53A a one-year extension in the amount of \$80,000 of the Underage Drinking Prevention Grant from the Federal Center for Substance Abuse Prevention (CSAP) and passed through the Bureau of Substance Abuse Services of the Massachusetts Department of Public Health.

6. *Amendment to Supplemental Appropriation 2014-SA-65 for the Talbot Rink Enterprise Fund Earnings voted by the City Council on May 13*

MOTION: On a motion by Councilor Fonvielle, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to permit the amendment of Supplemental Appropriation 2014-SA-65 in the amount of \$80,000 from the Talbot Rink Enterprise Fund – Retained Earnings (“Free Cash”), Account #620000.10.000.35900.0000.00.000.00.000 to Talbot Rink Capital Projects Fund, Building Improvements, Account#620000.10.475.58425.0000.00.000.00.058 for the purpose of purchasing a hot water ice melting system and a new floor in the upstairs lobby and restroom for the Dorothy Talbot Skating Rink. The original Supplemental Appropriation was approved by the City Council on May 13, 2014.

*****End B&F Committee Unanimous Consent Agenda*****

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor McGeary, the Budget & Finance Committee voted 2 in favor, 0 opposed, to recommend that the City Council approve the Gloucester Fire Department Billing and Collection Policy as presented by the EMS Coordinator and approved by the Mayor dated May 6, 2014 and further to approve the proposed fee schedule attached to and incorporated into the policy effective July 1, 2014.

DISCUSSION:

Sander Schultz, EMS Coordinator of the Gloucester Fire Department, presented an updated billing and collection policy, noting the rates are typically changed every year at this time. The Fire Department Ambulance Service recommends the rates, which must be approved by the Council. He estimated the new fee schedule would

raise the ambulance service revenue for FY15 by approximately \$16,000 over FY14. The second action before the Council is a request to write off uncollectable outstanding ambulance billing debt, a total of \$401,670.56. He noted these debts are older than 300 days old. **Council President McGeary** pointed out that the request to write off uncollected debt is done under normal accounting business standards and takes it off the city's books.

MOTION: On a motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to approve the Gloucester Fire Department Billing and Collection Policy as presented by the EMS Coordinator and approved by the Mayor dated May 6, 2014 and further to approve the proposed fee schedule attached to and incorporated into the policy effective July 1, 2014.

COMMITTEE RECOMMENDATION: On motion of Councilor Lundberg, seconded by Councilor McGeary, the Budget & Finance Committee voted 2 in favor, 0 opposed to recommend that the City Council authorize the write-off of \$401,670.56 in uncollectible, outstanding ambulance billing.

DISCUSSION: None.

MOTION: On motion of Councilor Fonvielle, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to authorize the write-off of \$401,670.56 in uncollectible, outstanding ambulance billing.

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor McGeary, the Budget & Finance Committee voted 2 in favor, 0 opposed, to recommend that the City Council accept Massachusetts General Law Chapter 59, §21C(n) authorizing the city to hereafter assess taxes in excess of the amount otherwise allowed by Chapter 59, §21C(n) solely for payment in whole or in part, of water debt service charges, provided that water charges shall be reduced by the amount of any such aggregate additional taxes assessed and such additional taxes shall be on all real property.

Council President McGeary explained by this vote the Council would be adopting state law that will enable the Council by a second vote to shift some portion or all of the water debt service charges onto the tax levy.

John Dunn, CFO, distributed a four page packet to the Council reflecting a Water Rate Calculation Scenarios for FY15 showing the impact of four scenarios of a water debt service shift onto the tax levy previously distributed to the Budget & Finance Committee in its FY15 budget review of Enterprise Funds (on file):

Documentation on File: Page 1 shows the calculations to the water rate, shift of debt to the property taxes and the net effect with No Water Debt Service Shift with all four pages shown in the same format. Page 2 shows calculations with a \$1.0 Million Water Debt Service Shift; Page 3 shows calculations with a \$2.0 Million Water Debt Service Shift and Page 4 shows calculations with a Maximum Water Debt Service Shift of 100 percent of the water debt service shifted onto the tax levy.

Mr. Dunn then reviewed the documentation with the Council and the justification of the calculations:

Net increases: No debt shift would have an increase (decrease from FY14 at \$113.15; \$1.0 million debt service shift would be \$59.81 net increase for water and tax; \$2.0 million the water debt service shift would be \$6.15 net increase for water and tax; and with the maximum debt service shift the net increase for water and tax is \$(39.36).

Councilor Theken asked for an explanation as to why there is no need for a public hearing. **Suzanne Egan**, General Counsel said as with the CSO debt shift while it was not statutory to hold a public hearing, it was requested by former Councilor Toby, and he would, in this case, also request that a public hearing be held on the potential water debt service shift.

Councilor Hardy asked if a debt shift scenario could be chosen by the Council at a later time if the Council were to adopt the state statute now. **Ms. Egan** said it could be and noted that when the Council last reviewed this statute for the purposes of shifting the Combined Sewer Outflow (CSO) debt, Councilor Toby at that time requested a public hearing be held. There is no requirement that there be a public hearing to accept a provision of a state statute, she said.

Councilor Hardy asked if the Council adopts the state statute this evening, is it required to make a choice of one of the outlined water debt service shifts to the tax levy at this time. She also asked what would be the latest the Council could make their decision on the water debt service shift in order to make the city's next billing cycle. **Ms. Egan** said the Council action of adopting a particular percentage in the water debt service shift which essentially sets the water rate would have to be made prior to the Council's vote to set of the water rate for FY15 as part of its vote on the FY15 budget. **Councilor Hardy** said she understood that if the Council establishes the percentage of

the water debt shift by which the water rate is set, the Council can reset the percentage of the water debt service shift up or down in future years. **Ms. Egan** clarified that if the Council accepts a portion of the debt shift, it can be revisited at a future date.

Councilor Theken further clarified that the CSO \$2.8 million debt shift is a separate matter and said if a water debt service shift is voted forward for FY15, the Council could, as part of its FY16 budget deliberations, revisit the percentage of the water service debt shift and change it by raising or lowering the percentage of debt shifted onto the tax levy. She said this action is being considered in order to help families now paying high water rates to have some relief. **Ms. Egan** agreed that in a year if the Council determined that it wished to change the percentage of the water debt service shift, it can do so, as long as the statute has been accepted.

Councilor Verga said he was not necessarily opposed to this Council action, and although the Council doesn't have to conduct a public hearing, he urged the Council to conduct one. He reminded the Council how roundly they were criticized for the CSO debt shift, which he said he had voted against. He urged the Council to hold a public hearing to listen to the public and those who will be most impacted, particularly homeowners with wells who do not avail themselves of the city's water system. He also reminded the Council that the water debt service shift will put the debt onto residential property taxes even as it lowers the water rate.

Councilor Fonvielle voiced his support of Councilor Verga's suggestion to adopt the state law but to have a separate public hearing on the water debt service shift as the public should have input on the ramifications of the actions of shifting the water debt service charge onto the city's tax levy.

Council President McGeary explained that since there is a public hearing on June 10 on the subject the FY15 budget, and that the water debt service shift weighs heavily in setting the FY15 water rate, he deemed this action related to the water debt service shift as an integral part of the budget to be taken up as a part of the budget public hearing. **Councilor Verga** expressed his disagreement saying that the water service debt shift is a separate issue and should have its own public hearing although saying he remained unopposed to the adoption of the state statute. **Council President McGeary** reiterated that the action before the Council right now is to accept the state law and is the only thing before the Council. He said it might be in order to have a public hearing on the water service debt shift on the amount on any debt shift after adopting the state law.

MOTION: On a motion by Councilor Fonvielle, seconded by Councilor Lundberg, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to accept Massachusetts General Law Chapter 59, §21C(n) authorizing the city to hereafter assess taxes in excess of the amount otherwise allowed by Chapter 59, §21C(n) solely for payment in whole or in part, of water debt service charges, provided that water charges shall be reduced by the amount of any such aggregate additional taxes assessed and such additional taxes shall be on all real property.

Councilor Fonvielle then put forward the Budget & Finance Committee's recommendation under Massachusetts General Law Chapter 59, §21C(n) that 100 percent of the water debt service charges be shifted to the tax levy which was seconded by **Councilor Theken**.

Council President McGeary explained that there is Council sentiment expressed there should be a public hearing on this matter. He accepted a motion to amend the main motion by **Councilor Verga, seconded by Councilor Fonvielle, to advertise and hold a separate public hearing, in conjunction with the public hearing on the FY15 budget, on a water debt service charge shift onto the tax levy on June 10, 2014.**

On a vote by the Council of 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, the amendment was accepted by the Council.

MOTION: On a motion by Councilor Verga, seconded by Councilor Fonvielle, the City Council voted 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, that under Massachusetts General Law Chapter 59, §21C (n) on the matter of transferring up to 100 percent of the water debt service charge onto the tax levy a public hearing will be held in conjunction with the public hearing for the FY15 budget scheduled for the same evening before the City Council.

Ordinances & Administration: May 19, 2014

COMMITTEE RECOMMENDATION: On motion by Councilor Theken, seconded by Councilor Hardy, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend that the City Council pursuant to MGL c. 54, §24 and City Charter Sec. 8-6 to relocate the polling place for Ward 3, Precinct 1, at the Veterans

Center, 3 Emerson Avenue, and Ward 3, Precinct 2 at the First Baptist Church, 38 Gloucester Avenue, to Gloucester High School at 36 Leslie O. Johnson Road so that Ward 3 polling places shall be consolidated to one location beginning with the State Primary Election to be held on September 9, 2014.

DISCUSSION:

Councilor LeBlanc said he held a ward meeting about the possible consolidation of the Ward 3 polling places, but no constituents attended. Those to whom he spoke in his ward did not voice any objections, he said, and would vote in favor of the consolidation. The High School is very close to the First Baptist Church on Gloucester Avenue where the polling place has been located, and that CATA buses will transport voters to the polling places at the High School if they require transportation to the polls. He said this will streamline the voting process for Ward 3 voters.

Councilor Fonvielle said he would support this change. He pointed out his wish to see that voting is made as easy and accessible as possible for the city's voters. Having attended the Ward 3 meeting where the only attendees were City Councilors, and that the High School may be more convenient for many of the Ward 3 voters, he would make an exception in not opposing this polling place consolidation. He said on principle he remains against polling place consolidation, and in particular in the case of Ward 5 polling places he remained adamantly opposed to it.

Councilor Hardy asked if the High School has agreed in writing with the move of the polling places to their site. **Linda T. Lowe**, City Clerk said she doesn't yet have a written formal agreement from the Superintendent of Schools. She noted she has spoken to and received Superintendent of Schools agreement. She said if the Council accepts the Ward 3 polling places consolidation she would write to the Superintendent tomorrow asking for a written statement confirming his verbal agreement. **Ms. Lowe** confirmed to **Councilor Hardy** that the Council, should it vote for the Ward 3 consolidation it could be revoked at a later date if it was the will of the Council.

Council President McGeary asked whether when schools are used as election polling places, those schools were closed for the day. **Ms. Lowe** said that is up to the School Committee. She said frequently the School Committee declares a professional day so that the students are not in the classrooms during voting, which assists in running a smooth election process. She noted polling places at schools have been in use with school in session and not in session. In response to **Council President McGeary's** further inquiry, **Ms. Lowe** noted the professional day has been declared across the school system on an election day, not just for a particular school which had a polling place.

Councilor Hardy recalled working with former School Committee Chair, Valerie Gilman, to be able to schedule teachers meetings on days where the schools were used as polling places or half day of school so that the schools would not be so busy and student safety could be ensured.

Councilor Fonvielle said he was under the impression the Superintendent of Schools had already agreed to allow the high school to be used as a polling place and that school would not be held the day of an election. He also expressed his concern that if a school was in session for even half a day it could raise a serious parking issue, especially for handicapped voters. He asked for assurances that schools would be closed on the day of elections.

Councilor LeBlanc added that it was his understanding that schools are generally closed when a school is used as an election polling place.

Council President McGeary said that it has been recent practice but it is not an official requirement or an official policy that schools be closed when used as a polling place. Noting that **Councilors Fonvielle's** and **Hardy's** points were well taken, he asked Ms. Lowe to express the sentiment of the Council that the Gloucester High School should be closed on the days the high school is to be used as a polling place for two precincts.

MOTION: On motion by Councilor Theken, seconded by Councilor LeBlanc, City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, pursuant to MGL c. 54, §24 and City Charter Sec. 8-6 to relocate the polling place for Ward 3, Precinct 1, at the Veterans Center, 3 Emerson Avenue, and Ward 3, Precinct 2 at the First Baptist Church, 38 Gloucester Avenue, to Gloucester High School at 36 Leslie O. Johnson Road so that Ward 3 polling places shall be consolidated to one location beginning with the State Primary Election to be held on September 9, 2014.

Planning & Development: May 21, 2014

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (LeBlanc) absent, to permit the Gloucester Fund to hold a free concert on Stacy Boulevard in the vicinity of the Blynman Bridge on July 3, 2014, and August 30, 2014, on the condition that the Gloucester Fund obtains all necessary approvals from the Licensing Board, the Board

of Health and the Licensing Commission and to ensure that all required documentation and insurance is timely filed with the appropriate City departments. Failure to comply with any conditions precedent may result in revocation of Council approval.

DISCUSSION:

Councilor Verga said that a like event was held on July 3, 2013, and that this is to expand this year's concerts.

MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to permit the Gloucester Fund to hold a free concert on Stacy Boulevard in the vicinity of the Blynman Bridge on July 3, 2014 and August 30, 2014, on the condition that the Gloucester Fund obtains all necessary approvals from the Licensing Board, the Board of Health and the Licensing Commission and to ensure that all required documentation and insurance is timely filed with the appropriate City departments. Failure to comply with any conditions precedent may result in revocation of Council approval.

Scheduled Public Hearings (matters were taken out of order):

1. **PH2014-036: Amend GCO Chapter 22, Sec. 22-287 "Disabled veteran, handicapped parking" re: Pine Street #20**

This public hearing is opened at 8:30 p.m.
Those speaking in favor: None.
Those speaking in opposition: None.
Communications: None.
Councilor Questions: None.
This public hearing is closed at 8:30 p.m.

Councilor Hardy said she brought this request to the attention of the Council when she received a call from the property owner who lives in Ward 4 asking that this handicapped parking space be removed which was done with the help of Councilor Cox, whose ward it is where the property is located.

MOTION: On a motion by Councilor Theken, seconded by Councilor , the City Council voted by ROLL CALL 7 in favor, opposed, 2 (Cox, Whynott) to Amend GCO Sec. 22-287 "Disabled veteran, handicapped parking" by DELETING one (1) handicapped parking space at Pine Street #20.

2. **PH2014-037: SCP214-006: Prospect Street #103, GZO Sec. 2.3.1(b) conversion to or new multi-family dwelling, three dwelling units; Sec. 1.10.1(a) (3) and 3.2.2(a) for a decrease in the minimum lot area and open space per dwelling unit**

This public hearing is opened at 7:48 p.m.
Those speaking in favor:

Attorney Robert Coakley, 64 Middle Street, representing the applicants, Bryan W. and Jackie L. Sanborn explained that the applicants wished to convert a two-family home at 103 Prospect Street into a three-family home. He stated that Mrs. Sanborn bought the property with her son Bryan last year. The property is an existing two-family dwelling but has unique characteristics that lend itself to the addition of another unit. As to the character of the neighborhood, **Mr. Coakley** pointed out that the property on an enlarged aerial photograph the building's surrounding area (on file with application) located in the R-5 district, which includes a large number of multi-family dwellings. He reviewed the site plan and stated that almost no exterior modifications are required, with the exception of reversing the direction of a set of existing stairs on the back of the property to open up more parking for three cars which is the required number of parking spaces. He also noted there are two appropriate forms of egress leading in and out of the building. He pointed out that since his clients purchased the property, they have rented out one of the units to a single person, and it is Mr. Sanborn's intention to live in the third unit, noting all units have one bedroom. **Mr. Coakley** said dimensional relief was given by the Zoning Board of Appeals (ZBA), but relief from the requirements for open space per unit and lot area per unit must come from the City Council when there is a multi-family conversion. He noted the dimensional relief being sought as shown on the Special Council Permit

application (on file). He also explained that since the use of the home is being changed, while the height of the home is not being changed, the height was approved by the ZBA as well because there is an additional criterion on height for multi-family dwellings. **Mr. Coakley** said aside from the dimensional relief sought from the Council, the applicants are seeking a Special Council Permit for the conversion from a two-family to a three-family dwelling.

Mr. Coakley said that the application meets the six criteria under GZO Sec. 1.8.3: This is an additional one dwelling unit to an established two-family dwelling, and that the use is consistent with neighborhood. It serves the additional purpose of adding housing without overburdening the neighborhood or individual lot that brings more people into the downtown area within walking distance of many local businesses. The parking provided is as required plus additional "piggy-back" spaces for guests. There are adequate utilities with the city having done major utility upgrades along Prospect Street. He noted the water line was upgraded to the property, but the sewer line was deemed adequate and did not require an upgrade. The neighborhood character and social structure is replete with multi-family dwellings and this conversion is not out of character. There are no negative impacts to the natural environment because the footprint of the structure is unchanged. This additional unit will provide additional revenue unit to the city. The nature of the building suits itself to three one-bedroom apartments; he pointed out, and asked that the Special Council Permit be granted by the Council.

Those speaking in opposition: None.

Communications: None.

Councilor Questions:

Councilor Theken asked for clarification as to the location of the home which **Mr. Coakley** made by pointing it out to the Councilor on a close up aerial photograph of the property's location. **Councilor Theken** also briefly discussed the parking scheme and the two forms of legal egress to the home from the street and proper egress for all units with **Mr. Coakley**, as did **Council President McGeary**. **Mr. Coakley** also confirmed the home would be owner-occupied.

This public hearing is closed at 8:00 p.m.

Councilor Lundberg explained that the P&D Committee had unanimously recommended the Special Council Permit application be approved. While the intent of the original P&D motion as shown in the minutes is clear, specifics as to the Open Space and Lot area reduction per dwelling unit were omitted. Therefore, he presented the following motion for the Council's approval:

COMMITTEE RECOMENDATION: The Planning & Development Committee voted unanimously to recommend that the City Council grant a Special Council Permit (SCP2014-006) to Bryan W. Sanborn and Jackie L. Sanborn pursuant to Section 2.3.1.6, Section 1.10.1(a)(3) and Sec. 3.2.2(a) for a decrease in the minimum lot area per dwelling unit from 2,500 square feet of 1,245 square feet per dwelling unit to a lot area of 1,255 square feet per dwelling unit and for a decrease in open space per dwelling unit from 1,250 square feet of 785 per square feet to a total of 465 square feet open space per dwelling unit to convert an existing two-unit dwelling located at 103 Prospect Street, Gloucester, Massachusetts, as shown on Assessors Map 13, Lot 77 to a three-unit multi-family dwelling. The applicant has met the six criteria of GZO Sec. 1.8.3 and the two criteria under GZO Sec. 3.2.2(a) concerning neighborhood character.

DISCUSSION:

Councilor Hardy thanked the applicant for providing an overview of the neighborhood and noted that parking is difficult in this neighborhood, and that this multi-family dwelling provides parking for the three units. She said she would vote favorably on the application.

MOTION: On a motion by Councilor Lundberg, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to grant a Special Council Permit (SCP2014-006) to Bryan W. Sanborn and Jackie L. Sanborn pursuant to Section 2.3.1.6, Section 1.10.1(a)(3) and Sec. 3.2.2(a) for a decrease in the minimum lot area per dwelling unit from 2,500 square feet of 1,245 square feet per dwelling unit to a lot area of 1,255 square feet per dwelling unit and for a decrease in open space per dwelling unit from 1,250 square feet of 785 per square feet to a total of 465 square feet open space per dwelling unit to convert an existing two-unit dwelling located at 103 Prospect Street, Gloucester, Massachusetts, as shown on Assessors Map 13, Lot 77 to a three-unit multi-family dwelling. The applicant has met the six criteria of GZO Sec. 1.8.3 and the two criteria under GZO Sec. 3.2.2(a) concerning neighborhood character.

3. PH2014-038: SCP2014-007: Dory Road #35, GZO Sec. 1.10.1(a)(1) and Sec. 3.1.6(b) for a nitrogen generation plant with tanks having building heights in excess of 35 feet

This public hearing is opened at 8:04 p.m.

Those speaking in favor:

Attorney Joel Favazza, 111 Main Street, representing Varian Semiconductor Equipment Associates, Inc. said the applicant is requesting a height exception for two tanks that are components of a nitrogen generation plant consisting of an outdoor concrete pad with machinery in an existing parking lot. He noted the positive recommendation from the Planning & Development Committee.

Location of Proposed Nitrogen Processing Plant: Varian's manufacturing plant is located in the business district in the Blackburn Industrial Park. He stated that a portion of the concrete pad and storage tank are located in the Water Protection Overlay District (WPOD) and that a special permit was granted by the Planning Board last month.

Use: Under GZO Sec. 2.3.5, an allowed industrial use includes manufacturing, processing or research, and since the nitrogen generation plant will be part of Varian's manufacturing and processing, it is an allowed use. He said the plant will meet all the dimensional requirements of the zoning except for the 40-foot maximum building height. Although these are tanks and not habitable structures, the proposed heights still triggers the building height requirement.

Nitrogen Use by Varian: He **Mr. Favazza** explained that almost every other day, a truck delivers liquid nitrogen which is stored and then vaporized into gas which is required for their manufacturing processes which are done in a scrupulously clean environment under exacting standards. He pointed out that nitrogen makes up about 80 percent of the air we breathe; it is inert and non-flammable. Because Varian uses so much nitrogen in their manufacturing process, he said, it makes sense for the company to distill its own nitrogen from the air.

Plant Composition: The plant will have 12 main components, two of which are over the 35-foot height limit. The nitrogen storage tank which would hold up to a 3 day supply of nitrogen, will give Varian an uninterrupted supply, will be 44 feet, 3 inches above the existing grade including the concrete pad it will sit on. The vacuum can is 48 feet, 8 inches above the existing grade on top of the concrete pad.

Standards under the Zoning Ordinances: Six criteria under Sec. 1.8.3 for a Special Council Permit and the two criteria under Sec. 3.1.6(b) for building height were reviewed. **Mr. Favazza** said Varian is Gloucester's largest employer with over 1,000 employees. The building of the nitrogen manufacturing plant will allow Varian to continue to use their Gloucester facility. This will have no real impact on traffic flow in the Blackburn Industrial Park with the exception of one nitrogen truck delivery every few days. There will still be infrequent nitrogen deliveries, about once a month. It was noted Varian has a large wind turbine, which generates a great deal of electricity for its use in the manufacturing process. The infrastructure in the industrial park is suited to this use. The neighborhood character is an industrial park and the machinery is industrial in nature. This is a paved parking lot with a concrete pad and so no green spaces are affected. As to fiscal impact, this will probably raise the value of the property. The height of the proposed nitrogen tanks is consistent with the neighborhood character, and the nitrogen generation plant is surrounded by manufacturing facilities, which he enumerated, and they will not be the tallest structures in the industrial park. The nitrogen generation plant will be situated 70 feet off of Great Republic Drive. Dory Road is even further away. The storage tank is less than 10 feet wide and the vacuum can is less than 5 feet wide. Shadows cast will be minimal, and there will be no impairment of utilities.

Those speaking in opposition: None.

Communications: None.

Councilor Questions:

Councilor Theken asked if the applicant went before the Conservation Commission given the location is next to a watershed area. **Mr. Favazza** said they did not as the Planning Board is responsible for the special permits for watershed protection. She asked if there would be glare off of the storage tank and vacuum canister. **Mr. Favazza** said the tanks will be 70 feet away from the roadway. He said the samples he viewed were painted. **Rick Johnson**, Varian Semiconductor Equipment Associates, Director of Facilities, confirmed that the tanks will be painted white to be consistent with Varian's 150 gallon water tank. Responding on an inquiry by **Councilor Theken**, he noted nitrogen is an inert gas; it is not flammable and is not dangerous.

Councilor LeBlanc pointed out there was a nitrogen tank already in place. **Mr. Johnson** confirmed there is already a nitrogen tank on site. The new tanks will be 200 feet away from the existing nitrogen tank. The nitrogen manufacturing plant will be near the property line so that the existing nitrogen tanks will keep the plant supplied, and then upon the completion of the nitrogen plant the existing tanks will be taken down.

Councilor Hardy confirmed that there would be a loss of 10 parking spaces with **Mr. Johnson** but that there is still more than adequate parking on site.

Council President McGeary acknowledged that nitrogen is not an explosive gas, but that it is under pressure and asked who inspects the nitrogen tanks to insure that the pressure relief systems are in working order. **Mr. Johnson** said Varian retains the services of F.M. Global conducts inspections on all their tanks annually.

This public hearing is closed at 8:15 p.m.

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor Lundberg, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Verga) absent, to grant to Varian Semiconductor Equipment Associates, Inc., a Special Council Permit (SCP2014-007) for the property located at 35 Dory Road (Assessor's Map 263, Lot 30), zoned BP (Business Park), pursuant to Gloucester Zoning Ordinance Sections 1.10.1(a)(1) and 3.1.6(b) for a height exception for components of a nitrogen generation plant which will exceed 35 feet in height and will include: a 43 foot, 9 inch nitrogen storage tank sitting 44 feet, 3 inches above the existing parking lot grade and a 48 foot, two inch vacuum can sitting 48 feet, 8 inches above the existing parking lot grade with both components to be built on a 6-inch high concrete pad for a total height exception of 13 feet, 8 inches. This Special Council Permit is made on the basis of the plans and elevations dated 03/20/14 by Symmes, Maini & McKee Associates, Cambridge, MA, submitted to the City Clerk on April 16, 2014.

DISCUSSION:

Councilor LeBlanc expressed his appreciation for Varian's continued investment in the city and supported the height exception. **Councilor Lundberg** and **Council President McGeary** echoed Councilor LeBlanc's sentiment.

MOTION: On a motion by Councilor Lundberg, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to grant to Varian Semiconductor Equipment Associates, Inc., a Special Council Permit (SCP2014-007) for the property located at 35 Dory Road (Assessor's Map 263, Lot 30), zoned BP (Business Park), pursuant to Gloucester Zoning Ordinance Sections 1.10.1(a)(1) and 3.1.6(b) for a height exception for components of a nitrogen generation plant which will exceed 35 feet in height and will include: a 43 foot, 9 inch nitrogen storage tank sitting 44 feet, 3 inches above the existing parking lot grade and a 48 foot, two inch vacuum can sitting 48 feet, 8 inches above the existing parking lot grade with both components to be built on a 6-inch high concrete pad for a total height exception of 13 feet, 8 inches. This Special Council Permit is made on the basis of the plans and elevations dated 03/20/14 by Symmes, Maini & McKee Associates, Cambridge, MA, submitted to the City Clerk on April 16, 2014.

4. PH214-039: RZ2014-001: Thatcher Road #78, Map 179, Lot 44 from EB (Extensive Business) to R-10 (Medium High Density Residential)

This public hearing is opened at 8:18 p.m.

Those speaking in favor

Attorney Joel Favazza, 111 Main Street, Gloucester, spoke on behalf of the applicant, John Flaherty, the managing member of 78 Thatcher Road LLC, the owner of 78 Thatcher Road. He said the application is to rezone 78 Thatcher Road from Extensive Business (EB) to R-10 (Medium/High Density Residential). He noted that a neighborhood meeting at the site was held in April with several dozen neighbors in attendance and also attended by Councilor Paul McGeary, Ward 1 Councilor, and Rick Noonan, Chair of the Planning Board. He indicated the meeting results were positive. He said people were curious to see what was going on but no one had a complaint or negative reaction to the idea of the parcel being rezoned to residential, nor any negative comments by abutters to date have been received. He noted the applicant went before the Planning Board last week and received a positive recommendation from it for the rezoning of this property (on file).

Mr. Favazza said the request to rezone this parcel is because the owner has realized that it was time to try something new with the site. He noted that this parcel has historically been zoned business, naming some of the past business uses on the site, which included a riding stable, miniature golf and a restaurant, and the large restaurant with outdoor seating and a parking lot now sits on this site. He said currently, except for one other corner parcel on the other side of Witham Street, everything surrounding this parcel is zoned R-10. He recounted some of the issues that had faced the property as a business through its most recent iterations. **Mr. Favazza** said moving the parcel to R-10 and putting up a building that will hold six 3-over-3 residential condominium units would comply with all the

R-10 regulations. He pointed out that the applicant would still need a multi-family special permit from the City Council which would mean any final design would come back before the P&D Committee and the City Council for approval. He noted that in rezoning commercial to residential, due to the anticipated revenue coming from six quality residential units the tax revenue actually would go up and be more than a restaurant on the site.

Those speaking in opposition: None.

Communications: None.

Councilor Questions:

Councilor Theken clarified that a six unit condominium building would be built should the property be rezoned. **Mr. Favazza** said that would be the maximum number of units allowed. There are no threats of MGL 40B. **Councilor Theken** asked which **Mr. Favazza** confirmed. **Councilor Theken** said when this change is voted by the Council the property could be sold and a new developer could come in and try to do more than what is being described and expressed her concern. **Mr. Favazza** said that any multi-family structure would have to come back to the Council. **Councilor Theken** pointed out that anything with 40B units would not come before the Council.

Councilor Hardy noted that once this rezoning is done, that the owners realize the regulations that will be in place which **Mr. Favazza** confirmed also.

Council President McGeary noted that there is a whole separate process for the development of the site.

This public hearing is closed at 8:27 p.m.

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Verga, the Planning & Development Committee under Gloucester Zoning Ordinance Section 1.11 and MGL c. 40A, §5, voted 2 in favor, 0 opposed, 1 absent to recommend to the City Council to amend the Gloucester Zoning Ordinance by amending the Gloucester Zoning Map and corresponding zoning districts by rezoning 78 Thatcher Road (Assessors Map 179, Lot 44) from EB (Extensive Business) to R-10 (Medium/High Density Residential).

DISCUSSION:

Councilor Verga said that it is known what the neighbors don't want and what hasn't worked on this site. He said that the rezoning is acceptable.

Council President McGeary said as Ward Councilor he attended the neighborhood meeting held in April on the property where presentations were made. He said has received very little or negative response on the rezoning proposal. There was some concern there would be a "knock-on" effect on the development of Brier Neck Crossing, but he said he was assured by the City Planner that the two matters were separate and distinct. He said the proposal rationalizes the situation on the ground that has been very difficult to make a profit on the site as a restaurant because neighbors were strongly opposed to the granting of a liquor license to the last restaurant, Olivia's. The proponents have shown conceptual drawings of a proposed residential use, and any such project would need to go through the City Council Special Council Permit process, he said. He pointed out that changing the zoning doesn't automatically give anyone a right to create a condominium project. He said that the proposed zoning change from EB to R-10 offers the best possibility of preserving the residential nature of the neighborhood and would support the zoning change.

MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council, under Gloucester Zoning Ordinance Section 1.11 and MGL c. 40A, §5, voted by ROLL CALL 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to amend the Gloucester Zoning Ordinance by amending the Gloucester Zoning Map and corresponding zoning districts by rezoning 78 Thatcher Road (Assessors Map 179, Lot 44) from EB (Extensive Business) to R-10 (Medium/High Density Residential).

For Council Vote:

- 1. City Charter Sec. 2-11(c) (Cox) regarding for council vote from May 13, 2014 Council Meeting on the matter of the amendment of Sec. 1-15 "Penalty for violation of certain specified sections of Code" to increase dog fouling fines as listed in GCO Chapter 4, Sec. 4-21**

Council President McGeary said that because Councilor Cox was unable to attend tonight's meeting due to a death in her family, and since it was she who invoked City Charter Sec. 2-11(c) and requested further discussion on the matter, he suggested that under the Charter this matter can be continued provided that four members of the Council object to the taking of the vote which allows Charter Sec. 2-11(c) to be invoked for a second time.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, continue the discussion and vote to Amend Sec. 1-15 "Penalty for violation of certain specified sections of Code" to increase dog fouling fines as listed in GCO Chapter 4, Sec. 4-21 to the City Council meeting of June 24, 2014.

This matter is continued to June 24, 2014.

2. **Decision to Adopt: SCP2014-003: East Main Street #49, GZO Sec. 2.3.1(6) conversion to or new multi-family or apartment dwelling, three dwelling units**

MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to adopt the SCP2014-003 decision for East Main Street #49 pursuant to Sec. 2.3.1(6) of the Gloucester Zoning Ordinance.

3. **Decision to Adopt: SCP2014-005: Fort Hill Avenue #48, GZO Sec. 3.6.1(b) building height in excess of 35 feet**

Councilor Hardy asked for clarification of the heading on the Council decision, which was provided by the City Clerk.

MOTION: On a motion by Councilor Verga, seconded by Councilor Lundberg, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Cox, Whynott) absent, to adopt the SCP2014-003 decision for Fort Hill Avenue #48 pursuant to Sec. 3.6.1(b) of the Gloucester Zoning Ordinance.

Unfinished Business: None.

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

Councilor Hardy reminded that the Gloucester Block Parities are July 19, August 16 and September 20. She commended the chairs of the committees, boards and commissions for submitting their minutes to the City Clerk's office which she said she appreciated.

Councilor LeBlanc said he has been approached by many people about the safety hazard presented by the current condition of the hand railing on the Boulevard between the Tavern and the Blynman Bridge. He asked that the Administration come before the Council to explain what will be done to fix this safety hazard which he said he viewed as an emergency situation.

Councilor Verga noted he was in receipt of information on fluoride in the city's water supply which was distributed to the Council. He said he would appreciate the Public Health Department speaking to the Council as to why the city should continue its fluoridation of the city's water supply.

Councilor Lundberg spoke about the excellent Memorial Day services put on by the City's Veterans Agent, Adam Curcuro, and his assistant, Lucia Amero. He pointed out that in concert with Memorial Day there has been the installation of the new memorial plaques in honor of city veterans who fell in battle in the city squares. He lauded Mr. Curcuro and Ms. Amero for their work on behalf of the city's veterans with **Councilor Hardy** adding that the city's Veteran Services are aided by many great volunteers. **Councilor Theken** added her thanks as well, and added her thanks to all the volunteers for their donation of their time and money who aid the work of Mr. Curcuro and Ms. Amero. She also pointed out that there are nine Councilors and at any evening where only one Councilor may be present, she assured that when the community sees one Councilor, they are essentially seeing them all.

Council President McGeary noted that this Thursday the North Shore Health Project's Community Health Activist Award is being given to **Councilor Theken** for her tireless commitment to the City of Gloucester in recognition of her on-going effort to make Cape Ann a healthier place to live for which he thanked her.

He also commended former Councilor Joseph Ciolino who was instrumental in getting new flag poles and flags for the Vietnam Memorial located at Gloucester High School. He noted the touching Memorial Day ceremony that had taken place there the day before.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:45 p.m.

**Respectfully submitted,
Dana C. Jorgenson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.