

GLOUCESTER CITY COUNCIL MEETING

TUESDAY, January 5, 2010

7:00 P.M.

Kyrouz Auditorium – City Hall

Council Meeting 2010-002

Present: Council President Jacqueline Hardy; Council Vice President, Sefatia Theken; Councilor Steven Curcuru, Councilor Joe Ciolino, Councilor Bruce Tobey, Councilor Robert Whynott, Councilor Paul McGeary, Councilor Ann Mulcahey, Councilor Greg Verga

Absent: None.

Also present: Jim Duggan, Linda L. Lowe, Marcia McInnis, Sarah Garcia, Jeff Towne, Bob Ryan, Sam Cleves

City Council Meeting 2010-002 was called to order at 7:02 p.m.

Flag Salute and Moment of Silence

Council President Hardy introduced the new City Council and announced the City Council Standing Committees for 2010-2011 as follows:

Ordinances and Administration:

Councilor Sefatia Theken, Chair; Councilor Ann Mulcahey, Vice Chair; Councilor Bruce Tobey, member

Planning and Development:

Councilor Joseph Ciolino, Chair; Councilor Robert Whynott, Vice Chair; Councilor Greg Verga, member

Budget and Finance:

Councilor Steven Curcuru, Chair; Councilor McGeary, Vice Chair; Councilor Hardy, member

Councilor Hardy stated that the committee chairs were chosen for their experience and expertise and capability to do the job. She made it known to all that she is available to all the Chairs on any data or background history at any time and to assist them in their duties.

She stated that over the course of the year there will be clarification of items on what the City Council actually does: how items get to the Council; what do we do with them when they first arrive; how do they get back to us; why do we have public hearings, etc. One of the things that the previous City Council did that she appreciated and wishes to continue is promoting

transparency. There will be more items to be discussed at other meetings as to where the Council is going with both short- and long-term achievable goals. She is looking for suggestions from her fellow Councilors. She suggested a few issues such as the double pole situation; private roads to make public roads under Chapter 90, are just two examples for discussion.

Oral Communications: No one spoke.

Councilor's Requests to the Mayor: All Councilor requests have been received in writing and forwarded to the office of the Mayor.

Confirmation of Appointments: None.

Presentations: Sam Cleaves – Clean Energy Commission

Samuel Cleaves, 1111 Washington Street, and of the Metropolitan Area Planning Council and the City of Gloucester's Clean Energy Commission (CEC) presented an overview of the CEC as required under Section 2-514 under the Gloucester City Ordinance. A copy of the document Mr. Cleaves presented to the Council is on file.

Mr. Cleaves gave an update on CEC Projects. This is also contained in the document submitted to the Council and on file. He noted that grant awards to move these projects forward should hopefully be confirmed by February if their proposals are accepted. He also spoke about the City becoming a certified Green Community. The CEC hopes to come to the Council in the fall to present ideas on how the CEC might apply for DOER monies toward that end. At their last meeting the CEC voted to take up street lighting efficiency at the request of Councilor Tobey. He noted a website page is in development for the CEC and will be available within a few months. They are anticipating the grant awards and working with the Mayor and the Council going forward

Councilor Ciolino said he read in the paper a discussion to save energy some street lights would be shut on City streets during different parts of the evening.

Mr. Cleaves responded that the idea came out a couple years ago from the previous CEC, but they have not taken it anywhere yet. They've just added this to their agenda. They're looking into the data, and who owns what street lights - some are owned by National Grid, and some by the City, what are the wattages. They are going to look for input and never presume anything. It is a public safety issue and people differ greatly on the subject.

Councilor Ciolino suggested the CEC work with Ward Councilors on this issue, have neighborhood meetings as many folks have concerns over lighting. The safety issues should be looked into by the Police and Fire Departments. He asked that the CEC proceed carefully.

Mr. Cleaves said it is the goal of the commission is not to turn off lights but how to run those lights more efficiently. They would never presume to get into a public safety issue. It is not their decision to make. They're involved in how to run these lights more efficiently.

Councilor Theken stated she is glad the CEC is looking at the lights in the City. She believed there was an ordinance regarding new street lights that had to be a certain code regarding energy and the way they are placed, the angle in which they are placed.

Mr. Cleves said yes a few years ago an outdoor lighting ordinance was passed and that only deals with new lights. Very few new lights actually go on line. National Grid has a policy that old failed lights be replaced with lights that meet the new ordinance, and that they're looking into grant monies as well for this issue.

Councilor Hardy suggested Mr. Cleves come back early in the fall as some things do take time to be referred out to Committee before they come to the Council again and thanked him for his presentation, the first of the new year.

Consent Agenda:

- | • MAYOR'S REPORT | <u>ACTION</u> |
|--|----------------------|
| 1. Memo from Building Inspector re: Parking Meter Bags | (refer O&A) |
| 2. Report from City Auditor, re: Accounts having expenditures which exceed their appropriations | (refer B&F) |
| 3. Memo from CAO and RFP "TO Provide Public Relations, Communications and Media Support for City" | (refer O&A) |
| • APPROVAL OF MINUTES | (Approve/File) |
| 1. City Council Meeting 12/15/2009 | |
| • APPLICATIONS/PETITIONS | |
| 1. SCP2010-001: 79-99 Essex Avenue, Sec. 2.3.1(12), Sec.5-7 Major Project, Sec. 3.1.6(b) height excess 35 ft., lowlands, Sec. 5.5, lot area per two guest special permit 3.2.6 | (refer P&D) |
| 2. SCP2010-002: 121 East Main Street, Sec. 2.3.4(8) and 5.18 | (refer P&D) |
| • COMMUNICATIONS | |
| 1. COM2010-001: Letter from Attorney Harrison re: High Popples-Links Road Sewer Project LLC | (refer P&D) |
| 2. COM2001-002: Planning Board Proposed Zoning Amendments under GZO Sec. 1.11.2(a) re: 43D Priority Development Site and Harbor Plan Zoning Recommendations | (refer PB & P&D) |
| 3. COM2010-003: Extension of Special Permit re: 15 Cliff Avenue | (refer P&D) |
| • ORDERS | |
| 1. CC2010-001 (Tobey/Ciolino) Order that City Council continue to consider becoming a member of Essex North Shore Agricultural and Technical School District | (refer O&A/B&F) |
| 2. CC2010-002 (Tobey) Enact Ordinance re: Citizen Participation and Public Information Committee | (refer O&A) |

Items to be removed from or added to the Mayor's Consent Agenda:

Councilor Curcuru asked for unanimous consent that a memo from the CFO regarding a supplemental appropriations request on the "Water Boil Order Emergency" be added to the Mayor's Report and referred out to the Budget and Finance Committee.

Councilor Hardy wishes to remove the Minutes of the December 15, 2009 meeting off the Consent Agenda for further discussion.

Councilor Hardy stated that other than those two items that the Consent Agenda is acceptable and by Council unanimous consent is approved

Councilor Curcuru stated that the memo from the CFO is for an appropriation to cover the “boil water order emergency” and to refer this matter out to B&F.

Councilor Hardy stated that the entire Council was provided with the documentation shortly before the meeting via email due to the late hour it was offered and didn't make it onto the agenda. It will be back to the Council through B&F as quickly as possible.

There being no objection the “Water Boil Order Emergency” appropriation request is referred out by unanimous consent.

Councilor Hardy wished to amend the minutes of the December 15, 2009 City Council Meeting by changing the seconding on the motions offered by Councilor Grow for the Essex North Shore Agricultural and Technical School District.

Councilor Hardy asked for the amendment of the December 15, 2009 minutes on page 11 and 14. She stated that her name be removed as the Councilor seconding the motion on the noted pages.

In addition, **Councilor Whynott** asked that the December 15, 2009 minutes show that he was present at that meeting also as a citizen Councilor-Elect.

The Council motioned, seconded and voted unanimously to approve the amended minutes by voice vote as noted herein.

Councilor Hardy noted that a report forwarded from the Inspector General's Office by State Representative Ann-Margaret Ferrante regarding the Charter School Approval Process investigation be added to the Communications so that it can be provided to the public on the City's web site.

By unanimous consent, the Council approved the Report from the Inspector General's Office be added to the web site in the January 5, 2010 City Council packet under Communications.

Councilor Greg Verga asked that his name be spelled correctly.

The Council motioned, seconded and voted unanimously to approve the minutes of January 1, 2010 by voice vote with the correction to Councilor Verga's name.

1. 2-11(c) City Charter Matter re: local sales tax of .75 percent on sale of restaurant meals

Councilor Hardy explained that when the Council last met, the Public Hearing, related to M.G.L. chapter 64L, section 2(a) to impose a local meals excise of .75% on the sales of restaurant meals subject to State sales tax, had proceeded to the point of closure; a motion was made and discussion had begun on the motion. Councilor Tobey, as is the

privilege of any City Councilor, invoked section 2-11 (c) of the City Charter which postponed the continuation of the discussion on the motion to this evening's meeting. To re-familiarize the Council with the Motion, Councilor Hardy asked City Clerk, Linda T. Lowe to read the Motion into the record so that discussion on the matter could proceed prior to voting the matter.

City Clerk, Linda T. Lowe read into the minutes the following motion:

MOTION: On motion of Councilor Tobey, seconded by Councilor Ciolino, the Ordinances and Administration Committee voted 0 in favor, 3 opposed (Tobey, Romeo-Theken, Ciolino) to recommend to the City Council accept the provision of the Massachusetts General Laws, Chapter 64L, section 2(a) to impose a local meals excise tax of .75%.

Continued Discussion:

Councilor Ciolino stated that a 'yes' vote is for the meals tax and that a 'no' vote is against the meals tax.

Councilor Hardy concurred and asked the Council if they all understood the motion in front of them. She noted that all the new Councilors had been present at the last City Council meeting and seem well briefed and had done their research. She asked if the Council was ready to move the question.

Councilor Theken stated she spoke with Melissa Teixeira, School Committee member, who spoke in favor of the tax during the public hearing. She didn't realize that the meal tax had been already increased from 5% to 6.25%. Ms. Teixeira then understood what the restaurateurs and caterers were objecting to the .75%. The Councilor gave a very brief review of the issue. She reminded the Council that business conditions are difficult now, and it is important that the City not burden a particular sector unduly. Councilor Theken said she can't support this measure at this time. If it had come later, perhaps in June, she felt then she could have supported it.

Councilor Whynott said that unfortunately there's no such thing as a painless tax. Taxes 'hurt' everybody. But this is as painless as it gets. It is a tax that's going to be paid by consumers. We need the money. There's no help coming from the State. Something has to give. If you want services, you have to pay for them. It is coming to the City's coffers. It is not going to the State. He will support this.

Councilor McGeary agrees that we do need to attack the revenue side of the situation as well as the cost side. This is a reasonably low pain threshold in order to gain funds for the City. The restaurateurs are not paying the tax, they are simply collecting it. That is an important distinction. We are a tourist community, and it is an asset to use to help defray our expenses. They certainly use our services. He stated he is in support of the tax.

Councilor Verga said he is going to support this as well. When he spoke at the last meeting, he was under the illusion that the money would go towards the re-building of West Parish, or the Voke, etc. But he was looking at the 9C cuts. As far as folks coming down here to eat, he says that people don't stop going out to eat. People will not make their decision where to eat based on the tax on their meals. We're taxing ourselves and helping to cover shortfalls. It is a reasonable tax.

MOTION: On motion of Councilor Tobey, seconded by Councilor Ciolino, the City Council voted by Roll Call 7 in favor, 2 opposed (Theken, Tobey) to recommend to accept the provision of the Massachusetts General Laws, Chapter 64L, section 2(a) to impose a local meals excise tax of .75%.

For Council Vote:

1. CC2009-049 (Tobey) City Council recognize and commend outgoing Councilors

Motion voted later in the evening between public hearings. Please see below.

2. Warrant for Special State Election – January 19, 2010

MOTION: On motion by Councilor Ciolino, seconded by Councilor McGeary, the City Council voted unanimously, 9 in favor, 0 opposed to approve the Warrant for the State Election.

Scheduled Public Hearings:

1. PH2010-001: Amend GCO Sec. 22-284 "Service or loading zones" re: 62-64 Main Street

This Public Hearing opened.

Speaking in Favor:

Piera Orlando, La Trattoria, owner, 64 Main Street. She stated there are big traffic jams due to the delivery trucks unable to pull completely to the side of the street, creating a lot of chaos. There used to be a small parking lot to the side of La Trattoria, but that has been closed for this use by the owner of the lot. It is hard for the delivery trucks to get to them in order to receive their supplies and believes this is a necessary addition to Main Street in support of the local businesses.

Bob Ryan, Traffic Commission, Chair. He is in support of this order. The Commission did not support on December 3rd, and subsequently they have changed their stance and are in support of it at this time. The Commission was afraid that they would be overwhelmed with requests if this loading zone was approved, by business owners each wanting a loading zone in front of their place of business. There are only about a dozen loading zones in the City. He said that there is one in front of Virgilio's, one in

front of Menage Gallery at Hancock and Main Street. The one at 62-64 Main Street would be a good idea. Parking is at a premium, and Main Street is very congested. Mr. Ryan and the majority of the Commission fully support this amendment.

Speaking in Opposition: None.

Communications: None.

Questions:

Councilor Curcuru asked Mr. Ryan regarding the parking at the loading zone as used as a parking space.

Mr. Ryan said that they are asking for time limits and are looking for more enforcement on the time limits. All will be revisited by the Traffic Commission for all 12 locations and make sure there are time limits and enforcement. No one should be able to park in these loading zones, for instance, for eight hours a day.

Councilor Mulcahey said she had a situation a week ago during a snow storm where a trailer truck got stuck. She asked if the loading zone could be moved up towards the Sargent House.

Mr. Ryan said it is possible, but as it stands right now it is 25 feet from the entrance of the parking lot. The goal is not to take out parking, which a move such as that would do. Other loading zones are 22 feet. This loading zone is going to be 25 feet. He feels moving it could be looked at down the road. If no parking is enforced on the left side - the southerly side of Main Street at that corner, we had a concrete barrier to prevent people from getting hung up. Enforcement is important and will be effective.

Councilor Theken said that their experiment, she and Councilor Mulcahey, put a truck where the proposed new loading zone would be, and with trucks making the swing around Palazola's it was noted to be extremely difficult. But because of the drive through parking lot at Palazola's it would be more difficult to move the loading zone. The best area for this loading zone is where it is planned for and proposed now.

Councilor Ciolino asked is it true that no one business owns a loading zone, and it's open for everybody's use regardless of commercial plates.

Mr. Ryan said that was the idea. That was the discussion at the Traffic Commission, that loading zones are open to all as are handicapped spots being open to all handicapped drivers with plates or plackets. The Registry of Motor Vehicles reiterated that it is open to everybody. Anyone can park in a delivery zone, and there is no set law that it has to be a commercial plate. It is open to all.

Councilor Hardy asked if possible to put this through on a temporary basis, see if it works and can then be made permanent if it works.

Mr. Ryan said that yes one could put it as an amendment to the order. It had been done in the past. However, when it was done the last time a while back, when the temporary loading zone was lifted, it was then made into a handicapped parking space instead just before the Menage Gallery.

This Public Hearing is closed.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Tobey, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to advertise for public hearing on the matter of Order #CC2009-047 (Theken) to amend GCO Sec. 22-284 "Service or Loading Zones", Main Street, northerly side, from a point 132 feet from the intersection of Short Street, for a distance of 25 feet in an easterly direction in front of 62-64 Main Street with a time limit of 60 minute parking to be placed on the sign.

Discussion:

Councilor Theken said the Traffic Commission was going back and forth and were afraid that it would be co-opted. It's not just for unloading, it's multipurpose and to work for many restaurants, with mutual purveyors. She explained some of the issues behind moving this amendment forward. The time limit was important, and it was felt 60 minutes was sufficient. She would like to see better enforcement on the time limits. She believes the time limit is going to help. A 90 day temporary loading zone will not be enough to allow for an assessment of the success of the new loading zone or lack thereof.

Councilor Ciolino gave a history of that section of town with the delivery trucks and the parking situation. He said many of the merchants who rely on UPS and FedEx for their deliveries have trouble making their deliveries without becoming obstructions. And others are refrigerated trucks and can be semi-trailers. They need to move off to one side in order to take their products off. It is a tight area around 62-64 Main Street, and this is called for. He urges his fellow councilors to vote for this.

Councilor Mulcahey recalled 30 minute time limit discussed in the O&A Committee meeting.

Councilor Theken said they reassessed and felt 60 minutes was appropriate. The Traffic Commission was checking the ordinance, but the fact is we left it at 60 minutes.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by **ROLL CALL unanimous 9 in favor, 0 opposed to amend GCO Sec. 22-284 "Service or Loading Zones", Main Street, northerly side, from a point 132 feet from the intersection of Short Street, for a distance of 25 feet in an easterly direction in front of 62-64 Main Street with a time limit of 60 minute parking to be placed on the sign.**

For Council Vote:

1. CC2009-049 (Tobey) City Council recognizes and commends outgoing Councilors.

MOTION: On motion by Councilor Tobey, seconded by Councilor Theken, the City Council voted unanimously to recognize and commend outgoing Councilors Devlin, Foote, George, and Grow through an appropriate citation to be prepared by the City Clerk.

2. PH2010-002: Amend GCO Sec. 22-280 "Fifteen Minute Parking" re: 38 Railroad Avenue

This Public Hearing is opened.

Speaking in Favor:

Dennis Latham, 8 Sibley Street, employee of Audrey's Flower Shop. The Shop loses business when train-goers park in front of their shop all day. When cars park in front of their business for great lengths of time it inhibits traffic in and out of their shop.

Bob Ryan, Chair, Traffic Commission. He stated on December 3, 2009 the Traffic Commission unanimously supported this amendment to bring this particular area in line with the rest of Railroad Avenue on that side of the street. When the railroad parking lot opened a couple of years ago used to be full, and now that the cost of parking there has been raised, these people are shifting their parking to the streets. In order to give this business a chance, like the ones given to other business in their immediate area, the Traffic Commission supports this.

Speaking in Opposition: None

Communications: None.

Questions:

Councilor Ciolino inquired of Mr. Latham if he saw meter maids ticketing.

Mr. Latham stated that yes, they were ticketing. He spoke with police and that this is not in the meter maid's jurisdiction. It is up to the shop to call police and they will come up and time it, and then they will ticket. The police do enforce it when they call and then the timing starts when the police arrive at the scene.

This Public Hearing is closed.

MOTION: On motion of Councilor Tobey, seconded by Councilor Ciolino, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to advertise for public hearing to amend the Gloucester Code of Ordinances Section 22-280, "Fifteen Minute Parking" Railroad Avenue, southerly side, from a point 85 feet from its

intersection with Washington Street, for a distance 25 feet in an easterly direction at 38 Railroad Avenue in front of Audrey's Flower Shop. The time frame for the 15 minute zone is to read: *Monday through Saturday from 9 a.m. to 5 p.m.*

Discussion:

Councilor Theken said that like Mr. Ryan, there is nothing there to prevent the public from parking all day. She believes this is a fair change.

Councilor McGeary asked would this be possible to put in meters.

Councilor Theken said this is so the patrons do not have to pay. There's never been a meter there nor around on that side in front of other businesses. This sign will make it very clear what the purpose of this spot will be.

Councilor Ciolino said that to be fair you can't put in one meter in front of a business. You would have to meter the whole street which would be expensive which he is not in support of.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted by ROLL CALL unanimously 9 in favor, 0 opposed to amend the Gloucester Code of Ordinances Section 22-280, "Fifteen Minute Parking" Railroad Avenue, southerly side, from a point 85 feet from its intersection with Washington Street, for a distance 25 feet in an easterly direction at 38 Railroad Avenue in front of Audrey's Flower Shop. The time frame for the 15 minute zone is to read: *Monday through Saturday from 9 a.m. to 5 p.m.*

Committee Reports:

Ordinances and Administration: None

Planning and Development: None

Budget and Finance 12-18-09:

MOTION: On motion by Councilor Grow, seconded by Councilor Ciolino, the Budget and Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the acceptance of the FY10 Seaport Bond Fund grant in the amount of \$50,000 for the Harbor Plan Coordinator position.

Discussion:

Councilor Curcuru stated this is to pay Ms. Garcia's salary. This was a housekeeping issue.

Ms. Garcia, Community Development Director said this was brought up in September but the Seaport Advisory Council hadn't taken their vote yet so it had to be tabled awaiting their vote, and then it was brought back to the Budget & Finance Committee.

Councilor Curcuru stated that Ms. Garcia acted as the Harbor Plan Coordinator as well as the Community Development Director.

Ms. Garcia said he carries both jobs and makes her quarterly reports to them [Seaport Advisory Council].

Councilor Theken asked when the Mayor was appointed two years ago she brought before the City Council how she was going to have her new administration manage the City. Mr. Duggan was going to be the administrator and it was going to be cut in half you were supposed to be his assistant. The Community Development Director was supposed to be hired. You were going to be Mr. Duggan's assistant. Mr. Duggan was going to do half of this. She thought Mr. Duggan was going to administrate this. She asked for an explanation of the position.

Mr. Duggan said in the upcoming budget they are going to revert back to the previous protocol where the Grants Division goes back under the direct supervision of the Community Development Director. Because the Grants Division is fully funded with CDBG funds, the balance of Ms. Garcia's salary not covered by the Seaport Advisory grant, the balance will be paid for by the CDBG funds. A portion of his salary previously covered by CDBG funds will now come completely out of the General Fund.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted unanimously 9 in favor, 0 opposed to accept the FY10 Seaport Bond Fund grant in the amount of \$50,000 for the Harbor Plan Coordinator position.

Councilor's Requests Other Than To The Mayor:

Councilor Curcuru noted the Census 2010 is gearing up April 1st and hiring workers at a rate of \$19.75/hr. It is a good opportunity to get jobs for our people. They anticipate hiring at least 50 census takers for Gloucester. The Census Bureau is aware that the population of Gloucester is ethnically diverse. They are looking for a complete count of the City. This article in the January 4, 2010 Boston Globe stated Gloucester only responded 64% at the last census. Let's make sure Gloucester is not under-counted. This could translate in the loss of federal funds at a rate of \$2,000 per person. Being uncounted could be devastating. Applicants for the census jobs must pass a test. It will be given all over Cape Ann. Anyone interested should call the local Census Bureau office at **978-993-4720** for further information.

Councilor Mulcahey stated she enjoyed her first City Council meeting.

Councilor Theken said good night to Gus Foote and to his seniors. She welcomed the new City Councilors and thanked Councilor Tobey for his efforts on behalf of the Council and the City over the last two years as Council President.

Open enrollment has closed to switch prescription (Rx) plans. If you are on Tufts and need to downgrade, you can still do that. You can still downgrade or upgrade on Harvard until March 31st. It is not fair what is happening to our seniors, what is happening with their Rx coverage. She recommended that if you have a senior who is having trouble paying for their prescriptions, CVS as a yearly membership where you can get a three month supply of generic drugs for \$10.00. Wal-Mart, Target, all have programs similar for generic drugs.

Councilor Whynott congratulated Councilor Hardy on her first time out as Council President.

Councilor Hardy repeated the assignments for the Standing Committees for Cable TV who missed this information presented earlier in the evening.

She then advised the Administration regarding the lack of heat of the Kyrouz Auditorium was a situation that needed resolving before the next meeting of the Council.

ADJOURNMENT:

MOTION: It was moved, seconded and voted UNANIMOUSLY to adjourn the City Council Meeting at 8:21 p.m.

Respectfully submitted,

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