

GLOUCESTER CITY COUNCIL MEETING

Tuesday, August 26, 2014 – 7:00 p.m.

Kyrouz Auditorium – City Hall

-MINUTES-

Present: Chair, Councilor Paul McGeary; Councilor Melissa Cox; Councilor Steve LeBlanc, Jr.; Councilor Greg Verga; Councilor Robert Whynott; Councilor Paul Lundberg; Councilor William Fonvielle

Absent: Councilor Hardy; Councilor Theken

Also Present: Linda T. Lowe; Kenny Costa; Salvatore DiStefano; John Dunn

The meeting was called to order at 7:10 p.m.

Flag Salute & Moment of Silence.

Councillor Fonvielle dedicated the moment of silence in memory of Abdullah Khambaty and gave a brief narrative of his immigrating into this country, his accomplishments and well known community leader.

Oral Communications:

Tracy Chiancola, 47 River Road, made a formal request for a copy of the Board of Health binder that was submitted to Council regarding their presentation to Council at the July 22 meeting, and she also requested of the Board of Health its July 14 tape recording of the ad hoc working group on fluoride. City Clerk, **Linda Lowe**, responded that her request is a public records request and does not go through the City Council as the Council has no authority or jurisdiction. She said that Ms. Chiancola should be making the request to the Board of Health, the City Clerk's Office or to the Legal Department. **Ms. Chiancola** responded that she did request this information from the Board of Health and that she also spoke to the City Clerk for a copy of the tape recording. **Ms. Lowe** responded that tapes are not retained and the City Clerk's office would only have a copy of the minutes. Ms. Lowe also said that there is no requirement to post minutes on the website. **Council President McGeary** asked the City Clerk to forward this request to the Board of Health through the City Clerk's Office. The City Clerk said she would handle this request.

Presentations/Commendations: None

New Appointments:

COMMITTEE RECOMMENDATION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Peter Todd as Gloucester Poet Laureate, TTE 08/2018.

DISCUSSION:

Dale Brown, member of the Committee for the Arts, said the committee has the responsibility and privilege every four years to select the Poet Laureate. They conducted the process, published a call for applications and administered a selection panel. **Ms. Brown** said that Council President McGeary was a member of that selection panel to review the applications. She said that they were pleased to recommend Peter Todd. She noted Mr. Todd has an enormous love for this community, a long history with the community, writes poetry for every occasion and loves to share that with the community. **Councilor Whynott** said he has known Mr. Todd since they were young boys, likes his poetry and thought he is truly a poet of the people. **Councilor Cox** said as ward councilor for Mr. Todd's district, she was very proud and happy for Mr. Todd. **Council President McGeary** noted as a member of the selection committee and there were many viable and wonderful candidates and they felt that Mr. Todd best embodied the gritty, plain spoken soul of Gloucester and that and he would do well as our Poet Laureate for the next four years.

MOTION: On a motion by Councilor Whynott, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 absent (Hardy, Theken) to appoint Peter Todd as Gloucester Poet Laureate, TTE 08/26/2018.

Mr. Peter Todd introduced his family and guest Ruth Rufus Collinson, the outgoing poet laureate. He also wanted to recognize John Ronan, who was not able to attend, and Ms. Dale Brown. **Mr. Todd** then read statement (on file) and poem entitled “My Journey upon the Sands of time” (on file).

Consent Agenda:

- **MAYOR’S REPORT**
- 1. Special Budgetary Transfer Request (2015-SBT-4) from Police Department (Refer B&F)
- 2. Special Budgetary Transfer Request (2015-SBT-5) from Police Department (Refer B&F)
- 3. Special Budgetary Transfer Request (2015-SBT-6) from Police Department (Refer B&F)
- 4. Special Budgetary Transfer Request (2015-SBT-7) from Police Department (Refer B&F)
- 5. Memorandum from Assistant Director of Public Works re: Request to pay invoices for services/goods procured in FY14 w/FY15 Funds (Refer B&F)
- 6. Reappointment: Gloucester Housing Authority (TTE 05/28/2019) Dorothy Martins (Refer O&A)
 - **COMMUNICATIONS/INVITATIONS**
 - **INFORMATION ONLY**
 - **APPLICATIONS/PETITIONS**
 - **COUNCILORS ORDERS**
- 1. CC2014-036 (McGeary) Amend GCO Chapter 22 “Traffic” Sec. 22-287 “Disabled Veteran, handicapped parking re: Deletion of the Listing of handicapped parking spaces from Code of Ordinances effective with the 2014 Code Supplement (Refer O&A)
- 2. CC2014-037 (Cox) Amend GCO Chapter 22 “Traffic” Sec. 22-270 “Parking prohibited at all times: re: intersection of Prospect Street With Friend and Warner Streets (Refer O&A)
 - **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
- 1. City Council Meeting: August 12, 2014 (Approve/File)
- 2. Standing Committee Meetings: B&F 8/21/14 (under separate cover), O&A 08/18/14, P&D 08/20/14 (Approve/File)

Items to be added/deleted from the Consent Agenda: None

By unanimous consent the Consent Agenda was accepted.

Committee Reports:

Budget & Finance: August 21, 2014

MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Theken) absent, to accept the Budget & Finance Committee Consent Agenda dated August 26, 2014 as follows:

1. *Supplemental Appropriation-Budgetary Request (2015-SA-3)*

MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Theken) absent, to approve Supplemental Appropriation 2015-SA-3 in the amount of \$200,000 (Two Hundred Thousand Dollars) from Account #850000.10.995.59600.0000.00.000.00.059, Capital Projects Stabilization Fund, Transfer Out – To Trust & Agency Fund to Account #850005.10.995.49700.0000.00.000.00.040, Integrated Financial System - Capital Project Stabilization Fund, Transfer In-From Trust & Agency Fund for the purpose of the purchase and conversion of a new Integrated Financial Software System.

2. Permission for reimbursement from FY15 funds to Firefighter Theodore Bazdanis for personal item damaged while performing his duties during FY14

MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Theken) absent, in accordance with MGL c. 44, §64 approve payment of a prior year invoice for a personal item damaged belonging to a Gloucester Firefighter while performing his duties as a firefighter for a total of \$250.94 in FY2014. The reimbursement will be paid from the current FY2015 Fire Department Operating Budget.

3. *Acceptance of a Public Health Emergency Preparedness (PHEP) Grant in the amount of \$170,645 from MA Department of Public Health, Emergency Preparedness Bureau*

MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Theken) absent, to accept under MGL c. 44, §53A a federal grant from the U.S. Department of Health and Human Services passed through the Massachusetts Department of Public Health Emergency Preparedness Bureau in the amount of \$170,645 for the purpose of supporting the public health emergency preparedness and response activities throughout the North Shore and Cape Ann.

4. *Acceptance of a PHEP Grant in the amount of \$13,340 from MA Department of Public Health, Emergency Preparedness Bureau*

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

5. *Acceptance of a MA Dept. of Conservation & Recreation Grant in the amount of \$24,750 for security lighting at Dun Fudgin Boat Ramp*

MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Theken) absent, to accept under MGL c. 44, §53A a grant from the Massachusetts Department of Conservation and Recreation Bureau through their Rivers and Harbors Program in the amount of \$24,750 for the purpose of the installation of security lighting at the Annisquam River Boat Ramp also known as the Dun Fudgin Boat Ramp to support the needs of fishing vessel traffic.

6. *Acceptance of a Clean Vessel Act Grant in the amount of \$9,500 from the MA Division of Marine Fisheries*

MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Theken) absent, to accept under MGL c. 44, §53A a Federal Clean Vessel Act Pumpout Boat Grant for \$9,500 from the U.S. Department of the Interior passed through Massachusetts Division of Marine Fisheries for the purpose of servicing resident and transient boaters of the City for the disposal of sewage from vessel holding tanks and portable toilets.

7. *Special Budgetary Transfer Request (2015-SBT-3)*

MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Theken) absent, to approve Special Budgetary Transfer 2015-SBT-3 for \$176.60 from Account #101000.10.181.51100.0000.00.000.00.051, Community Development-Salary/Wage Permanent Position to Account #10100.10.296.51250.0000.00.000.00.051, Shellfish Control, Salary/Wage Part-Time Position for the purpose of covering a projected shortfall in the Shellfish Control Department, Part-time position account.

*****End B&F Consent Agenda*****

Ordinances & Administration: August 18, 2014

COMMITTEE RECOMMENDATION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council allow for the withdrawal of CC2014-024, to amend the Gloucester Code of Ordinances CC2014-024 (Cox) Amend GCO Chapter 22, Sec. 22-270 "Parking prohibited at all times" and Sec. 22-291 "Tow-away zones" re: Pleasant Street, and to be withdrawn without prejudice.

DISCUSSION:

Councilor Cox explained that another solution had been found for dealing with the parking problems on Pleasant Street. Instead of removing what could be two parking spaces altogether, she said she will be working with the DPW to put signs up and have at least one spot open on Pleasant Street in front of Sheedy Park.

MOTION: On a motion by Councilor Whynott, seconded by Councilor Cox, the City Council voted 7 in favor, 0 opposed, 2 (Hardy, Theken) absent, to allow for the withdrawal of CC2014-024, to amend the Gloucester Code of Ordinances CC2014-024 (Cox) Amend GCO Chapter 22, Sec. 22-270 “Parking prohibited at all times” and Sec. 22-291 “Tow-away zones” re: Pleasant Street, and to be withdrawn without prejudice.

COMMITTEE RECOMMENDATION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council allow for the withdrawal of CC2014-035, to amend the Gloucester Code of Ordinances Chapter 14 by adding Article III “Sex Offender Residency Ordinance, and to be withdrawn without prejudice.

DISCUSSION:

Council President McGeary said this was an order that he put forward with several co-sponsors and the intent of the order was to create the safety zones around schools, churches and elderly housing where persons convicted of level II and III sexual offenses could not reside. Due to some unfortunate headline writing, he said, the substance of it was largely ignored. Subsequently, the sponsors were advised by the City Solicitor that the Superior Court has held that such laws are the province of the state and not the locality and that Council would be overstepping their bounds if they were to try to impose such a safety zone around the institutions named above. On advice of Counsel, he went to the Ordinances and Administration Standing Committee and asked for leave to withdraw the order without prejudice pending State action.

MOTION: On a motion by Councilor Whynott, seconded by Councilor Fonvielle, the City Council voted in 7 favor, 0 opposed, 2 (Hardy, Theken) absent, to allow for the withdrawal of CC2014-035, to amend the Gloucester Code of Ordinances Chapter 14 by adding Article III “Sex Offender Residency Ordinance, and to be withdrawn without prejudice.

Planning & Development: August 20, 2014

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor Cox, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council to permit Fishbox Derby, Inc. on Sunday, September 14, 2014, to hold the Fishbox Derby (“Soapbox Car” Race) closing Rogers Street from Manuel F. Lewis Street to Flanagan Square from 8:00 a.m. that day to 4:00 p.m. with the following conditions:

1. Certificate of Insurance:
 - A Certificate of Insurance naming the City of Gloucester as an additional insured party is on file with the City Clerk’s Office.
2. Road Closure Plans:
 - Roads to be closed are to be marked with signage directing the public as to the duration of the closure and alternate routes. Any substantial changes, as determined by either the Police or Fire Chief or their designees to the route or related to safety issues will require Council approval.
3. Refuse and Comfort Stations:
 - All refuse and recycling due to this event must be removed by the organizer. Any portable toilets (with two handicap accessible) are to be provided and maintained by the organizer, placed the evening before the event or early in the morning of the day of the event and removed by 5:00 PM, September 14, 2014.
4. Emergency Services:
 - Emergency services shall be as determined by Emergency Medical Services Director, Sander Schultz.

5. **Staffing:**
Event staff is to have cell phones and be identified by the public with distinct shirts. A list of event staff and their cell phone numbers to be submitted to the Police, Fire or DPW Departments.
6. **Notification of Immediate Abutters and Businesses to Race Course:**
Notice shall be made by the event organizer by hand or by mail no later than 7 days in advance of the event to any businesses along the race route.
7. **Responsibility of the Fishbox Derby, Inc.:**
The applicant is also required to obtain any necessary approvals from the Licensing Board, the Board of Health and the Licensing Commission. It is the sole responsibility of Fishbox Derby, Inc. to ensure that all required documentation is timely filed with the appropriate City departments as indicated. Failure to comply with any conditions precedent may result in permit revocation.

DISCUSSION:

Councilor Verga said that the P&D Committee unanimously supported the permit for the annual Fishbox Derby. All event activities and road closures follow the same template as the previous year, he pointed out.

MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted in 7 favor, 0 opposed, 2 (Hardy, Theken) absent, to permit Fishbox Derby, Inc. on Sunday, September 14, 2014 to hold the Fishbox Derby ("Soapbox Car" Race) closing Rogers Street from Manuel F. Lewis Street to Flanagan Square from 8:00 a.m. that day to 4:00 p.m. with the following conditions:

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Emergency services shall be as determined by Emergency Medical Services Director, Sander Schultz.
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7. **Responsibility of the Fishbox Derby, Inc.:**
The applicant is also required to obtain any necessary approvals from the Licensing Board, the Board of Health and the Licensing Commission. It is the sole responsibility of Fishbox Derby, Inc. to ensure that all required documentation is timely filed with the appropriate City departments as indicated. Failure to comply with any conditions precedent may result in permit revocation.

Scheduled Public Hearings were taken out of order.**Scheduled Public Hearings:**

1. **PH2014-061:SCP2014-009: Commercial Street #44 under GZO Sec. 1.5.3(c), Sec. 1.8.3, Sec. 2.2.1, Sec. 2.3.4 and Sec. 5.18 re: restaurant use (application withdrawn)**

Council President McGeary said that the applicant had requested that this application be withdrawn. He opened and closed the public hearing immediately and asked for the committee report.

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit the withdrawal without prejudice of SCP2014-009 Commercial Street #44, Map 7, Lot 17, GZO Sections 1.5.3(c), 1.8.3, 2.2.1, 2.3.4, and 5.18, Restaurant use.

DISCUSSION:

Councilor Verga said that it become apparent that the City did not have legal or jurisdictional authority to grant the permit as the structure in which the restaurant would be located sits on piles, and such use on a pile-supported building is not allowed by state regulation. The applicant determined that they would withdraw their request without prejudice, and they may come back with a resolution that the Council would consider. The intent of such a resolution would be an expression of confidence that the applicant could bring to the State to help in seeking relief from the state. The City Clerk said that the City Clerk's office received a letter of withdrawal from the applicant, which was given to the Councilors in their packets.

MOTION: On a motion by Councilor Verga, seconded by Councilor Whynott, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 2 (Hardy, Theken) to permit the withdrawal of SCP2014-009 Commercial Street #44, Map 7, Lot 17, GZO Sections 1.5.3(c), 1.8.3, 2.2.1, 2.3.4, and 5.18, Restaurant use without prejudice.

This matter is closed.

2. **PH2014-060: RZ2014-002: Rocky Neck Avenue #27, Map 130, Lot 5 (formerly lots 5, 6, 7, 8) from its Current mix of R-10 (Medium/High Density Residential) and NB (Neighborhood Business) zoning to exclusively NB**

This public hearing is opened.

Those speaking in favor:

Attorney Joel Favazza, Seaside Legal Solutions, 111 Main Street, Gloucester, spoke on behalf of Two Five Three One RNA Realty, LLC, the owner/applicant of 27 Rocky Neck Avenue. He related the following: 27 Rocky Neck Avenue up until this summer was actually 25-31 Rocky Neck Avenue which were four separate lots that had been transferred together and since 1971 was used as marina together for over fifty years. Through the ANR process of the Planning Board these parcels were combined into a single lot. However, the former four separate lots were not zoned identically and even within the four individual lots there was an issue with the street side being zoned neighborhood business but the water side R-10. It has been difficult to determine what can or cannot be done with this parcel due to the complicated zoning. The applicant is looking to bring this parcel into uniformity within itself, into the uniformity with the historical and continuing site as a marina, and into in line with the historical zoning. One of the benefits to the neighborhood business zoning, aside from allowing it to be continuing marina use on site, is that there is a provision in the zoning ordinance that allows neighborhood business parcels to be used for accessory parking for other uses permitted in the neighborhood business district. There is quite a bit of neighborhood business properties along Rocky Neck that have limited parking and the use of the parcel for overflow parking would relieve some of the pressure on Rocky Neck parking. He asked the Council to approve the zoning amendment.

Those speaking in opposition: None.

Communications: None.

Councilor Questions:

Council President McGeary inquired on whether the marina is permitted in the neighborhood business, and **Mr. Favazza** answered in the affirmative. **Council President McGeary** said that additional parking on Rocky Neck is devoutly to be hoped.

This public hearing is closed.

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Fonvielle, the Planning & Development Committee under Gloucester Zoning Ordinance Section 1.11 and MGL c. 40A, §5, voted 3 in favor, 0 opposed, to recommend that the City Council amend the Gloucester Zoning Ordinance by amending the Gloucester Zoning Map and corresponding zoning districts by rezoning 27 Rocky Neck Avenue (formerly 25-31 Rocky Neck Avenue), Assessors Map 130, , Lot 5 (formerly Lots 5, 6., 7 and 8) from R-10 (Medium/High Density Residential) and NB (Neighborhood Business) to NB exclusively.

DISCUSSION:

Councilor Verga said the presentation summed it up.

MOTION: On a motion by Councilor Verga, seconded by Councilor Cox, 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 (Hardy, Theken) absent, to amend the Gloucester Zoning Ordinance by amending the Gloucester Zoning Map and corresponding zoning districts by rezoning 27 Rocky Neck Avenue (formerly 25-31 Rocky Neck Avenue), Assessors Map 130, , Lot 5 (formerly Lots 5, 6., 7 and 8) from R-10 (Medium/High Density Residential) and NB (Neighborhood Business) to NB exclusively.

For Council Vote:

1. **CC2014-034 (McGeary) Whether the City Council wishes to petition the state to lower the speed limit on Brightside Avenue to 20 miles per hour**

Council President McGeary said as the maker of the order that Brightside Avenue is narrow winding street with a lot of blind corners. It was called to his attention by some of the residents who have young children that it can be dangerous even at the common speed of 30 mph in a thickly settled zone. The State, however, intervenes with speed limits to prevent them from creating speed traps so they have to petition the State to allow the lowering of the speed limit. The council vote is to request to lower the speed limit. He then asked the City Clerk on whether Council would need to amend the code of ordinances once they receive State approval. The City Clerk replied that the speed limits are not in the code of ordinances. Once the State approves the speed limit, the signs are put up by the DPW. **Councilor Verga** said that he assumed that the neighbors were made aware of the warning the Traffic Commission gives is that the State may raise the speed limit, but it may be unlikely for this particular area. **Council President McGeary** said that was a good point. The Traffic Commission did the speed study and Traffic Commission voted in favor of this speed limit based on the speed radar test. **Councilor Whynott** said that there is a hairpin turn down the end of the street and one up higher and that the speed limit should not be more than 20 mph. He then asked the Council to endorse a vote in favor of forwarding a petition through the City Clerk to the Mass. Department of Transportation to lower the speed limit on Brightside Avenue to 20 mph.

MOTION: On a motion by Councilor McGeary, seconded by Councilor Cox, the City Council voted in 7 favor, 0 opposed, 2 (Hardy, Theken) absent, to send a letter to the Massachusetts Department of Transportation through the City Clerk requesting that the speed limit on Brightside Avenue in Gloucester, Mass., be lowered to 20 m.p.h. based upon an accompanying traffic study and minutes of the Gloucester Traffic Commission.

Unfinished Business: None.

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

Councilors' Requests to the Mayor:

Councilor Cox noted that a ribbon cutting for Burnham's Field has been set for Sept. 6 at 9:00 a.m. and encouraged everyone to join her in the awesome celebration. She wished everyone a happy and safe Schooner Fest and she will be at the lobster bake at 4:00 p.m. on Saturday at Maritime Gloucester. She also called attention to a YMCA fundraiser at Mile Marker One on Friday at 8 p.m. featuring Henri Smith and amazing New Orleans jazz music.

Councilor Lundberg said he wanted to give a shout out to the Gloucester Cultural Council and thought it was good to periodically recognize the Board and Commissions volunteers who do so much for the City. The Cultural Council disperses funds it receives from the Massachusetts Cultural Council to activities that fulfill their mission. He pointed to a wonderful series of story hours at Stage Fort Park this summer. It was truly magical, he said, the story hour organizers used the setting of the uplands from Half Moon Beach and had professional story tellers. He observed that he pays more attention to these events being a grandfather. He thanked the Gloucester Cultural Council.

Council President McGeary encouraged everyone to visit the Cape Ann Museum and said the recently completed renovations are spectacular. He echoed Councilor Cox's invitation to the Gloucester Schooner Festival and noted that a complete schedule of events is online at GloucesterSchoonerFestival.net.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:45 p.m.

Respectfully submitted,

**Joanne M. Senos
Assistant City Clerk
Substitute Recorder**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Statement and Poem read by Peter Todd**