

GLOUCESTER CITY COUNCIL MEETING

Tuesday, April 13, 2010

Kyrouz Auditorium – City Hall

7:00 p.m.

Council Meeting 2010-009

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

Absent: Councilor Curcuru

Also Present: City Clerk, Linda T. Lowe; Mayor Carolyn Kirk; Suzanne Egan; Jim Duggan; Jeff Towne; Kenneth Hanover; Jack Vondras; John Ronan; Jim Duggan; Michael Hale; Bob Ryan; Max Schenk; Rosalie Nicastro; Chassea Robinson

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

Flag Salute and Moment of Silence

Councilor Hardy informed the public that the Council was in receipt of a letter from the attorney for the applicants regarding the proposed hotel at 79-99 Essex Avenue asking for a continuance until June 22, 2010.

Oral Communications: None.

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

Confirmation of Appointments:

Councilor Theken noted that the following people all appeared before the O&A Committee and were questioned, in some cases extensively, regarding their Committee's, Commission's, or Board's activities. She thanked all of them for their volunteer spirit and commitment to the City.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Abudllah Khambaty to the EDIC, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to recommend to the City Council the appointment of Abudllah Khambaty to the EDIC, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Nancy E. Goodick to the Historic District Commission, TTE 02/14/2011.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed the appointment of Nancy E. Goodick to the Historic District Commission, TTE 02/14/2011.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Steven Phillips to the Conservation Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, City Council voted 8 in favor, 0 opposed the appointment of Steven Phillips to the Conservation Commission, TTE 02/14/2013.

Reappointments:

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of George Sibley to the Affordable Housing Trust, TTE 02/14/2012.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint George Sibley to the Affordable Housing Trust, TTE 02/14/2012.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Joseph Rosa to the Board of Health, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Joseph Rosa to the Board of Health, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Linda Stout-Saunders to the Clean Energy Commission, TTE 02/14/2012.

MOTION: On motion of Councilor Theken, seconded by Councilor Hardy, the City Council voted 8 in favor, 0 opposed to reappoint Linda Stout-Saunders to the Clean Energy Commission, TTE 02/14/2012.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Daniel Morris to the Community Preservation Committee, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Daniel Morris to the Community Preservation Committee, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Stacy Randell to the Community Preservation Committee, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Stacy Randell to the Community Preservation Committee, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of John Feener to the Conservation Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint John Feener to the Conservation Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Ann Jo Jackson to the Conservation Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Ann Jo Jackson to the Conservation Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Irving (Hank) Camille to the Council on Aging, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Irving (Hank) Camille to the Council on Aging, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Kathie Gilson to the Downtown Development Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Kathie Gilson to the Downtown Development Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Tobe Shanok to the Downtown Development Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Tobe Shanok to the Downtown Development Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Robert K. Whitmarsh, Jr. to the Downtown Development Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Robert K. Whitmarsh, Jr. to the Downtown Development Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Ian Lane to the Historical Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Ian Lane to the Historical Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Stephen Pardee to the Historical Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Stephen Pardee to the Historical Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Dan Molloy to the Shellfish Advisory Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Dan Molloy to the Shellfish Advisory Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Ann Jo Jackson to the Shellfish Advisory Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Ann Jo Jackson to the Shellfish Advisory Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Mona Faherty to the Tourism Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Mona Faherty to the Tourism Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Anthony Bertolino to the Traffic Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Anthony Bertolino to the Traffic Commission, TTE 02/14/2013.

Councilor Mulcahey departed the dais.

MOTION: On motion of Councilor Theken, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 2 in favor, 0 opposed to recommend to the City Council the reappointment of Michael Mulcahey to the Traffic Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 7 in favor, 0 opposed, 1 abstention (Mulcahey) to reappoint Michael Mulcahey to the Traffic Commission, TTE 02/14/2013.

Councilor Mulcahey returned to the dais.

MOTION: On motion of Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Michael Sanborn to the Trust Fund Commission, TTE 02/14/2013.

MOTION: On motion of Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Michael Sanborn to the Trust Fund Commission, TTE 02/14/2013.

Presentations:

1 of 4: Kenneth Hanover, President & CEO of Northeast Hospital Corporation – Introduction and

Update

Councilor Hardy read the C.V. of Mr. Hanover by way of introduction (on file), and welcomed Mr. Hanover stating she'd had the opportunity to meet Mr. Hanover briefly prior to this evening and that this is the first time he was before the Council.

Mr. Hanover thanked the Council for affording him the opportunity to come before them and to meet the citizens of Gloucester and Cape Ann. Since arriving back in Massachusetts in October, he has met many members of the community in a variety of many different settings. During those discussions he found the members of this community to be genuine in their interest and concern about the future and long-term success of the Addison Gilbert Hospital. He wanted to assure all that he was equally committed to the long-term success of the hospital and committed to keeping the hospital open. They have spent a considerable amount of time over the past year working with various sectors of the community to develop a thoughtful, workable strategic plan for AGH. They've looked at a variety of scenarios to ensure its long-term success and are near completion with the plan. The key component involves the recruitment of additional primary care physicians (PCP's) to serve the community. Their analysis suggested that the community needs an additional five to six PCP's in order to serve the 38,000 members of Cape Ann effectively. With a substantial primary care base, by rebuilding that base, by having the citizens of Cape Ann being served by physicians who practice and live within the community, they will slowly begin the process of attracting additional specialists to the community. As specialists come back to the community, they will begin the process of rebuilding more specialized services at the AGH, with more capabilities to serve the community. They believe it will take 3 to 5 years to get there. They are prepared to begin the process and commit resources to implement the plan successfully. Their success can't be assured without the broad commitment and support, not only of the Council, but from the community as a whole. A hospital is a reflection of the quality of the community it serves. It contributes to the quality of life it's in. When they are recruiting doctors to this community, it is his expectation that the members of the Council, members of the Mayor's office, the opinion-leaders and leading citizens of the community will make themselves available to meet with these doctors, to tell them how grateful they are, how interested they are to have them come and be part of this community. Most importantly, it is incumbent not only on the members of this Council, but on the members of this community to use and support the health services they provide. If we are to have a successful health care institution here serving Cape Ann, the community needs to support it. When your physician suggests you need diagnostic services, his suggestion was to say, 'fine, I'd like them done at AGH'. When you need testing, please suggest going to the AGH. He vowed that patients will be treated with dignity, respect, care, grace, service excellence and expertise that all of us expect in every other facet of our lives. He asked the Council for more than 'lip service'. He needed to know that you are going to utilize the services of the institution and the services of physicians practicing in this community. He needed assurance that the Council would work hard alongside of the Northeast Health Systems in ensuring they can recruit and retain great doctors to provide the necessary care the community needs. He made the commitment to all present that they will operate the AGH with openness and transparency. They may not always agree with each other on every issue, but they will always treat each other with respect and dignity. They will work hard to make sure the quality of care which is expected is received. They will operate the institution in a safe environment, putting their patients' safety first above and beyond everything else. Some have suggested to him in his meetings as to whether or not they are committed to providing the eight essential services required by the State for all hospitals to have to be a full-service institution. His answer was yes. Some have suggested they're not convinced that the AGH provides 24-hour surgical services. They believe they fulfill that requirement. They keep on call 24 hours a day, 7 days a week, anesthesiologists to provide care and coverage for surgical cases at the AGH. Furthermore, if the case requires emergency surgical coverage at the AGH, they have on-call surgeons to provide these services. The decision is always that of the doctor. They rely on the doctors' discussion with the emergency physicians, with the surgeons and the anesthesiologists to make the decision as to what's in the best interest of the patient; and whatever the doctors decide, they abide with. He assured that in the event that surgery is required at AGH, it is provided at AGH. That is their commitment. He spoke of health care reform having a significant impact on healthcare providers making resources harder to come by. Their own internal analysis suggests that over the next 10 years, Medicare will receive \$60 million in fewer payments

to their organization. This requires flexibility and adaptability. AGH has been in the community for over 100 years. Institutions don't survive that long unless they adapt to the changing needs of the community. They are committed to doing that as well. When people say, 'Mr. Hanover, please assure me that the AGH will continue to be around in the future', he can make that assurance. The AGH of today will be very different from the AGH of five years from now, just as it is very different from 10 years ago which shows strength and resiliency on the part of community-based institutions. That is how they're going to operate. He hoped this will not be the last time he will be before the Council. They will be honest and straightforward and wants to know of any problems so that they can address them.

Councilor Whynott welcomed Mr. Hanover and his commitment to Gloucester and AGH and thanked him.

Councilor Verga was pleased by Mr. Hanover's words of commitment. It was refreshing and looked forward to working with him in the future.

Councilor Theken stated the Ethics Commission allowed her to speak on the matter. As an employee of the Northeast Health System she assured Mr. Hanover that they are here to support the hospital. They like the changes and want the 'town meetings'; she and her fellow employees want openness from him and his administration. She wants to be able to have direct access via telephone, email. She expressed that if she had something personal to say to Mr. Hanover, she wanted to be able to say it in a straightforward manner without having to go through the 'chain of command'.

Mr. Hanover committed that he will be available and come forward.

Councilor Mulcahey welcomed Mr. Hanover and believed he would enjoy being here and appreciated his commitment to the hospital. She was pleased by his commitment.

Councilor Ciolino noted his conversation with Mr. Hanover regarding the minimum services that have to be available, the eight criteria. He is pleased to hear the commitment to these eight essential services.

Councilor McGeary welcomed Mr. Hanover. He asked about the difficulties in attracting PCP's to a place like Gloucester and what things have to be overcome.

Mr. Hanover responded that it is difficult for any physician to be in a single practice from a lifestyle and economic perspective. It is very hard to do. Physicians are increasingly looking for a good lifestyle in addition to a successful professional life. They will want assurances they can build a practice quickly; that the institution will be able to provide the infrastructure and support necessary for them to be successful; that their patients will support their practice; that they'll be able to have a good quality of life not only for them but for their family. Gone are the days where a physician wants to work 16 hours a day, 7 days a week. Especially with health care reform, there is going to be a tremendous surge in patient volumes, physicians are going to have plenty of opportunities to practice. We'll have to roll out the red carpet to show that this isn't just another job; this is a community recruitment to make this individual and their families feel welcome and supported. If it is a big community push it will be extraordinarily received.

Councilor McGeary recognized that it is early, but wanted to know what sort of scenarios for five years from now Mr. Hanover was thinking of.

Mr. Hanover noted what they're seeing today as technology changes, the location where certain medical procedures are done are shifting. Many surgical procedures that were done in-patient a generation ago are now done on an out-patient basis. With all research done, they will be able to intervene in the disease states earlier thereby reducing in-patient care. Overall there'll be less hospital utilization. He noted that his mother was in the hospital 12 days when he was born, and today it's a one to two day stay in the hospital for a normal birth. The nature of the types of patients will change as will the services. Almost all the patients in the hospital will be those in an intensive care unit, and those not in need of intensive care will likely not be hospitalized in the same type of environment that they are today. It is not like we have other intended uses for the institution. They know they will have to change the environment in the institution as the needs and technologies dictate.

Councilor Tobey stated he's spoken with Mr. Hanover several times, a heartening experience each time. He felt he's doing well in the job. He noted Mr. Hanover's predecessor brought administrative skill, managerial talent and acute medical skill but also community compassion. Those elements haven't always been present in the community's relationship with AGH in recent history. He is optimistic that he is bringing that to the table. Besides recognizing the importance of the hospital as a provider of important medical care and services, the hospital is a purchaser of goods and services in this community and an employer of great importance as well.

AGH is a big part of the City's economic engine. An appreciation and support for that fact is key. The Councilor asserted everyone in the City government would be available to lend that kind of support. Every six months he hopes there will be a continuing tradition of the hospital's administrator coming before the Council to update them as it makes for good dialog and transparency for a strong, mutual understanding so that AGH continues to be a strong and vibrant part of our City.

Mr. Hanover realized they need to be fully accountable to the community and would be glad to come before the Council several times a year.

Councilor Hardy thanked Mr. Hanover for coming.

Councilor Hardy called a recess at 7:34 p.m.

The Meeting was reconvened at 7:36 p.m.

2 of 4: Jack Vondras, Board of Health Director, COG – Update on H1N1

Councilor Hardy noted Mr. Vondras was recently recognized with the John D. Crowley award for dedicated service and outstanding achievement in public health from the Massachusetts Health Officers Association. Mr. Vondras and his staff oversaw several well organized H1N1 and seasonal flu clinics around the City and at the Rose Baker Senior Center. The efforts allowed many citizens to be inoculated before the height of the flu season.

Mr. Vondras acknowledged the Health Department's Public Health Nurse, Chassea Robinson who played a major leading role in the City's inoculation program; Board of Health members Joe Rosa, and Fred Cowan; Ruth George, R.N., from the AGH; Rosalie Nicaastro and Max Schenk of the Health Department. He gave a power point presentation entitled, "Influenza Vaccine Distribution Status Report (on file). The Center for Disease Control estimated that 57 million cases of H1N1 occurred during the 10 months of the two waves. There were 11,600 deaths from H1N1. Massachusetts had the lowest death rate in the nation with 31 deaths and had the second highest vaccination rate in the United States at 36% vs. 21% for the nation. 60% of the state's children were vaccinated by January 10th vs. 37% nationally. He recognized the efforts of the surrounding communities and their partnership with the AGH, essential to the success of the H1N1 vaccination efforts. They started with the H5N1 flu preparation and vaccination effort (avian flu). The Health Department also does the pneumonia vaccine. They do seasonal doses with the Gloucester School Department, and seasonal flu vaccines. Gloucester was second highest dosing rate out of 15 communities (Lynn being the largest in the region). Of the four Cape Ann communities, all did very well. For communities over 25,000, Gloucester stood out. By target populations by age, they were trying to get as many doses as possible to children which was very successful, as well as with the senior population. They did targeted clinics to mandate groups; the first vaccine being available October 27th to the public. They met weekly as a coalition. They shared vaccines and resources. Volunteer corps were activated. They had administrative methods firmly in place. They went to where the people were, heavily focusing on schools but to private businesses as well. They had 54 clinics on Cape Ann. There were two provider meetings well attended, with Dr. Lucas Wolf and Dr. Orr playing key roles in helping the Health Department address physician needs in peer-to-peer education on pandemics. They're going to look at cruise ships around Norovirus protection as they have them coming into Gloucester and the Cape Ann area; and they will be looking at assistance data around special needs for the senior population during emergent situations such as storms. During recent storms people reported to the Health Department not having access to certain things due to power outages. The seasonal flue vaccine next year will include the H1N1.

Councilor Ciolino asked Mr. Vondras to try as predict the next year's flu season.

Mr. Vondras stated there was a great effort this year and will build on that for next year. But it will be a hard one as there won't be as much funding as there was this year. They'll have to rely back on the volunteers again which is a concern. They're feeling prepared for next year.

Councilor Theken noted that the job his staff has done, highlighting the work of volunteers who did a remarkable job and lauded their efforts. She felt without those volunteers, the clinics would not have gone forward as successfully as they did. Not only were there clinics in English, but there were also bi-lingual clinics and thanked the Health Department and their partners for their efforts.

Councilor Verga stated that there were many people frightened at the start but that the efforts of Health Department and the volunteers was exemplary and alleviated those fears.

Mr. Vondras responded that they were able to put into practice much of what they had been preparing for all these years with incident command. Every community got to practice. It was a perfect opportunity to put into place what they had practiced for so long.

Councilor Whynott thanked Mr. Vondras and his staff for their professional response.

Councilor Hardy, noting she was a member of the Cape Ann Emergency Planning Team, was able to see first hand the interaction with all the local communities, Rockport, Essex, Manchester and what a wonderful job everyone did with the coalition across Cape Ann. She also noted the efforts of the Boards of Selectmen, the Fire Chiefs, and the public health nurses across the local area. She thanked Sunny Robinson also and thanked Mr. Vondras for his presentation.

3 of 4: John Ronan Poet Laureate – Introduction of Salt and Light: An Anthology of Gloucester Poetry

Mr. Ronan noted he was happy to present the Council with copies of ‘Salt and Light’: An Anthology of Gloucester Poetry (on file). The book was a result of two Cultural Council Grants, a grant from the Friends of the Council on Aging, and private contributions for many organizations and individuals. The publishing of this book on Gloucester authors was a “civic” book. This is an example of reaching out to the community, containing the writing of senior citizens, folks who are not professional writers, children who have won poetry contests run by the library. It is a civic effort in its sponsorship: American Story Board, Coco Berkman, Deo Braga, Rev. Lynn Brakeman, Chisholm & Hunt Printers, Fred Cowan, The Crow’s Nest, Family Therapy, Friends of the Council on Aging, Dr. Richard Gardner, Gloucester Cultural Council, Sharon Lowe, Michael McNamara’s Precision Painting, Rockport National Bank, Arthur Ryan, and Carroll Steel Insurance. This book is offered free with distribution points at the library, the lobby in the Mayor’s office and at the Rose Baker Senior Center. A reception and book signing will be held at the Rose Baker Senior Center on Friday, April 23rd at 10:00 a.m. for the writers of this book. He noted some of the activities he had been involved in as Poet Laureate, and thanked the City Council for their support and enthusiasm as well as that of the Mayor during his term which ends in June.

Councilor Hardy thanked Mr. Ronan for his service to the City as Poet Laureate.

4 of 4: Mike Hale, DPW Director – Magnolia Woods – Update as requested by Councilor Tobey

Mr. Hale stated it is important that the DPW get the message out about what they’re doing in various parts of the City. Sometimes things appear clandestine out in the perimeter of the City. This was not the case of the Magnolia Woods recreational facility. When he took the office of Director of Public Works in the early summer of 2008, the facility was out of compliance. They had not been maintaining and monitoring the facility as required by the closure permit. There were numerous disabled or broken monitoring wells for both gas and ground water. One of the first RFP’s his office issued was to correct the monitoring situation and awarded that contract in September 2008 to North Coastal Environmental; and the vice president, Michael Rostkowski will give some background information on the soil that’s there today. One of the things they noticed during the RFP process was that the landfill was never officially closed and lacked a final sign-off from DEP. He noted the erosion around the access roads and cars parking on the cap; all things that are prohibited and not beneficial to the closure of this facility. It is a recreation facility; but it will always be a closed landfill which has to be recognized. They always have a responsibility to monitor and maintain it as such. There are certain things they can and can’t do there. As relates to the large pile of soil that was stocked on the lower gravel parking area this winter, it was excess soil from the CSO project. They needed soil to shore up some parking areas and to access the monitoring wells. They would have had to purchase the soil if they didn’t have it already. They had 1,500 cubic yards of soil from the CSO project. Each pile was tested prior to being hauled to the facility. They notified the DEP of their plans to extend an area for potential future parking and to access their monitoring wells. It made no sense to pay to dispose of the soil and buy new soil. He reiterated the DEP was fully noticed

through this process. On the issue of contaminated vs. non-contaminated fill, when you see broken pieces of plastic pipe or a broken shovel people think that is contaminated soil. That is not appropriate fill but those things can be removed [through the screening process].

Mr. Rostkowski Vice President North Coastal Environmental, a consulting company from Rockport, MA, noted he had quite a few years experience with environmental issues. He currently serves several municipalities, including Gloucester, Rockport, Manchester, as well as Merrimack, and served four years at the Massachusetts DEP in the Solid Waste Group. He reiterated what Mr. Hale had stated about the duty for the City to monitor and maintain the landfill. Regarding the issues with the soil that was brought there to create a parking area, and recover a parking area that was sadly overgrown. He enlisted a licensed site professional and a risk assessor to evaluate the soil. This was done after his own evaluation. Knowing what the concerns and questions were from the Council, the Mayor, and residents of Gloucester which were valid, Mr. Hale, himself and the DPW staff thought it necessary to proceed in this fashion. He read the conclusions (on file) of the Method 2 soil screening about the soils that were brought there: "...the results for this Method 2 screening are considered conservative because, a) The pre-defined standards used in this risk screening are based on long-term residential exposures, which are considered more intensive, more frequent and for longer durations than those we expect for a parking lot..." He asked, in general, how often would you come in contact with the soil in a parking lot, a gravel parking lot to begin with. They looked at a residential scenario where you have families playing out in the backyard over a 30 year period with dermal contact, ingestion. They looked at it from a residential perspective rather than a parking lot. He again quoted his report: "...b) Although Stockpile #3 will not be included in the soil applied to the parking area; Exposure Point Concentrations show that even under worst case conditions the soil would not present a risk." He felt this was a powerful statement. In addition, "... 2. These results indicate that a condition show no significant risk would exist if CSO soil, consistent with the compound data provided by North Coastal, was applied to the overflow parking area at the Magnolia Woods Recreational Facility." Again, this was standard operating procedure. He read an email from a colleague and friend but prefaced by saying he is into athletics; and he has been to the landfill both to monitor and maintain it; but more importantly his children play there too. "I know it's a drive for both our teams, but it's a good field and in a pretty location, so bring the families and spend the day up there. That's how I'm selling it to my wife and our team." To him that was also a very powerful statement. He congratulated the Council, the DPW and the Mayor as well as the citizens of Gloucester for creating such a facility.

Mr. Hale stated Stockpile #3 listed in some of the correspondence before them (on file) was not on site but was included in the risk assessment because they test all the soil that's taken out of the CSO. Anything that isn't buried again is tested. That material is hauled away through a completely different process in which they notify the Health Department and the DEP. They have a responsibility to maintain the facility. They need to displace the cars that are parking on the cap because we can't be on the cap. Parking is at a premium on weekends up there so they need to create parking areas. They need to be able to access their monitoring wells, both gas and ground water. He reiterated the disrepair of the facility in the summer of 2008. When they entered into a contract with North Coastal, they walked the facility and noted numerous deficiencies. Not only will this soil help to provide more parking, but it will also assist in gaining better access. As long as he is director he assured there will be compliance. They have a three year contract, now in its second year. They'll be back next year for another three to five year contract. The goal is to make this a safe enclosed landfill but also a safe place for children to play sports. By no means did they bring soil there to leave it as just a dumping ground. There was a lot of information disseminated through message boards, social networking sites that indicated the DPW was doing something inappropriate. He reiterated that all was handled properly and done in the spirit of making this a compliant landfill.

Councilor Tobey stated he didn't think anyone assumed that Magnolia Woods stopped being a regulated facility that was still a landfill in the eyes of the DEP under its rules and regulations. However, it is also a facility under the continuing jurisdiction of the Board of Health. Given the vote they took in 1995 that any fill that went in there, before it went in that it was tested to confirm it was half the S1 standard. He asked going forward if the DPW will comply with that requirement of the Board of Health.

Mr. Hale stated he believe they did. Every bit of soil that was hauled to that site was tested prior to its being there. They didn't bring the soil there and then test it. The soil was tested at its stockpiling site on Sargent Street before it was moved.

Councilor Tobey asked if the test results were presented in every case to the Board of Health before the soil was deposited at Magnolia Woods.

Mr. Hale responded he did not do that as he has had no contact with the Board of Health with any of his landfill issues in the last two.

Councilor Tobey asked if it is Mr. Hale's intention to fully comply with the terms and conditions of the 1995 vote of the Board of Health.

Mr. Hale responded he certainly works very well with Mr. Vondras' office. The other stockpiles they did notify both the Health Department and the Board of Health as those piles were moved out under normal protocol. He noted he was unaware that the Board of Health was involved with landfill monitoring and is now aware of that fact.

Councilor Tobey noted the history of the landfill is very sensitive to many who care about that park and that it is protected. It's not that it's the avoidance of contamination but that it is nothing but pristine that goes over there in the future. That was the standard for the capping. The materials that were used to cap that landfill, which have to be replenished over the course of time, were to be nothing less than "good enough to eat". He hopes the standard going forward will not show soil with things like pipes and shovels mixed in but rather the very refined filtered soils that went in there in the late 1990's at great expense to the taxpayers when the landfill was properly capped.

Mr. Hale stated his understanding.

Councilor Tobey noted Mr. Ventimiglia's response to the Oral Communications from Mr. Cooke on Magnolia Woods (previously on file). He didn't wish to suggest that this problem arose on Mr. Hale's watch. The work that was done over there was done with a bond. With bond proceeds, the City is supposed to buy things with long-term value, capital assets, or long-term improvements to a site; not day-to-day services. Somehow it seems that the \$260,000 left over from that bond for building a comfort station, and in fact the tanks to handle waste are in the ground and the pad is there; but the money's been spent down to \$90,000.00 and thought it would be very important that there be some sort of audit prepared and presented to the Council and the community as to what that money was spent on so that if, in fact, there was in the past expenditure of money for non-capital purposes inappropriately, we know it.

Mr. Hale stated he would work with the CFO and the Auditor.

Councilor Tobey felt there continue to be concerns in the Magnolia neighborhood. Councilors Verga, Ward 5 Councilor and Councilor Theken have been all over this, too. The reason this got done and got done right was that there was a dedicated citizen's group. That group has faded since it was dedicated in September of 2001. He asked Mr. Hale if he would be willing to reconstitute an ad hoc citizens group to keep a keen eye on the situation where there are issues still continuing.

Mr. Hale stated he would entertain that. He is available by phone and his door is always open and wishes these groups would contact him any time for this. A lot of this could have been done, not necessarily here, but through a call to his office which could have addressed a great many of these concerns by citizens.

Councilor Tobey asked Mr. Hale to become proactive and that the citizens who are concerned be involved with the ongoing efforts on Magnolia Woods as well as the DPW as a whole.

Councilor Verga stated he never intended to do a "gotcha" moment for anyone on this matter. He doesn't care who is right or wrong. He just wants to make sure that what is done in the end is right. He felt it is the right idea for the intended use of the soil to expand parking. The missing piece he was still searching for is some sort of acknowledgement from the Board of Health that the June 1, 1995 vote is still intact. He would very much like to see a letter from them that, yes, they agree what has been said. He wants to make sure the City is covered and nothing comes back to haunt them down the road.

Mr. Hale stated he can speak with the Director of Public Health to see if his chairman can provide him with something. He explained the difficulties in navigating through the years behind his tenure as Director of the DPW in sifting through the maze of information and requirements as there have a number of players in place

through the years. They did what the State requires them to do. There did not appear to be supplemental requirements by the City.

Councilor Verga agreed that it was difficult for them as they come in after the fact to have an institutional memory that doesn't exist. But the fact is that when votes are taken they're there for a purpose, until another vote is taken to override it. So that's the only thing he would want to see from the Board of Health and/or the Health Department that they are in agreement. He didn't want to give anyone the ability to prove them wrong. **Mr. Hale** reiterated everything they did was done properly other than notify the Board of Health. He was unaware of the requirement. The soil at Magnolia Woods meets the required standards. The gap is not notifying the Board of Health.

Consent Agenda:

• **Mayor's Report**

1. Memo from Police Chief Michael Lane re: "Click It or Ticket" grant from Mass. Executive Office of Public Safety (Refer B&F)
2. Memo from Library Director re: permission to establish new account for Contractual Services & Special Budgetary Request (#10-28) (Refer B&F)
3. Two Supplemental Appropriation-Budgetary Requests (#10-SA-7 and #10-SA-8) (Refer B&F)
4. Report from City Auditor re: accounts having expenditures which exceed their authorizations (Refer B&F)
5. Grant Application & Checklist from Grants Administrator re: grant from EPA Brownfields Clean-up Revolving Loan Fund (Refer B&F)
6. Memo from Grants Administrator re: Program Year 2010 CDBG and HOME Grants acceptance of anticipated CDBG grant in the amount of \$870,582 and anticipated allocation of the HOME Grant from the NS HOME consortium in the amount of \$138,848 (Refer B&F)
7. Supplemental Appropriation-Budgetary Request (#10-SA-9) from the Dept. of Public Works (Refer B&F)
8. Letter notifying the City's apportionment of Chapter 90 local transportation aid funding for FY11 is \$510,530 (Refer B&F)
9. New Appointment: Lorre Anderson Tourism Commission TTE 02/14/2011 (Refer O&A)
 Reappointments: Margaret Rosa City Hall Restoration Comm. 02/14/2013 (Refer O&A)
 David C. Bell City Hall Restoration Comm. 02/14/2013 (Refer O&A)
 Steven Dexter City Hall Restoration Comm. 02/14/2013 (Refer O&A)
 Stephen Pardee City Hall Restoration Comm. 02/14/2013 (Refer O&A)
 Janis R. Bell City Hall Restoration Comm. 02/14/2013 (Refer O&A)
 Mary Rineland-McCarl City Hall Restoration Comm. 02/14/2013 (Refer O&A)
 Anthony Gross Waterways Board 02/14/2011 (Refer O&A)
 Peter Bent Waterways Board 02/14/2013 (Refer O&A)
 Arthur (Sooky) Sawyer Waterways Board 02/14/2013 (Refer O&A)
 Vito Calomo Waterways Board 02/14/2013 (Refer O&A)

• **INFORMATION ONLY**

1. Letter form Gloucester Contributory Retirement System Board (Info Only)
2. Memo from Jim Duggan, CAO re: Regional Emergency Communication Center (Info Only)
3. Communication from Councilor Tobey re: 2004 Environmental Site Assessment Report (Info Only)

• **APPROVAL OF MINUTES**

1. City Council Meeting 03/30/10 (Approve/File)
2. Special City Council Meeting 04/09/10 (**under separate cover**) (Approve/File)
3. Standing Committee Meetings: O&A 04/05/10, B&F 04/06/10, P&D 04/07/10, B&F 04/09/10 (**under separate cover**) (Approve/File)

• **COMMUNICATIONS**

1. COM2010-019: Letter from Gloucester Rotary Club re: Gift to City playground apparatus for Stage Fort Park Playground (Refer P&D)
2. COM2010-020: Request for Street Closure for North Shore Tour de Cure May 22, 2010 (Refer P&D)
3. COM2010-021: Request from Latitude 43 Restaurant and Fisherman's Wharf for temporary extension of use to utilize Lat43/Fisherman's Wharf adjoining parking lot area for outside Fiesta Fish Fry (Refer P&D)

4. COM2010-022: Letter from St. Peter's Fiesta, Inc. re: Fiesta Shows Amusements Co., Inc. Relocation of some rides, games and expansion of show from St. Peter's Park to Commercial Street Birdseye Property (Refer P&D)
 - **ORDERS**
1. CC0210-021 (Hardy) That B&F invite Superintendent of Schools and Administrators of Charter School re: Proposed FY2011 Budget (Refer B&F)
2. CC2010-022 (Hardy) Amend GCO Sec. 2-44 re: Listing Special Municipal Employees to add Boards and Commissions (Refer O&A)
3. CC2010-023 (Tobey) Amend GCO Sec. 22-289 re: Main Street re: Main Street Parking Meter Time Limits (Refer O&A)

Items to be Removed/Added to the Consent Agenda:

Councilor Tobey stated the Council was in receipt of a communication from the Fire Chief on the matter of a response from Oral Communications from a previous Council meeting to add to the Consent Agenda.

Councilor Hardy stated she had items she wished to add to the Consent Agenda to go to P&D and to remove Item #2 under Information Only, Memo from Jim Duggan, CAO re: Regional Emergency Communications Center.

The Consent Agenda was approved by unanimous consent.

Councilor Tobey stated there was receipt of an answer from the Fire Chief to the Chief Administrative Officer on the management of a Fire Safety Grant that the City has received, and the use of the grant money. He is concerned that one can construe that memo to conclude that monies were used that weren't otherwise available to provide sufficient funding for the collective bargaining agreement that was concluded for the current fiscal year by the Administration with the firefighters union. The previous City Council was not given the opportunity to vote on that contract because it was represented that there was sufficient funding. He asked this be referred to the B&F Committee to review whether that is the case so that we know going forward if the Council had been excluded so as to make sure that it doesn't happen again should similar assertions be made regarding future collective bargaining agreements.

MOTION: On motion by Councilor Tobey, seconded by Councilor Theken the City Council voted 8 in favor, 0 opposed to refer the matter of the memorandum from the Fire Chief to the Chief Administrative Officer in order that the Budget & Finance Committee can review whether the firefighters contract of the current fiscal year ought to have been submitted to the Council for funding approval at the time the contact was executed.

By unanimous consent the City Council referred out to the Planning & Development Committee a Street Closure Request from the Chamber of Commerce sponsored Gloucester Sidewalk Days: August 5, 6, & 7, 2010 for street closure.

Councilor Hardy noted Item #2 under "Information Only", Memo from Mr. Duggan on the Regional 911 Communication Center and that the City Council referred this matter out to O&A and B&F. It was the will of both of those Committees that this particular matter be advertised for public hearing. It has yet to be advertised but because they have received this communication, she wished to initiate a general discussion on the fact that Sheriff Cousins is willing to go forward without the City of Gloucester participating; he will go with the communities that have already signed on.

Councilor Whynott stepped away from the dais.

Councilor Ciolino felt in light of the City not going forward with membership in the Regional Center, it would be unnecessary to advertise for public hearing, but keep the 911 Regional Center as a possible option for the future but not to pursue it further at this time.

Councilor Theken stated at O&A there was a discussion for a public hearing; and now that is resolved, there is no point going forward.

Councilor Verga agreed; he had stated before during a discussion on the consolidation of the City offices that it makes sense to figure out what we want to do here first because if the Regional Center is not in the cards with what we want to do then there is no sense in getting bogged down with it. Keep it on the back burner for now. **Councilor Mulcahey** agreed with Councilor Verga. If it looks like it may be a good deal for the City to do in the future we should, but at this point she felt they should wait.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Mulcahey the City Council voted 7 in favor, 0 opposed with 1 (Whynott) Abstention, to table the matter of the advertising for public hearing on the Regional 911 Communications Center and file the information for future reference.

Councilor Hardy noted that Sheriff Cousins made it clear that if the City would like to participate in the Regional Center at a later date, he would be more than happy to address the issue and Gloucester would be listened to and paid attention to. At this time they decline to pick up the offer.

Councilor Whynott returned to the dais.

For Council Vote:

Councilor Tobey explained given the facts, he will not be making a motion to reconsider the vote taken at the City Council meeting of March 30, 2010 on the amendments to the Gloucester Zoning Ordinances 5.8 Site Plan Review. He felt it would fruitlessly divide the Council without moving the matter forward. In light of information shared through the Chair of the Council the kind of transparency that would have been obtained by putting notice of Planning Board site plan review proceedings in the newspapers could be better achieved through the new City website being planned and launched later this year where they have been told there will be extensive presentations of the agendas of Boards, Commissions and Committees for just this sort of item. The City is being required to place a bulletin board outside City Hall for meeting notices to be up by July 1st to comply with the Open Meeting Law which will also help to increase transparency and access to information. Folks will be able to find out both electronically and in hard copy form just as readily as they would in a newspaper. He, therefore, would not make a Motion to Reconsider the vote.

Councilor Hardy noted there would be no action on this matter by the Council.

Scheduled Public Hearings:

1. **PH2010-008: SCP2010-001: 79-99 Essex Avenue, Sec. 2.3.1(12), Sec. 5.7.3 Major Project, Sec. 3.1.6(b) height excess 35 ft., lowlands Sec. 5.5 lot area per two guest special permit 3.2.6 (Continued from 03/02/10)**

City Clerk, Linda T. Lowe noted the letter from Attorney Ralph Pino, representing the applicant, requesting this matter be continued to late June 2010.

Councilor Hardy noted this public hearing is open and continued to June 22, 2010 meeting of the City Council, the latest meeting for June, as requested by Attorney Ralph Pino.

2. **PH2010-020: SCP2010-003: 5 Reef Knot Way, GZO Sec. 5.5 Lowlands**

This public hearing was open.

Those speaking in favor:

Barry Garvin, 5 Reef Knot Way, homeowner and applicant, stated his permit is to build a pier and a dock, approximately a 40 ft. long pier with one floating dock being 10 ft. by 20 ft. and also included is the construction of a gravel extension of the driveway and a patio in the back of the house. They have the Conservation Commission approval and have the Shellfish Constable and Harbormaster's approval.

Those speaking in opposition: None

Communications: None

This public hearing was closed.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the Planning and Development Committee finds that in accordance with Gloucester Zoning Ordinances, section 5.5.4 for lowlands special permit are met; the project has been designed to satisfy the requirements of the Hatch Act as there are no hazards to health and safety, and the project will be executed as to conserve shellfish and other wildlife resources of the City; and therefore recommends to the City Council by voting 3 in favor, 0 opposed to grant the Special Council Permit 2010-003: 5 Reef Knot Way, Lowlands 5.5, Map 110, Lot 20, zoning classification R-10 pursuant to Gloucester Zoning Ordinances Section 1.8.3, and Section 5.5 Lowlands requirement.

Discussion:

Councilor Ciolino noted that Mr. Garvin is building for his own residential use. It has been vetted by the Conservation Commission and has all approvals necessary. He recommends the passage of the Special Council Permit.

Councilor Hardy stated this is in her ward and heard no negative comments from her constituents on the matter. There are quite a few piers and docks in that area that all had to go exactly what Mr. Garvin has had to go through in order to obtain approval for the project. She will vote to approve this.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Tobey, the City Council finds that in accordance with Gloucester Zoning Ordinances, section 5.5.4 for lowlands special permit are met; the project has been designed to satisfy the requirements of the Hatch Act as there are no hazards to health and safety, and the project will be executed as to conserve shellfish and other wildlife resources of the City; and therefore the City Council by ROLL CALL voting unanimously 8 in favor, 0 opposed grants the Special Council Permit 2010-003: 5 Reef Knot Way, Lowlands 5.5, Map 110, Lot 20, zoning classification R-10 pursuant to Gloucester Zoning Ordinances Section 1.8.3, and Section 5.5 Lowlands requirement.

The Public Hearing #4 was taken next with the Public Hearing #3 on the Flanagan Square matter to follow.

4. PH2010-021: Eminent domain taking under MGL c79 of the parcel known as "I4-C2" located at 65 Rogers Street

Councilor Hardy informed those in attendance that the public hearing was called because the City Council wanted to hear from the public, although it is not mandated by law.

This public hearing is open.

Those speaking in favor:

Mayor Kirk noted there had been an exhaustive review with the Council, which is ongoing, starting at O&A where they affirmed the legality of the transaction. They have a written opinion from the City Solicitor, supported by case law on the actual structure of the transaction. There were a number of questions regarding the use of the State funds, whether or not there were restrictions. They have been in receipt of an opinion from

Bond Council who is familiar with this particular bond bill that is a source of the funds. They also have an email from a State official but is an informal communication and wished to leave that matter as an open issue. As of tonight it is their understanding that the funds may be used. They would, however, prefer to have a more formal statement. O&A asked for a history of I4-C2 which was provided; and they also called for this public hearing and expressed her thanks for that. B&F also took up the question of the \$1.5 million price. This goes back to the structure of the transaction. This is a friendly eminent domain transaction for which they have authority to proceed in that manner. The only difference between a friendly and hostile taking, is that in a friendly taking there is a negotiated price. In a hostile taking the court or a jury decides on the price. The Administration has no interest in subjecting the City to a hostile eminent domain taking. It is too risky; and juries don't look favorably upon cities that take private property. They also looked at what is the public purpose which you have to have in an eminent domain situation. The public purpose is to support the economic development of the City. The way that is structured is articulated in the Harbor Plan, which has been affirmed with the DPA and has gone through significant local debate and dialog over a number of years. The economic plan embedded in that Harbor Plan relies on three sectors of our economy in the future: the fishing industry, the maritime economy which are jobs and investments in businesses that are compatible with the fishing industry that fall within the DPA parameters, and the visitor-based economy. What is so powerful about this site is that it contains an opportunity each one of those segments. It has the commercial fishing vessels on the docks there. It has the wharf which will become part of the Harbor Walk giving public access which is something the community has cried out to observe and enjoy the working waterfront. The upland part can be used for that other piece of the maritime economy that falls within the DPA. That has been articulated in the Order of Taking. B&F asked how are you going to pay for this. They put forward a timeline with a community-driven process with an RFP; feedback from the community and then structure of a particular transaction where if it's a land lease or some other type of arrangement that generates revenue for the City. Then it goes to the approval processes. They think that process takes about two years because it is community driven. In those two years, the short-term borrowing rate is now estimated at \$12,500.00 for the first two years and then permanent financing requirements will kick in on the third year. They think in that time frame that they will have some revenue-generating development plan in place. The \$12,500.00 will be submitted to the Council as a part of a balanced budget will be received on May 4th for FY11. P&D has looked at what the temporary and permanent uses are. Those descriptions have been submitted to the Council. All the information and that back up is submitted and available in the City Clerk's office. Environmental questions are being undertaken in a Phase I assessment received today. It was here when the Council came in tonight. April 27th is another key date in this process. We have maintained all along if there were findings in the Phase I assessment they would proceed to Phase II. The only finding they saw was "There is no direct evidence of contamination of the site". There are no other findings that would raise an alarm. Their environmental review of this project is concluded at this time. They do not intend to pursue a Phase II assessment. The value of a Phase II assessment is to give an idea of the limitations of what could be on that site. If there is some contamination, of which there is no evidence of, but should there be, you may not be able to grow foodstuffs or put housing on that site. A Phase II assessment is tied up into whatever the proposed development for the site would be for the City, and it doesn't make sense to pursue that avenue. There may never be a Phase II assessment on this site. The DEP doesn't mandate it, not only because of this study but also because of a study done in 2004 which also made the same conclusion of no environmental barriers to obtaining financing and no record on the DEP database of any reported releases going back at least 25 years. The timeline they're under is for the loan authorization to be voted on at the April 27th meeting of the City Council. On April 28th, should that pass, the Director of Public Works would assume responsibility in the short term for the property.

Mr. Hale stated he walked the site with the Mayor and with Mark Cole, his Public Properties Manager, to see what needed to be done to make the property more presentable and how long it might take to do so. He noted underbrush and a few mature trees and the grass being overgrown. They felt with two weekends of work, not taking away from their spring preparations for Memorial Day and the summer season, they could clear the lot of the tall grass, brush, clean up the litter, mow the grass, remove the chain link fence and prepare the installation of a more suitable looking barrier to keep pedestrians from going off the embankment by putting in some sort of

a wooden guard rail more fitting for the area than the chain link fence. They felt with four days worth of work they will be able to make it presentable to the citizens of Gloucester.

Mayor Kirk concluded her remarks by noting two abutters, the Gloucester House Restaurant and the Building Center, submitted letters of support (on file). She read both brief statements. The decisions need to be made for the future of the City. This lot has been vacant for 45 years. Many have tried; many [deals] have come together only to fall apart at the last minute. It is important to note the community-driven process which this can be all about for the City. We should not make our decisions based on fear. They need to be made based on the future of the City. This Council and Administration have what it takes to really the move this forward for the benefit of the community, of the working waterfront, and for our downtown and urged the Council to support the proposal that is before them on the taking of I4-C2.

Those speaking in opposition:

Councilor Hardy offered the first 15 minutes of those speaking in opposition to Michael Faherty who had asked for some time to speak, but Mr. Faherty noted he is not representing any organization so that if there was someone who was, he would defer to them.

Steven Goldin, 33 Rockport Road, the Wingaersheek Fund, of which he is the Director felt this parcel should be taken by eminent domain long ago and should be done as soon as possible. He asserted the proposal was illegal, and that the finances are four times over what it is worth. It is not in the interest of the City. It is combining two properties. The law is clear. Someone is entitled to the market value of their property. Mr. Cohen doesn't own the waterfront property. He needs to be paid for just the land. If you were going to maintain this legal fiction to combine the two, the idea that it's worth more is not true. That land came from a State grant for a fishing wharf, with strict Chapter 91 and DPA requirements. Someone who owns the front lot can make no other use of the waterfront lot other than public access which everyone has now. When you get into the value of the front parcel, he urged the Councilors to look at the appraisals which he believed were not valid. None of the properties compared have restrictions that this property has. He noted Attorney Faherty's statements at the Standing Committee meetings about the sub soil. If you look at comparable properties on the waterfront they're all developed properties. Another fact is that if you combine the two [properties] then you raise the price. He spoke of the easements noting they'd be there anyway. Whether it's owned by the City or others, it can't be built on and won't affect the price. He wanted to clear up some myths and fear of juries. The idea that you're not going to get a fair judgment from a jury and would somehow give some sky high judgment he claimed was absurd. Eminent domain is a much abused process. There are no special deals. This is a real estate magnate who came in and held the land for 25 years. He's not going to get any sympathy. Juries do a good job. They're presided over by a judge who is not a fool, and then it's 'appeal-able'. We have the fear of Mr. Cohen because he has a lot of money. He has it because he is a hard bargainer. We live in a country where you can't buy the court. There are excellent land lawyers in Gloucester, and it would run the City \$40,000.00 to go through the process. But not \$1.5 million with today's market conditions. He'd doubt they'd get more than \$300,000.00 for this lot. You always get three appraisals. Get more appraisals to get an honest price. He also didn't like the assertion that the \$800,000.00 from the State is free money. The City takes title, and he can fight for the price in court. It is offensive for this rush. He's had it for 25 years and hasn't been able to do anything, feeling it was a cheap sales trick to get quick action. He also asserted the Executive Session in one of the Committees was illegal. You can have them for negotiations or a lawsuit. But what was said in that session should be released before the Council makes a decision. Finally, rather than depend on the legal opinion of the City Solicitor, get one from the Attorney General's office. If it's really legal, then there will be an almost iron-clad case against appeal.

Councilor Hardy noted that before the meeting began Barry Pett asked for permission to speak after the first two presenters.

Barry Pett, 45 Middle Street and Chair of the Gloucester Redevelopment Authority (GRA) also the Director for Community Outreach and Constituent Services for State Senator Bruce Tarr who stated the Redevelopment

Authority have been working on this for 20 years trying to resolve some of the issues on I4-C2. The dockage facility was given to the GRA through a grant by Coastal Zone Management (CZM) that had time restrictions on it where nothing could be done until the bond had expired. When it did, the GRA transferred that facility to the City's Waterways Board with the agreement that it continues to have the 10 commercial fishing slips that are there now. Twenty-four years ago when the property was transferred to Gloucester Landing Associates (referred to as Jeff Cohen as the individual), there was a Land Disposition Agreement (LDA) which has many easements to it. At the time of the LDA there was acknowledgement of some environmental issues on the property. There are a number of easements across that property designed to protect public access which he described the easements. There is nothing that stops the public from entering the property now or in the future. There are a number of easements that are required to provide commercial fishermen with parking, storage and access to come into the property and to retrieve and set their gear. The control of the easements is with the GRA. The GRA spent significant amounts of money to get the legislature to change their mind to redesign the facility to give someone access to the waterfront design is with the Harbormaster to allow 85 ft. of access with some use of the uplands. It can be addressed. They will work with the Council and the Administration on it.

Mayor Kirk rebutted the question of the appraisal stating it is a friendly taking with a negotiated price. The City and property owner agreed upon how they approached the appraisal. The owner commissioned theirs and the City commissioned their own. They did a combined parcel on the waterfront and the land. It shows the combined value of \$1.8 million and Mr. Cohen's and Gloucester Landing Associates appraisal came in at \$2 million. This is important. In a hostile taking that goes before a judge and a jury, the jury does not have to look at the local optional zoning that goes with the property. They look at if all the zoning goes away what is the best and highest use of the property. That helps to set a value. We all know that the highest and use of waterfront property is condos. That's the bar that gets set when a jury looks at this. The City Solicitor has cases to back that up. She felt all needed to know some of the thought process that was behind the negotiations. She didn't think 45 years is too long; that 25 years under Gloucester Landing is rushing it; she felt it was time.

Ms. Egan clarified how a jury would value this. If this did go to court, and a jury or a judge had to determine the value of the property, it would subject the City to liability. It isn't necessarily that the jury would look at the parcel as if it had no regulations on it. The jury would look at the possibility that the regulations could be changed. That would be a determining factor on how the value would be set. She supported the Mayor's contention that what they're doing is entering into a negotiated value of the land. That is something that keeps the City with the ability to purchase the parcel without subjecting it to the liability and risk it would undertake if this turned into a hostile taking.

Mr. Goldin rebutted agreeing that 45 or 25 years is not too long, that the parcel should have taken it long ago by eminent domain. Take it by eminent domain and offer the market price and that the price will be fought out in the courts. As far as the appraisals and restrictions on the land, the biggest are the DPA and Chapter 91. These protections won't change and needs to be factored in. If you look at the appraisals that because of the restrictions on the waterfront it's only used for fishing as is appropriate. The waterfront is of no use. Comparable properties were not looked at. There were separate appraisals done, and they didn't look at them. We need to get it done as soon as possible but just take the land and get three independent appraisals and get an Attorney General's opinion.

Councilor Hardy asked for a show of hands of all those in favor taking I4C2 by Friendly eminent domain were counted as 73 by Mr. Jeffrey Towne, CFO for the City. Those in opposition were counted by Mr. Towne as 4.

David Anderson, 16 Middle Street spoke of broadening the Gloucester tax base. He recounted all the loan authorizations embarked upon by the City in recent history. and noted many debts facing the City. He felt the City can't afford to continue this unless it broadens the tax base. That land has done nothing in 45 years. An estimated \$8 million has been lost in tax revenues. He urged doing something with the \$800,000.00 to make it work for the City. The property value is fair. We have waited too long; now is the time to act.

Kathy Low, Raynard Street, 2010 President Cape Ann Chamber of Commerce stated the Chamber officially supports the City in taking the I4-C2 parcel. As a constituent, she also spoke in favor of the taking believing it to be an investment in the City.

Ed Collard, Board of Directors, Chamber of Commerce supported the Mayor and the City Council Committees for their efforts. He hoped lessons had been learned about development in the City that will make development more successful in the future. He guaranteed an army of volunteers to clean the eye sore up.

Peter V. Asaro, 224 Bray Street felt the property in its current state is terrible and is in favor of the taking of the parcel stating "before I die".

John Fuller, 27 Fayette Street, Beverly stated he knows the site well as an architect who designed a building that didn't go up on I4-C2. This parcel is keeping the neighborhood from thriving. It would change the character of Rogers Street and re-brand the City. It would open a lot of doors in the City. This site is "priceless".

Russell Hobbs, 1166 Washington Street expressed support.

Ian Kerr of Acton, MA, Ocean Alliance noted he paid \$2 million that is polluted and doesn't have parking. It was the smartest decision he ever made. The Ocean Alliance bought the site as a durable resource for the City as well as themselves. He worries that if the City doesn't do it, what will someone else do with it. We lose control. Regarding site pollution, if this is a deterrent, please reconsider it. Much of what they were told on their property, it was not as bad as expected. There is much grant money out there to fix these issues. It is again an opportunity to control our future, our waterfront. We should grab it. If as many people say that the waterfront defines the City, he would vote for this.

Damon Cummings, 1063 Washington Street wasn't able to meet with the Citizens for Gloucester Harbor, but they are wholeheartedly behind this taking. One of the Harbor Planning frustrations was the lack of waterfront properties owned by the City. He reviewed the situation around that issue. His is in favor of the City obtaining the property. He believed the cleaning up of the property will bring up property values in the area. Tax revenues on the entire block are minimal. It is prime downtown real estate. The properties are cheap. In other port cities, they were able to make their waterfronts more attractive because their cities own so much of their own waterfronts. Opening it up visually will make it a better situation, creating a better sense of place. He hoped this purchase doesn't result in an urban-renewal type of development. He asked that more buildings not be built on the waterfront. He wants to see this purchase happen and hoped that it is something that we'll all be proud of it.

Kate Seidman, Witham Street spoke of the blight of the property and wished it could be used for the benefit of the City where the citizens of Gloucester could use it more as a park. She thanked the City Council for listening and caring. She thanked the Mayor as well.

Marsha Hart, East Gloucester resident noted she had a history with the property and looked at it as an area of potential. This property can be an asset and something good could happen in this central property as a way to connect the City and make it vibrant. She was in support of the taking.

Peter Van Ness, 11 Magnolia Avenue, thanked the Council for the public hearing and the Mayor for coming up with the idea. He appreciated the warning on the property but supports the taking. There are a lot of different views as to what to do with the property but with the leadership of the Council and the Mayor to bring the City together [they will] make something work for it. When you take it and have it, he vowed to produce a bigger and better Celebrate Gloucester Concert to help pay for this project.

Jim Douglas, co-owner of Cape Ann Whale Watch challenged the Council to be a part of the development of this property.

John Orlando, 112 Essex Avenue, Chair of the Downtown Development Commission spoke of a letter (on file) in support of the parcel. He and the Commission felt the purchase of the parcel can only improve the downtown and looks forward to participating in the planning for the improvement and development of the property. Once the City acquires this piece of land so that it can be used; and should the City choose to resell it, it can be developed

Jean Gallo, 29 Harvard Street hoped the purchase will be approved and supported it. She hoped for careful development; and make sure the community is involved in the plan also. She noted that the Gloucester Fishermen Wives Association be put on record in support of the purchase.

Robert Whitmarsh, Jr., 2 Blueberry Lane noted this is a focal point in the downtown. He encouraged the Council to do something. Washington and Rogers Streets are being redone, and the City is entering a period where Gloucester can move ahead.

Sunny Robinson, 20 Harvard Street and member of Citizens for Gloucester Harbor supported the matter. She urged to be sure there are no legal or environmental impediments. Publicly commit to assuring this land is used in the legal and spirit of the DPA and that Chapter 91 restrictions are adhered to and do that in a creative way by combining all three aspects. She believes it is critical to preserve and enhance the sight line from City Hall to the harbor. The final development plan should include the landscaping for the other side of Rogers Street so the entire area moves forward. She noted the sidewalks have to be improved and addressed for true public access. She believed it was possible.

David Rhineland, 16 Pine Street assured the Council that preserving this lot fits into historic preservation and several other things and knows the organizations he's involved in will support this effort. This is a great project. He thanked the Mayor for getting this going.

Sheila Brown, 8 Becker Lane thanked the Council and the Mayor in their efforts to obtain the parcel. She supported the taking and to keeping the public informed every step of the way.

Also speaking in opposition:

Karen Budrow, 33 Chapel Street, does not support the taking of the parcel. She has watched developers come before the Council trying to develop that property. The City has put roadblocks in front of people. We already own the waterfront piece; why would we combine that in a purchase price. The Mayor is aware of her desire to see that property developed. But she has always thought that was the purpose of their economic development department. She didn't think we need to buy the property from commercial developers without a plan. There have been many proposals over the years, and that they've been prevented from development. If she went to a bank and told them she wanted \$1.5 million and didn't know what she was going to do with it or the property, she would be denied. Enough people have objected to what has been offered over the years for development of that property or the easements that the City has put in place have prevented people from developing. She expressed her concern that there is no plan and City departments who she assumed have made efforts over the years to see that something happened there. What makes us think now if we buy it, something is going to happen there? She may be only one of four present that evening, but she assured the Council there are people who question why we are preventing private developers to go forward with development on the property and now the City wants them to pay for it.

Michael Faherty, 83 Mt. Pleasant Avenue spoke on his own behalf in opposition. He stated as structured right now it is a bad business deal for the City of Gloucester and one ripe for potential liabilities. He asked initially, and attended all of the Council's Standing Committee meetings, under what legal authority did the Seaport Bond Council reappropriate or reprogram the funds that were originally dedicated to public improvements to coastal public facilities so that it could be used for acquisition by eminent domain. The Mayor is saying tonight that it's been taken care of; that Bond Council has answered that question. He knows that Ms. Egan addressed a letter to certain people that is public record, saying that there is no such prohibition in the Act, which is the Acts of 3/12/2008. He read a short section, entitled, "For Improvements to Coastal Facilities in Designated and Non-Designated Port Areas including those defined in Chapter 21F of MGL 301 CMR 25", "...provided that improvements may include but shall not be limited to construction, reconstruction, rehabilitation, expanding, replacing and improving of public facilities, piers wharves, boardwalks, berths, bulkheads and other harbor and waterfront facilities..." Ms. Egan, in her letter, states that you don't find any prohibition against acquisition of land in that act so therefore it must be allowed. Unfortunately, the prohibition against acquisition and the manner in which this money is proposed to be used is contained in Chapter 26F which is referred to in the act in the very same sentence. It defines what coastal or harborfront facilities are and defines what improvements are. Improvements do not include purchase or acquisition or taking by eminent domain. In response to the paperwork on record, he called Richard Manley of the Bond Council who called him back that afternoon. Mr. Faherty asked Mr. Manley if this question was addressed to him or asked of him. Mr. Manley said no. He stated he only addressed the simple issue of whether or not the grant, a general Commonwealth grant without

restrictions in writing, would restrict the City from doing what they're doing. He said to Mr. Faherty that he could make that statement because that was the only question he'd looked at. He had not even looked at the other issue. The second person who called back was Scott Jordan, who is the next in line at Finance and Administration. He asked him the same question because he's listed on your [City] email. He said absolutely not; they didn't look at any of that. If the question was sent to him he would make it his responsibility to get a direct answer. But he wasn't arguing with Mr. Faherty that this may not be a legal reappropriation of money. Someone spoke earlier of an opinion. In 1965 in response to a similar question when money was used for eminent domain takings on a highway project when it hadn't been authorized by the general court, which is the legislature – that's the key issue – the legislature appropriated this for improvements. Improvements are a defined term. You can't use it for acquisition. Ed Brooke, Attorney General at the time noted, "...it was not permissible to pay damages for the taking of certain real property by the exercise of eminent domain from funds appropriated for another purpose. In the absence of specific language allowing payments for land takings it cannot rightfully be inferred that the legislator intended to permit payment for land takings from a fund appropriated for another purpose..." Until that issue is resolved, we are at risk. The other point, we heard today, and noting he had not had a chance to review the most recent environmental assessment, is that his position has been all along that you have to go further than the Phase I assessment report. To that fact, he read the LDA that Mr. Pett referred. This is the Purchase and Sales document Mr. Cohen signed when he bought the land in 1986. On page 8 of that agreement it says under a section entitled, Title Insurance that, "Prior to the execution of this agreement, the developer, Mr. Cohen, has had the property tested for the presence of hazardous substances by Hailey & Aldrich, Inc. [a Boston engineering firm]. The authority recognizes that the said tests have disclosed the presence of hazardous waste in limited quantities on locations on the property." This contract was signed by Mr. Cohen before he bought the property. It is a representation by him that before he bought the property there had been tests conducted, and it had revealed hazardous materials. You're being asked now to accept a report that has not done anything else in that regard. Until that issue is resolved, and it doesn't appear as a recognized authority in that report, then that report is about as useless as he's seen on that site. We're paying too much and nothing that anybody said today what they wanted to do with this parcel can not already be done without spending \$1.5 million. The appraiser said \$590,000.00. The Mayor admitted she made an agreement ahead of time; we're going to assess it differently. It is completely contrary to eminent domain law or how you value property. She made a gross mistake of law when she said they appraise it at the highest value. That's not true; it's subject to the restrictions. The point remains, you're paying too much. There's nothing that anyone has suggested we do on that property you can't already do except clean it up. And the problem is that Mr. Cohen hasn't created the litter. There is nothing to prevent the Mayor's office from creating the Harbor Walk. We do not have to pay for this property.

Communications:

The following were received as noted and one file:

- 04/09/2010 from Julie Redmond, 9 Ashland Place (in favor of)
- Received 04/13/2010 from the Downtown Development Commission (in favor of)
- Received 04/13/2010 from Elise Hansen, 33 Revere Street (in favor of)
- Received 04/13/2010 from Judy & Peter Anastas, 9 Page Street (in favor of)

Questions:

Councilor Verga felt Mr. Faherty raised a good point if that the Purchase and Sales agreement refers to contamination. Yet this report, which he had not had an opportunity to review, does not indicate any contamination. This report was not based on physical testing, but on sweeping previous reports. Then they obviously missed one. He asked if the Council could get confirmation if they missed this or if they have a good reason why they didn't include it. He asked through the Chair for the Clerk of the Committees to request the information of the Administration.

Councilor Ciolino noted Mr. Cohen acknowledged there was some contamination but bought it anyway.

Ms. Egan noted Mr. Faherty read a portion of the land disposition agreement which she also had. There was some additional language in that agreement which states that if he can obtain title insurance which is acceptable to him on the property that he will go ahead on the deal. And he did go ahead and purchase it and that was

within the LDA. His determination that he was satisfied with the condition of the property leads to the Phase I assessment which shows no direct contamination on the site.

Councilor Ciolino asked if there would be more coming from the Bond Council on the purchase and using the bond monies.

Ms. Egan stated Mr. Faherty specifically looked at particular language in that appropriation, 11000-2500, the account that the environmental bond bill was from. He states that the language says this only can only be used for improvements to coastal facilities. But within that language if you read further down, there is money appropriated, she believed \$1.4 million City of Newburyport for the purpose of economic development. There's no limitation within that as to whether or not economic development can be used for the same thing that we are doing right now, using it for acquiring property for economic development. Although within the language there is some limitation, that's not the only language in that bill.

Councilor Ciolino asked if there would be anything to prevent a 99 year lease.

Ms. Egan stated no and agreed it is always an option.

Councilor Theken noted the many statements of what can be done with the land. She asked why the Mayor wants to purchase and how will she oversee the development of the land.

Mayor Kirk felt it was important to understand the context in which she came an understanding about what needed to be done with this property which began with conversations with Mr. Cohen in 2008. He gave her a complete history of his experience with that parcel. Under the current zoning, the land is separated from the waterfront. Under the DPA that land has to have a water-dependent use. It is landlocked. In their discussions, they came to the conclusion that the land and waterfront needed to be reunited. It was the only way that a development under the DPA zoning was going to move forward. The Mayor contended to Mr. Cohen that it meant one thing that the land had to come to the City because the City was never going to give up the docks and the wharves that are there. Once they had that meeting of the minds, they said how do we get this done? This was a man who bought the property with every good intention who said he'd been dealing with it his whole adult life. Now here's a Mayor coming in saying you're never going to do anything with it because we need it back. So the first goal is to reunite the land with the waterfront to protect the City's interests in the working waterfront. It was vital that be accomplished; so they pursued negotiations. She also noted the complexity of the different deals that have tried to be structured. She has no plans for the property. What they are trying to establish is a framework for doing something with the property; reuniting the land with the waterfront; taking control of it; getting the current owner out of the picture who is not a willing development partner; then putting it out to the community, in the framework of the Harbor Plan, what is possible – what does the community want to see. She is convinced that only a community-driven process is the only one that will work. It is appropriate after 45 years for public investment to be made to spur the economic development and do away with the blight. And in that spirit of funding being used, it should be a public process to make the determination.

Councilor Theken stated you don't have a hotel coming – that's not in the works.

Mayor Kirk stated they tried that. Her administration learned a lot from that experience. It is not allowed under the DPA.

Councilor Theken asked if there was an environmental assessment of the site done in 2004.

Mayor Kirk noted some of the confusion around the environmental assessment of the site was there were some suspected storage tanks of fuel. If you look at the photos of the property, those fuel tanks were on abutting property. On the part that the City owns, there was a report of a petroleum gas spill. She believed that probably came from a truck or a boat using the site. In looking at these reports, it's not always clear that we're talking about this particular parcel. Sometimes these environmental references are either to abutters or to property that the City already owns. That's why it took a couple of extra days to get this report in its final form to the Council in order to sort out exactly what related to what we already own, what is having to do with an abutter and what is having to do with the actual parcel.

Councilor Theken stated supposing we purchase the property and found out by a future report there is some contamination, is the City willing to clean it up.

Mayor Kirk noted that they gave a direct grant of \$200,000.00 to the Paint Factory through the Brownfields allocation to help them clean up their site and to have another loan of \$150,000.00 loan facilitated by the City. There is money available to help mediate these types of situations. They believe, having seen the Phase I

report, that this site might not even qualify for Brownfields; that's how limited the report is in its suspicions of a serious nature.

Councilor Theken noted the money was originally for the Harbormaster for improvements. People are saying if you're not going to improve the Harbormaster's quarters, you're not going to improve the dockage; you're taking away from fishermen – how true is that.

Mayor Kirk noted that \$800,000.00 devoted to the Harbormaster's wharf was allocated over two years ago. That money could not be put to use because there is a dredging project right off that pier that is at least two to three years away from being completed, so you have this money tied up for five years. It's use it or lose it, in some ways. As soon as she got a feel for the timeframe for the dredging which had to be done before the wharf repair was completed, she wanted to get the funds reprogrammed and put to economic use today which was the \$800,000.00 the Seaport Advisory Council. New Bedford gets millions from the Seaport Bond Council. In Gloucester we have few opportunities because so much of the waterfront is private. There are more requests that the Administration will make and be more aggressive to tap that funding source in every way they can. They will make a future request to support the Harbormaster's wharf.

Councilor Tobey saluted the Administration for taking on I4-C2; it's important, as well as the work they're willing to do with the Council, and the due diligence done allowing for great progress. This deal is on a deadline because of the MOU between the Administration and the property owner. April 27th is when the bond authorization hearing comes forward. That is structured for \$700,000 and the balance from the state grant. With the 27th looming and advertising required by the City charter, if were to find out between now and the 27th that the bond can't be used for lack of legal authority, would the Administration go for a bond authorization of \$1.5 million for the acquisition.

Mayor Kirk responded she would have said a pretty firm yes at the beginning of the meeting; but at the end of the meeting she would shout absolutely. We look at it from one point of view; but when you hear from the community for all the reasons named in their comments, \$1.5 million funded 100% by the City is a wise investment and wouldn't hesitate to recommend it.

Councilor Tobey noted it would be prudent just to preserve that option so that they don't run up against the deadline of the MOU.

Councilor McGeary asked Ms. Egan in her opinion where she thought the bond money could be repurposed for the acquisition of land; did she specifically check out Chapter 21F that Mr. Faherty referred to.

Ms. Egan responded yes she did check out that which Mr. Faherty referred to and noted it also mentions additional authorizing authority that the bond is appropriated under. It isn't limited to that chapter.

Councilor McGeary asked if that was expansive enough to cover the acquisition to which Ms. Egan responded yes.

Councilor Hardy asked in the public document, Land Disposition Agreement By and Between Gloucester Redevelopment Authority and the Gloucester Landing Associates, LLC, noting she had a copy as well, on page 8 it does reference Hailey & Aldrich as having provided a technical report on the hazardous waste previously. Since they are still in business, can we obtain a copy of that report that they did in 1986 when this agreement was signed.

Mayor Kirk noted she didn't know what the records retention policy of this firm is and would have to call them and find if that was available.

Councilor Hardy responded that she wasn't saying that Weston & Sampson didn't already do so. She would like to request that they try to get that document from Haley & Aldrich in time for the April 27th meeting.

Communications:

The following were received as noted and one file:

- Received 04/09/2010 from Julie Redmond, 9 Ashland Place in favor of)
- Received 04/13/2010 from the Downtown Development Commission (in favor of)
- Received 04/13/2010 from Elise Hansen, 33 Revere Street (in favor of)
- Received 04/13/2010 from Judy & Peter Anastas, 9 Page Street (in favor of)
- Received 04/13/2010 from Charles & Mary Works, 5 Brier Road (in favor of)

Councilor Hardy noted there will be a vote taken by the City Council on April 27, 2010 for appropriation of the monies to purchase I4-C2 before the Council can vote on the Taking. At that time the Council will hear Committee reports with further discussion by the City Council and the vote will be taken at the next City Council meeting.

This public hearing is closed.

Councilor Hardy thanked everyone for the time they made to come to this hearing.

A recess was called at 10:24 p.m.

The Council reconvened at 10:29 p.m.

3. PH2010-013: CC0210-003 (Mulcahey) Amend GCO Sec. 22-269 “Stop Intersections” re: Flanagan Square (Continued from 03/30/2010)

This public hearing is opened.

Those speaking in favor:

Bob Ryan, 3 Blake Court, Chair, Traffic Commission stated his support the order for a stop sign at Flanagan Square for safety reasons. The three areas he outlined 3 areas:

- the number of accidents at the location,
- primary and secondary roads
- calls from a number of residents citing unsafe conditions that exist

He would be citing from accident statistics provided by Lt. Aiello (on file) that are subsequent to the improvements to the east end of Flanagan Square; also the driver’s manual from the Registry of Motor Vehicles of the Commonwealth of Massachusetts, and the traffic circulation study by Highway & Traffic Signal Design the City commissioned many years ago for about \$50,000 to recognize the traffic flow, parking as well as major intersections of the City. Of about 25 recommendations made in this study, nothing was adopted out of that book. Regarding the number of accidents, 3 years prior to the improvements, in 3 years there were 18 accidents, averaging 3 accidents per year at Flanagan Square. Since the improvements, citing the accident reports from Lt. Aiello, there have been 32 accidents, or an average of 8 per year. Secondly, the Registry of Motor Vehicles book always a primary road traffic; we have 19,000 cars per day heading east on Rogers Street. There are 10,000 cars per day coming down Prospect Street. 7,100 cars per day coming down Main Street. Of the cars turning off of Rogers Street, it is 9%, less than 1,800 cars. The way it exists right now, cars coming off of Rogers Street have the right of way. It is a secondary street – a connector off of Prospect Street. We’re giving 1,800 cars the right of way of 7,000 car coming down Main Street and 10,000 cars per day coming down from Prospect Street. It doesn’t make sense that there isn’t a stop sign for those 1,800 cars. He also noted there’s no posted speed limit and that those cars are traveling at 25 to 30 mph through the intersection. These drivers do accelerate up that incline. He reiterated he has received calls from residents about the unsafe driving conditions there. The Traffic Commission recommends that a stop sign be placed on the connector road going up the hill and two warning ones to alert drivers.

Larry Ingersoll, 20 Maycomber Road, Police Officer and member of the Traffic Commission noted he goes through the intersection 20 or 30 times a day. Many cars turning into the intersection from Rogers Street already stop where there isn’t a stop sign because it’s safer for them and for everybody else. By making that a 3-way stop sign, it won’t cause too much of a problem. They said this would only be a temporary measure taken in response to Mr. Hale’s [DPW Director] concern that traffic will back up on Rogers Street. If traffic backs up on Rogers Street they will revisit this issue. But the main goal is to make this safer.

Those speaking in opposition:

Mr. Hale, DPW Director commended the Traffic Commission for their work they do. They put in a lot of time on these projects but expressed concern for the process followed on this matter. The professional study done for the redesign in 2006 showed a concern for the cuing into Rogers Street that there was only two cars that could be cued in the connector, the intersection of Rogers Street and Main Street. The second car may actually hang out a bit into Rogers Street and a third car would be stuck in the middle. This is the major flow of

traffic is on Rogers Street, not Main Street. It would stop cars turning onto or off of Rogers Street causing back ups. Regarding the accident data, the process was a bit backwards here. It would appear that the recommendation to put the stop sign here was before the accident data was reviewed by the Commission. He requested this data from the Police Department; Lt. Aiello assembled it for him. It was then handed to the Traffic Commission after that. You have to follow the data to come up to the conclusions here. The report shows this intersection having six accidents per year. He would like to review the accident data with Mr. Ryan because he didn't come up with the same numbers. Mr. Hale felt there were a number of accidents coming out of Flanagan's Gas Station, not attributable to the intersection; a lot of rear-ending accidents on Rogers Street not attributable to this intersection; nor attributable to the stop sign or lack of stop sign here. By putting a stop sign where proposed it's going against a very recent study that made this intersection safer and more functional. He felt a temporary stop sign would add more confusion to the intersection. It took people a while to get used to the stop sign on Main Street. He is all for making things safe; and maybe a compromise here would be to install a yield sign perhaps more appropriate. H believed a stop sign is asking too much here.

Mr. Ryan rebutted by reiterating 7,100 cars are being stopped on Main Street, stopping 10,000 cars on Prospect Street to let 1,800 cars come off of Rogers Street to go up the hill. He felt the cuing would not be an issue. The Traffic Commission supports this for safety reasons.

Mr. Hale stated the majority of traffic is on Rogers Street. Those cars cue. You can't pass those cued vehicles. You're inviting illegal traffic motion.

Communications: None

Questions:

Councilor Whynott stated when there's snow on the ground that driving up hill it could be hazardous. This would be an uphill stop sign in an area where under those conditions could be difficult to get started again.

Mr. Hale noted he hasn't seen any cars stuck there nor had he experienced any problems himself. They plow, sand, and salt during snow events even more than when the intersection was created. He didn't feel the City's intersections were dangerous when it comes to snow and ice. During a snow event all roads could be dangerous; people need to proceed with caution. He didn't feel the incline there was a big issue.

Councilor Tobey asked for a reaction to a statement that because there is no stop sign there now has the practical effect of it being a safety valve for those 19,000 cars on Rogers Street not being backed up as they would be if there were a stop sign.

Mr. Ryan stated he's never seen two cars cued up at once to begin with. The issue is cars are stopping proceeding west on Main Street. All of a sudden, a car will zip into the intersection from Rogers Street making a left-hand turn right in front of you. If there's an accident, the first thing asked, was there a stop sign.

Councilor Tobey asked if there was no need for a safety valve that the absence of a stop sign constitutes.

Mr. Ryan responded they believed there should be a stop sign and that the absence of a stop sign doesn't help the traffic on Rogers Street..

Councilor Theken asked about a yield sign.

Mr. Ryan responded he felt it wouldn't be as effective as a stop sign.

Councilor Theken asked if the Traffic Commission tried stopping there [at the connector off of Rogers Street]. She felt Mr. Hale was right. They stopped traffic. She almost got hit for stopping. The back end of the car was sticking out when more than one car was cued. They almost collided. That was not built to have those cars stop. They have complete stops. Perhaps they should start with the yield sign and see how it goes. She felt a stop sign right now without investigation may not be wise.

Mr. Ryan reiterated that the Traffic Commission is trying to make it safer and that there is room for two cars. He felt the cars wouldn't line up.

Councilor Mulcahey stated a couple of years ago the consulting group had two years of meetings with many concerned groups which identified five dangerous intersections in the City considered dangerous: Flanagan Square, Duncan Street, Eastern Avenue and Main Street, Railroad Avenue and Maplewood

Avenue. After two years of meetings, the consultants gave them their report which they looked at it and felt the consultant didn't understand the drivers in Gloucester. So these recommendations were adjusted. When they got to Flanagan Square, the Traffic Commission had talked about a 'roundabout' there because there are three lanes on Rogers Street. There's still three lanes coming up Rogers Street, when counting the parking lane. People have room on their right hand side. People are not obeying the law. People are getting hurt. She is in favor of as many stop signs as possible.

Mr. Ryan noted that of that circulation study, the worst intersection is East Main Street and Eastern Avenue; 28 accidents. There was a yield sign there at first.

Councilor McGeary stated isn't it true when you add control devices, like stop signs, that sometimes the frequency of accidents will go up in the severity goes down.

Mr. Ryan hadn't heard that, although he acknowledged it is a possibility.

Councilor McGeary asked to address Mr. Hale's concern; there is room there for three lanes, but you'd have to stop parking [in the area of Flanagan Square on Rogers Street] and put a bump out so people making a left could pull left and there would be a travel lane to their right.

Mr. Ryan believed that it is part of Rt. 127; and they can't do anything with that. There's two lanes of traffic east and west and a parking lane for tractor trailers right now. They should stop as they do coming down Prospect Street.

Councilor Hardy noted that after reviewing 32 accident reports she wasn't able to find very many at all that related to Flanagan Square.

Mr. Ryan contended they all involved Flanagan Square.

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 approve the order to amend Sec. 22-269 (Stop Intersections) of the GCO to place a stop sign on the existing one way sign for traffic turning from Rogers Street where it meets Main and Prospect Streets.

Discussion:

Councilor Theken stated her reason she voted for this to go forward from Committee, while the DPW Director couldn't be there, she feeling it would go before the City Council, and Mr. Hale could present his views then for discussion.

Councilor Ciolino remembered this was where someone from the outside telling the City how traffic patterns are in the rest of the world. Gloucester is different. He travels through the intersection all the time. He's been there to view the situation. The accommodation is not there on Rogers Street. Most of the accidents are coming out of the Flanagan Square gas station. Before the intersection was changed, he noted many fender benders. To him the traffic moves well and doesn't see any reason to change the situation.

By unanimous consent the meeting was extended to 11:30 p.m.

Councilor Theken stated she supports the Traffic Commission and appreciates the work done by them. If it doesn't go through this evening, she'd still like to see a yield sign go in. She won't support a stop sign.

Councilor McGeary will reluctantly support the stop sign. He'd like to see the Commission come back in two months with a report to see how it is working out. He is concerned about back up on Rogers Street.

Mr. Ryan noted the 35 year service to the City as a volunteer by Traffic Commission member, Anthony Bertolino.

Mr. Bertolino, 132 Bass Avenue stated that the summer season traffic increases and would be a good opportunity to see how the stop sign would work. They would have a better idea then to see if it would improve the situation.

Councilor Whynott will support this as there is an intention of a six month trial.

Mr. Ryan noted they can revisit this together with Mr. Hale.

Mr. Hale stated he will work with the Traffic Commission. Traffic accident reports show it is safer now.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by Roll Call 4 in favor (Councilor Whynott, Mulcahey, McGeary, Tobey) , 4 opposed (Councilor Verga, Ciolino, Hardy, Theken), to approve the order to amend Sec. 22-269 (Stop Intersections) of the GCO to place a stop sign on the existing one way sign for traffic turning from Rogers Street where it meets Main and Prospect Streets.

MOTION FAILS

Committee Reports:

O&A Committee: April 5, 2010

All motions relating to Appointments and Reappointments were previously brought forward at this meeting. In addition, all traffic items were continued to the May 3, 2010 meeting. Councilor McGeary gave the Committee an update on the activities of the Ad Hoc Census 2010 Complete Count Committee. She thanked Councilor Whynott for working with Mr. Goulart on the Hawkers & Peddler's Licenses ordinance.

Budget & Finance Committee: April 6, 2010

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 the approval of Special Budgetary Transfer Request #10-20 for the transfer of funds in the amount of \$28,763.11 from the General Fund-Police Uniform, Unifund Account #101000.10.211.55800.0000.00.000.00.054 to Police-Uniform, Overtime E911, Unifund Account #101000.10.211.51320.0000.00.000.00.051.

Discussion:

Councilor McGeary noted that this was voted in a February 18, 2010 meeting of the B&F Committee, and this transfer just needed paperwork which is now on file.

MOTION: On motion by Councilor McGeary, seconded by Councilor Hardy, the City Council voted by Roll Call 8 in favor, 0 opposed to approve the Special Budgetary Transfer Request #10-20 for the transfer of funds in the amount of \$28,763.11 from the General Fund-Police Uniform, Unifund Account #101000.10.211.55800.0000.00.000.00.054 to Police-Uniform, Overtime E911, Unifund Account #101000.10.211.51320.0000.00.000.00.051.

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 #10-26 of \$198.43 from Police Uniform, Replace Automobiles, Unifund Account #101000.10.211.58720.0000.00.000.00.058 to Mayor – Out of State, Unifund Account #101000.10.121.57200.0000.00.000.00.057.

Discussion:

Councilor McGeary stated this was to pay for travel expenses for a police officer to study the regional 911 center out of state.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to approve the transfer #10-26 of \$198.43 from Police Uniform, Replace Automobiles, Unifund Account #101000.10.211.58720.0000.00.000.00.058 to Mayor – Out of State, Unifund Account #101000.10.121.57200.0000.00.000.00.057.

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 #10-SBT-27 of \$5,000.00 from Fire Department Public Safety Program, Unifund Account #101000.10.220.53060.0000.00.000.00.052 to Fire Department, Overtime Training Expense, Unifund Account #101000.10.220.51315.0000.00.000.00.051.

Discussion:

Councilor McGeary stated that this was for training for EMT's.

MOTION: On motion by Councilor McGeary, seconded by Councilor Theken, the City Council voted 8 in favor, 0 opposed to approve the transfer #10-SBT-27 of \$5,000.00 from Fire Department Public Safety Program, Unifund Account #101000.10.220.53060.0000.00.000.00.052 to Fire Department, Overtime Training Expense, Unifund Account #101000.10.220.51315.0000.00.000.00.051.

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 the acceptance of \$49,000.00 grant from MassDEP for Water Loss Prevention Program (#08-24/WCG).

Discussion:

Councilor McGeary noted it did not require a match and was recommended by the DPW.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to accept the \$49,000.00 grant from MassDEP for Water Loss Prevention Program (#08-24/WCG).

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 the Health Department be given permission to pursue the grant application for the Priority Project – Restoration Implementation Grant from Mass EOEEA Division of Ecological Restoration - Department of Fish and Game and US Fish and Wildlife Services for \$16,000.00.

Discussion:

Councilor McGeary stated this is for the millpond Tidegate project to preserve the salt marsh and act as a tide gate and there is a match.

Councilor Theken asked where the match is coming from.

Mr. Schenk of the Health Department noted that the DPW will provide the match of \$16,000.00. He hoped this project won't require the entire amount.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to permit the Health Department to pursue the grant application for the Priority Project – Restoration Implementation Grant from Mass EOEEA Division of Ecological Restoration - Department of Fish and Game and US Fish and Wildlife Services for \$16,000.00.

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 Fire Department be given permission to pursue the grant application for the Assistance to Firefighters Grant from the Department of Homeland Security, FEMA for \$88,348.00.

Discussion:

Councilor McGeary noted there is a 10% match. This grant would support the purchase of life saving equipment.

Councilor Theken stated that while she doesn't mostly support matching grants, this she will support this.

MOTION: On motion by Councilor McGeary, seconded by Councilor Tobey, the City Council voted 8 in favor, 0 opposed to permit the Fire Department to pursue the grant application for the Assistance to Firefighters Grant from the Department of Homeland Security, FEMA for \$88,348.00.

Planning & Development: April 7, 2010

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning and Development Committee voted 2 in favor, 1 opposed (Ciolino) to recommend to the City Council to grant the request of the applicant 1907, LLC (Mac S. Bell, Mgr.) for a second extension to a Special Council Permit (SCP) for a major project pursuant to sections 2.3.4 (49) and 5.7 of the Gloucester Zoning Ordinance for property located at 201, 205 233 Main Street (Map 8, Lots #2 and #25), said extension to be a six (6) month extension of the terms of the Special Permit and to expire October 13, 2010.

Discussion:

Councilor Ciolino noted this is the unfinished building in the Walgreen's parking lot. He voted against it in Committee. He was not willing to do much of anything to the building and that it is blight to the area. He has had his two year permit and had an extension for one year and never did as was previously asked. He wants the City to wait until he gets a tenant there to finish up the building. He felt the applicant would not work with the City; and, therefore, would not vote for it. The applicant holds two special Council Permits; both have no plans for completion.

Councilor Whynott stated he voted in favor of the extension at P&D; and it doesn't offend him. He feels it shows something is happening there; Mr. Bell has done a lot for the City and will support the extension.

Councilor Verga didn't have the same issues as Councilor Ciolino. He felt the projects Mr. Bell has done in the City have improved it. It is reasonable and a good compromise to give him a six month extension.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by Roll Call 6 in favor, 2 opposed (Ciolino, Mulcahey) to grant the request of the applicant 1907, LLC (Mac S. Bell, Mgr.) for a second extension to a Special Council Permit (SCP) for a

major project pursuant to sections 2.3.4 (49) and 5.7 of the Gloucester Zoning Ordinance for property located at 201, 205 233 Main Street (Map 8, Lots #2 and #25), said extension to be a six (6) month extension of the terms of the Special Permit and to expire October 13, 2010.

Councilor Hardy noted a decision will be forthcoming from the Legal Office.

Budget & Finance Committee: April 9, 2010

Councilor McGeary related that the Budget & Finance Committee voted to allow the Board of Health to pursue a \$9,000.00 grant of the Health Resources in Action (HRiA) for the Proper Storage and Disposal of Prescription Drugs Initiative Grant. This was a special meeting due to the extremely short timeframe in which the Board of Health had to submit their application for this model program.

Mr. Schenk thanked the Council that they had to rush the grant for the Board of Health and apologized to all for the effort having to be made but that this grant will support a great, effective and highly regarded program.

Unfinished Business: None

Councilor's Requests Other Than to the Mayor:

Councilor McGeary noted this is the last week to fill out your City census.

Councilor Ciolino thanked everyone for all who showed up for the Rotary Spaghetti supper at the Rose Baker Senior Center.

Councilor Mulcahey noted the Cancer Walk is upcoming, Relay for Life. It is a good cause.

Councilor Theken noted that volunteering is so important. She thanked Councilor Verga for helping to put on the Battle of the Bands. She cautioned about COBRA plans. It is a federal program. If you have lost your job has access to COBRA. The stimulus package pays only 60% of your costs. Don't throw that away. That 60% is important. It still is expensive but unemployment will also assist in your payments.

Councilor Verga thanked everyone involved in the Battle of the Bands.

It was moved, seconded, and voted UNANIMOUSLY to adjourn the meeting at 11:35 p.m.

Respectfully submitted,

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