

**GLOUCESTER CITY COUNCIL MEETING
TUESDAY, March 30, 2010
7:00 P.M.
Kyrouz Auditorium – City Hall
Council Meeting 2010-008**

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

Absent: None.

Also Present: Jim Duggan; Jeff Towne; Linda T. Lowe; March Cole; Gregg Cademartori; Donna Compton; Rick Noonan

City Council Meeting 2010-008 was called to order at 7:00 p.m.

Flag Salute and Moment of Silence

Oral Communications:

Captain Tom LoGrande, Gloucester Fire Department, past president of Local 762 expressed concerns of many officers on the Fire Services staffing grant. He reviewed the concerns that he and members of the Department had regarding the grant, noting he spoke at a previous City Council meeting on March 2nd. He attempted to speak at a Budget & Finance Committee meeting in February on the matter of the grant when it was in front of the Committee but was unable as it was not open to public comment. He hasn't received a response to his previous comments under Oral Communications over a four week period from the Administration and requests that under Article 1, 2-6 of the City Charter [note: Article 2, sec. 6(c) of City Charter] the City Council exercise their powers to compel a response from the City. The continuing concerns they have are the failure to adhere to M.G.L. Chapter 150E, sec. 7; using the grant money to fund a contract; pulling a salary out of an approved budget using grant monies to supplant those funds; and general concerns about this grant and any future grants that should the City not adhere to the grant parameters now. We all know how difficult the past few years have been, especially last year's budget cycle and contract negotiations. After the collective bargaining agreement was reached, it seemed for a brief moment perhaps we had turned a corner which presented opportunities for positive change and a new beginning. Government must maintain transparency and be responsive to its citizens or it loses legitimacy. When the people come to petition their government to redress a grievance, it should not fall on deaf ears. Thank you for your time.

Councilor Hardy asked a communication be sent by the City Clerk to the office of the Mayor regarding Capt. LoGrande's statements, asking for a response to the initial communication and this as well.

James Cooke, 622 Western Avenue noted he was here two weeks ago and spoke under Oral Communications regarding Magnolia Woods. He did not receive a response from the Administration or the Mayor's Office. He submitted a letter at that time. He would like this looked into why he has not heard anything. This issue is still there and with the amount of rain in the last 24 hours with virtually zero erosion control in place.

Councilor Hardy asked for and received unanimous consent to suspend the rules related to debate under Oral Communications for this particular matter.

Councilor Tobey stated that a response was received by the Council from the Engineering Office with a copy to the Council and not to Mr. Cooke. The City Clerk will get a copy to Mr. Cooke. The Administration did issue a cease and desist order yesterday. It will stop bringing any material into Magnolia Woods. There was an indication of the DPW dealing with the debris. He shared with the Council and the Administration regarding the 1995 order of the Board of Health about bringing in landfill. The Board of Health is aware of this. It is a work in progress. He appreciates the cease and desist order and to move forward with a completely satisfactory plan. It has been for sports use and a community garden to keep it in pristine shape, as a City Park that represents a \$6 million community investment. He lauded (the 1995) citizens advisory group. Councilor Verga and he asked the Administration to make a presentation at the April 13th City Council meeting.

Councilor Hardy instructed the City Clerk to send a communication to the Mayor that in the future any Oral Communication responses be included as part of the Mayor's packet to the City Council rather than getting communications rather than from all different departments within the City.

Phil Bouchie, President Gloucester Fire Fighters, related he had a letter before him from the Office of Emergency Medical Services suspending the rules for ALS staffing this evening because of the severe weather emergency. The Governor has declared a State of Emergency. 700 National Guardsmen are filling sandbags. Before he left his house this evening to come to City Hall, he checked the Gloucester Times website that showed Hesperus Avenue is flooded; Magnolia Avenue under the train bridge is flooded; Maplewood Avenue is flooded. There doesn't seem to be the same sense of urgency in the City. He asked the Administration what criteria they are using to open the Bay View and Magnolia fire stations. It's not easy to get to Magnolia right now. All you need to do is look out the window and see the urgency tonight.

Councilor Hardy stated according to the Council Rules you will receive a response to this through the office of the Mayor's in two weeks.

Councilor Theken stated given Mr. Bouchie's comments she wished to formulate an Emergency Order which she would do later in the evening.

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

Consent Agenda:

• **MAYOR'S REPORT**

1. Special Budgetary Transfer Request (#10-26) from Police Department (refer B&F)
2. Special Budgetary Transfer Request (#10-27) from Fire Department (refer B&F)
3. Memo from DPW Director re: acceptance of \$49,000 Grant from Mass DEP for Water Loss Prevention (#08-24/WCG) (refer B&F)
4. Grant Application and Checklist from Health Dept. re: Grant from Mass EOEEA Division of Ecological Restoration-Dept. of Fish and Game and US Fish and Wildlife Service (refer B&F)
5. Grant Application and Checklist from Fire Dept. re: Assistance to Firefighters Grant from Dept. of Homeland Security-FEMA
6. Report from City Auditor re: Accounts having expenditures which exceed their appropriations (refer B&F)
7. Memo from CAO re: Service Incentive Grant for the Senior Center (refer B&F)
8. New Appointments:

Abdullah Khambaty	EDIC	(TTE 02/14/2013)	(refer O&A)
Nancy E. Goodick	Historic District Commission	(TTE 02/14/2011)	(refer O&A)
Steven Phillips	Conservation Commission	(TTE 02/14/2013)	(refer O&A)
9. Reappointments:

Mary John Boylan	Affordable Housing Trust	(TTE 02/14/2012)	(refer O&A)
Mary E. Cooke	Affordable Housing Trust	(TTE 02/14/2012)	(refer O&A)
George Sibley	Affordable Housing Trust	(TTE 02/14/2012)	(refer O&A)
Joseph Rosa	Board of Health	(TTE 02/14/2013)	(refer O&A)
Donald Fryklund	Capital Improvement Adv.Bd	(TTE 02/14/2013)	(refer O&A)

Jill Buchanan	Clean Energy Commission	(TTE 02/14/2012)	(refer O&A)
Michelle Dyer	Clean Energy Commission	(TTE 02/14/2012)	(refer O&A)
Linda Stout-Saunders	Clean Energy Commission	(TTE 02/14/2012)	(refer O&A)
Daniel Morris	Comm. Preservation Comm.	(TTE 02/14/2013)	(refer O&A)
Stacy Randell	Comm. Preservation Com.	(TTE 02/14/2013)	(refer O&A)
John Feener	Conservation Commission	(TTE 02/14/2013)	(refer O&A)
Ann Jo Jackson	Conservation Commission	(TTE 02/14/2013)	(refer O&A)
Irving (Hank) Camille	Council on Aging	(TTE 02/14/2013)	(refer O&A)
Helen Lima	Council on Aging	(TTE 02/14/2013)	(refer O&A)
Kathie Gilson	Downtown Dev. Commission	(TTE 02/14/2013)	(refer O&A)
Tobe Shanok	Downtown Dev. Commission	(TTE 02/14/2013)	(refer O&A)
Robert K. Whitmarsh, Jr.	Downtown Dev. Commission	(TTE 02/14/2013)	(refer O&A)
Paul Shea	Historical Commission	(TTE 02/14/2013)	(refer O&A)
Ian Lane	Historical Commission	(TTE 02/14/2013)	(refer O&A)
Stephen Pardee	Historical Commission	(TTE 02/14/2013)	(refer O&A)
Russell Jacobs	Shellfish Adv. Commission	(TTE 02/14/2013)	(refer O&A)
Dan Molloy	Shellfish Adv. Commission	(TTE 02/14/2013)	(refer O&A)
Ann Jo Jackson	Shellfish Adv. Commission	(TTE 02/14/2013)	(refer O&A)
Debra Ryan	Tourism Commission	(TTE 02/14/2013)	(refer O&A)
Mona Faherty	Tourism Commission	(TTE 02/14/2013)	(refer O&A)
Anthony Bertolino	Traffic Commission	(TTE 02/14/2013)	(refer O&A)
Michael Mulcahey	Traffic Commission	(TTE 02/14/2013)	(refer O&A)
Michael Sanborn	Trust Fund Commission	(TTE 02/14/2013)	(refer O&A)
John Fleming	Trust Fund Commission	(TTE 02/14/2013)	(refer O&A)
Robert Stewart	Zoning Board of Appeals	(TTE 02/14/2013)	(refer O&A)

- **INFORMATION ONLY**

1. Letter from FEMA re: Digital Flood Insurance Rate Maps and Flood Insurance Study Report (Info Only)

- **APPROVAL OF MINUTES**

1. City Council Meeting 03/16/2010 (Approve/File)
2. Special City Council Meeting 03/17/2010 (Approve/File)
3. Standing Committee Meetings: O&A 03/22/2010, P&D 03/24/2010, B&F 03/25/2010 (Under separate cover) (Approve/File)

- **COMMUNICATIONS**

1. COM0210-017: Letter from Katrina Sukola, Vice Chair, Surfrider Foundation re: MA Bottle Bill (Info Only)
2. COM2010-018: Request form Wm."Billy"Goulart to amend GCO Article II "Hawkers And Peddlers" regarding vendors (refer O&A)

- **ORDERS**

1. CC2010-013 (Mulcahey) Amend GCO Sec. 22-269"Stop Intersections" re: Intersection of Smith St. and Maplewood Avenue (refer O&A &TC)
2. CC2010-014 (Mulcahey) Amend GCO Sec. 22-269"Stop Intersections" re: Intersection of Shepherd Street and Maplewood Avenue (refer O&A &TC)
3. CC2010-015 (Ciolino/Mulcahey) Amend GCO Sec. 22-290"Parking meter zone-Off Street parking areas" re: Manuel F. Lewis Road (refer O&A, TC & Police Dept.)
4. CC2010-016 (Verga) Request filed with City Clerk's Office on March 19, 2010 re: Lot on corner of Concord Street and Rt. 128 (refer PB & P&D)
5. CC2010-017 (Hardy) Amend GCO Sec. 22-291 "Tow-away zone" re: Hickory Street (refer O&A & TC)
6. CC2010-018 (Hardy) Amend GCO Sec. 22-291 "Tow-away zone" re: Sawyer Avenue (refer O&A & TC)

Items to be Removed/Added to the Consent Agenda:

Councilor Ciolino asked to remove under "Approval of Minutes" Item #3, P&D 03/24/2010

Consent Agenda was approved by unanimous consent.

Councilor Ciolino stated under Approval of Minutes, Item #3 P&D 03/24/2010, the minutes should be amended as follows:

On Page 1 of 17, first motion, to amend GZO re: 2.2.1: "...the City Council..." should read, "the Planning & Development Committee...to recommend to the City Council..."

On Page 3 of 17, Motion to amend 5.8.2 is enumerated "A), G), H, I)", and should be enumerated "A), B), C), and D).

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga , the City Council voted unanimously 9 in favor, 0 opposed to amend the minutes of the Planning & Development Meeting of March 24, 2010.

By unanimous consent these items were referred out to the City Council Standing Committees as follows:

- CC2010-019 (Hardy/Verga) Shifting of appropriate private streets onto the public street ledger and to establish the process, application forms, criteria etc. by working in conjunction with the DPW Director, City Engineer, and appropriate City departments according to City and State regulations so as to facilitate a wider base of public streets to recover more Chapter 90 monies for the City. Further that the Planning and Development Department report back to the council on a quarterly basis to the full council as to the ongoing status of this undertaking.
- CC2010-020 (Hardy/Theken/Ciolino/Verga/Mulcahey/Curcuru/McGeary) Scheduling of Joint Meeting of Inspector of Buildings, Electrical Inspector; DPW Director and any other related City Departments as well as with National Grid, Verizon, Cable TV and any other utility companies (or their agents) that have overhead wires, cables, and or underground conduits running to or from utility poles throughout the City of Gloucester in an effort to devise and commit to a plan and or a policy by which the utility companies will begin the **removal of double poles** throughout the City of Gloucester and further that the Planning & Development Committee report back to the full City Council quarterly as to the progress of said removals.

Scheduled Public Hearings:

1. **PH2010-013: CC2010-003 (Mulcahey) Amend GCO Sec. 22-269 "Stop Intersections" re: Flanagan Square**

Councilor Hardy opened and continued the public hearing to the April 13, 2010 City Council meeting.

2. **PH2010-014: Amend GCO Appendix C, the "Personnel Ordinance", Article 4 "Classification and Compensation Plans" re: classification of Auditor to M10 and reclassification of CFO to M12**

This public hearing was opened and noted to be duly advertised; and it was read by the City Clerk into the record.

Those speaking in favor:

Mr. Duggan addressed the City Auditor's grade change first. The message was for both positions, because the financial team and the financial stability of the City are so important. To bring someone on in the Auditor's office strong in education and experience with no learning curve whatsoever is also important. The personnel there have been working very hard. They deserve strong leadership. The Administration supports the move of the grade to an M10 from an M8.

Mr. Towne offered his assistance in the search for a new City Auditor and enumerated his some justifications for the grade change which included:

- Communities around the State average this pay range;

- Ability to have a City Auditor who can look at the overall picture of the City working hand-in-hand with the Treasurer/Collector/Chief Financial officer on the overall the financial picture to assure the financial health of the City;
- Balancing the General Ledger, a critical function, to be done monthly in order that revenues will be timely and reported accurately.

Those speaking in opposition: None.

Communications: None.

Questions: None.

The portion of the public hearing related to the Chief Financial Officer remained opened.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget and Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to upgrade the position of City Auditor to M10 pay grade with a salary range of \$81,465.93 to \$96,374.25.

Discussion:

Councilor Curcuru stated with B&F being in charge of the Auditor's Office. A lot of times what happens in these positions that doesn't fit the criteria that the City is looking for because the pay grade as it is currently doesn't attract the high quality of experienced individuals needed to fulfill the duties of the position. Conversely, if we do get someone in who is qualified and improves greatly on the job, we end up losing them because, again, the pay is too low. He is 100% in support of this tonight.

Councilor Ciolino related he and Councilor Curcuru participated in the selection of the last City Auditor and noted the problems with the lack of qualified candidates because the pay scale was low then. None had municipal experience except for the person who was eventually hired. The City Auditor works for this Council with the City Clerk. They are our eyes and ears; a checks and balance system. We need someone in that office that knows the DOR regulations and can work in tandem with the Treasurer. The office needs to be better, and to do that we need to raise the pay scale.

Councilor Whynott will not support this. Over the past years he has done research on the pay scales on Auditors and Clerks. He didn't feel it was a question of money right now. The fact that you don't get people with municipal experience applying is maybe there is no one close by who wants to move. If you do get someone that does a great job, then it would warrant changing the pay scale at that time. Making it higher is the wrong way to go.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted by roll call vote 8 in favor, 1 opposed (Whynott) to upgrade the position of City Auditor from pay grade M8 to pay grade M10.

Speaking in favor of the increase in pay grade of the Chief Financial Officer:

Mr. Duggan didn't want to personalize the position and look at the position as it stands. Clearly we have witnessed over the last 18 months the strength of our CFO, Mr. Towne. He believed the collective goal is to mirror that strength in what you just passed to get a strong City Auditor and to retain them. What we need in a strong CFO who

- can look at collection rates on taxes: water, sewer, parking tickets, excise tax, and be able to take action to improve it if necessary and stay on top of those collections which result in funds available to support needed City services.
- Handle a total of \$145 million in total debt, including estimating the annual budgets for General, Betterment, Water and Sewer Funds. In addition, there is the annual reporting requirement which has to be accomplished and submitted.

- Help seek out funding sources such as ARA, SRF funding and also be able to draw down in a timely manner on these funds to pay for all capital projects that are on-going.
- create and manage the City's budget. He has to be able to manage almost \$100 million annually. They need to maximize investment income and analyze the financial condition of the City and plot a 'road map' for the improvements.

We have challenged this existing CFO by taking on three positions, that of Treasurer, Collector and CFO. In addition, he has direct reports of 20 employees and supervises Purchasing, IT, and the Assessor's Office. He urged the City Council to support this upgrade.

Speaking in opposition: None.

Communications: None.

Questions:

Councilor Theken stated they have to personalize this. This job is filled. The current CFO took the position at that original pay grade. Why do you feel they need to give a three step grade increase? What has he saved the City and why she should support this pay grade increase.

Mr. Duggan stated as a direct result of Mr. Towne's actions, \$1.2 million in funds was retrieved owed from the State since 2002-2003, working with fiscal analysts to reconcile back to 1999. He received a \$10,000 grant from the State to run a Title V program. He recovered an IRS fine that had been paid prior to Mr. Towne's arrival. Six months later he went back to the IRS and got a \$40,000 fine plus interest paid back to the City. At first he was stonewalled, but was persistent and worked very well with the City Solicitor in making sure this came to fruition. He worked with the financial advisor to have over \$25 million in debt qualified and State qualified bonds, which uses the Commonwealth's bond ratings rather than the City's to issue debt which also results in savings. Collection rates are at an all-time high. Mr. Towne sought out an attorney who specializes in collections; and he has brought in \$1.3 million in tax arrearage that were in tax title since his hiring.

Councilor Whynott what are the grades of the DPW director, Fire Chief, PD Chief and himself.

Mr. Duggan stated they're M10 and he is a Grade M9.

The public hearing was closed.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to upgrade the position of the Chief Financial Officer of the City of Gloucester from Grade M9 to Grade M12 with a salary range of \$98,239.14 to \$116,252.01.

Discussion:

Councilor Theken stated she originally had difficulty in the jump in grades. She reviewed grades and salaries in other communities and looked at the job description. She felt Mr. Towne has done far beyond what anyone could have expected and has brought in remarkable income to the City. She will support this upgrade this evening. All who work for the City are all underpaid, but if we continue to support this gentleman perhaps we can get City employees a little something the next time around.

Councilor Ciolino stated he can't remember how many CFO's have gone through the revolving door. The interim by the time another person is hired and up to speed, it seems like any forward step becomes two steps backward. This is an opportunity to put a wedge in that revolving door and have a pay scale appropriate to the position. Let's hope whoever is in that office stays a long time.

Councilor Whynott will support this. Unlike the Auditor's position, this CFO position is well defined. It is up there at the top. We have a great one here and we don't want to lose him. He's not saying he will support.

Councilor Verga stated he, too, will support this. The key is retaining City staff. The examples Mr. Duggan cited show we got our money's worth.

Councilor Curcuru agrees with his colleagues. He has had the opportunity to work with Mr. Towne and thanked him for the job he's doing and will support this.

Councilor Tobey stated this isn't about the individual holding the job. He can take the long view of 9 years while Mayor, there were five CFO's. It was a good example of how Gloucester is viewed everywhere else. We pay low. When folks get an opportunity to jump they will. We are a great training ground. Both of these positions are getting the focus and attention they deserve. He hoped the flood gates do open. We can live cheap, but we'll never realize the potential for greatness that we should be achieving.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by roll call 9 in favor, 0 opposed to reclassify the position of Chief Financial Officer from an M9 to an M12 pay grade.

3. PH2010-0115: Proposed changes to Beach and Stage Fort Park Regulations pursuant to Sec.7-16 of the City Charter and any amendments to relevant sections in the Gloucester Code of Ordinances

This public hearing was opened and noted to be duly advertised; and it was read by the City Clerk into the record.

Those speaking in favor:

Mr. Cole, DPW Operations Manager stated that he and Mr. Parks had worked on these, continuing to tighten up the language and take out the confusion. There are very few changes.

Thos speaking in opposition: None

Communications: None.

Questions:

Councilor Tobey asked Mr. Cole stating the beaches in the City generate a significant revenue stream, for which residents must pay. Some folks have suggested diminishing that fee or replacing it all together, like in Cape May, NJ, where folks pay to go on the beach; and you have a tag you have to wear. Then there would be a way to get revenue for walk-ons.

Mr. Cole stated he would like to make a couple of site visits to see how that would work and see then how they could do something similar.

Councilor Ciolino wished to take one item out for debate and to take out Item #2 stickers, Section C, senior Citizen stickers.

Councilor Theken stated that wasn't up for change and wasn't discussed and was not a part of the public hearing. It was changed last year.

Councilor Ciolino felt they could do this now and not advertise that item.

Councilor Theken reiterated it wasn't up for discussion. It was passed by the last City Council. That wasn't a part of the discussion because it's not up for changes. All the new changes were taken up at O&A and that wasn't done.

Mr. Cole stated the \$5 fee for senior stickers were done last year and goes into effect in 2011. It would be pro-rated over the five year period but was voted in one year ago.

Councilor Ciolino responded there's a document in front of us and we can't change any thing on it.

Councilor Tobey stated the Clerk could confirm this for us. On rules, regulations and fees, it is for the DPW to propose; we vote up or down. It is a function only the Administration can change and bring forward.

Councilor Theken reiterated Councilor Tobey's comments.

Councilor Whynott agreed with Councilor Tobey and Theken.

Councilor Hardy and Theken clarified the changes of the Beach and Stage Fort Park Regulations to be voted upon.

MOTION: On motion of Councilor Curcuru, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council approval of the

proposed changes to the Beach and Stage Fort Park Regulations pursuant to Section 7-16 of the City Charter and any amendments to relevant sections in the Gloucester Code of Ordinances.

Discussion: None.

MOTION: On motion of Councilor Theken, seconded by Councilor Mulcahey, the City Council voted by roll call 9 in favor, 0 opposed to approve the proposed changes to the Beach and Stage Fort Park Regulations pursuant to Section 7-16 of the City Charter and any amendments to relevant sections in the Gloucester Code of Ordinances.

4. PH2010-016: Amend GCO Sec. 22-292 “Fire Lanes” re: Commercial Street

This public hearing was open.

Those speaking in favor: None.

Thos speaking in opposition: None.

Communications: None.

Questions:

This public hearing is closed.

Discussion:

Councilor Theken stated the Traffic Commission supported this as did the O&A Committee.

Councilor Mulcahey noted she put in this Order, and spoke about the trailer trucks being backed up on the street. She felt it imperative before the summer comes when there is even more congestion in that area that this change be made.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend GCO Sec. 22-292 “Fire Lanes” by adding “Commercial Street, northeasterly side from a point at the southeasterly corner of the intersection with Fort Square (pole #3707) at the entrance to Ocean Crest Fisheries to a point 100 feet southeasterly there from the length of the concrete wall with the sign to be facing south towards the ice company.

MOTION: On motion by Councilor Theken, seconded by Councilor Mulcahey, the City Council voted by roll call vote 9 in favor, 0 opposed to amend GCO Sec. 22-292 “Fire Lanes” by adding “Commercial Street, northeasterly side from a point at the southeasterly corner of the intersection with Fort Square (pole #3707) at the entrance to Ocean Crest Fisheries to a point 100 feet southeasterly there from the length of the concrete wall with the sign to be facing south towards the ice company.

5. PH2010-017: Amend GCO Sec. 22-270 “Parking Prohibited at All Times re: Commercial Street

This public hearing was open.

Those speaking in favor: None

Thos speaking in opposition: None

Communications: None

Questions: None

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the Ordinances & Administrative Committee voted 3 in favor, 0 opposed to amend GCO Sec. 22-270 (Parking Prohibited at All Times) by

deleting "Commercial Street, northeasterly side, from a point at the southeasterly corner of the entrance to Progressive Oil to a point 100 feet in a southerly direction.

Discussion:

Councilor Whynott suggested that in the future we not use names of businesses or buildings but rather should consider metes and bounds.

Councilor Theken agreed.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by roll call 9 in favor, 0 opposed to amend GCO Sec. 22-270 (Parking Prohibited at All Times) by deleting "Commercial Street, northeasterly side, from a point at the southeasterly corner of the entrance to Progressive Oil to a point 100 feet in a southerly direction.

6. PH2010-018: Amend GCO Sec. 22-287 re: one handicapped space across from 11 School Street

This public hearing was open.

Those speaking in favor: None

Thos speaking in opposition: None

Communications: None

Questions: None

This public hearing was closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council amend Sec. 22-287 (Handicapped Parking) to include a handicapped space across from 11 School Street with a sign on pole #4721 with an arrow point up School Street (north) and an additional sign placed on the same pole with an arrow pointing toward the fire station (south) that reads, "No Parking Here to Corner".

Discussion:

Councilor Theken stated the applicant came to the Traffic Commission and to O&A and explained that the "No Parking Here to the Corner" was to assist the applicant. All of the appropriate documentation had been presented to obtain the handicapped parking space.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by roll call 9 in favor, 0 opposed to amend Sec. 22-287 (Handicapped Parking) to include a handicapped space across from 11 School Street with a sign on pole #4721 with an arrow pointing up School Street (north) and an additional sign placed on the same pole with an arrow pointing toward the fire station (south) that reads, "No Parking Here to Corner".

7. PH2010-019: Amend GCO Article VI Finance, Division 2, Section 2-577 re: Bidding requirements for designer services

This public hearing was open.

Those speaking in favor:

Donna Compton, Purchasing Agent stated changing this ordinance would keep the City consistent with the Massachusetts General Laws.

Those speaking in opposition: None.

Communications: None.

Questions: None

This public hearing was closed.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council Article VI Finance, Division 2, Section 2-577 be amended by deleting the bidding requirements for designer services and adding Article VI Finance, Division 2, Section 2-577: The purchasing agent shall keep a record of all contracts entered into by any department of the City for designer services. The purchasing agent shall provide the record to the City Council on a semi-annual basis.

Discussion:

Councilor Theken noted that this was done purposely as they understand State law and wanted to make sure that the bidding process was kept on the up and up; that there was a method of checks and balances. They did go with the purchasing agent to report on a semi-annual basis to the City Council for better record keeping.

Councilor Tobey added it is really not accurate that our requirement is inconsistent to the M.G.L., it supplements it. He noted the previous purchasing agent's methods. There were concerns that previous engineering contracts were being awarded without rigorous process that State law called for and that the same firm kept getting contracts. Legally it was correct, but was it right? It is his sense that the O&A Committee felt they could live with the current requirement going away as long as there was some accounting done so folks could see for themselves if there were any dubious patterns or awards, which is why this is before the Council.

Councilor Hardy was concerned regarding competition. The previous ordinance assured competitive bidding. There is still competition. This is on the engineer design bids only.

Councilor Tobey stated it was meant to deal with engineering. Would this impact competition – on engineering it will impact for small contracts.

Councilor Hardy felt more comfortable with more competition.

Ms. Compton stated they can do RFP's for engineering services. This adds a few months to the procurement process. It takes six months to make the plans, specs, to design the projects. When we're not in a hurry for a project, we can add the time for it.

Councilor Hardy stated this seems to save time in the office to make sure we get competitive bids when this was put in place in July of 2006. She doesn't feel she can vote for this.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by roll call 7 in favor, 2 opposed (Tobey, Hardy) that Article VI Finance, Division 2, Section 2-577 be amended by deleting the bidding requirements for designer services and adding Article VI Finance, Division 2, Section 2-577: The purchasing agent shall keep a record of all contracts entered into by any department of the City for designer services. The purchasing agent shall provide the record to the City Council on a semi-annual basis.

Committee Reports:

With permission from the Chairs of the Standing Committees, the Committee Reports were taken out of order and instead were taken as follows: Budget & Finance, Planning & Development and then Ordinances and Administration.

Ordinances & Administration Committee: March 22, 2010

No action items on motions to carry forward to the Council.

Planning & Development Committee: March 24, 2010

Councilor Ciolino reviewed for the Council the history of the situation now undertaken below.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Zoning Ordinances, Section 2.2.1 by adding the following sentence at the end of the section:

“New, or expansion of, commercial, industrial uses and other site alterations, may be subject to Site Plan Review. See Section 5.8 for applicability.”

Discussion:

Councilor Hardy noted for any Councilors that Mr. Cademartori is available for questions.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted by roll call unanimously 9 in favor, 0 opposed to amend the Gloucester Zoning Ordinances, Section 2.2.1 by adding the following sentence at the end of the section:

“New, or expansion of, commercial, industrial uses and other site alterations, may be subject to Site Plan Review. See Section 5.8 for applicability.”

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Zoning Ordinances, Section 2.3 Use Tables by changing the allowance of uses in the MI district as follows:

Section	Use	Current	Proposed
2.3.2(14)	Airport, heliport	CCS	N
2.3.3(1)	Agriculture, horticulture, floriculture on lots < 5 acres	Y	N
2.3.3(3)	Sale of products grown pursuant 3.2.3(1&2)	Y	N
2.3.4(10)	Motor vehicle sales or rental	Y	N
2.3.4(11)	Motor vehicle service, fueling, storage or repair	CC	N
2.3.4(13)	Marine related service, storage, or repair limited in the MI primarily commercial vessels and recreational vessels	CC	Y
2.3.4(26)	Facilities for water transportation loading and unloading	-	Y
2.3.7(2)	Parking or storage of agricultural machinery used on the premises	Y	N

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by roll call 9 in favor, 0 opposed to amend the Gloucester Zoning Ordinances, Section 2.3 Use Tables by changing the allowance of uses in the MI district as follows:

Section	Use	Current	Proposed
2.3.2(14)	Airport, heliport	CCS	N
2.3.3(1)	Agriculture, horticulture, floriculture on lots < 5 acres	Y	N
2.3.3(3)	Sale of products grown pursuant 3.2.3(1&2)	Y	N
2.3.4(10)	Motor vehicle sales or rental	Y	N
2.3.4(11)	Motor vehicle service, fueling, storage or repair	CC	N
2.3.4(13)	Marine related service, storage, or repair limited in the MI primarily	CC	Y

	commercial vessels and recreational vessels		
2.3.4(26)	Facilities for water transportation loading and unloading	-	Y
2.3.7(2)	Parking or storage of agricultural machinery used on the premises	Y	N

The City Council voted to amend and approve each of the use table items individually as follows:

- 2.3.3(3) by roll call vote: 9 in favor, 0 opposed. Motion to amend passes.
 2.3.4(10) roll call vote: 9 in favor, 0 opposed. Motion to amend passes.
 2.3.4(11) roll call vote: 9 in favor, 0 opposed. Motion to amend passes.
 2.3.4(13) roll call vote: 9 in favor, 0 opposed. Motion to amend passes.
 2.3.4(26) roll call vote: 9 in favor, 0 opposed. Motion to amend passes.
 2.3.7(2) roll call vote: 9 in favor, 0 opposed. Motion to amend passes.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by roll call vote 7 in favor, 2 opposed (Theken, Mulcahey) to amend the Gloucester Zoning Ordinances, amending Section 2.3 by replacing the existing text of footnote number one, applying to the MI district, with the following:

“(1) In the MI District, Supporting Designated Port Area (DPA) Uses, as defined in 310 CMR 9.02, shall not in the aggregate occupy more than 50% of the ground level area on filled tidelands and uplands of a lot within the DPA. Such uses shall also be subject to dimensional requirements of 310 CMR 9.0. Within the water-dependent use zone, as defined in 310 CMR 9.02, in the MI District no use shall be permitted unless it provides access to water-borne vessels.”

MOTION: On motion by Councilor Verga, seconded by Councilor Whyntott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Zoning Ordinances, Section 5.5 Lowland Requirements replacing existing sections 5.5.1 and 5.5.4 with the following:

5.5.1

No person shall remove, fill, dredge or build upon any bank, marsh, swamp, or flat bordering on coastal or inland waters or any other land subject to tidal action or coastal storm flowage without a special permit from the City Council. Such permit shall be issued only upon determination that the requirements of the *Wetlands Protection Act* (G.L. Ch. 131, Sec. 40) and the Gloucester Wetlands Ordinance have been satisfied, and that such removal, filling, dredging or construction will not pose a hazard to health or safety and will be so executed as to conserve the shellfish and other wildlife resources of the City.

5.5.4

Sections 5.5.1 through 5.5.3 shall not apply to commercial or industrial projects bordering Gloucester Harbor north and east of a line from the mouth of the Blynman Canal to the intersection of Farrington Avenue and Eastern Point Boulevard.

Discussion:

Councilor Ciolino stated his understanding that in the MI if someone comes up for a project, the lowlands requirements won't be coming before the City Council.

Mr. Cademartori stated for commercial and industrial projects. Residential uses, if they exist now in the MI district, or in the DPA, they would have to continue to come before the Council for a special permit.

Councilor Ciolino believes that the City Council is giving up a right.

Mr. Cademartori responded that the City Council would be giving up the administrating of a Special Council Permit. This is an area they're trying to promote [43D] re-development and to shorten the timeframe of the permitting process; and it could be a redundant review.

Councilor Ciolino noted the Council is giving up a right; but when it does come before Planning & Development and the Council two things that we really look at are: does it fulfill the requirements of the wetland protection act and is it signed off [approved] by the Shellfish Warden. He further commented that P&D rubber stamps it anyway if those two agents approve.

Councilor Theken noted that she doesn't rubber stamp anything and doesn't know who else does. She was grateful the Council was here when they took up the dredging of the Harbor. She doesn't agree that the Council should give up the right. She won't rubber stamp anything.

Councilor Mulcahey stated she felt uncomfortable that this is the waterfront, and we are responsible and be accountable to the City.

Councilor Hardy having been on P&D for four years, never once did she see a lowlands permit that hadn't been fully and totally vetted by the Conservation Commission, the Shellfish Warden, and the Planning Department. She will support this.

Councilor Ciolino reminded the Councilors, we sat in the charette for the harbor plan to make the process a lot easier and much more efficient and this is what we are doing here tonight. These came out of the charette for the Harbor Plan. They want the harbor to be developed and useful in a methodical way; but to have unnecessary meetings.

Councilor Tobey was going to change is vote and will not support this. He didn't think the Council review processes are a burden. This affords the most open forum for the public to weigh in on matters. This removal may serve to diminish transparency. That's probably as true on this matter and one taking up later on public notice on site plan reviews and will vote no.

Councilor Whynott will support this that we need to be more business friendly in the State as well as the City. He will support this.

Councilor McGeary will come down on the side of having another set an eyes on this; it will not be an undue burden on developers and will not support this.

Councilor Theken noted she's been on the Charettes and said this is dredging our ocean and doing it properly and where it's going to be put. She's been on the waterfront for a long time and been on both sides. She felt there needs to be another set of eyes. Things take time when there are questions, and it's important to have them answered.

Councilor Hardy asked as relates to "dredging" what extra set of eyes would be focused on this.

Mr. Cademartori stated that if it is about the dredging issue alone, the language for the exemption can be modified, but in terms of timelines, one of the ones for development on the harbor that is out of the hands of the City is the Chapter 91 license process. If someone is rebuilding or redesigning a pier that requires a new license, they can't apply for it until they have a municipal sign off from the Building Inspector. Very often that they need from this municipality on redeveloping a pier and has a six or 9 month process with the State for re-licensing they come into our office, they're told they have to satisfy that first before Mr. Sanborn signs off on their application, when it's already gone through ConCom and they can't file simultaneously, that's the type of project this was intending to get through the process quicker, so they can go through the rigorous process of the Chapter 91 licensing. If it's more about dredging they can address it.

Councilor Theken asked what project took two years.

Mr. Cademartori stated they have to apply for the special permit. They might not get to the point to construct for over a year.

Councilor Tobey asked Mr. Cademartori to name a single project that hasn't occurred because of a special council permit requirement.

Mr. Cademartori referenced a project off of Hesperus Avenue.

Councilor Tobey asked him to name one in the MI zone.

Mr. Cademartori stated in a five year period he can't name any.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by roll call vote 5 in favor, 4 opposed (Theken, Tobey, McGeary, Mulcahey) to amend the Gloucester Zoning Ordinances, Section 5.5 Lowland Requirements replacing existing sections 5.5.1 and 5.5.4 with the following:

5.5.1

No person shall remove, fill, dredge or build upon any bank, marsh, swamp, or flat bordering on coastal or inland waters or any other land subject to tidal action or coastal storm flowage without a special permit from the City Council. Such permit shall be issued only upon determination that the requirements of the *Wetlands Protection Act* (G.L. Ch. 131, Sec. 40) and the Gloucester Wetlands Ordinance have been satisfied, and that such removal, filling, dredging or construction will not pose a hazard to health or safety and will be so executed as to conserve the shellfish and other wildlife resources of the City.

5.5.4

Sections 5.5.1 through 5.5.3 shall not apply to commercial or industrial projects bordering Gloucester Harbor north and east of a line from the mouth of the Blynman Canal to the intersection of Farrington Avenue and Eastern Point Boulevard.

MOTION FAILS

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Zoning Ordinances, Section 2.3.5 Use #5 by adding the following footnote to be numbered #3:

“No trailer truck park shall be located within 100 feet from the lot line of an established residence in a residential zone, and such potential development must be assessed in terms of its impact on the environment.”

Discussion:

Councilor Ciolino noted there needs to be some distance from a trailer truck park area.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by roll call vote 9 in favor, 0 opposed to recommend to amend the Gloucester Zoning Ordinances, Section 2.3.5 Use #5 by adding the following footnote to be numbered #3:

“No trailer truck park shall be located within 100 feet from the lot line of an established residence in a residential zone, and such potential development must be assessed in terms of its impact on the environment.”

After general discussion by the Council as to the proper motion that should be currently in front of the Council (which is the amended P&D motion that survived the Committee) for voting by the Council.

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Zoning Ordinances, Section 5.8 by replacing the existing text with the following Site Plan Review ordinance:

5.8 Site Plan Review

5.8.1 Purpose

The purpose of this section is to facilitate individual detailed review of development proposals which have an impact on the natural or built environment of the City in order to promote the health, safety and general welfare of the community; to ensure adequate parking, safe and accessible pedestrian and vehicular circulation; and to minimize traffic impact on city streets.

5.8.2 Applicability

The following types of activities and uses require site plan review by the Planning Board:

- A) Any new industrial or commercial construction or expansion over two thousand (2,000) gross square feet, or any new or expanded industrial or commercial use which requires more than five (5) additional parking spaces;
- B) In the MI district and new industrial or commercial projects or additions, change of use, or project requiring a special permit or variance.
- C) The construction or creation of any new parking lot or the expansion, or redesign of any existing parking lot.
- D) Driveways in residential districts, which propose more than one curb cut.

5.8.3 Pre-Application

Applicants are invited to submit a pre-application sketch of proposed projects to the Planning Division and are encouraged to schedule a pre-application meeting with the Planning Director and the Inspector of Buildings.

5.8.4 Procedures

Applicants for site plan approval shall submit five (5) copies of the site plan and a digital copy including any supporting materials, to the Planning Board. Application materials shall be distributed to City departments their review and comment. The Planning Board shall review and act upon the site plan at a regularly scheduled meeting within forty five (45) days of the meeting after a project appears on a Planning Board agenda. The Planning Board may impose such conditions as may be deemed appropriate. The decision of the Planning Board shall be a vote of a majority of a quorum of the Planning Board. A written decision reflecting the vote of the Planning Board shall be filed with the City Clerk within 14 days of the vote.

No building permit or occupancy permit, for activities requiring site plan approval, shall be issued by the Inspector of Buildings without the written approval of the site plan by the Planning Board. Any work done in deviation from an approved site plan shall be a violation of this Ordinance. Approval of a site plan pursuant to Section 5.8 et seq. shall be in addition to any required special permit or other forms of relief as required by the Zoning Ordinance.

5.8.4.1 Relation of Site Plan Approval to Applications for Special Permit or Variance

Applications for projects requiring special permit or variance which also requires site plan approval, shall be accompanied by an approved site plan. In the alternative, any special permit or variance granted also requiring site plan approval shall contain the following condition:

“The work described herein requires the approval of a site plan by the Gloucester Planning Board pursuant to Section 5.8 of the Zoning Ordinance. Any conditions imposed in such site plan approval shall be incorporated herein by reference.”

5.8.4.2 Where the Planning Board approves a site plan with conditions, and said approved site plan accompanies a special permit or variance application to the City Council or Zoning Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance.

5.8.4.3 Where the Planning Board shall consolidate its site plan review with special permit procedures including but not limited to Major Project reviews.

5.8.4.4. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

5.8.4.5 No deviation from an approved site plan shall be permitted without approval of modifications by vote of the Planning Board.

5.8.4.6 Site plan approval does not constitute a certification that the proposed plan conforms to applicable zoning regulations, wetland regulations and/or any other City, State or Federal requirements that must be obtained prior to implementation of the elements of the site plan.

5.8.5 Preparation of Plans

Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"= 40'.

5.8.5.1 Plan Contents. Plan sheets prepared at a scale of one (1) inch equals forty (40) feet or such other scale as may be approved by the Planning Board. Composite plans may be submitted provided details can be easily analyzed. In the case of change of use permits with limited site alterations, the required submission of one or more plans may be waived by the Planning Board upon recommendation by City department staff. Minimum plan requirements shall be outlined on the Site Plan Review Application. The plans to be submitted are as follows:

(A) Site layout plan, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, general circulation plan for vehicles and pedestrians, drive-thru windows, curb cut locations, parking, fences, walls, walkways, outdoor lighting including proposed fixtures, loading facilities, solid waste storage locations, and areas for snow storage after plowing. The plan shall contain an inset locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the Planning Board.

(B) Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling storm water runoff drainage.

(C) Utility plan, which shall include all facilities for refuse and sewerage disposal or storage of all these wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas.

(D) Architectural plan, which shall include the ground floor plan, proposed exterior building materials, treatments and colors and architectural elevations of all proposed buildings and a color rendering where necessary to determine the proposal's affect on the visual environment. Such plan shall also include the design of any freestanding signs.

(E). Landscaping plan, showing the limits of work, existing tree lines as well as those tree lines to remain, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures during construction.

(F) Lighting plan, showing the location and orientation of all existing and proposed exterior lighting, including building and ground lighting. The plan shall note the height, initial foot-candle readings on the ground and the types of fixtures to be used.

5.8.5.2 The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

5.8.5.3 A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land or provide public access, and any other evidence necessary to indicate compliance with this ordinance.

5.8.5.4 The site plan shall be accompanied by drainage calculations by a registered professional engineer as well as wetland delineations, if applicable. Water utilities, sewer infrastructure and stormwater drainage shall be design to conform to Gloucester Subdivision Rules and Regulations and standards of the Department of Public Works.

5.8.5.5 Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

5.8.6 Waivers

The Planning Board may, upon written request of the applicant and recommendation by City department staff, waive any of the submittal or technical requirements of Section 5.8.5 where the project involves relatively simple development plans.

5.8.7 Review Guidelines and Approval

Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant to promote these objectives. New building construction or other site alteration shall be designed in the Site Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as follows:

A) A reasonable effort shall be made to conserve and protect natural features that are of some lasting benefit to the site, its environs and the community at large.

B) Slopes, which exceed ten (10%) percent, shall be protected by appropriate measures against erosion, runoff, and unstable soil, trees and rocks. Measures shall be taken to stabilize the land surface from unnecessary disruption. Such stabilization measures shall be the responsibility of the property owner.

C) The placement of buildings, structures, fences, lighting, signs, and fixtures on each site shall not interfere with traffic circulation, safety, appropriate use and enjoyment of adjacent properties. Adequate illumination shall be provided to parking lots and other areas for vehicular and pedestrian circulation. All illumination shall be directed and/or shielded so as not to shine beyond the perimeter of the site or interfere with traffic.

- D) All areas designed for vehicular use shall be paved with a minimum of either a three (3") inch bituminous asphalt concrete, a six (6") inch Portland cement concrete pavement, or other surface, such as brick, cobblestone or gravel, as approved by the Department of Public Works.
- E) All parking spaces shall be arranged and clearly marked in accordance with the design and layout standards contained in Section 4.14 of the Zoning Ordinance.
- F) All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical and telephone lines, shall, whenever practicable, be placed underground.
- G) All surface water runoff from structures and impervious surfaces shall be disposed of on site; but in no case shall surface water drainage be across sidewalks or public or private ways. In no case shall surface water runoff be drained directly into wetlands or water bodies. Drainage systems shall be designed to minimize the discharge of pollutants by providing appropriately designed vegetated drainage channels and sedimentation basins that allow for adequate settling of suspended solids and maximum infiltration. Dry wells, leaching pits and other similar drainage structures may be used only where other methods are not practicable. Oil, grease, and sediments traps to facilitate removal of contaminants shall precede all such drainage structures. All calculations shall be for a one hundred (100) year storm. Drainage design shall be in accordance with Department of Public Works regulations as amended.
- H) In the MI district development proposals shall comply with the standards and requirements with regard to the placement and dimensions of structures as regulated by G.L. c.91 and 310 CMR 9.00 et seq.
- I) Pedestrian safety and vehicular safety to and from the site shall be maximized provided it does not interfere with the proposed use.
- J) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.
- K) Ensure compliance with the provisions of this Zoning Ordinance.
- L) Promote orderly and reasonable internal circulation within the site so as to protect public safety and not unreasonably interfere with access to a public way or circulation of pedestrian or vehicular traffic on a public way.

5.8.8 Lapse

Site plan approval shall lapse after one year from the final approval if a substantial use in accordance with such approved plans has not commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant, within this one year period.

5.8.9 Regulations

The Planning Board may adopt, and from time to time amend, reasonable regulations for the administration of this Site Plan ordinance.

5.8.10 Fee

The Planning Board may, from time to time, adopt reasonable administrative fees and technical review fees for site plan review.

5.8.11 Appeal

Any person aggrieved by a decision of the Planning Board rendered pursuant to section 5.8 may appeal such decision to the Zoning Board of Appeals as provided in G.L. c. 40A section 8."

Discussion:

Included were comments by Councilor Ciolino that section 5.8.2 had been amended previously during the consent agenda, P&D Minutes (see page 4 of 32 of these minutes), to include the new A), B), C), and D). Additionally, Councilor Ciolino commented that although the Planning Board recommended additional amendments related to new multiple family residential construction of three or more units, or expansion of existing multi-family residential structures resulting in the creation of one or more additional units and the new two-family dwellings with the exception of cluster developments, Planning & Development did not agree with those amendments and did not incorporate that part of the Planning Board recommendation into these amendments.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by roll call vote 9 in favor, 0 opposed to amend the Gloucester Zoning Ordinances, Section 5.8 by replacing the existing text with the following Site Plan Review ordinances:

5.8 Site Plan Review**5.8.1 Purpose**

The purpose of this section is to facilitate individual detailed review of development proposals which have an impact on the natural or built environment of the City in order to promote the health, safety and general welfare of the community; to ensure adequate parking, safe and accessible pedestrian and vehicular circulation; and to minimize traffic impact on city streets.

5.8.2 Applicability

The following types of activities and uses require site plan review by the Planning Board:

- A) Any new industrial or commercial construction or expansion over two thousand (2,000) gross square feet, or any new or expanded industrial or commercial use which requires more than five (5) additional parking spaces;**
- B) In the MI district and new industrial or commercial projects or additions, change of use, or project requiring a special permit or variance.**
- C) The construction or creation of any new parking lot or the expansion, or redesign of any existing parking lot.**
- D) Driveways in residential districts, which propose more than one curb cut.**

5.8.3 Pre-Application

Applicants are invited to submit a pre-application sketch of proposed projects to the Planning Division and are encouraged to schedule a pre-application meeting with the Planning Director and the Inspector of Buildings.

5.8.4 Procedures

Applicants for site plan approval shall submit five (5) copies of the site plan and a digital copy including any supporting materials, to the Planning Board. Application materials shall be distributed to City departments their review and comment. The Planning Board shall review and act upon the site plan at a regularly scheduled meeting within forty five (45) days of the meeting after a project appears on a Planning Board agenda. The Planning Board may impose such conditions as may be deemed appropriate. The decision of the Planning Board shall be a vote of a majority of a quorum of the Planning Board. A written decision reflecting the vote of the Planning Board shall be filed with the City Clerk within 14 days of the vote.

No building permit or occupancy permit, for activities requiring site plan approval, shall be issued by the Inspector of Buildings without the written approval of the site plan by the Planning Board. Any work done in deviation from an approved site plan shall be a violation of this Ordinance. Approval of a site plan pursuant to Section 5.8 et seq. shall be in addition to any required special permit or other forms of relief as required by the Zoning Ordinance.

5.8.4.1 Relation of Site Plan Approval to Applications for Special Permit or Variance

Applications for projects requiring special permit or variance which also requires site plan approval, shall be accompanied by an approved site plan. In the alternative, any special permit or variance granted also requiring site plan approval shall contain the following condition:

“The work described herein requires the approval of a site plan by the Gloucester Planning Board pursuant to Section 5.8 of the Zoning Ordinance. Any conditions imposed in such site plan approval shall be incorporated herein by reference.”

5.8.4.2 Where the Planning Board approves a site plan with conditions, and said approved site plan accompanies a special permit or variance application to the City Council or Zoning Board of Appeals, the conditions imposed by the Planning Board shall be incorporated into the issuance, if any, of a special permit or variance.

5.8.4.3 Where the Planning Board shall consolidate its site plan review with special permit procedures including but not limited to Major Project reviews.

5.8.4.4. The applicant may request, and the Planning Board may grant by majority vote, an extension of the time limits set forth herein.

5.8.4.5 No deviation from an approved site plan shall be permitted without approval of modifications by vote of the Planning Board.

5.8.4.6 Site plan approval does not constitute a certification that the proposed plan conforms to applicable zoning regulations, wetland regulations and/or any other City, State or Federal requirements that must be obtained prior to implementation of the elements of the site plan.

5.8.5 Preparation of Plans

Site Plans shall be submitted on 24-inch by 36-inch sheets. Plans shall be prepared by a Registered Professional Engineer, Registered Land Surveyor, Architect, or Landscape Architect, as appropriate. Dimensions and scales shall be adequate to determine that all requirements are met and to make a complete analysis and evaluation of the proposal. All plans shall have a minimum scale of 1"= 40'.

5.8.5.1 Plan Contents. Plan sheets prepared at a scale of one (1) inch equals forty (40) feet or such other scale as may be approved by the Planning Board. Composite plans may be submitted provided details can be easily analyzed. In the case of change of use permits with limited site alterations, the required submission of one or more plans may be waived by the Planning Board upon recommendation by City department staff. Minimum plan requirements shall be outlined on the Site Plan Review Application. The plans to be submitted are as follows:

(A). Site layout plan, which shall contain the boundaries of the lot(s) in the proposed development, proposed structures, general circulation plan for vehicles and pedestrians, drive-thru windows, curb cut locations, parking, fences, walls, walkways, outdoor lighting including proposed fixtures, loading facilities, solid waste storage locations, and areas for snow storage after plowing. The plan shall contain an inset locus plan, at a scale of one (1) inch equals one hundred (100) feet, showing the entire project and its

relation to existing areas, buildings and roads for a distance of one thousand (1,000) feet from the project boundaries or such other distance as may be approved or required by the Planning Board.

(B) Topography and drainage plan, which shall contain the existing and proposed final topography at two-foot intervals and plans for handling storm water runoff drainage.

(C) Utility plan, which shall include all facilities for refuse and sewerage disposal or storage of all these wastes, the location of all hydrants, fire alarm and firefighting facilities on and adjacent to the site, all proposed recreational facilities and open space areas, and all wetlands including floodplain areas.

(D) Architectural plan, which shall include the ground floor plan, proposed exterior building materials, treatments and colors and architectural elevations of all proposed buildings and a color rendering where necessary to determine the proposal's affect on the visual environment. Such plan shall also include the design of any freestanding signs.

(E). Landscaping plan, showing the limits of work, existing tree lines as well as those tree lines to remain, and all proposed landscape features and improvements including screening, planting areas with size and type of stock for each shrub or tree, and including proposed erosion control measures during construction.

(F) Lighting plan, showing the location and orientation of all existing and proposed exterior lighting, including building and ground lighting. The plan shall note the height, initial foot-candle readings on the ground and the types of fixtures to be used.

5.8.5.2 The site plan shall be accompanied by a written statement indicating the estimated time required to complete the proposed project and any and all phases thereof. There shall be submitted a written estimate, showing in detail the costs of all site improvements planned.

5.8.5.3 A written summary of the contemplated projects shall be submitted with the site plan indicating, where appropriate, the number of dwelling units to be built and the acreage in residential use, the evidence of compliance with parking and off-street loading requirements, the forms of ownership contemplated for the property and a summary of the provisions of any ownership or maintenance thereof, identification of all land that will become common or public land or provide public access, and any other evidence necessary to indicate compliance with this ordinance.

5.8.5.4 The site plan shall be accompanied by drainage calculations by a registered professional engineer as well as wetland delineations, if applicable. Water utilities, sewer infrastructure and stormwater drainage shall be design to conform to Gloucester Subdivision Rules and Regulations and standards of the Department of Public Works.

5.8.5.5 Certification that the proposal is in compliance with the provisions, if applicable, of the Americans with Disabilities Act and the Massachusetts Architectural Barriers Board.

5.8.6 Waivers

The Planning Board may, upon written request of the applicant and recommendation by City department staff, waive any of the submittal or technical requirements of Section 5.8.5 where the project involves relatively simple development plans.

5.8.7 Review Guidelines and Approval

Site Plan approval shall be granted upon determination by the Planning Board that the plan meets the following objectives. The Planning Board may impose reasonable conditions at the expense of the applicant to promote these objectives. New building construction or other site alteration shall be designed in the Site

Plan, after considering the qualities of the specific location, the proposed land use, the design of building form, grading, egress points, and other aspects of the development, so as follows:

- A) A reasonable effort shall be made to conserve and protect natural features that are of some lasting benefit to the site, its environs and the community at large.**
- B) Slopes, which exceed ten (10%) percent, shall be protected by appropriate measures against erosion, runoff, and unstable soil, trees and rocks. Measures shall be taken to stabilize the land surface from unnecessary disruption. Such stabilization measures shall be the responsibility of the property owner.**
- C) The placement of buildings, structures, fences, lighting, signs, and fixtures on each site shall not interfere with traffic circulation, safety, appropriate use and enjoyment of adjacent properties. Adequate illumination shall be provided to parking lots and other areas for vehicular and pedestrian circulation. All illumination shall be directed and/or shielded so as not to shine beyond the perimeter of the site or interfere with traffic.**
- D) All areas designed for vehicular use shall be paved with a minimum of either a three (3") inch bituminous asphalt concrete, a six (6") inch Portland cement concrete pavement, or other surface, such as brick, cobblestone or gravel, as approved by the Department of Public Works.**
- E) All parking spaces shall be arranged and clearly marked in accordance with the design and layout standards contained in Section 4.14 of the Zoning Ordinance.**
- F) All utility service transmission systems, including but not limited to water, sewer, natural gas, electrical and telephone lines, shall, whenever practicable, be placed underground.**
- G) All surface water runoff from structures and impervious surfaces shall be disposed of on site; but in no case shall surface water drainage be across sidewalks or public or private ways. In no case shall surface water runoff be drained directly into wetlands or water bodies. Drainage systems shall be designed to minimize the discharge of pollutants by providing appropriately designed vegetated drainage channels and sedimentation basins that allow for adequate settling of suspended solids and maximum infiltration. Dry wells, leaching pits and other similar drainage structures may be used only where other methods are not practicable. Oil, grease, and sediments traps to facilitate removal of contaminants shall precede all such drainage structures. All calculations shall be for a one hundred (100) year storm. Drainage design shall be in accordance with Department of Public Works regulations as amended.**
- H) In the MI district development proposals shall comply with the standards and requirements with regard to the placement and dimensions of structures as regulated by G.L. c.91 and 310 CMR 9.00 et seq.**
- I) Pedestrian safety and vehicular safety to and from the site shall be maximized provided it does not interfere with the proposed use.**
- J) Minimize unreasonable departure from the character, materials, and scale of buildings in the vicinity, as viewed from public ways and places.**
- K) Ensure compliance with the provisions of this Zoning Ordinance.**
- L) Promote orderly and reasonable internal circulation within the site so as to protect public safety and not unreasonably interfere with access to a public way or circulation of pedestrian or vehicular traffic on a public way.**

5.8.8 Lapse

Site plan approval shall lapse after one year from the final approval if a substantial use in accordance with such approved plans has not commenced except for good cause. Such approval may, for good cause, be extended in writing by the Planning Board upon the written request of the applicant, within this one year period.

5.8.9 Regulations

The Planning Board may adopt, and from time to time amend, reasonable regulations for the administration of this Site Plan ordinance.

5.8.10 Fee

The Planning Board may, from time to time, adopt reasonable administrative fees and technical review fees for site plan review.

5.8.11 Appeal

Any person aggrieved by a decision of the Planning Board rendered pursuant to section 5.8 may appeal such decision to the Zoning Board of Appeals as provided in G.L. c. 40A section 8.”

Councilor Whynott felt there was no sense to go through each individual piece that doesn't constitute a change. **Mr. Cademartori** stated when this was completed a while back the motion that you made at that meeting included five different sections and was all in one. It wasn't the proper way to amend. You've looked at the lowland special permit, the use schedule, you removed text to put into a footnote and now you're dealing with section 5.8. There was no proposed textural change in 5.8 which then encompasses all of it. And now you're being asked to vote on the remaining changes.

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the Planning & Development Committee voted 1 in favor, 2 opposed (Verga, Whynott) to recommend to the City Council to amend the Gloucester Zoning Ordinances, Section 5.8 as adopted with the addition of the following sentence after the third sentence in Section 5.8.4 Procedures:

“The date and time of the first Planning Board meeting when said site plan is reviewed shall be noticed in a newspaper of general circulation at least seven (7) days prior to said meeting.”

Discussion:

Councilor Ciolino asked for the advertising for the public to weigh in on it. It did not pass at P&D. Some Councilors said they don't want to put the developer to reveal their plans before they are formulated. People in the MI district need to know what is happening in their district and urges the Councilors to vote for it.

Councilor McGeary felt it is not necessary to advertise this in the paper and that it is adequate to put it on the City's website. This is essentially an administrative action and doesn't feel it should be required.

Councilor Curcuru agrees it is unnecessary and that the chance is when it comes to a public hearing.

Councilor Theken asked if it will come to a public hearing.

Mr. Cademartori stated any special use in the MI district follows all the public hearing process with it. Those processes don't change. Much is posted on the web site at least 48 hours in advance. It appears on the agendas. If someone is intent on following it as they do with all types of permitting, they'll be public filings to be viewed with Planning Board agendas are almost two weeks in advance.

Councilor Theken noted receiving emails that notices weren't sent out to abutters. Then we had problems with our City website. Name a project that wouldn't come in front of City Council and just you.

Mr. Cademartori gave the example of a mini-storage addition; it would trigger something like this. It would go through other departments to have a permit issued. The NOAA building came before the Council for a height exception, but was reviewed internally with staff. Anyone can follow the submissions in any department by

coming in and is available for review prior to the meetings of the Planning Board, and is also posted at City Hall and at the Annex. This is not typically a hosted site visit. It is the same review process that we do, but affords some additional authority to the Planning Board.

Councilor Tobey supported this. They always seem to capture the sense that there's nothing that more defines Gloucester than what goes on in the Harbor. This is a most vital asset that has to have decisions made with the highest degree of transparency. This is about what we've all talked about what is the heart and soul of Gloucester.

Councilor Mulcahey stated in the past few years, every time something has come up on the waterfront, unless you are well informed or a community active person, you might miss something important. This should come from the departments first in the City to our citizens. She will fight for everything that will open the process.

Councilor Ciolino stated their constituents want transparency. People over 60 only 38% own or have access to a computer. We can all say, when we talk about transparency, the City of Gloucester doesn't have the best website around. It is cheap money to advertise. We want to keep this all above board. He will support this.

Councilor Whynott disagreed. There is plenty of transparency and plenty of notification under Mass General Laws and Open Meeting Law. The notification is adequate as it is now.

Councilor Verga agreed with Councilor Whynott.

Councilor Theken considered all sides and then received emails, we don't have adequate communication. Communication is what this community is about. You can put it in the Beacon. She agrees with Councilor Ciolino that seniors don't use or have computers. She supports this.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Tobey, the City Council voted by roll call 4 in favor (Tobey, Theken, Mulcahey, Ciolino), 5 (Verga, Whynott, Curcuru, Hardy, McGeary) opposed to amend the Gloucester Zoning Ordinances, Section 5.8 as adopted with the addition of the following sentence after the third sentence in Section 5.8.4 Procedures:

“The date and time of the first Planning Board meeting when said site plan is reviewed shall be noticed in a newspaper of general circulation at least seven (7) days prior to said meeting.”

MOTION FAILS

Councilor Hardy noted that zoning amendments required six votes. Thus the motion failed.

Councilor Tobey stated as A POINT OF ORDER the matter did not need a vote of six, but a vote of five. However, both noted the motion still failed.

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Zoning Ordinances, Section 5.18 by replacing existing text of the section following the words Special Permit Granting Authority in the first sentence with the following revised language in bold:

5.18 Marine Industrial District

For all uses requiring a special permit in the Marine Industrial (MI) district, and located within (200) feet of the water's edge, in addition to the requirements for the issuance of special permits contained in Sections 1.5.3, 1.5.4, and 5.7 herein, the Special Permit Granting Authority **“in approving the project must find that:**

- 1. The proposed use will not displace an existing water-dependent use with a non water-dependent use;**
- 2. The proposed use will not, by virtue of its location, scale, duration, operation, or other aspects, preempt or interfere with existing or future development of water-dependent uses of the project site or surrounding property;**
- 3. The proposed use is compatible with the working waterfront character of the zone;**

4. **The proposed project will not displace existing commercial fishing vessel berthing in Gloucester Harbor, without providing equivalent space and draft at a suitable alternative site not already used by commercial fishing vessels;**
5. **The proposed use will not adversely affect the preservation of water-dependent uses on surrounding properties.**

In exercising its power under this section, the Special Permit Granting Authority may impose reasonable modifications, conditions, or limitations as are necessary or appropriate to ensure that the presence of the proposed development does not result in any of the above adverse impacts or otherwise adversely affect the primary character of the area as a working waterfront.”

Discussion: None.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Theken, the City Council voted by roll call 9 in favor, 0 opposed to amend the Gloucester Zoning Ordinances, Section 5.18 by replacing existing text of the section following the words Special Permit Granting Authority in the first sentence with the following revised language in bold:

5.18 Marine Industrial District

For all uses requiring a special permit in the Marine Industrial (MI) district, and located within (200) feet of the water's edge, in addition to the requirements for the issuance of special permits contained in Sections 1.5.3, 1.5.4, and 5.7 herein, the Special Permit Granting Authority **“in approving the project must find that:**

1. **The proposed use will not displace an existing water-dependent use with a non water-dependent use;**
2. **The proposed use will not, by virtue of its location, scale, duration, operation, or other aspects, preempt or interfere with existing or future development of water-dependent uses of the project site or surrounding property;**
3. **The proposed use is compatible with the working waterfront character of the zone;**
4. **The proposed project will not displace existing commercial fishing vessel berthing in Gloucester Harbor, without providing equivalent space and draft at a suitable alternative site not already used by commercial fishing vessels;**
5. **The proposed use will not adversely affect the preservation of water-dependent uses on surrounding properties.**

In exercising its power under this section, the Special Permit Granting Authority may impose reasonable modifications, conditions, or limitations as are necessary or appropriate to ensure that the presence of the proposed development does not result in any of the above adverse impacts or otherwise adversely affect the primary character of the area as a working waterfront.”

MOTION: On motion of Councilor Ciolino, seconded by Councilor Verga, the Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant permission for the Cape Ann Farmer's Market to close a section of Harbor Loop from the Whale Center's driveway to the end of the Heritage Center's driveway each Thursday, starting June 24th and ending October 7, 2010, from 1:00 p.m. to 8:00 p.m. with a parking restriction beginning at 12 p.m. with the following conditions:

1. That the Building Center, TD Bank, the Harbormaster's Office, and Coast Guard Station driveway (the area from their driveway to the green buoy) and parking

- lots remain accessible;
2. That the back part of Harbor Loop remains accessible to the businesses located there whether it be pedestrian or vehicular access;
 3. That all businesses affected be notified in advance of the street closure prior to prior to June 24, 2010.
 4. The organizers shall allow the Fire Department drive-through access with fire engine at the convenience of the Fire Department;
 5. Any merchant/vendor set up of tables and chairs, tents or area enclosures should extend no further into the street than the lines painted on the street for vehicular parking;
 6. Vendor/merchants shall be responsible for their own trash removal;
 7. That all vendors obtain pushcart vendor licenses from the Board of Health;
 8. That adequate bathroom facilities be provided with proper directional signage to the comfort stations;
 9. The closures of Harbor Loop at either side of the Heritage Center, #21 Harbor Loop, shall be by means of sawhorses or the like, as directed by Lt. Joseph Aiello of the Gloucester Police Department;
 10. That the City Clerk's Office be provided a copy of the Farmer's Market By-laws and insurance policy indemnifying and holding the City harmless 14 days prior to the first Farmer's Market of June 24, 2010.
 11. It is the responsibility of the applicant to procure all other federal, state and local permits and approvals associated with this event.

Discussion:

Councilor Mulcahey recused herself and left the dais for the discussion and voting on the Farmer's Market item.

Councilor Ciolino stated his is a fun thing that is associated with the City. They're trying to adapt to the area they're in and is an asset to the City.

Councilor Whynott agrees with Councilor Ciolino that this is good for the City and will vote for it as did **Councilor Verga** who also recommended and supported it.

MOTION: On motion of Councilor Ciolino, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed, 1 recused (Mulcahey) to recommend to the City Council to grant permission for the Cape Ann Farmer's Market to close a section of Harbor Loop from the Whale Center's driveway to the end of the Heritage Center's driveway each Thursday, starting June 24th and ending October 7, 2010, from 1:00 p.m. to 8:00 p.m. with a parking restriction beginning at 12 p.m. with the following conditions:

1. **That the Building Center, TD Bank, the Harbormaster's Office, and Coast Guard Station driveway (the area from their driveway to the green buoy) and parking lots remain accessible;**
2. **That the back part of Harbor Loop remains accessible to the businesses located there whether it be pedestrian or vehicular access;**
3. **That all businesses affected be notified in advance of the street closure prior to prior to June 24, 2010.**
4. **The organizers shall allow the Fire Department drive-through access with fire engine at the convenience of the Fire Department;**
5. **Any merchant/vendor set up of tables and chairs, tents or area enclosures should extend no further into the street than the lines painted on the street for vehicular parking;**
6. **Vendor/merchants shall be responsible for their own trash removal;**
7. **That all vendors obtain pushcart vendor licenses from the Board of Health;**

8. **That adequate bathroom facilities be provided with proper directional signage to the comfort stations;**
9. **The closures of Harbor Loop at either side of the Heritage Center, #21 Harbor Loop, shall be by means of sawhorses or the like, as directed by Lt. Joseph Aiello of the Gloucester Police Department;**
10. **That the City Clerk's Office be provided a copy of the Farmer's Market By-laws and insurance policy indemnifying and holding the City harmless 14 days prior to the first Farmer's Market of June 24, 2010.**
11. **It is the responsibility of the applicant to procure all other federal, state and local permits and approvals associated with this event.**

Councilor Mulcahey returned to the dais.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant the Applicant's request for an extension for a Special Council Permit for a Wind Energy Conservation Facility (WECF) to Dunfidgin, LLC (Mac S. Bell, Manager) according to sections 5.22 and 1.8.6 of the Gloucester Zoning Ordinance at 33 Emerson Avenue, Map 21, Lot #8; to a twelve (12) month extension of the terms of the Special Permit to expire July 22, 2011 to allow for the completion of the project with all the terms of condition of the original Special Permit to remain in effect.

Discussion:

Councilor Ciolino related the P&D Committee felt because the economy is in such disarray it is above and beyond hardship and that an extension was appropriate at this time.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by roll call 9 in favor, 0 opposed to grant the Applicant's request for an extension for a Special Council Permit for a Wind Energy Conservation Facility (WECF) to Dunfidgin, LLC (Mac S. Bell, Manager) according to sections 5.22 and 1.8.6 of the Gloucester Zoning Ordinance at 33 Emerson Avenue, Map 21, Lot #8; to a twelve (12) month extension of the terms of the Special Permit to expire July 22, 2011 to allow for the completion of the project with all the terms of condition of the original Special Permit to remain in effect.

Two minute recess was called at 10:00 p.m. with the meeting reconvening at 10:02 p.m.

MOTION: On motion of Councilor Ciolino, seconded by Councilor Whynott, the Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the City Council a permit to Lanesville Emergency Action Program (LEAP) to host the 3rd Annual Whistleblowers 4 K Road Race and 1 Mile Fun Run, Saturday, July 3, 2010, 10:00 a.m. and 10:45 a.m. respectively ending at 11:15 a.m. from the Lanesville Community Center; requesting that Washington Street (from the Langsford Street intersection to the Andrews Street intersection) be turned into a one-way street for 1 hour.

Discussion:

Councilors Ciolino endorsed the event saying everyone is on board and is well run.

Councilor Hardy supports this and is active in its organization. The Police Department does the best they can. The amateur operators are there from beginning to end. It's a great event.

MOTION: On motion of Councilor Ciolino, seconded by Councilor Hardy, the City Council voted unanimously 9 in favor, 0 opposed to permit the Lanesville Emergency Action Program (LEAP) to host the 3rd Annual Whistleblowers 4 K Road Race and 1 Mile Fun Run, Saturday, July 3, 2010, 10:00 a.m. and 10:45 a.m. respectively ending at 11:15 a.m. from the Lanesville Community Center; requesting that Washington Street (from the Langsford Street intersection to the Andrews Street intersection) be turned into a one-way street for 1 hour.

Budget & Finance Committee: March 25, 2010

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer of funds for Special Budget Transfer Request #10-SA-6 for \$2,010.99 from Library-Admin., Sal/Wage-Perm. Pos., Unifund Account #101000.10.610.51100.0000.00.000.00.051 to Special Revenue Funds, Unifund Account #101000.10.992.59600.0000.00.000.00.059.

Discussion:

Councilor Curcuru noted this was one of the deficits they are working to clean up with Mr. Towne, CFO, over the last few weeks.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted by roll call unanimously 9 in favor, 0 opposed to the transfer of funds for Special Budget Transfer Request #10-SA-6 for \$2,010.99 from Library-Admin., Sal/Wage-Perm. Pos., Unifund Account #101000.10.610.51100.0000.00.000.00.051 to Special Revenue Funds, Unifund Account #101000.10.992.59600.0000.00.000.00.059.

Councilor Curcuru began reading the motion to advertise from the 3/25/10 meeting of B&F regarding the Loan Order up to \$1.5 million to be appropriated as related to the parcel of land commonly known as I4-C2, but realized it didn't have to be read and halted prompting the following discussion:

Councilor Tobey noted that the Budget & Finance Committee went into Executive Session to discuss the two appraisals saying that was necessary because of the negotiations exemption to the Public Open Meeting law and was concerned that it was an inappropriate use of Executive Session. There are no negotiations as this is being characterized as a "Friendly Eminent Domain Taking". There is an agreement; the functional equivalent of a Purchase and Sale Agreement. It's a contract. The price is already settled on. If this deal is going to close it is very important that not only six councilors support it, but that the community supports it. We have to have confidence in the valuation. If meetings by this Committee are being held behind closed doors on the valuation, we jeopardize that confidence. These conversations need to be in the full light of day going forward.

Councilor Hardy stated along those lines, while the motion to advertise is not being put forward and since they were in the Budget & Finance Committee meeting minutes, she questioned the last sentence in the motion that was made in this particular meeting in relationship to the advertising which is worded, "...Additionally, the Mayor is hereby authorized to take any other actions necessary to carry out this project..." In further deliberation and reflection after the vote, knowing that the CFO and CAO did provide documentation on other loan authorizations, and also provided this wording, she pointed out this wasn't a project. It is not an undertaking; it's not a building project. There is a great deal of discretion that's being conveyed through these words and didn't think it belongs in an eminent domain taking. She brought it up for discussion to make a motion to amend that motion by eliminating that sentence.

Councilor Whynott asked to hear from the CFO on what the language Councilor Hardy was referring to, as to what it would normally cover.

Mr. Towne stated there may be many times where you may have to enter into some other type of agreement, apply for a different grant, to seek other funding mechanisms. It isn't necessarily to do something different in any of these particular cases other than what's been presented. That is standard language in any bond issuance. It allows the Mayor, if there is anything else that needs to be taken care of administratively, to accomplish that goal of purchasing the property or building a water treatment plant, that isn't outside of the normal course of doing something that would require a change that is presented.

Councilor Hardy stated her point regarding the taking by eminent domain; so much incorporates the actions and approval of the City Council. If you want to leave that language in, she would then make a motion to include, "with the approval of the City Council" somewhere. It should come back to the City Council if there's going to be a change made that the Mayor wants to go in a different direction on it. She felt it was too broad.

Councilor Tobey couldn't remember the last time any Council vote for an eminent domain taking. He thought of easements for sewer projects, but nothing of the consequence or cost of this proposed project. There are other votes that will, by necessity, come before the Council to close this deal; and that's when we can deal with giving authorization for any of the other actions that might be necessary. This is about borrowing the money and nothing else. This language isn't necessary and should come out.

Councilor Hardy stated the advertisement has to be placed by Friday, April 2nd but has yet to be placed. She was inclined to make a motion to remove that language from this particular motion that's going to become part of the advertising for the bond issue.

Councilor McGeary noted at the moment all there is, is a memorandum of understanding. There is not a formal taking. There is not a purchase and sale agreement. He wondered if the Council was unnecessarily tying the Mayor's hand in final negotiations.

Councilor Hardy responded she didn't believe so. This motion is up to the Council to make it as clean and crisp as possible and believed is the time and place to change the language. If we want to go back and give additional leeway, we can do that in furtherance of the public hearing. This advertisement also goes to the Bond Council and can be looked at as an extension of the Mayor's capabilities under the motion.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the City Council moved to amend the motion made on March 25, 2010 at the Budget & Finance Committee meeting by deleting the words, "...Additionally, the Mayor is hereby authorized to take any other actions necessary to carry out this project..."

Discussion:

Councilor Whynott asked the CFO if he felt it would be a problem for him if they deleted this language.

Mr. Towne stated if you go through the public hearing and authorize the \$1.5 million that this doesn't limit the Mayor from actually purchasing the property by being able to sign the paperwork and go through that process. If your motion doesn't do that, then he believed it is not an issue.

Councilor Tobey stated the Mayor won't be signing anything to purchase the property. That will be affected by the Council voting a taking by eminent domain.

Mr. Towne stated it wouldn't hinder him.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the City Council voted by roll call unanimously 9 in favor, 0 opposed to amend the motion made on March 25, 2010 at the Budget & Finance Committee meeting by deleting the words, "...Additionally, the Mayor is hereby authorized to take any other actions necessary to carry out this project..."

Councilor Hardy instructed the City Clerk to have the Assistant City Clerk place the advertisement as amended this evening. She also noted Councilor Theken's point that there will be a public hearing at the next City Council meeting on Tuesday, April 13th, which is not required but it is the will of the Council to hear from the community. They will be taking the public comment that evening. The matter will not be voted on that evening. It will be voted on the 27th of April for the bond authorization. Following the bond authorization vote, the Council will then vote on the taking itself. First the money needs to be appropriated and authorize the money to be borrowed.

MOTION: On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to accept a grant of \$2,700.00 from the Southern Essex County Shannon Grant Initiative.

Discussion:

Councilor Curcuru stated this is a \$ 2,700.00 grant, much lower than received in previous years and has a 25% match of which \$660.00 is coming out of the Police Department's own operating budget to continue funding for a school resource officer at the middle and high schools.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted unanimously 9 in favor, 0 opposed to accept a grant of \$2,700.00 from the Southern Essex County Shannon Grant Initiative.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant the Special Budgetary Transfer Request #10-SBT-025 for \$470.00 from Auditor, Dues & Subscriptions, Unifund Account #101000.10.135.57300.0000.00.000.00.057 to Mayor, In-State Travel, Unifund Account #101000.10.121.57100.0000.00.000.00.057.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted by roll call unanimously 9 in favor, 0 opposed to recommend to the City Council to grant the Special Budgetary Transfer Request #10-SBT-025 for \$470.00 from Auditor, Dues & Subscriptions, Unifund Account #101000.10.135.57300.0000.00.000.00.057 to Mayor, In-State Travel, Unifund Account #101000.10.121.57100.0000.00.000.00.057.

MOTION: On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 3 in favor, 0 opposed recommend to the City Council to permit the Community Development Department to pursue the Federal Land and Water Conservation Fund Grant in the amount of \$150,000.00 for the purpose of the rehabilitation of Burnham's Field.

Discussion:

Councilor Curcuru stated Community Development is seeking permission to apply for a Federal Land and Water Conservation Fund grant of \$150,000.00 to fund focused recreational, accessibility and public safety improvements at Burnham's Field. This application for the grant is a direct result of putting together a draft open space and recreation plan. The grant requires a \$150,000.00 match from the City which would be funded over the course of two years with Community Development Block Grant funds. Part of the Open Space and Recreation study was also on the recreation spaces of the City, long neglected, particularly the needs of the inner City. This is an upgrade of Burnham's Field which is much needed at this point.

Councilor Theken asked if the match comes from the CDBG funds, which was positively confirmed.

Councilor Hardy noted this is for the authorization to pursue, not acceptance of the grant. It is her understanding that it has to be submitted as an application tomorrow, and it seems there is urgency here. According to our Council Rules of Procedure, we generally hold items for 24 hours before a Certificate of Vote can be issued.

Mr. Duggan noted the Community Development Director did express that it would be beneficial to submit this information tomorrow with a Certificate of Vote. He noted that Ms. Garcia, Director of Community Development, was not present due to a family engagement this evening to speak on the matter.

Mr. Cademartori stated last week the Open Space Committee held a public hearing on Thursday, and a part of that grant application for Burnham's Field is also that we have a draft Open Space and Recreation Plan. They are in the process of finalizing that plan which has to be submitted by 3:00 p.m. in Boston tomorrow afternoon by hand to the Department of Conservation Services.

Councilor Hardy asked if a Certificate of Vote can follow after the application is submitted.

Mr. Cademartori didn't think it necessarily had to be in the application itself. Not all communities have the process we have here. It would be acceptable for it to be applied for by the Department and believed there may be a Mayor's signature on the application as well.

Councilor Curcuru asked if it would hold more weight if it had the Certificate of Vote in the application, which Mr. Cademartori thought it would if available as it shows the support and endorsement of the Council. It has a letter of support from the Conservation Commission, and also the Open Space Committee.

Councilor Tobey asked if there could be an immediate motion to reconsider from a member of the prevailing side, with Councilor Hardy stating it has been used before to accomplish just such things; and she'd not be opposed to entertain such a motion.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Mulcahey, the City Council voted unanimously 9 in favor, 0 opposed, to permit the Community Development Department to pursue the Federal Land and Water Conservation Fund Grant in the amount of \$150,000.00 for the purpose of the rehabilitation of Burnham's Field.

MOTION: On motion by Councilor Tobey, seconded by Councilor McGeary, the City Council voted 0 in favor, 9 opposed to reconsider the vote just taken to pursue the Federal Land and Water Conservation Fund grant in the amount of \$150,000.00 for the purpose of the rehabilitation of Burnham's Field grant.

MOTION FAILS TO RECONSIDER THE VOTE.

Councilor Curcuru noted the proposal to allow the Community Development and DPW Departments to pursue the Clean Air Mobility Grant for \$200,000.00 that was submitted to the Budget & Finance Committee to looking at different ways of beach traffic flow and signage the summer months was withdrawn by both Departments subsequent to the B&F meeting as they weren't prepared at this point and withdrew it for consideration.

Councilor McGeary understood the grant was withdrawn, but felt the idea of having a sign on Rt. 128 was something he wanted to encourage the Administration to look into for the beaches even if there isn't a grant to accomplish it.

Councilor Hardy noted it could be accomplished via a formal Request to the Mayor or by a Council Order and encouraged him to do so.

Unfinished Business:

Councilor Theken stated considering the State of Emergency declared by the Governor of the Massachusetts, and given that conditions on Magnolia roads are extreme, under Rule 2-11B of the City Charter that an emergency does exist that involves the peace, health, and safety of the people and their property.

MOTION: On motion by Councilor Theken, seconded by Council Verga, the City Council voted unanimously 9 in favor, 0 opposed, to request the Mayor immediately open the Magnolia Fire Station until such time as the flood related state of emergency has been lifted or the flooded roads have been permanently cleared and reopened.

Councilor Hardy asked the City Clerk this is put in writing immediately first thing in the morning to the Mayor.

Councilor's Requests Other Than To The Mayor:

Councilor McGeary stated the deadline is April 1st for the Census. They are available in City Hall, Rose Baker Senior Center. You can get help in person at the library, the food pantry and the Rose Baker Senior Center. It is very important, and only takes 10 minutes. He urged everyone to follow through and be counted.

Councilor Ciolino urges everyone to visit the new piece of equipment at the Stage Fort Park playground. And this Saturday, at starting at 7:00 a.m. the Rotary Club is sponsoring a clean up of the playground. They have pledged to maintain that park since it was built as a Centennial project. They plan on adding new equipment as fundraising allows.

Councilor Mulcahey stated she worked with a great group of people on the Council at the event of her 3 month anniversary serving; and it's a wonderful experience.

Councilor Theken spoke about the census and that people think by filling out the census you get called for jury duty which is untrue. It is very important to fill out both the City census and the Federal census. If not, the City doesn't get the funding we're entitled to. Documented or undocumented; immigration does not find you through filling out and turning in a census form. There's no social security number needed. Please, be counted.

Councilor Whynott noted the information on the census is only for statistical purposes. Nothing else. That information can't be released for 72 years. It is taken very seriously.

Councilor Verga thanked the folks who came to his ward meeting recently. WardFive.com is the website for more information. The GFAA fundraiser, Battle of the Bands takes place April 9th & 10th. Tickets are still available.

It was moved, seconded, and voted UNANIMOUSLY to adjourn the meeting at 10:13 p.m.

Respectfully submitted,

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