

**GLOUCESTER CITY COUNCIL MEETING**

**Tuesday, April 27, 2010**

**7:00 P.M.**

**Kyrouz Auditorium – City Hall**

**City Council Meeting 2010-010**

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

**Absent:** None

**Also present: Mayor Carolyn Kirk; Linda T. Lowe; Jim Duggan; Jeff Towne; Gregg Cademartori; Police Chief, Michael Lane; Suzanne Egan; Sarah Garcia; Luis Alisa**

**City Council Meeting 2010-010 was called to order at 7:00 p.m.**

**Flag Salute and Moment of Silence**

**Oral Communications:**

**Sheila Brown**, 8 Becker Lane expressed concern regarding children walking on Thompson Street to a local store nearby. She asked for a sidewalk to extend to the end of Thompson Street to Annie's Store as well as a reduced speed limit due to curvy the nature of the road.

**Gregg Zoske**, 17 Conant Avenue asked the Council regarding the procedural policy for the extension of the Special Permit for 33 Emerson Avenue why a public hearing was not held. Councilor Hardy kindly reminded Ms. Zoske that Oral Communications was, unfortunately, not the format for responding to questions and appreciated her time to come forward.

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

**Consent Agenda**

• ***Mayor's Report***

1. Memo from CFO re: Acceptance of \$30,000 from Fidelity Charitable Gift Fund and approve transfer of funds to DPW (Refer B&F)
2. Memo from CAO re: debt exclusion fro all CSO related debt (Refer O&A and B&F)
3. Memo from DPW Director re: request to pay invoices to Polaris Consultant from a Previous fiscal year (Refer B&F)
4. Information from EMS Coordinator re: update to Ambulance Billing and Collection Policy For Fire Department Ambulance Service (Refer B&F)
5. Two Special Budgetary Transfer Requests (#10-29 and #10-30) from the Fire Department (Refer B&F)
6. Special Budgetary Request (#10-31) from Engineering Dept. to Dept. of Veteran's Services (Refer B&F)
7. Memo from Police Chief re: Amend GCO Sec.1-15 to add Recycling Coordinator to the list of Enforcing Persons (Refer O&A)
8. Memo from CAO re: reclassification of the Principal Assessor Position (Refer O&A and B&F)
9. Reappointments: William Sanborn, Building Inspector City Hall Restoration Commission (Refer O&A)  
Mark Cole, Operations Mgr.-Public Properties City Hall Restoration Comm. (Refer O&A)

• ***Information Only***

1. Letter from Anne M. Lynch, Exec, Director of MMTA re: transportation of hazardous materials (Info Only)

• ***Approval of Minutes***

1. City Council Meeting 04/13/2010 (Approve/File)
2. Standing Committee Meetings: B&F 4/16/10, P&D 4/21/10, B&F 4/22/10 (Under Sep. Cover),

O&amp;A 04/26/10 (Under Sep. Cover)

**(Approve/File)**

- **Applications/Petitions**

1. PP2010-002: Installation of concrete encased conduit across East Main St. near Gerring Rd. (Refer P&D)

- **Orders**

1. CC2010-024(Hardy) Request from the Engineering Department of the DPW a copy of the City's official "layout of the road" at the intersection of Washington St., Holly St., Goose Cove Lane and Vine St. (Refer O&A)
2. CC2010-025(Hardy) Amend GCO Sec.22-270.1"Resident Parking Only" and Sec.22-291"Town Away Zones" re: entire length of High Street as well as all side and connecting streets (Refer O&A & TC)
3. CC2010-026(Hardy) Adoption of Ordinance under GCO Chap. 2 Art.V, sec 2-400 re: Responsibilities of designated member of their Board, Commission or Committee (Refer O&A)

**Items to be added/removed from the Consent Agenda:**

**Councilor Tobey** asked to remove from the Mayor's Report Item #2, Memo from CAO re: debt exclusion from all CSO related debt.

*The City Council by Motion unanimous consent voted to accept the Consent Agenda as presented.*

**Councilor Tobey** noted the Mayor's Report Item #2, is a memo from the CAO regarding debt exclusion for all CSO related debt. It is a proposal for the shifting of CSO debt cost from the sewer rate to the tax rate, which would be an action effected by vote of Council rather than referendum. This was an item that was discussed extensively over a period of many months during the tenure of the previous Council; which after extensive public conversation instead voted to enact a Stormwater fee system. He understood this was just a one year proposal. When items are on the consent agenda they sometimes quickly get shuttled off to Committee, and the public never realizes that a matter has been put forward. He had pulled it so hopefully it's highlighted for the community. An override to Proposition 2-1/2 is now before the City Council for consideration so that the dialog that was had in the course of the previous Council's term can be renewed. Folks need to know that a Proposition 2-1/2 override is before this Council and would not be before them on referendum and to refer this to O&A and B&F.

*The memo from CSO re: debt exclusion from all CSO related debt was referred to O&A and B&F by unanimous consent.*

**Scheduled Public Hearings:**

1. **Zoning Amendments to GZO Sections 2.3.6 Other Principal Uses and Sec. 5.22 Commercial Land-Based Wind Energy Conversion Facilities, to permit commercial scale Wind Energy Conversion**

**This public hearing is open.**

**Those speaking in favor:**

**Gregg Cademartori**, Planning Director noted he had made a presentation to the Planning Board at their public hearing as well as to the [Planning & Development] Standing Committee. These amendments were forwarded to the City Council from the Planning Board on February 4<sup>th</sup>; they were referred out on February 16<sup>th</sup>; and a Planning Board hearing was held on March 18<sup>th</sup>. Recommendations were submitted from the Planning Board on 28<sup>th</sup> and the [Planning & Development] Standing Committee met over the course of two meetings on April 7<sup>th</sup> and 21<sup>st</sup>, and have forwarded their recommendations which brings them to this meeting, within the 65 day timeframe. These amendments have two purposes in general. They are to expand the consideration of the commercial wind turbines and some of the larger lot residential districts as well as on City-owned property treated in different ways. The opportunity for

development in different ways of potential private wind turbine projects are introduced into the R-80, R-40, and R-30 districts, along with some additional setbacks standards beyond what exists in the current 5.22 commercial wind turbine ordinance. Additionally, there's a greater consideration for City municipal wind projects by allowing them also as a principal use on City-owned property in very distinct districts as outlined in this proposal. One primary reason for these amendments to come forward to the Council is due to a significant change in energy regulations approximately in 2007 when the first ordinance was introduced. At that time the economic feasibility of projects required a facility to be on a lot, in the instance of municipal projects of a public facility or infrastructure that would be served by a proposed wind turbine. Because of the way that energy would be sold or marketed through a private project, it was most feasible for it to be an accessory to an existing infrastructure like the Varian proposal as well as one that's on the agenda for an extension. The way energy can now be marketed through these projects is much more economically feasible, such that a stand-alone project whereby the energy is marketed directly into the grid rather than serving an existing use is possible. For the City to pursue projects on vacant property they own or the limited areas of the R-80, R-40 and R-30 districts for potential private projects, the City would have to enact these changes. On the private side, the introduction of a lot size requirement of 12.5 acres has been introduced and minimum frontage of 100 ft. to provide adequate space for the use. These commercial-sized projects have various setbacks which are outlined in the ordinance but it does create more of a buffer as these projects are considered now potentially in residential districts. The 100 ft. of frontage is fairly intensive to install and to look for the best opportunity for access to a site to a proposed location for an installation. There needs to be some consideration of a fair amount of frontage to facilitate that. He asked they adopt the proposed language as well as noting the motions from the Standing Committee reflect this language and made a similar recommendation to the Planning Board's. The one additional amendment that came out of the public hearing process with the Planning Board and forwarded on to the Standing Committee was that there also needs to be an adjustment to a footnote in another section of the use schedule that relates to current language that there can't be more than one principal use on a residential lot. This proposal contemplates if someone had a large enough property and had an existing home on it, they could also propose a wind turbine on that same property. The concept of net metering, the energy that is produced from a project can be directly sold and marketed rather than having to subsidize an existing use is something that's pretty significant and led them to re-examining the current wind turbine ordinance which allowed the use as accessory. These proposed amendments are to augment the existing ordinances in place. For the industrial districts, (the business park, the general industrial and marine industrial areas) that accessory use allowance is still allowed by special permit as well. When the City considers municipal projects why does it appear that this amendment process only explores the opportunity for stand-alone projects in residential districts and the general industrial district. That's primarily because these are the areas of more opportunity in terms of the land that City holds that doesn't have the existing infrastructure. If the City were to consider it for things like schools or other municipal properties that have infrastructure, we're already covered by the allowance of the accessory use in the existing ordinance. Any proposal under these amendments would come to City Council for a special permit and would have to follow all the permitting procedures in place and all the existing standards. He believed this would be something that would move the City in the direction of being able to identify viable sites for City projects and greater opportunity for private projects as well.

**Mike Carrigan**, 77 Norwood Heights spoke in favor of the proposal and felt it had many advantages to the City in terms of revenues from land lease and has the ability to lower electric costs for the City as well, those costs only rising in the future. The City will be able to use a local resource in providing an efficient and clean resource for power, and believed it could provide significant tax revenue with no services. It gives the land owner and developer a responsible way to develop the land. It can create open space and allows for another tool for the City in its planning as well as land owners and developers. This will help Gloucester to reach a goal of energy independence, clean air and land preservation. Voting yes doesn't allow anyone to put one up – it still has to come back before this Council and go through the permitting process that everyone has gone through so far. He is in full support for those reasons.

**Lee Anne Kowalski**, 7 Belleview Avenue complimented Mr. Cademartori and his colleagues who worked on the proposed amendments who she felt did a superb job in balancing the public health and safety issues that arise out of the noise, the flicker, from these commercial wind turbines. She was speaking in support of the proposed 12.5 acre minimum lot size. She noted two examples of wind blades breaking off of wind turbines recently in Massachusetts. She felt maintaining the 12.5 acre minimum for these districts was crucial to these projects. She asked the Council to entertain a question regarding Appendix b) which speaks to the fees. Noting how much time and focus these projects take from Mr. Cademartori and his staff, the Building Department and the Council, especially those Councilors who sit on the Planning & Development Committee, she wondered if the current fee for these turbine projects of \$350 should be raised to be more in keeping with the time and effort that goes into the administrative side and could be a good time to look to increasing this fee.

*Councilor Curcuru entered the meeting at 7:13 p.m.*

**Those speaking in opposition:**

**Stevan Goldin**, 33 Rockport Road spoke against expanding the areas for wind turbines because of health and environmental; and felt the Council needs to reestablish their discretionary control over this matter. This means restoration of the six conditions for special permits: social, economic, community needs, traffic flow, adequacy of utilities, neighborhood character, social structure and qualities of natural environment and potential fiscal impact. This was taken out in 2007 when the ordinance was revised. Although its true that a number of people were involved and signed off on this, if you read the minutes of the meetings of the P&D Committee and of the Council, the person who drafted the replacement of the six conditions with four, the only special permit in the City that doesn't have the six, was Michael Faherty, representing Varian who were about to go for a wind turbine. You can see the affects are of taking them out. He mentioned health, environmental and fiscal. As far as environmental, at that time, he noted that there was an environmental impact report that Varian had done on this which called for further bird impact studies because this was in a major migratory bird flyway. He felt these documents should be part of the record. Mr. Faherty told the Council, as he told the ZBA, that he didn't have to give them that, feeling the Council took some ire with that. Legally he was quite right because the environmental had been removed from the ordinance. Eventually he did submit it, but legally he was right because the environmental had been taken out of the ordinance just so that question couldn't be raised. He was questioned when it came back for renewal stating that the bird study showed almost no impact, that the main birds around there were seagulls. If you read that study it did show there were significant impacts. The study was paid for by Varian, and even though there was some impact, it should be allowed. The City could not use the powers which were in the ordinance because it was taken out with the six conditions. He obtained the name of the leading ornithologist in New England, Professor C. Richard Veitch of Biology at the College of Staten Island. He did an analysis for this. He would have had this fully prepared; but he misunderstood and thought this matter wasn't coming up for two weeks. So he had a draft version of Professor Veitch's comments and will submit it to the City Council when ready in a week or two for their records. Referring to the study Varian paid for, he quoted, "the bird survey sited within the Lewis Burger Group report is of questionable value. The survey records an extremely limited and probably not representative number and diversity of birds compared with voluminous data collected by birdwatchers in the same area over the past 50 years and compared with the nearby site cited by Massachusetts Audubon the small number of peregrine falcons reported is questionable given the known abundance of this species of the immediate coast during the fall migration as is the scarcity of neo-tropical migrants known to occur in the area." That's what the Council could have gotten from an independent study if that power hadn't been removed.

**Councilor Hardy** reminded Mr. Goldin that the Council was concentrating on the ordinances before them and are not rehashing whether or not someone else got a permit and what the objections are and asked him to kindly limit his comments to the matter at hand.

**Mr. Goldin** responded that what this proposal does is expands the areas where you can have wind turbines in the City. He felt strongly it should not be expanded because the ordinance needs to be strengthened before doing that because its just exposing things to the risk. He felt the Council needed to consider that. That's why he believed it was extremely relevant (Prof. Veitch's report). He noted he was giving examples of if you don't have that how you lose control and how you have problems. He will have the final and complete version to present to the Council. The C.V. of this man is quite distinguished, and shows when you have the environmental in back in there what you can do. Fiscal was taken out of here. We don't have money which hangs over everything. He remembered what that means, and what it meant in the case of Varian. He related Councilor Grow noted Varian got a pretty good deal; they've told us they're going to make \$100,000 a month on it; they've gotten other breaks; they got a TIF; and we think they should give something back. Nothing was ever given back, and you didn't have the authority; and that's the way it had been designed because the fiscal part had been stripped from the six conditions. It speaks well of Gloucester that there are a number of special permits. The name is appropriate; they are very special. Its extraordinary powers given by the legislation to the towns and cities to control their quality and growth. Not one decision has ever been overturned in court because they have these six conditions. Cities that really care make things by special permit. This one, alone, was permitted to be gutted. In the language it mentions that you don't have to get a variance if there's less of a setback if allowance is made for less of a setback which is within the ordinance. There's been increasing evidence of the health and safety problems on wind turbines. He noted 33 Emerson Avenue as an example. A lot of the accidents are coming from ice building up on the turbines. The neighbors did their homework with Stop 'n' Shop, on the flicker affect and noise. Rather than loosen up setbacks, he would say strike that part out. When you see the amount of health problems being discovered, it should be sent back to the Planning Board for a report to be prepared on it before it's weakened. "The answer is "blowin' in the wind."

**Gregg Zoske**, 17 Conant Avenue was in support of the 12.5 acre minimum requirement for lot size.

**Rebuttal:**

**Mr. Cademartori** noted [Mr. Goldin's] comments were very specific to one application and its review. He reminded the Council this ordinance is many pages long and has environmental standards built within it. It doesn't have very general terms criteria that are inclusive in most of the other special permits, if not all of them. The City Council as the permit granting authority has the ability to hire independent consultants if there's a specific aspect they'd like information on for analysis. The discussion during the time of development and adoption of these ordinances, the Council was heavily involved in the drafting of these ordinances. They're designed to encourage the use as accessory use; that is something to assist existing industry within the City. To look at it from a fiscal perspective, if a company is allowed to install one, and it promotes their longevity in the community and the jobs they create, that speaks to it. There are specific criteria in this ordinance that aren't required in other special permits. It certainly is encouraged from the State level in terms of 40A to be as specific as you can be within your ordinances. One of the other points raised in terms of the City Council being able to waive or vary some of the requirements of setbacks, it makes the most sense to have the permit granting authority look at the whole picture and understand it in a variance process. You have the ability in some of your other special permits to that, including multi-families with some of the setbacks because, again, you're looking at the project as a whole. He reiterated the Council is the special permit granting authority; and all the standards that are maintained for this increased expansion of the allowance in the City.

**Rebuttal:**

**Mr. Goldin** felt Mr. Cademartori didn't speak to the points he raised regarding the six criteria. The Council doesn't have the power in the two areas he spoke of on environmental and fiscal. Every special permit has specific standards but have broad general ones which give the Council the broader powers, the legal grounding. What legislative body would want to give up these powers? You could have gotten money which the City desperately needed, as Councilor Grow, said that we were legitimately entitled to, but this was taken away. If you had the environmental power, Prof. Veitch said, "These potential impacts could possibly be reduced through appropriate lighting, and by reduced operation during peak migration,

especially foggy conditions, ...the site needs monitoring for kills by third parties since the threat to birds cannot be totally eliminated there should be appropriate mitigation measures taken....” Mr. Cademartori didn’t speak to these things that are in the full six criteria. He requested the Council ask him.

**Councilor Whynott** noted for the Council that the person who presented doesn’t have to give a rebuttal at all and then may rebut anything that they want. The rebuttal of the rebuttal must stay within the scope of the first rebuttal not go back into the original arguments.

**Mr. Goldin** raised specific points which he believed Mr. Cademartori didn’t answer and believed that he should and felt the Council should ask him to answer if he believes that along with the specific standards which are in every special permit if it would be a good idea to bring back the six criteria, more specifically, the financial and environmental.

#### **Communications:**

**Lee Kowalski**, via email to City Council expressing support of the 12.5 minimum lot size for Section 5.22.6 of the GZO.

#### **Questions:**

**Councilor Tobey**, noting the concern for the amount of the permit fee asked for the basis of the \$350 permit fee that was recommended and that has been mentioned.

**Mr. Cademartori** didn’t recommend nor ask for any increase in the fee of \$350 for the special permit fee which currently accompanies the accessory wind turbine special permit. It is something the Council could consider. The fees are in the appendix to the ordinances if the Council chooses to pursue changing those fees they can certainly do so. There was some suggestion of the magnitude of the cost of the project akin to what you do currently for major projects as well as cell tower applications. It is something the Council can entertain separately from the zoning amendments.

**Councilor Whynott** stated originally when they set the fee of \$350 it was on the cost and time the Council put in. They charged \$1,000 for cell towers because there were studies and reports that had to be done, and it took up more time and also major projects. He believed it appropriate that because these things take more time than the standard special council permit so it might be in order raise the fees.

**Councilor Theken** asked why they went to four criteria.

**Mr. Cademartori** responded there is a 10-page ordinance that deals with this particular use like no other. Some of the ordinances are shorter; they do look at more generalities. This is a fairly specific use and specific impacts as well. Looking at it from an accessory perspective, this Council asked whether this was a use they were going to encourage. There is a certain amount of impact from a visual perspective; very stringent standards from a noise perspective; from a shadowing and flickering perspective. If they did start to occur and affect neighboring properties, it may not be the best site for the proposed use. When the Council was considering this ordinance of whether or not to take a step back from very broad reaching special permit criteria and try to be as specific as possible so that someone had some predictability as to whether they met those standards and were in the right arena for a use permit, and was the will of the Council at that time.

**Councilor Theken** asked if someone wanted to do wind farms on our ocean waterfront.

**Mr. Cademartori** stated this has nothing to do with anything in the water.

**Councilor Curcuru** asked compared to other communities, how does this fall in line with others that have this in place now.

**Mr. Cademartori** noted that the framing in the background of the initiation of the amendments, communities looking to be designated Green Communities are currently considering as ‘of right’ wind turbine siting ordinances. The City has allowed its use via special permit. In those instances they have increased many of the setbacks a little bit broader than we have right now. Gloucester has one of the more modern and flexible ordinances that allows analysis of the potential impacts. The rules of thumb in those by right approach having to have a piece of land in excess of 40 acres for one turbine. The impacts of noise aren’t going to be an issue because of those setbacks. What typically occurs when you start

getting closer to neighboring properties, like the ordinance allows consideration of, noise studies are performed to ensure those standards aren't going to be upset. They are costly studies. The approach either from the by right perspective or others make it not feasible because of the amount of land required. It is a realistic ordinance and allows a specific discussion about a specific site on and come to a resolution whether or not it is appropriate for that location.

**Councilor Curcuru** asked how does the City benefit.

**Mr. Cademartori** noted currently there's an accessory ordinance. They can try to site turbines at the schools, at any City property that has existing infrastructure on it like the waste water treatment plan. In many of those areas it is a more dense location. There may be neighborhood opposition for the potential use. If they are to start to try to consider areas where the City has land on streets with infrastructure in place to potentially connect one of these machines, this would enable the City to pursue those sites. There were some that were identified in a 2005 study that is being revisited; and that there are some substantial energy savings potentially either in the form of energy offsetting a specific infrastructure or the credits received from generating. Gloucester is one of the communities in the Commonwealth who have the resource. It is a matter of a very public discussion that will happen if these amendments go in place as to where the best place in the community would be to try and site one. Because the energy regulations have changed, projects of a certain size of generation on the private side no longer fall under the exemption of property taxation. You may have a potential alternative to a residential use in the districts that are identified. That could be a tax-generating property without some of the additional services.

**This public hearing is closed.**

**Councilor Ciolino** spoke to all the motions that were about to follow, noting that this is an update of the current ordinances. When this was done originally we couldn't sell power to the grid. Now in Massachusetts that's changed; it is possible and different. Because of that, it has spurred other activity that people could do. If you have the 12.5 acres you can put up a wind turbine without an accessory building, whereas before you needed one, like with 33 Emerson Avenue, like Varian. When an area is too dense, like with Stop 'n' Shop and Whole Foods, now with these changes, they can go off site; they can make arrangements or purchase another property and sell the power to the Grid and get a credit. Lastly, we'll be giving another tool to developers that might be an alternative, if they own a piece of property, to getting the bulldozers in there, leveling it; put a wind turbine in and make it profitable. These sites would not require City services, as Mr. Cademartori noted. It is a profitable taxation for the City. We're updating what we've done in the past.

Motion: On motion by Councilor Hardy, seconded by Councilor Whyntott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend the City Council adopt the proposed amendment to Section 2.3.6 of the Zoning Ordinance (Other Principal Uses) by adding use number #8 associated allowance as follows:

#8 Commercial land-based wind energy conversion facilities (See Section 5.22)

R-80	R-40	RC-40	R-30	R-20	R-10	R-5	CCD	CB	VB	NB	EB	MI	GI	BP
CCS	CCS	N	CCS	N	N	N	N	N	N	N	N	N	N	N

**Motion: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by Roll Call 9 in favor, 0 opposed to adopt the proposed amendment to Section 2.3.6 of the Zoning Ordinance (Other Principal Uses) by adding use number #8 associated allowance as follows:**

**#8 Commercial land-based wind energy conversion facilities (See Section 5.22)**

R-80	R-40	RC-40	R-30	R-20	R-10	R-5	CCD	CB	VB	NB	EB	MI	GI	BP
CCS	CCS	N	CCS	N	N	N	N	N	N	N	N	N	N	N

Motion: On motion by Councilor Hardy, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend the City Council adopt the proposed amendment to Section 2.3.6 of the Zoning Ordinance (Other Principal Uses) by adding use number #9 associated allowance as follows:

#9 Commercial land-based wind energy conversion facilities on city-owned land (See Section 5.22)

R-80	R-40	RC-40	R-30	R-20	R-10	R-5	CCD	CB	VB	NB	EB	MI	GI	BP
CCS	CCS	CCS	CCS	CCS	CCS	CCS	N	N	N	N	N	N	CCS	N

**Motion: On motion by Councilor Ciolino, seconded by Councilor Whynott, City Council voted by Roll Call 9 in favor, 0 opposed to adopt the proposed amendment to Section 2.3.6 of the Zoning Ordinance (Other Principal Uses) by adding use number #9 associated allowance as follows:**

**#9 Commercial land-based wind energy conversion facilities on city-owned land (See Section 5.22)**

R-80	R-40	RC-40	R-30	R-20	R-10	R-5	CCD	CB	VB	NB	EB	MI	GI	BP
CCS	CCS	CCS	CCS	CCS	CCS	CCS	N	N	N	N	N	N	CCS	N

Motion: On motion by Councilor Hardy, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend the City Council adopt the proposed amendment to Section 2.3.6 of the Zoning Ordinance (Other Principal Uses) by adding use number #10 associated allowance as follows:

#10 Temporary monitoring tower for use numbers 8 & 9 above (See Section 5.22)

R-80	R-40	RC-40	R-30	R-20	R-10	R-5	CCD	CB	VB	NB	EB	MI	GI	BP
Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	Y	N

**Discussion:**

**Motion: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by Roll Call 9 in favor, 0 opposed to adopt the proposed amendment to Section 2.3.6 of the Zoning Ordinance (Other Principal Uses) by adding use number #10 associated allowance as follows:**

**#10 Temporary monitoring tower for use numbers 8 & 9 above (See Section 5.22)**



R-80	R-40	RC-40	R-30	R-20	R-10	R-5	CCD	CB	VB	NB	EB	MI	GI	BP
Y	Y	Y	Y	Y	Y	Y	N	N	N	N	N	N	Y	N

Motion: On motion by Councilor Hardy, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend the City Council amend Section 5.22.3 Applicability of the Zoning Ordinance by deleting the existing section 5.22.3 (a) in its entirety and amending by inserting a new section 5.22.3(a) so that it reads as follows:

- (a) The construction of a commercial wind energy conversion facility shall be permitted in the R-80, R-40, and R-30 zoning districts and on municipally owned property, subject to the issuance of a Special Permit by the City Council and provided that the use complies with all requirements set forth in this section of the zoning ordinance (see Section II, 2.3.6, Other Principal Uses Numbers 8 & 9).  
The construction of an accessory commercial wind energy conversion facility shall be permitted in the MI, GI and BP zoning districts and on municipally owned property, subject to the issuance of a Special Permit by the City Council and provided that the use complies with all requirements set forth in this section of the zoning ordinance (see Section II, 2.3.7, Accessory Use Number 15)

**Motion: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted by Roll Call 9 in favor, 0 opposed to amend Section 5.22.3 Applicability of the Zoning Ordinance by deleting the existing section 5.22.3 (a) in its entirety and amending by inserting a new section 5.22.3(a) so that it reads as follows:**

- (a) The construction of a commercial wind energy conversion facility shall be permitted in the R-80, R-40, and R-30 zoning districts and on municipally owned property, subject to the issuance of a Special Permit by the City Council and provided that the use complies with all requirements set forth in this section of the zoning ordinance (see Section II, 2.3.6, Other Principal Uses Numbers 8 & 9).  
The construction of an accessory commercial wind energy conversion facility shall be permitted in the MI, GI and BP zoning districts and on municipally owned property, subject to the issuance of a Special Permit by the City Council and provided that the use complies with all requirements set forth in this section of the zoning ordinance (see Section II, 2.3.7, Accessory Use Number 15)**

Motion: On motion by Councilor Hardy, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend the City Council amend Section 5.22.3 Applicability of the Zoning Ordinance by deleting the existing section 5.22.3 (b) in its entirety and amending by inserting a new section 5.22.3(b) so that it reads as follows:

- (b) Wind monitoring or meteorological towers shall be allowed by-right on a temporary basis, in the MI, GI, BP, R-80, R-40, and R-30 districts and on municipally owned land subject to the issuance of a building permit (see Section II, 2.3.6, Other Principal Uses Number 10; Section II, 2.3.7 Accessory Use Number 17).

**Motion: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by Roll Call 9 in favor, 0 opposed to amend Section 5.22.3 Applicability of the Zoning Ordinance by deleting the existing section 5.22.3 (b) in its entirety and amending by inserting a new section 5.22.3(b) so that it reads as follows:**

**(b) Wind monitoring or meteorological towers shall be allowed by-right on a temporary basis, in the MI, GI, BP, R-80, R-40, and R-30 districts and on municipally owned land subject to the issuance of a building permit (see Section II, 2.3.6, Other Principal Uses Number 10; Section II, 2.3.7 Accessory Use Number 17).**

Motion: On motion by Councilor Hardy, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend the City Council amend Section 5.22.6 Special Permit Regulation of the Zoning Ordinance by inserting a new 5.22.6(b)iii and renumbering the existing iii and iv to iv and v, respectively, so that it reads as follows:

iii) In the R-80, R40, and R-30 residential districts, with the exception of city-owned land, the minimum lots size for a wind energy conversion facility shall be 12.5 acres and the minimum lot frontage shall be 100 feet. The minimum distance of a proposed turbine to any existing residential dwelling shall be equal to the height of the wind turbine to the tip of its rotor blade at its highest point.

iv) The setbacks should be kept free of all habitable structures so long as the facility is in place; however, these areas need not be cleared of trees or other vegetation. Setbacks shall be measured from the outside surface at the base of the turbine tower. The City Council may reduce the setbacks as appropriate, based on site specific considerations, and only after review of substantial evidence, including but not limited to detailed engineering reports or product engineering certification, which demonstrate that safety concerns have been minimized and that setbacks have been complied with to the maximum extent practicable.

v) Such reduction of required setbacks, if granted, shall not constitute a variance from the Zoning Ordinance.

**Motion: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted by Roll Call 9 in favor, 0 opposed to amend Section 5.22.6 Special Permit Regulation of the Zoning Ordinance by inserting a new 5.22.6(b)iii and renumbering the existing iii and iv to iv and v, respectively, so that it reads as follows:**

**iii) In the R-80, R40, and R-30 residential districts, with the exception of city-owned land, the minimum lots size for a wind energy conversion facility shall be 12.5 acres and the minimum lot frontage shall be 100 feet. The minimum distance of a proposed turbine to any existing residential dwelling shall be equal to the height of the wind turbine to the tip of its rotor blade at its highest point.**

**iv) The setbacks should be kept free of all habitable structures so long as the facility is in place; however, these areas need not be cleared of trees or other vegetation. Setbacks shall be measured from the outside surface at the base of the turbine tower. The City Council may reduce the setbacks as appropriate, based on site specific considerations, and only after review of substantial evidence, including but not limited to detailed engineering reports or product engineering certification, which demonstrate that safety concerns have been minimized and that setbacks have been complied with to the maximum extent practicable.**

**v) Such reduction of required setbacks, if granted, shall not constitute a variance from the Zoning Ordinance.**

Motion: On motion by Councilor Hardy, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor 0 opposed to recommend the City Council amend

Section 2.3.1, footnote (3) of the Zoning Ordinance by adding “with the exception of wind energy conversion facilities” after the word “lot,” so that it reads as follows:

(3) Not more than one principal building per lot, with the exception of wind energy conversion facilities.

**Motion: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by Roll Call 9 in favor 0 opposed to amend Section 2.3.1, footnote (3) of the Zoning Ordinance by adding “with the exception of wind energy conversion facilities” after the word “lot,” so that it reads as follows:**

**(3) Not more than one principal building per lot, with the exception of wind energy conversion facilities.**

**2. PH2010-023: Amend GCO Sec. 22-176 “Penalties for parking violations” re: Bus Stop and taxi stand**

**This public hearing is open.**

**Those speaking in favor:**

**Chief Michael Lane**, Police Department stated in April 2009 the State Legislature amended MGL Chapter 90, sec. 28.5 increasing the violations for parking at a bus stop from \$15 to \$100.00 should any cities or towns decide to accept that. He asked to reflect that increase by amending City Ordinance Chapter 22-176 to reflect that increase. He believed it had a greater deterrent effect for those who park in the bus stops. While there weren't a lot of violations and that not a lot of tickets were issued for them, people have told him a lot of the instances are that of 'live' parking who scoot off when meter enforcement approaches. There are places near ATM's where people tend to park, get out and come back and move on. He believed the \$100 would be a sufficient deterrent to that. He was made aware of this by Bob Ryan of CATA.

**Bob Ryan**, 3 Blake Court noted he wears several hats not only as Co-chair of the Traffic Commission, but was there that evening as president and general manager of Cape Ann Transportation Authority operating company and supported this ordinance. He felt first and foremost was safety of the elderly and disabled. We only have several bus stops in the City: Manuel Lewis Street, Harbor Loop, Main Street and Rogers Street. Secondly, it will increase revenue for the City. It will be a deterrent, as the Chief pointed out. Handicapped spots and bus stops are 'sacred'. We should not be violating them. We have 911 parking places downtown. Folks shouldn't have to park in a bus stop.

**Those speaking in opposition: None.**

**Communications: None**

**Questions:**

**Councilor Theken** stated that this was advertised for public hearing for penalties for parking violations at bus stops and taxi stands, but they're only considering raising them for bus stops.

**Chief Lane** noted this law is only allows for and is specific to the increase of fees for bus stops and recommended that they stay with just bus stops.

**Councilor Hardy** reiterated that what the Council is dealing just the bus stop violation fee increase, not taxicab.

**This public hearing is closed.**

**MOTION:** On motion by Councilor Curcuru, seconded by Councilor Mulcahey, the Ordinance and Administration Committee voted 3 in favor, 0 opposed to recommend the City Council to amend

Gloucester Code of Ordinance Section 22-176 and increase the bus stop violation fines from \$15.00 to \$100.00.

**Discussion:**

**Councilor Theken** noted there are 911 parking spaces in the downtown area. Even though, at some of the bus stops folk park briefly. Once you get that ticket for \$100.00 you won't do it again. For the safety of everyone, not just our seniors, she encouraged no parking at bus stops. **Councilor Ciolino** will support this. He sees people parking in the bus stop space all the time in front of his place of business. Approaching buses can't get close to the curb to pick up people waiting for it who are handicapped or elderly. These buses have to pull up within one foot of the curb. If there's a car in the space, the bus has to stop in the middle of the street. This is a big safety issue. Not only is it difficult for folks to enter the bus, it creates a blockage of the street altogether, stopping traffic in the roadway. We need to impress on all drivers to keep the stops clear. He complimented the bus drivers for contacting the police to appropriately handle the situation.

**MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by Roll Call 9 in favor, 0 opposed to amend Gloucester Code of Ordinance Section 22-176 and increase the bus stop violation fines from \$15.00 to \$100.00.**

**3. PH2010-024: Loan Order 10-05: Loan Authorization in the amount of \$700,000 re: I4-C2 purchase**

**This public hearing is open.**

**Discussion:**

**Councilor Hardy** noted that this particular item was (legally) advertised as a public hearing in the local media. At that time, the appropriation would have been \$700,000. Since then it has come to the Council's attention that a better motion has come forward to be presented at this time for \$1.5 million. There'll be another hearing opened immediately following this one being closed for the borrowing of \$1.5 million. But because this has been advertised she opened the public hearing. There will be no Council action on this because there is a superseding motion that will now cover any amount up to \$1.5 million.

**This public hearing is closed.**

**4. PH2010-025: Loan Order #10-06: Loan Authorization in the amount of \$1,500,000.00 re: I4-C2 purchase**

**This public hearing is open.**

**Those speaking in favor:**

**Mayor Kirk** stated the Administration supports the loan authorization for \$1.5 million in front of the Council. As they stated before the B&F, the authorization to borrow the full amount is a contingency plan so as to avoid timing issues of the receipt of the State grant. Noting that a document was submitted earlier today to the Councilors, she referred to the letter that arrived last evening from the Commonwealth they'd been waiting for which is the affirmation of the use of the State grant and the transaction we are undertaking. It affirms the opinions they have received from Bond Counsel on the questions that were raised. Here tonight is the Executive Director of the Seaport Advisory Council (SAC), Luis Elisa whom

she welcomed to the City was well as thanking SAC for this \$800,000. There is no question it can be used for the purpose stated. Before you tonight is that loan authorization for the full amount. Again, it is a timing issue. The grant will pay for \$800,000.00 and the City will pay for \$700,000.00. Mr. Towne, CFO was here to answer any questions that the Council might have about the loan authorization before them.

**Marsha Hart** 2 Fremont Street passed out a document to the Council. It was a picture of I4-C2, a blow up of a post card (on file) stating she is in favor of the purchase.

**Peter V. Asaro**, 224 Bray Street stated there are some folks who want to keep Gloucester antiquated. He went down to I4-C2 just that morning and what came to mind was of the late President Regan when he had the Berlin Wall torn down. He'd like to see it cleaned up.

**Sheila Brown, 8 Becker Lane** was for the use of the money for I4-C2. It's not worth the timing of the grant not being exactly available. It will be short term, so it will come. She hoped for a pathway around the harbor with benches. It will be wonderful when the whole pathway is accomplished.

**Damon Cummings** 1063 Washington Street would like to see the lot cleaned up as soon as possible. He's on the Harbor Implementation Committee. The improvements always came through. Even if there was no seaport bond, forthcoming, he'd encourage doing it anyway.

**Robert Whitmarsh**, 2 Blueberry Lane spoke in favor.

**Elizabeth Neumeier**, 28 Coggeshall Road was very excited to quote the saying carved in the wall of the Kyrourz Auditorium, "built not for today alone but for tomorrow as well".

**Elaine Brown**, 159 Thatcher Road is very much for this plan. She would like to see the City develop it.

**Carl Ekborg**, 7 Prentiss Road, grew up next to the Fitz Henry Lane House stating urban renewal destroyed that entire neighborhood. It took all the houses out. Their son was born when the Frank E. Davis, I4-C3 was torn down, and he's 45 now. When you come back to Gloucester and drive down Essex Avenue and see the harbor it's amazing; look from the Fort – it's amazing. Drive along Roger's Street, you see an active harbor. We have a unique opportunity to pass on another part of a vista for generations to come.

**Mark Adrian Farber**, 28 Salt Island Road, a member of the business community for 25 years, heartily recommended that the Council vote in favor of the loan, noting it's "eyesore C2".

**Steven Kaity**, 5 Viking Street stated this has been a long time coming.

**Amy Farber**, 28 Salt Island Road was very much in support and excited to see the property developed.

#### **Those speaking in opposition:**

**Stevan Goldin**, 33 Rockport Road stated it should be clear there is 100% agreement that the City should take the land immediately through eminent domain. The only question is the City paying more than three times what it should. The question is very different than previous evenings. No one questions the discretion of the Council. But is this legal. The Council doesn't have the power to do something illegal. He was bothered by a number of issues raised by himself and Mr. Faherty and believed they hadn't been answered. The City Attorney says it's legal. The City Attorney is hired and fired by the Mayor. City attorneys are not an independent voice. Within that condition, he's seen a number of City attorneys, such as Linda Lowe, now City Clerk, who, when in that capacity, when she thought that something was fit and proper and legal, she would assert that. She was respected for that. This question, if you spoke to any attorney, and while there are gray areas, this was black and white - illegal. He stated he had said previously if you want the gold standard you send it to the Attorney General's office. You have an experienced land-use attorney, one of the best here is Mike Faherty. He may have differed with him in the past but he did a good job of representing his clients. He's here tonight as a public citizen speaking for the public benefit. He hoped the Council would take advantage of that and question him closely. He noted the letter he sent to the Commonwealth. He hoped they take advantage of Mr. Faherty's opinions here. If you speak to others in the legal community, they will speak highly of his abilities. Why is there a rush to judgment? Because we have a deadline of May 4<sup>th</sup>? Someone who's had this for 25 years in a recession that doesn't have any prospect at all is suddenly putting this deadline in. You have to

ask for an extension and get this properly reviewed feeling it was “the cheapest sales ploy in the book”; don’t fall for that now and properly review this. What is the legal basis of combining it with something he doesn’t own? Even if you combine the parcels, you have a City-owned pier from a State grant that can only be used for what it is being used for now. Why should that add one cent of value to this. Please keep in mind why Mr. Cohen has had this property and not been able to do anything for 25 years. Because he came in here in an illegal deal; it was marked by the same thing this is-by deception. He didn’t get away with it then. When it was fully reviewed and vetted by the court, it sunk. It was proven totally illegal. When he asked for damages for what he went through, the judge told him he made a bad business deal. Please don’t do the same thing. Get a proper appraisal. The appraisals were not done on comparable properties. He doubted it would be worth more than \$300,000.00 to \$400,000.00. Let the court decide after that. He urged the Council to question Mr. Faherty if he thinks you’re at great risk. Please don’t do something illegal. You’ll find like Mr. Cohen did before that’s just going to stall it out. If it was done properly it would save money and go through. He’s contacted the Inspector General (letter on file). He contended again that is illegal and will fail. The State agencies will stop this and then it will be delayed. If we kept that million dollars, just think what could be done. Ideas are plentiful, but the money is scarce. If you start with \$1 million great use could be made of it.

**Karen Budrow**, 33 Chapel Street noted that the City has owned this property a number of times. What are we going to do with it now? She stated she is taxpayer and is a personal fiscal conservative. What do we want to do with this? There’s been a lot of talk of parks; but we have a lot of beautiful parks. She is concerned that the City needs funds. It needs commercial interests? We’ve denied commercial interest on that property a number of times. Is it our intention to never have She was with a group of volunteers painting at the O’Maley School. Do we need funds that are basic to the City, like to our schools? Do we have enough money for the school budget? We haven’t enough money to put firefighters where they belong, but we have the money to buy a piece of land that historically for 45 years has denied development on, a piece of land she was sure was very valuable if developed commercially. Why does the City need to own it to have it developed commercially? Mr. Cohen had come up with ideas, and she was sure people would present to him in better times. The City is not going to get any more interest in poor times for development than the current owner. She’s not interested in spending \$1.5 million or the interest for property that she’s heard not one word on how we would plan to use this property. We’ve bought property for the library we didn’t use; we bought and put up a senior center – we were supposed to have 50% come from the seniors and didn’t know that that had happened. We’ve bought a number of things she’s not sure we’ve made useful. She felt this property could be a goldmine in terms of the needs of the City; to meet the critical needs of the City. But spending money for what we’ve prevented development on, doesn’t make a lot of sense to her and wished them luck.

**Michael Faherty**, 83 Mt. Pleasant Avenue stating he was representing himself as a private citizen, disassociated himself and distanced himself from Mr. Goldin. He was puzzled to hear that in one of the presentations he was the devil and in another he was some sort of a guru. In fact, he was neither. He is a taxpayer and is opposed to this. The City is paying too much. The appraised value of this parcel alone, even by the City’s own appraisal is \$590,000.00. He told them, based on more than 30 years experience in land use and land development in assisting clients, it was outrageous that someone would agree to combine the value of the parcel you already own with the parcel you’re about to acquire and agree to pay the value of the two combined. It is unprecedented. He understands a deal was made. It was an unfortunate assumption made early in the negotiation. You will not be able to find anyone in the appraisal industry with a reputation worth defending in the appraisal business who would say that’s how you value it. He understood there was a deal made. And if there was an unfortunate assumption made early in the negotiation, that’s too bad. You have the chance to stay no to that unfortunate assumption. We still haven’t heard, even as of this date, anything to refute the suspicion that there may be contaminates in that soil. We do know there was a report; he’s not seen it. We don’t know the source of the fill. Everyone gets up here and talks of the Frank Davis building. The predominant building was the Gloucester Cold Storage facility. The Davis Brother’s facilities were on either side. The cold storage facility was the predominant structure. We do know it was covered with piles. They were impregnated

with different things to preserve them. We don't know what the soil is. In the time we've wasted "vetting" this process the study could have been done. The one study done was so superficial, that with all due respect to Mr. Duggan, he was the only person interviewed by the scientists as to the historical uses and nature of that project. With due respect to his position, there are thousands of people in this City with more of a historical perspective of what went on in that lot than Mr. Duggan. Even so, that report recommended further study. That's being disregarded. That study said it's important to note that the consistency of the soil was. Anyone who listened to him before would know you have to do borings to test the sufficiency of the soil and to determine if there were contaminants in the soil. The critical point of the consistency of the soil is as everyone recognizes, no use of the property can be made without driving piles. If you're going to drive piles, and you have granite blocks, you have remnants of piers; you have refuse that he showed some of them who took the time to look into what was in the sink hole on that property. You try to drive a pile into that material, you'll meet refusal; but that is not the refusal that is required to support a building. If you don't know the consistency of the soil, someone else will try and drive piles will find the soil is not suitable because there are obstructions and will then require you, the City, to take a gross reduction in price or make it good. The only way you make it good is to dig it out and build caissons. You're digging in salt water. There aren't really a lot of weeds on the property. The soil is shallow before it gets to ground water. We could have done this testing and protected ourselves against the possibility that we buy something and later find out it isn't what we thought it was; and another sharp business person comes in who's the developer of this site whether it be by lease or purchase and says I'm not paying you anywhere near what you bought it for because this is all that it's worth because I'm starting at ground zero, not at some inflated figure that you have. He raised the issue of whether or not you could use these bond funds since the original act of 2008 was for improvements. He did get a copy of Mr. Manley's letter and will accept for the purposes of this presentation that Mr. Manley is a very good bond lawyer but is woefully inadequate in his analysis of how you construe a statute. The fundamental rules of statutory construction are first, you look and see a term you're looking got define is already otherwise defined in the statute. "Improvements" is a defined term in this statute as is the word by reference, "coastal facilities". He gets around that, if you read his letter, in the last paragraph saying, "Webster's [Ninth New Collegiate] Dictionary defines "improvement" as "...something that enhances value or excellence." Enhances value? Value to whom? Excellence to who? This is a very superficial opinion that he didn't think would meet muster if challenged, which is an important point. We should all be embarrassed that given two weeks to produce something from the State level results in a couple of lines. As taxpayers we should demand and expect more. He hoped, and disagreed with Mr. Goldin on this point also, who says there's not a single person who doesn't think we should take this – he is the one single person who thinks this is a mistake for the City to take this. If you want to see a weed-strewn, run down lot surrounded by a fence he suggests to go up to the Maplewood Avenue School and look at other 'partnerships' that have this burgeoning eco-environmental fish related marine related research. Go look at the Tarr and Wonson paint factory. It's falling down. Only a year and a half ago people were drinking champagne and toasting to what this wonderful thing was going to be. For those of us who have property in that neighborhood that's an embarrassment too. He hoped that none of his fears are founded. He hoped in five years in hindsight everyone who votes for this tonight says that was a great deal and we should be applauded. Based on his experience and on what he knows and thinks, this is a rush to judgment and didn't think that was going to happen.

**Rebuttal:**

**Mayor Kirk** noted for the past 60 days the City Council has conducted its review the proposals before them. She expressed that some of them brought a healthy skepticism to the process and between the nine of them every single angle has been covered and responded to by the Administration. She reiterated that this has been a very thorough process. The opponents of the proposals have sought to undermine the City Council's confidence at almost every step of the way; instilling fear about the environmental assessment. It was a Phase I; it was thorough; it was not superficial. It didn't result in findings nor did it result in State mandated secondary review. We don't want fear to drive this process. When the Administration was before B&F the first time, one of the opponents read chapter and verse from the appraisal done Mr.

Cohen to the Council deeming it insulting to the Council. That appraisal had flaws in it. But they used the appraisal that was paid for and commissioned by the City of Gloucester. This was intended to undermine the confidence of the City Council. Challenging the State grant is another example. We have a reputation as a City of being very difficult to deal with when it comes to the State. This is a perfect example of why because the opinions and positions of our General Counsel, of the Administration and the homework done and presented to the Council is solid. The State asked why they were getting all these questions from the City of Gloucester. All of the questions were answered and have been affirmed. This is another attempt to undermine the confidence of the Council in this very complex transaction. It is decision time. This process has proven that this Administration and this Council can work together as a team. That's significant. Just those elements are sowing the seeds of doubt. She has no doubt this Administration and this Council can do the work that is ahead of them on I4-C2 and wanted to begin that tonight.

**Rebuttal:**

**Mr. Goldin** hoped there were seeds of doubt. None of the questions of legality and common sense that you can't combine the two have been answered. Speaking of Mr. Cohen's appraisal, he believed the City's own appraisal was not comparable; and claimed that combining the two [parcels] was illegal. They used fully developed, fully permitted Chapter 91 sites, not anything like this. When they did the original appraisal for this site, the comparable properties didn't have any of the restrictions, Chapter 91 or the DPA or the difficult soil conditions.

**Communications:**

**Former Councilor Jason Grow** via email was not necessarily against the purchase but there are many questions, including the price, the long-term fiscal impact if there is no development deal within two years, as well as the environmental clean up issues. It was read into the record by Linda T. Lowe, City Clerk (on file).

**David H. Rhineland**, Co-Chair, Gloucester Historical Commission on behalf of the Commission a letter endorsing the City's efforts to purchase I4-C2 lot on Rogers Street (on file).

**Steven Dexter**, via email in support (on file).

**Stevan Goldin**, 33 Rockport Road submitted a copy of a letter sent to the Inspector General Gregory Sullivan of the Commonwealth of Massachusetts in opposition to the Order of Taking (on file).

**Questions:**

**Councilor Verga** stated we're looking to borrow up to \$1.5 million just in case red tape holds up the bond. If that's the case, the bond is held up, and we spend the money can we use the bond when it comes in order to backfill.

**Mr. Towne** clarified we will end up borrowing short term the \$1.5 million until such time as the \$800,000.00 is physically in our possession. We will then long term finance only the \$700,000 portion.

**Councilor Verga** stated then there would be no limitations from the State about us using this after the fact which Mr. Towne responded yes.

**Councilor McGeary** asked about the schedule of repayment, short term versus long term and how that will play out over the next two or three years.

**Mr. Towne** noted we can have short term out for as long as two years without paying any portion down towards principal. If we borrow \$1.5 million short term, we could keep that for two years, and that would be about \$25,000 to \$29,000 depending on what we get for a short-term interest rate for a full year. \$700,000 was about \$12,500. We'd combine that with other debt outstanding as a pool and get the benefit of a lower interest rate in the market by going with a larger issue, like with other capital equipment, etc. We would take the \$1.5 million, only borrow the \$700,000 long term by the time the \$800,000 comes in and then that would be financed over 15 years for land purchase which is the length of time typically used. That would be \$46,666 in principal per year plus interest at whatever the going market rate is of what we go out to borrow at long term. We would have short term interest depending on



when that fits in to going up to long term and would only probably finance the \$700,000 once we applied the \$800,000 grant.

**Councilor McGeary** stated that would be a ballpark figure of \$70,000 to \$75,000 per year on the \$700,000 in long term which Mr. Towne stated at most, yes.

**Councilor Curcuru** asked hypothetically if this goes over three years it would be \$75,000 per year.

**Mr. Towne** stated if it goes beyond two years we would end up having to make something called a BAN (Bond Anticipation Note) pay down which is similar to as if you paid one year of principal on long term. If it's the \$700,000, it would be an additional \$46,000 on top of the interest that we would pay.

**Councilor Curcuru** asked what the taxes would be on it; about \$6,000 per year.

**Mr. Towne** responded it would be \$8,000 and agreed with the Councilor that the \$8,000 would be a loss for the next two years.

**Councilor Theken** asked if this would come out of the general fund.

**Mr. Towne** responded the repayment of the debt would come out of the general fund.

**Councilor Theken** asked how is this going to affect the bond rating.

**Mr. Towne** noted the more debt you have the bond rating agencies look and ask what your repayment ability is. That's really what it would come down to. He didn't feel it would affect the bond rating for this small amount.

**Councilor Theken** stated she didn't like this project in the beginning; they all had questions and very large concerns, much of which were answered in the Committee meetings. The big concern is the environmental study and the soil and asked the Mayor to address some of those concerns, mentioning the Linquata/Gloucester House deal.

**Mayor Kirk** reiterated a standard Phase I assessment was done and submitted to the Council. From the onset, the Administration had stated if there were findings of contamination they would proceed to Phase II; and there were no findings. The only finding was there was no direct contamination on the site and felt very comfortable it would conclude this phase of the environmental assessment. In the past there was a transaction that was in the works with the Gloucester House and a bank environmental risk analyst reviewed the property who issued a memorandum saying there were no barriers to financing based what they saw in the environmental review. That's what you look for – is any concern about the environmental piece a barrier to financing. They know as late as 2004 there was not; and that the property was free to be used as collateral for a loan.

**Councilor Theken** asked why go through eminent domain and why limit it to economic development.

**Mayor Kirk** stated an eminent domain taking has to have a public purpose which in this case is economic development as detailed in the Order of Taking has to do with the harbor plan and the sectors of the economy that will drive the future jobs and investment in the City. It is laid out in the harbor plan and the economic development plan they've been working on for almost a year. Those three sectors of the economy are: the visitor-based economy, the fishing industry and the maritime economy. This property has each of the components. It has the wharves with the tenants there, the commercial fishermen which we don't wish to see disturbed. The wharf which can tie to a harbor walk supporting the visitor-based economy and the residents of Gloucester to get people moving and circulating throughout the City; and upland piece can support a maritime use. There is no preconceived development plan. They have a framework that is tied to that harbor plan, and the economic development plan which is a very strong public purpose. There are two types of taking, friendly and hostile. All they've done in a friendly taking is negotiate a Memorandum of Understanding (MOU) where you know the price. As part of that price negotiation they did agree to take the appraised value of the assembled parcel, the wharf and the land. The property is landlocked. The value to that land comes from combining them. They agreed as a part of that negotiation to take that approach. That's how the price of \$1.5 million was reached. The City didn't want to proceed with a hostile taking because the price is taken out of your hands and placed in the control of a judge and possibly a jury. They didn't want to take that risk.

**Councilor Theken** asked why did you combine the parcels. If Mr. Cohen couldn't sell it because of the waterfront, because of Chapter 91, what makes it special for the City to combine the parcels at the price of \$1.5 million.

**Mayor Kirk** responded it wasn't that he [Mr. Cohen] couldn't sell it. There've been many transactions that have been attempted over the years. It's that it's not developable under the DPA without that water dependent use. Either they convey the wharves to the owner and lose that and then allow that owner to develop it within the DPA, or it goes the other way - the City acquires the land and then we have the wharves thereby putting the two pieces together in order to fulfill the requirements under the harbor plan and the DPA.

**Councilor Theken** noted \$1.5 million to cut someone's grass, because it is an eyesore is a lot of money, and remarked the City is not a very good landlord, noting Maplewood Avenue, the Legion. What is the difference on this parcel; it's not going to sit for another 45 years with the grass cut.

**Mayor Kirk** stated Maplewood Avenue is a great example; but it's also not waterfront property. The parcel, because of the DPA, can't be a park, and felt she's been very clear about that. She reiterated what she had said about this Administration and this Council has been having the ability to tackle a complex challenge is significant in that they don't see themselves as caretakers but facilitators to find development aligned with the harbor plan. It will take a strong Administration and Council to get things done.

**Councilor Tobey**, noting the concern on the bond rating, asked if the Mayor would agree for the City to encourage and realize economic development on this site that there's a measure that will enhance the profile of the City when the bond rating agencies next look at us.

**Mayor Kirk** stated she would say so. Right now we have a negative outlook in a AA rating. One of the things they look for is what economic development is on the horizon. For past two years it's been real slow in that regard. Some of the projects that have been identified, they've already taken that into consideration in our most recent bond review. To be able to put this in the next report would be a significant addition that is positive to the overall profile to the City of Gloucester, especially in this difficult economic climate.

**Councilor Tobey** also noted especially with bond ratings they like to see long-term problems solved. Will there even be a substantial long term borrowing. It has been very helpful that the Mayor has said and underlined very clearly that the City's not buying this to make it a park. Development can take place on a site still leaving good visual corridors; a harbor walk could happen now; and no doubt will happen should this be approved this evening. Given that, he took that the Administration's vision is that the City will not own this site long term; and hence, there wouldn't be a need for long-term borrowing. If that's the case, how long do you see it? What is your goal; how long will it take for the City to flip this to useful private ownership.

**Mayor Kirk** didn't wish to characterize this as flipping it. There are some revenue generating alternatives that they can look at it where the City could retain ownership on a land lease type of arrangement, and didn't want to jump to the conclusion that they'd flip this property. In terms of a development schedule, the goal would be to have plans that are approved by the community and submitted to the permitting authorities within two years, ideally in a year; and to have something actually have something physically developed the following year, giving a three year window to see something physical on that site. She felt the upfront work was the most crucial work.

**Councilor Mulcahey** wondered why we're waiting for the development to ensue, can the property be used for a Farmer's Market or for different uses and be rented out as a possibility for income in the meantime.

**Mayor Kirk** stated within the DPA and Chapter 91 regulations there are allowable temporary uses. The uses will need to conform to that regulatory environment. The Farmer's Market, parking, net mending, just a handful of things are allowed. They would have to work together to figure out what the process would be like, who do they call, how much does it cost, etc. All those details need to be worked out

**Councilor Verga** asked the Mayor to address Brownfields funding if a worst case scenario does come true, and the Mayor asked Sarah Garcia, Community Development Director to respond.

**Sarah Garcia** stated Brownfields funding most recently had a portion used for the paint factory; a portion of the funding can be granted and a portion can be loaned, up to \$200,000 can be granted. It is a revolving loan fund. The City has used this loan fund in the past for the McNiff property at the old Cape Ann Forge site. They've applied for an increase in Brownfields funding. They also have regular loan

repayments coming back into the fund. Within the two year time frame, they've been very successful with the EPA both having funding for assessments, as in fact this recent assessment was paid for by the EPA and also in funding any loan clean ups. As a City, they have an edge over a private developer to use the loan funds as grants.

**Councilor Hardy** asked, for instance, they do some short term borrowing two years out then go to long term financing in the third year; and we haven't leased, sold, flipped or developed the property, what would be the affect on the tax rate at that time.

**Mr. Towne** stated if we went into the third year, we would have one year's worth of principal and interest. So you actually have to make a pay down as if you were paying your first year of the 15 years in principal. You'd have a full year of interest and a BAN pay down equivalent to about one year out of 15 for principal. So if it was \$700,000, it would be \$ 46,666 plus whatever your interest would have been normally.

**Councilor Hardy** followed up by asking what that would be on the tax rate per \$1,000 using today's figures.

**Mr. Towne** responded he'd have to calculate the tax rate and would respond to her shortly.

**Councilor Hardy** noted the Mayor had said revenue generating ideas would have to be submitted probably to the permitting authorities you'd have to submit some of those ideas to.

**Mayor Kirk** noted any financial arrangement tied to any type of development. A land lease, for example, would come before City Council. The development permits for any type of physical build out would go through regular Council process.

**Councilor Hardy** asked what if during your neighborhood outreach asking for ideas and the overwhelming majority want something outside of the DPA, MI, or Chapter 91 restrictions. What would happen then; would you be willing to go the extra mile and request to take the property out of the DPA.

**Mayor Kirk** responded not initially. She believed they have to give the harbor plan a chance as well as give the economic development plan a chance to support maritime economy which is fairly broad but fits within the DPA. Fifty percent commercial supporting use was very important piece in terms of the harbor plan, as well as the visitor based economy and fishing industry. Part of the reason why we were granted the \$800,000 from the Seaport Advisory Council (SAC) is to support the DPA, which is also important; and we have to give that a chance before abandoning it. The road to this point has been to the support on this at this juncture with the full understanding it's aligned with the DPA, the harbor plan and the economic development plan. If there is a sea change in public opinion about that she'd be reluctant to pursue that course and make the regulatory change recommendations.

**Councilor Hardy** asked if we or you decided to go outside the DPA and used the \$800,000 to purchase this property would we have to pay back that \$800,000. What would happen to that grant, and we relaxed the DPA and took it out of the DPA.

**Ms. Garcia** responded there is a legal process for removing a property from the DPA, and didn't believe there was any intention to pursue that. In answer to the hypothetical question, it's a two year process regulated by DEP. If it were followed through a legal process, Counsel already has the opinion from the State that once the money is used there are no strings attached to it other than what is standard contract language. That doesn't include anything that restricts our future ability to use of the property in any legal way. She spoke to the fact when properties are removed under the DPA, it isn't done as a City as a renegade entity, it is done under procedures legislated by the State.

**Councilor Hardy** noted it's not out of the realm of possibility that this land eventually may be taken out of the DPA or ask for relaxation of the rules and regulations.

**Mayor Kirk** would not rule it out completely down the road. If there's no proposals coming forward, no interest in the regulatory environment in the harbor plan and the economic development plan they've put together. They'll have to take a pause and might have to rethink this. That goes well beyond this parcel. That speaks to the entire DPA for the City. It would be a bellwether about whether or not the harbor plan, the DPA and the economic development plan are a contemporary match. But we have to give it a chance first. She clarified the contract and the legal opinion out of the State regarding the use of the funds.

When she was referring to the SAC, she noted she was referring to the spirit of supporting the DPA.

There's nothing contractually limiting to us on that. The Seaport Advisory Council, chaired by the Lt. Governor, of which Gloucester is a voting member, supporting the five port cities, Fall River, New Bedford, Salem, Boston and Gloucester. She noted Luis Alisa, the Executive Secretary of the Seaport Advisory Council, was in attendance.

**Councilor Hardy** asked him to speak to this issue.

**Luis Alisa, Seaport Advisory Council** stated this fund is part of the Environment Bond Bill created as an extension of the Seaport Bond Bill established in 1996. It was re-authorized in 2008; and under that bill they have certain amount money they were allocated, \$110 million and can spend about \$9 million each year. It extinguishes itself in about 5 years. They make grants to coastal cities and towns in the Commonwealth of Massachusetts; and they make them, as the Mayor said, without strings attached. When the grant is made there is an understanding that a certain action would take place based on the application made by the city or town. This application was made by the City of Gloucester back in October 2009. When they met, the SAC took under consideration that the City of Gloucester was going to lose \$800,000 because the project it was previously established for could not be accomplished because there were a lot more resources it would need which was a harbor master's building, dredging. That is not off the table, but they have to amass more resources to do it. In order for the City not to lose the grant completely, they proposed to them another idea which the Lt. Governor thought was a good idea. When he looked at the project himself, he also thought it was a good idea. Based on the thoughts of the members of the Advisory Council and the port professionals, they vetted it completely; a vote was taken and it was to support the idea the City of Gloucester should be able to purchase this property. The purpose they said it was going to be used for met with the goals and objectives of the Seaport Advisory Council.

**Councilor Hardy** stated they made statements what they'd like to see the property be used for, and that included keeping it within the DPA. Say, for instance, they get the \$800,000, which would be a great boost to the City, and we decided to take the property out of the DPA, are you giving us assurances now that the City would not have to pay the money back the \$800,000 because you're saying there are no strings attached.

**Mr. Alisa** stated the grant wasn't given to the City because they were in the DPA. There are other cities and towns that aren't in the DPA that receive grants. All grants aren't given because of the DPA. The understanding they have because it is an interior understanding, as opposed to exterior, that even the DPA concept is under review in this process. Some areas may not continue in the DPA, so they don't make grants contingent upon things remaining as they are. We make them based upon, well, what you have up on your wall [in the auditorium] "built not for today alone but for tomorrow as well". They're making grants based on what is proposed to do and hopefully will benefit the seaport and the environments in the coastal region.

**Mr. Towne** stated one penny, elaborating that Councilor Hardy's question was if we had the maximum where we would end up paying a portion of principal and the interest in the third year which would be roughly maximum of \$75,000 if we borrowed \$700,000, it would calculate to about one penny [per thousand].

**Councilor Hardy** stated, say something went amiss, and we weren't able to use the \$800,000, and we had to borrow the full \$1.5 million; and we gave Mr. Cohen a check \$1.5 million; and three years from now the \$800,000 became available to us, could we still apply the \$800,000 to that.

**Mr. Towne** stated that makes it more difficult. He'd have already issued the long-term debt. Most long-term debt is not pre-payable. That's why we'd have to be careful to get the \$800,000 and carry it out short-term.

**Councilor Hardy** stated say, for instance, we get it in a relatively short time which all assurances indicate we're going to get this money in, which she didn't doubt, we're authorizing up to \$1.5 million. You'd only borrow the difference between the \$1.5 million and the bond even though we're authorizing the \$1.5 million. How do you negate what the difference is so that it's not going to be borrowed or you plan on keeping that money and put it towards something else on I4-C2.

**Mr. Towne** stated the loan authorization is specific towards the purchase. You're authorizing \$1.5 million. If and when the grant money comes in, he would apply that against the \$1.5 million, borrow the difference, and be back before the Council to rescind the remaining portion because you can't do anything else with the remaining portion of the \$800,000 that was paid for by the SAC money.

**Councilor Hardy** noted recently the Gloucester Daily Times had a poll in the paper asking people what I4-C2 should be used for. It was a fun poll. They offered up some examples of a park, a hotel, a parking garage, a casino, etc. What if the community comes back as a majority and says they want to turn this into a park. What would you say to the people who have supported the purchasing of the land of up to \$1.5 million; and they don't care if we get the grant or not, that are under the assumption it's going to stay within the DPA; it's going to remain fisheries; what would you say to those people.

**Mayor Kirk** stated she appreciated the question because she had a hard lesson on this. She knew that the talk can be, 'we want a hotel down the Fort'; noting she always used this as an example; we hear that in coffee shops, on the campaign trail; but who actually shows up to the meeting. Who shows up to the public hearing? Who steps to the microphone and is really trying to guide the future development of the City. Those are two different stories; and she learned the hard way. If you feel that strongly, she implored the public to participate; come to the meetings and step up to the microphone. Then it will be the Council's decision to weigh all those viewpoints. She reiterated they have an Administration and Council in place that can get this done.

**Councilor Ciolino** asked if she agreed that after all the discussion, all that's been said and researched, the end result of the purchase of the property is to create jobs and increase the tax roll of the City on that piece of property that we're not buying this property just because its weed choked.

**Mayor Kirk** agreed.

**This public hearing is closed.**

**Councilor McGeary** prefaced the reading of the motion stating that at the Budget & Finance meeting on April 22, 2010 the following motion was made:

MOTION: On motion by Councilor Hardy, seconded by Councilor Mulcahey, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend the following Loan Order:

That up to One Million Five Hundred Thousand Dollars (\$1,500,000.00) be appropriated to pay for the acquisition by eminent domain, of a parcel of land commonly known as I4-C2, with legal description as follows: a certain parcel of land situated at 65 Rogers Street in Gloucester, Essex County, Massachusetts, and being shown as Lot 1 on Gloucester Assessor's Map 9. For title reference, see Deed recorded at the Essex South District Registry of Deeds in Book 8419, Page 78. This land shall be used for downtown revitalization and economic development purposes. To meet this appropriation, the City Treasurer, with the approval of the Mayor, is authorized to borrow up to the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) under and pursuant to Chapter 44, Section 7(3) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the City therefore, which bonds or notes shall be general obligations of the City. That the Treasurer is authorized to file an application with the appropriate officials of The Commonwealth of Massachusetts (the "Commonwealth") to qualify under Chapter 44A of the General Laws any and all bonds of the City authorized by this Council as of the date of the final City Council vote and to provide such information and execute such documents as such officials of the Commonwealth may require in connection therewith.

**Discussion:**

**Councilor McGeary** noted the vote was unanimous. The up to \$1.5 million was merely a belt and suspenders to protect us. We are pretty well assured that we're going to get the \$800,000 from the State so its \$700,000, and as the CFO stated its one penny on the tax rate. That adds up to one teacher or one

firefighter, so it is not free; but he felt it was a good use of the money and believed they all felt that way. He hoped his colleagues would approve this loan order.

**Councilor Whynott** didn't know whether the value of that property today was worth \$1.5 million or not. What he did know was that prices fluctuate in real estate. At some point in time it will be. A person doesn't have to sell and can hold onto their property, they'll get their price eventually. It's already been proven that this person doesn't mind holding onto the property. This may not be the jewel in the crown of the harbor, but it is a jewel. It's a great location and a beautiful place. He'd like to see a buyer make use of the property for taxable purposes. But even if it doesn't, this property is centrally located on the harbor; and if we clean it up it will bring more people to the harbor and more people will enjoy seeing this property. If it is developed properly it will still be a great place and will vote for it.

**Councilor Verga** noted he raised a lot of concerns and questions in the last few conversations they've had about this. It came down to two categories, one was the environment; and one was how we're lousy landlords. This body in the past has refused to let things happen there. He's satisfied that the environmental concerns have been addressed by the Administration, especially the question of the Brownfields. So he was satisfied with that. As to the issue of where we can go from here, twenty-five years ago when Mr. Cohen took over the property, he was in high school. He wasn't even born when this became the desolate wasteland that it is now. We should go on faith a little bit and have some vision because maybe that's been lacking in the past. Maybe that should be used as a stick to force this Council to think a little more outside the box going forward. He will support this. Quoting Mr. Faherty, in five years he'd hope to be able to say how proud he is.

**Councilor Curcuru** stated his concerns have been eased at this point. Some of the questions that were before them tonight were some of the questions he had been asking. When he first saw the proposal he was concerned but felt confident that those issues were going to be resolved. He had so many of his constituents come up to him, email him; people he never thought would be politically inclined to have any involvement with anything about City government were approaching him and saying we have to purchase this land. He understood there are some serious concerns by some citizens but hopes that three years from now we'll be saying we made the right decision and will support this.

**Councilor Theken** didn't like the idea of spending \$1.5 million to cut someone's grass. She was distressed that as a City we couldn't take charge of people who don't take care of their properties. It took 45 years. Most people were saying, 'just take the fence down, and just cut the grass'. \$1.5 million dollars to cut someone's grass is appalling and didn't want that. The fact is, we're looking for economic development. We have a lot of projects that are unfinished. If we're going to do it the correct way, when you did the harbor plan, Charettes were held; and so you finally got a harbor plan. Eighty percent of it went forward; and we could put a plan forward to the State that this is how we want it at least developed. This is an investment. What is it really worth to the community? If we, as a community, can get that developed or at least resold, it would show we're willing to change; you'll have co-existence of fishermen, of wharf owners, of people in the community, tourism downtown. That's what's worth millions and is priceless. She brought up Damon Cummings' experience and comments regarding the waterfront and I4-C2 and spoke of her respect for his knowledge. She believed by listening to the fishermen, going to the meetings and actually hearing them that you understand that this isn't a dead industry. It is vibrant. It is working. Yet you still need to co-exist with economic development down there in order to say, "We are here". She will support this fully.

**Councilor Ciolino** stated when figuring the price on this property, there are three requirements to hold value, and its location, location, location. This property fits the bill. There's none better located. Working on Main Street, he's never had an issue that has come before the City where so many people have come and weighed in and said they want the City to acquire this property and to do something with it. All the public comment has been people are welcoming and have the expectation of the Administration, the Mayor and this Council working together for progress. Many have pointed out to him that this is what they've seen happening. We are working together, and we are moving forward. This has been dead for 45 years. We need to revitalize it to bring it to fruition. We can do that by working together to create jobs and start reaping some taxes off of that property. He will vote for this tonight.

**Councilor Mulcahey** noted during this whole process there's been many meetings, open door meetings, all noticed and advertised, people have come to these meetings. We've done our homework, every single one of us; and asked the right questions in depth, going well beyond the norm. They wanted to be sure they had all the information they needed. We worked hard on this. She appreciated the support and input believing it is a good thing. The Mayor has assured us we'll be able to get income from this. She is all for this; it is not a mistake at all.

**Councilor Tobey** noted they've gone through an accelerated process in a relatively abbreviated length of time, one that's been engaged in the spirit of anything that's worth doing is worth doing right. There were a number of concerns raised and vetted through this process. There's more than a motion in play here; there's also some substantive issues. There were substantive issues with the grant; was it legal under State law to spend the money on the proposed use. He was satisfied for purposes of voting on this tonight that it has been adequately resolved by the exchange between City and State Bond Counsel. There is a second question regarding the grant which is does it come with strings that might bar the City from selling the lot or otherwise disposing of it, including long-term leases. He believed that question has been answered to his satisfaction by the exchange between the Bond Counsels. There've been a number of questions regarding the value of the site. A fundamental threshold question was the capacity to proceed with the purchase under State law to the extent that the purchase price is greater than 125% of the assessed value. The matter of the taking removes that legal barrier. Then there was the whole question of the validity of the appraisals to set the price. Most of the discussion of the merits and demerits of the appraisals have gone in one ear and out the other because he didn't rely on the appraisals. Rather, in dismissing them as a basis for value, he looked instead at a couple of considerations; one being his own years of experience of trying to work with Mr. Cohen. They could have closed this deal ten years ago and paid more than twice as much. That's worth something. There's the City's history characteristic of much municipal history across this Commonwealth in eminent domain and didn't subscribe to the difference of friendly or hostile - a taking is a taking. If a taking is contested on the amount of the damages, cities and towns don't do well; they do very badly. In the case of the City, despite competent legal defense, was reminded of the Merchant's Island Realty Trust case in the 1990's where the City took "a bath". He saw this as a reasonable exercise in risk management that gets the property back at a balanced price into the City's ownership. Then there's the question of the eminent domain authority, particularly relevant given the Supreme Court of the United States having spoken out on the Kelo vs. City of New London case in recent years. Was the order as proposed robust enough in capturing the reality of the City having an economic development plan? He believed the discussion that's ensued, referencing the harbor plan, has strengthened the Order of Taking; and he is satisfied on that point. There's one major unresolved risk here, and that is what is the real site condition environmentally? He believed that was being reasonably acknowledged. It is an unresolved risk and one on balance he was willing to take. There is a Gordian knot that exists which will continue to exist as long as they have the current ownership. The name needs to come off the deed. Particularly given the access to monies that they can start tapping on the Brownfields side, on the Seaport bond side, it's a risk, on balance, that's worth taking. Then there was the question of the future reuse. Not only now is there is a chance, he had been approached, as he believed other Councilors may have been, by folks who in his view were credible and capable of delivering who have ideas that they're looking to market. He was confident the Administration has experienced the same. This is \$1.5 million we're spending of the people's money. Bottom line, this is not a perfect deal but a reasonable deal. You don't let the perfect be the enemy of the good. He will be supporting this reiterating that the hardest part was yet to come. A park is not an answer. Short term use needs to stay short term. Economic development and the creation of value on that site have to be the benchmark by which the wisdom of this move is ultimately judged.

**Councilor Hardy** noted the Mayor was right on when she said that the people who come out to the public hearings are the ones that are heard. If this didn't teach a lesson to all to participate in government and come out and be heard, she didn't know what would. There was overwhelming support shown at the meetings. If you are interested in your government, she urged everyone to start attending meetings; not sitting at home and watching them on TV. They want to hear from the public. She reminded all that in

order for the Council to make the tough decisions, they need to be able to ask the tough questions. She felt that those who paint City Councilors with a negative brush for asking difficult questions are not being quite fair. They really need to get the answers on the record so they can prove their due diligence in asking the proper questions. They might take a little bit of extra time, but they all did their due diligence. They had meeting after meeting, as Councilor Mulcahey noted earlier. She showed a large stack of documents in front of her including a large three-ring binder that all this documentation was reviewed by the City Councilors at home, at meetings, in their spare time, during school vacation, taking time away from their families. They had less than 60 days to do it. The amount of time invested by the Council as a whole was incredible. She then made note of the following meetings and their content in order that the City Council could complete their due diligence leading up to tonight's vote:

<u>DATE</u>	<u>MEETING</u>	<u>ATTENDANCE</u>	<u>MATTER TAKEN UP</u>
3/16/10	City Council	9 City Councilors	Mayor submitted eminent domain taking & Loan Authorization documents in packet presented at CC Mtg.
3/22/10	O&A	8 City Councilors	8 pages of minutes
3/24/10	P&D	5 City Councilors	7 pages of minutes
3/25/10	B&F	4 City Councilors	I4-C2 Discussion: 6 pages of minutes
	B&F	4 City Councilors	Executive Session on I4-C2
4/5/10	O&A	4 City Councilors	Matter on O&A Agenda
4/6/10	B&F	4 City Councilors	Matter on B&F Agenda
4/7/10	P&D	5 City Councilors	2 pages of minutes
4/16/10	Special B&F	4 City Councilors	4 pages of minutes
4/22/10	B&F	4 City Councilors	3 pages of minutes
4/22/10	Special CC	8 City Councilors	Special public hearing called by City Council to hear public commentary – 10 pages of minutes

DATE      ADDITIONAL INFORMATION RECEIVED

3/22/10	Memo from Suzanne Egan in response to legal opinion regarding the payment cap in MGL, Chapt.40, sec.14 w/multiple West Law enclosures Copy of Memo from Sarah Garcia to Mayor Kirk cc'd to Mr. Ryan re: Chap.312 of the Acts of 2008-the Environmental Bond Bill
3/24/10	Memo from Mayor to Council re: suggested approach for development process for I4-C2 Memo to Mayor from Sarah Garcia re: I4-C2 Commonwealth Tidelands in DPA Memo to Mayor from Jim Duggan, CAO re: I4-C2 Environmental Assessment question reportedly and according to Mass DEP no report of contamination and Weston & Sampson to conduct Phase 1 assessment Memo to Mayor from Sarah Garcia cc'd to Council re: temporary & permanent uses allowable in the DPA
4/13/10	Mayor Submitted to Council 1-1/2 inch thick Phase 1 Environmental Assessment of property by Weston & Sampson Mayor Memo to Council re: email affirming State's General Counsel's approval of use of \$800,000 bond to purchase I4-C2 without restriction
Various Dates	Memo from Mayor re: I4-C2 Fact Sheet Council continues to receive memos from the Administration up to walking through door to the City Council meeting of 4/27/2010 Communications from citizens regarding I4-C2 Reports from Weston & Sampson related to Environmental Phase 1 reports
Notices	Not less than 3 advertisements noticed in the local media related to I4-C2 Public Hearing dates

**NOTE:** *This is a sampling of documents submitted and reviewed – Councilors did their own research to*



*obtain additional documentation and information.*

**Councilor Hardy** continued, they have done their homework. They have vetted this. She wanted to see a few more things have their T's crossed and I's dotted, noting she's still stuck a bit on the environmental issues. The Council has been assured that Brownfields money will be available should there be a need. She wanted to extend the City Councilors a big thank you for all the time, effort and their attendance at the extra meetings that took place. She thanked the Administration for bearing with the Council and reminded them that just because they ask the tough questions doesn't mean the Council is opposed to something. She will be supporting this tonight. She reiterated that the vote about to be taken was for the borrowing of and appropriation of up to \$1.5 million. It is not the vote for the Taking. That vote would follow with the successful passage of this motion.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by Roll Call 9 in favor, 0 opposed, the following Loan Order:**

**Ordered: That up to One Million Five Hundred Thousand Dollars (\$1,500,000.00) be appropriated to pay for the acquisition by eminent domain, of a parcel of land commonly known as I4-C2, with legal description as follows: a certain parcel of land situated at 65 Rogers Street in Gloucester, Essex County, Massachusetts, and being shown as Lot 1 on Gloucester Assessor's Map 9. For title reference, see Deed recorded at the Essex South District Registry of Deeds in Book 8419, Page 78. This land shall be used for downtown revitalization and economic development purposes. To meet this appropriation, the City Treasurer, with the approval of the Mayor, is authorized to borrow up to the sum of One Million Five Hundred Thousand Dollars (\$1,500,000.00) under and pursuant to Chapter 44, Section 7(3) of the General Laws, or pursuant to any other enabling authority, and to issue bonds or notes of the City therefore, which bonds or notes shall be general obligations of the City. That the Treasurer is authorized to file an application with the appropriate officials of The Commonwealth of Massachusetts (the "Commonwealth") to qualify under Chapter 44A of the General Laws any and all bonds of the City authorized by this Council as of the date of the final City Council vote and to provide such information and execute such documents as such officials of the Commonwealth may require in connection therewith.**

**Councilor Theken** also extended her thanks to State Senator Bruce Tarr and his staff.

**Recess was called at 10:00 p.m.**

**The Council reconvened at 10:04 p.m.**

**MOTION: On motion by Councilor Tobey, seconded by Councilor Theken, the City Council voted by Roll Call 0 in favor, 9 opposed to RECONSIDER the vote under Sec. 2-11E of the City Charter.**

**Councilor Hardy** noting the failure of the motion to reconsider stated that this motion then extinguished all further opportunities to reconsider [the just passed Loan Order motion].

**MOTION FAILS**

**For Council Vote:**

- 1. Order of Taking by friendly eminent domain (MGL Chap. 79 sec. 1) property at 65 Rogers St. Commonly known as I4-C2**

**Councilor Hardy** stated this particular matter is not part of the public hearing, but is for a Council vote for the Order of Taking the property itself. She asked to go directly to Committee Report and asked Councilor Ciolino to read that report to move the motion on the Order of Taking.

**Councilor Ciolino** exclaimed that this is the one they'd been looking and waiting for, for 25 years. He prefaced the motion by noting that at the Planning & Development Committee meeting of April 7, 2010 the following motion was made:

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to City Council to adopt the Order of Taking for the parcel known as "I4C2", which now incorporates the April 22, 2010 Order of Taking language, and that language is:

Whereas, the City Council of the City of Gloucester finds that given the comprehensive character of the 2009 Harbor Plan and the Economic Development Plan and the lengthy deliberations prior to the adoption of each plan and given that both of those plans promote the economic development of the maritime, visitor and fishing sectors of Gloucester's economy and given that the parcel commonly known as I4C2 shall be used for economic development to promote all three sectors of the economy as noted specifically in each plan, the City Council finds that the taking of I4C2 will promote each of the sectors of the economy and serve as a basis for economic development and the revitalization of the downtown as noted in the harbor plan and the economic development plan.

Whereas, the City Council of the City of Gloucester is empowered by law to acquire by purchase or eminent domain, in the name of the City, a fee simple interest in certain land hereinafter described for economic development and downtown revitalization and a sum of money has been appropriated and is available therefore, as more fully set forth in a copy of the award of damages below.

Now, therefore, we, the undersigned, being a majority of the City Council of the City of Gloucester, present and voting, by the authority of the provisions of Chapter 79 of the General Laws of the Commonwealth, as amended, and all other powers and enabling authority, adopt the following Order of Taking for the public purpose of facilitating economic development and the revitalization of the downtown area.

ORDERED: That we hereby take in the name of the City of Gloucester, 65 Rogers Street in fee simple for the purpose of economic development and the revitalization of the downtown area. The fee shall be taken at the following described property: Land of owner at location as follows, recorded at the Essex South Registry of Deeds at Book 8419, Page 078, and shown on Gloucester Assessors' Map 9, Lot 1, as indicated:

PARCEL ONE:

A parcel of land located on Rogers Street, Gloucester, Essex County, Massachusetts, bounded and described as follows:

NORTHERLY            by Rogers Street, on two courses, Two Hundred Thirty-One and Eight Hundredths (231.08) feet and One Hundred Ninety-Seven and Eight Hundredths (197.08) feet, respectively;

- NORTHEASTERLY by land of The Building Center, Inc. of Gloucester, Twenty-Two and Thirty-Seven Hundredths (22.37) feet;
- EASTERLY by land of The Building Center, Inc. of Gloucester, on four courses, Twenty-Five and Thirty-Two Hundredths (25.32) feet, Eighty-Five and Thirty Hundredths (85.30) feet, Ninety and Forty-Two Hundredths (90.42) feet, Seventy-Three and Thirty-One Hundredths (73.31) feet;
- SOUTHEASTERLY by Parcel A on a plan hereinafter referenced, Forty-Four and Thirty-Four Hundredths (44.34) feet;
- SOUTHERLY by Parcel A, Two Hundred Eighteen and Seventy-Eight Hundredths (218.78) feet;
- WESTERLY by land of the City of Gloucester and the Gloucester House Restaurant, on three courses, One Hundred Thirty-Two and Fifty-Three Hundredths (132.53) feet, Seventy-Three and Fifty-Seven hundredths (73.57) feet, and Sixty-Two and Twenty-One Hundredths (62.21) feet, respectively.

Being the premises shown as Lot 1 on a plan entitled "Plan of Land in Gloucester, Mass. Prepared for Gloucester Redevelopment Authority" dated April 1, 1986, prepared by Guerriere & Halnon, Inc., containing 79,248 square feet more or less, and recorded with the Essex South District Registry of Deeds in Plan Book 213 as Plan 19.

The land described is believed to be owned by Gloucester Landing Associates Limited Partnership. However, said fee is taken whether the ownership of the land is as above stated or not. In awarding compensation, we have awarded it to whom we believed to be the owner of the land described. If the owner named is incorrectly stated, the compensation is made to the lawful owner of the land and all people having any right, title or interest therein as their respective interests may appear.

The taking includes trees, boulders, and structures affixed to the land at issue.

The following damages are awarded, and the appropriation of funds has been voted, by reason of this taking:

Compensation of \$1,500,000.00 (ONE MILLION FIVE HUNDRED THOUSAND DOLLARS) shall be paid to the owner of the parcel affected by the taking in fee simple of 65 Rogers Street.

This Order of Taking shall be recorded at the Essex South Registry of Deeds and/or registered with the Land Registration Office of the Essex South Registry of Deeds.

**Discussion:**

**Councilor Ciolino** noted it's all been said and felt it was an honor to read this document, and it's a new era for the City.

**MOTION:** On motion by Councilor Ciolino, seconded by Councilor Curcuru, the City Council voted by Roll Call 9 in favor, 0 opposed to adopt the Order of Taking as follows:

Whereas, the City Council of the City of Gloucester finds that given the comprehensive character of the 2009 Harbor Plan and the Economic Development Plan and the lengthy deliberations prior to the adoption of each plan and given that both of those plans promote the economic development of the maritime, visitor and fishing sectors of Gloucester's economy and given that the parcel commonly known as I4C2 shall be used for economic development to promote all three sectors of the economy as noted specifically in each plan, the City Council finds that the taking of I4C2 will promote each of the sectors of the economy and serve as a basis for economic development and the revitalization of the downtown as noted in the harbor plan and the economic development plan.

Whereas, the City Council of the City of Gloucester is empowered by law to acquire by purchase or eminent domain, in the name of the City, a fee simple interest in certain land hereinafter described for economic development and downtown revitalization and a sum of money has been appropriated and is available therefore, as more fully set forth in a copy of the award of damages below.

Now, therefore, we, the undersigned, being a majority of the City Council of the City of Gloucester, present and voting, by the authority of the provisions of Chapter 79 of the General Laws of the Commonwealth, as amended, and all other powers and enabling authority, adopt the following Order of Taking for the public purpose of facilitating economic development and the revitalization of the downtown area.

**ORDERED:** That we hereby take in the name of the City of Gloucester, 65 Rogers Street in fee simple for the purpose of economic development and the revitalization of the downtown area. The fee shall be taken at the following described property: Land of owner at location as follows, recorded at the Essex South Registry of Deeds at Book 8419, Page 078, and shown on Gloucester Assessors' Map 9, Lot 1, as indicated:

**PARCEL ONE:**

A parcel of land located on Rogers Street, Gloucester, Essex County, Massachusetts, bounded and described as follows:

- NORTHERLY** by Rogers Street, on two courses, Two Hundred Thirty-One and Eight Hundredths (231.08) feet and One Hundred Ninety-Seven and Eight Hundredths (197.08) feet, respectively;
- NORTHEASTERLY** by land of The Building Center, Inc. of Gloucester, Twenty-Two and Thirty-Seven Hundredths (22.37) feet;
- EASTERLY** by land of The Building Center, Inc. of Gloucester, on four courses, Twenty-Five and Thirty-Two Hundredths (25.32) feet, Eighty-Five and Thirty Hundredths (85.30) feet, Ninety and Forty-Two

Hundredths (90.42) feet, Seventy-Three and Thirty-One Hundredths (73.31) feet;

**SOUTHEASTERLY** by Parcel A on a plan hereinafter referenced, Forty-Four and Thirty-Four Hundredths (44.34) feet;

**SOUTHERLY** by Parcel A, Two Hundred Eighteen and Seventy-Eight Hundredths (218.78) feet;

**WESTERLY** by land of the City of Gloucester and the Gloucester House Restaurant, on three courses, One Hundred Thirty-Two and Fifty-Three Hundredths (132.53) feet, Seventy-Three and Fifty-Seven hundredths (73.57) feet, and Sixty-Two and Twenty-One Hundredths (62.21) feet, respectively.

Being the premises shown as Lot 1 on a plan entitled "Plan of Land in Gloucester, Mass. Prepared for Gloucester Redevelopment Authority" dated April 1, 1986, prepared by Guerriere & Halnon, Inc., containing 79,248 square feet more or less, and recorded with the Essex South District Registry of Deeds in Plan Book 213 as Plan 19.

The land described is believed to be owned by Gloucester Landing Associates Limited Partnership. However, said fee is taken whether the ownership of the land is as above stated or not. In awarding compensation, we have awarded it to whom we believed to be the owner of the land described. If the owner named is incorrectly stated, the compensation is made to the lawful owner of the land and all people having any right, title or interest therein as their respective interests may appear.

The taking includes trees, boulders, and structures affixed to the land at issue.

The following damages are awarded, and the appropriation of funds has been voted, by reason of this taking:

**Compensation of \$1,500,000.00 (ONE MILLION FIVE HUNDRED THOUSAND DOLLARS) shall be paid to the owner of the parcel affected by the taking in fee simple of 65 Rogers Street.**

**This Order of Taking shall be recorded at the Essex South Registry of Deeds and/or registered with the Land Registration Office of the Essex South Registry of Deeds.**

**MOTION:** On motion by Councilor Tobey, seconded by Councilor Ciolino, the City Council voted by Roll call 0 in favor, 9 opposed to RECONSIDER the motion under Chapter 2-11 E of the City Charter.

The City Council recessed at 10:15 p.m. *Councilor Tobey left the meeting.*  
The City Council reconvened at 10:20 p.m.

2. Decision to Adopt: SCP2010-003: 5 Reef Knot Way, Sec. 5.5 Lowlands

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by Roll Call 8 in favor, 0 opposed to adopt the SCP decision for 5 Reef Knot Way, pursuant to Section 5.5.4 of the Gloucester Zoning Ordinance.**

**3. Decision to Adopt: City Council Permit re: 201, 205 and 233 Main Street**

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by Roll Call 8 in favor, 0 opposed to adopt the decision to extend the City Council Permit for 201, 205 and 233 Main Street.**

**4. Decision to Adopt: Extension of City Council Permit re: 33 Emerson Avenue**

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted by Roll Call 8 in favor, 0 opposed to adopt the decision to extend the City Council permit for 33 Emerson Avenue.**

**Committee Reports:**

**Budget & Finance: April 16, 2010**

*This report given at public hearing.*

**Budget & Finance: April 22, 2010**

MOTION: On motion by Councilor Hardy, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed recommend to the City Council to grant permission for the Gloucester Police Department to pursue the application for a Grant offered by the Massachusetts Executive Office of Public Safety and Security also known as the "Click It Or Ticket" Grant for \$17,000.00.

**Discussion:**

**Councilor McGeary** noted this is a grant allowing vigorous enforcement of the seat-belt law with a \$4,600 in-kind match made up in the "rental" of our cruisers and the hours of the officers.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to grant permission for the Gloucester Police Department to pursue the application for a Grant offered by the Massachusetts Executive Office of Public Safety and Security also known as the "Click It Or Ticket" Grant for \$17,000.00.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the establishment of a Library Contractual Services Account to be numbered as Unifund Account #101000.10.610.52000.0000.00.000.00.052.

**Discussion:**

**Councilor McGeary** noted this is tied to the next motion. The library wants to retain a consultant and doesn't have that ability with the accounts currently set up and by creating this

account they'll be able to move forward. The next motion will transfer money into that new account.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by Roll Call 8 in favor, 0 opposed to establish a Library Contractual Services Account to be numbered as Unifund Account #101000.10.610.52000.0000.00.000.00.052.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer #10-SBT-28 for \$4,000.00 from Library Admin – Sal/Wage Perm Pos., Unifund Account #101000.10.610.51100.0000.00.000.00.051 to Library Contractual Services, Unifund Account #101000.10.610.52000.0000.00.000.00.052.

**Discussion:**

**Councilor McGeary** stated the library director has some money left over because of lag time in hiring the children's librarian and would like to use that money for the additional services of a resource librarian and to hire a contractor to come in help revamp their web site.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Theken, the City Council voted by Roll Call 8 in favor, 0 opposed, the transfer #10-SBT-28 for \$4,000.00 from Library Admin – Sal/Wage Perm Pos., Unifund Account #101000.10.610.51100.0000.00.000.00.051 to Library Contractual Services, Unifund Account #101000.10.610.52000.0000.00.000.00.052.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (#10-SA-7) of \$24,479.86 from Treasurer/Collector, Legal Consultation, Unifund Account #101000.10.145.53140.0000.00.000.00.051 to Gen Fund – Transfer out to Special Rev Funds, Unifund Account #101000.10.992.59600.0000.00.000.00.059.

**Discussion:**

**Councilor McGeary** noted this was in the continuing effort by the Chief Financial Officer to clean up some deficits in the General Ledger. In this case the money was actually received but deposited to the wrong account. This was a school restitution fund.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by Roll Call 8 in favor, 0 opposed, the transfer (#10-SA-7) of \$24,479.86 from Treasurer/Collector, Legal Consultation, Unifund Account #101000.10.145.53140.0000.00.000.00.051 to Gen Fund – Transfer out to Special Rev Funds, Unifund Account #101000.10.992.59600.0000.00.000.00.059.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (#10-SA-8) of \$13,729.21 from Treas/Coll, Debt Service, Interest/Temp Notes Unifund Account #101000.10.145.59250.0000.00.000.00.059 to General Fund – Transfer to CIP Funds, Unifund Account #101000.10.993.59600.0000.00.000.00.059.

**Discussion:**

**Councilor McGeary** noted again that this is another deficit that is being cleaned up which was inadvertently created when some grant funds were reprogrammed without going through the paperwork process. It was decided since there was money in this account. Rather than going through the whole process again, it was more prudent to simply transfer the money over.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Theken, the City Council voted by Roll Call 8 in favor, 0 opposed the transfer (#10-SA-8) of \$13,729.21 from Treas/Coll, Debt Service, Interest/Temp Notes Unifund Account #101000.10.145.59250.0000.00.000.00.059 to General Fund – Transfer to CIP Funds, Unifund Account #101000.10.993.59600.0000.00.000.00.059.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to allow the Grant Office to pursue the Brownfields Cleanup Revolving Loan Fund (BCRLF) grant for supplemental funding of \$1 million (\$1,000,000.00) from the United States Environmental Protection Agency.

**Discussion:**

**Councilor McGeary** noted this is a very successful program, so successful they've used up almost all of the money; and are going to ask for more. It is a revolving loan fund. We do make loans to people who are doing Brownfields clean ups. We receive the money back, and make interest on the money. We repay the grant at some point.

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by Roll Call 8 in favor, 0 opposed to allow the Grant Office to pursue the Brownfields Cleanup Revolving Loan Fund (BCRLF) grant for supplemental funding of \$1 million (\$1,000,000.00) from the United States Environmental Protection Agency.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the acceptance of \$870,582.00 for the Community Development Block Grant Program from the U.S. Department of Housing and Urban Development for PY2010 and the anticipated HOME grant from the North Shore Home Consortium in the amount of \$138,848.00.

**Discussion:**

**Councilor McGeary** deferred to Ms. Garcia.

**Ms. Garcia** stated last year the HUD grant came in a couple thousand dollars short last year. She requested a simple amendment. She wished to add for up to but not to exceed \$900,000.00, and up to but not to exceed \$150,000.00. That is a mathematical equation.

**Councilor McGeary** accepted the friendly amendment to the motion which is as follows:

**MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted in favor, 0 opposed the acceptance of \$870,582.00 and up to but not to exceed \$900,000.00 for the Community Development Block Grant Program from the U.S. Department of Housing and Urban Development for PY2010 and the anticipated HOME grant from the North Shore Home Consortium in the amount of \$138,848.00 and up to but not to exceed \$150,000.00.**



**MOTION:** On motion by Councilor Hardy, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer #10-SA-9 for \$60,000.00 from R/A Highway Force-DFS-Transfer Out, Unifund Account #294015.10.991.59600.0000.00.000.00.059 to Public Services Paving, Unifund Account #101000.10.470.58415.0000.00.000.00.058.

**Discussion:**

**Councilor McGeary** stated this is money that Mr. Hale puts in for small paving jobs and dispenses it as needed.

**MOTION:** On motion by Councilor McGeary, seconded by Councilor Theken, the City Council voted by Roll Call 8 in favor, 0 opposed the transfer #10-SA-9 for \$60,000.00 from R/A Highway Force-DFS-Transfer Out, Unifund Account #294015.10.991.59600.0000.00.000.00.059 to Public Services Paving, Unifund Account #101000.10.470.58415.0000.00.000.00.058.

**Planning & Development: 04/21/2010**

**MOTION:** On motion by Councilor Ciolino, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to accept the Gloucester Rotary Club's donation to the City of Gloucester for a Dinamo rotation playground apparatus.

**Discussion:**

**Councilor Ciolino** noted the Gloucester Rotary has adopted the Stage Fort Park playground and is committed to adding or replacing a piece of equipment each year. He asked a letter be sent in thanks to the Rotary and would vote for this.

**MOTION:** On motion by Councilor Ciolino, seconded by Councilor Theken, the City Council voted 8 in favor, 0 opposed to accept the Gloucester Rotary Club's donation to the City of Gloucester for a Dinamo rotation playground apparatus.

**Ms. Egan** gave the Councilors a memo (on file) in response to a request for a legal opinion as to whether the proposed playground equipment donated by the Gloucester Rotary Club increased the City's risk of liability. Her conclusion was that in documentation provided to her, the equipment meets industry safety standards; and therefore, the City will not be subject to any increased risk of liability.

**MOTION:** On motion of Councilor Hardy, seconded by Councilor Whynott, the Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the City Council permission to hold the North Shore Tour de Cure bicycle ride, on Sunday, May 22, 2010, from 7:00 a.m. to 3:00 p.m. starting and finishing the cycling loop at the Gloucester High School.

**Discussion:**

**Councilor Ciolino** noted this is a well-organized event each year. Both Chiefs endorsed it. He encouraged his fellow Councilors to vote for it.

**MOTION:** On motion of Councilor Ciolino, seconded by Councilor Theken, the City Council voted 8 in favor, 0 opposed for permission to hold the North Shore Tour de Cure

**bicycle ride, on Sunday, May 22, 2010, from 7:00 a.m. to 3:00 p.m. starting and finishing the cycling loop at the Gloucester High School.**

MOTION: On motion by Councilor Hardy, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council an amendment to the permit granted by the City Council on February 16, 2010 regarding the June 23, 24, 25, 26 and 27, 2010 St. Peter's Fiesta, to expand the scope of the area of its show to include the property known as the "Birdseye Property" at 47 Commercial Street for the purpose of relocating some rides, games from St. Peter's Park to that property with the following conditions:

- 1) That the kiddie rides be kept at the St. Peter's Square Park not at the Birdseye property;
- 2) That the enlarged footprint be drawn out on a plan showing locations of, but not limited to, comfort stations and first aid stations;
- 3) That the music be shut down at the opening and closing ceremonies on the closest rides to the altar area.

**Discussion:**

**Councilor Ciolino** noted that the Committee felt because of the isolation of the Birdseye property that the kiddie rides should be kept closer to the altar to which the St. Peter's Fiesta Committee agreed. The footprint of the Fiesta will be spread out; and there won't be the density that there's been in the past. They do a terrific job organizing it each year.

**Councilor Mulcahey** did ask at the meeting for roping areas so that people aren't sitting in congested areas. Over the past two years there have been unruly and belligerent people in the area. She would like to see the area roped off which she's stated twice before.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted 7 in favor, 1 (Mulcahey) opposed to amend the permit granted by the City Council on February 16, 2010 regarding the June 23, 24, 25, 26 and 27, 2010 St. Peter's Fiesta, to expand the scope of the area of its show to include the property known as the "Birdseye Property" at 47 Commercial Street for the purpose of relocating some rides, games from St. Peter's Park to that property with the following conditions:**

- 1) That the kiddie rides be kept at the St. Peter's Square Park not at the Birdseye property;**
- 2) That the enlarged footprint be drawn out on a plan showing locations of, but not limited to, comfort stations and first aid stations;**
- 3) That the music be shut down at the opening and closing ceremonies on the closest rides to the altar area.**

MOTION: On motion of Councilor Hardy, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council granting permission for the retail division of the Cape Ann Chamber of Commerce through its agent, Vicky Van Ness, to close Main Street from Pleasant Street to Washington Street, including Hancock, Center, Porter and Short Streets to all vehicular traffic from 7:00 a.m. to 6:00 p.m., Thursday, August 5<sup>th</sup>, Friday, August 6<sup>th</sup>, and Saturday, August 7<sup>th</sup> with the following conditions:

1. No vendor set ups on the sidewalk blocking either hydrants, crosswalks or handicap ramps. Vendor set ups are not to extend beyond the marked parking lines on the streets (the handicap access is at the crosswalks...this is where the curb cuts are);

2. No vendor set ups in front of the police station, other than the area designated by Lt. Aiello and as depicted in the photograph provided to the Chamber of Commerce by Lt. Aiello;
3. All vendor set ups in the street are to be within the marked parking lines to allow for unobstructed drivable area along the entire Sidewalk Days route - slightly wider at the curve of Palazola's Sporting Goods to maintain adequate access for emergency vehicles. Failure to provide this unobstructed margin of drivable area may necessitate the removal or relocation of the vendor at the discretion of the Fire Department, the Police Department or Vicky Van Ness;
4. The organizers shall allow the Fire Department drive-through access with a fire engine once each day of the event, on or about 9:00 a.m., and one random drive through to be decided by the Fire Department;
5. No parking or unloading of goods of any vehicles on any of the above-mentioned streets after 8:50 a.m. until 5:00 p.m. on each of the days of the Gloucester Sidewalk Days;
6. Signage showing the location of the comfort stations to be located throughout the event area.

**Discussion:**

**Councilor Ciolino** noted Police Chief Lane and Fire Chief Dench participated in the discussion and in setting up of the rules. This is not a Chamber event anymore but now organized by a group of downtown merchants represented by Vickie Van Ness; the Chamber is acting as the fiduciary agent. There will be five, highly visible people on the street at all times to supervise. This is a great Gloucester tradition and urged his fellow Councilors to vote for it.

**MOTION: On motion of Councilor Ciolino, seconded by Councilor Theken, the City Council voted 8 in favor, 0 opposed granted permission for the retail division of the Cape Ann Chamber of Commerce through its agent, Vicky Van Ness, to close Main Street from Pleasant Street to Washington Street, including Hancock, Center, Porter and Short Streets to all vehicular traffic from 7:00 a.m. to 6:00 p.m., Thursday, August 5<sup>th</sup>, Friday, August 6<sup>th</sup>, and Saturday, August 7<sup>th</sup> with the following conditions:**

1. **No vendor set ups on the sidewalk blocking either hydrants, crosswalks or handicap ramps. Vendor set ups are not to extend beyond the marked parking lines on the streets (the handicap access is at the crosswalks...this is where the curb cuts are);**
2. **No vendor set ups in front of the police station, other than the area designated by Lt. Aiello and as depicted in the photograph provided to the Chamber of Commerce by Lt. Aiello;**
3. **All vendor set ups in the street are to be within the marked parking lines to allow for unobstructed drivable area along the entire Sidewalk Days route - slightly wider at the curve of Palazola's Sporting Goods to maintain adequate access for emergency vehicles. Failure to provide this unobstructed margin of drivable area may necessitate the removal or relocation of the vendor at the discretion of the Fire Department, the Police Department or Vicky Van Ness;**
4. **The organizers shall allow the Fire Department drive-through access with a fire engine once each day of the event, on or about 9:00 a.m., and one random drive through to be decided by the Fire Department;**
5. **No parking or unloading of goods of any vehicles on any of the above-mentioned streets after 8:50 a.m. until 5:00 p.m. on each of the days of the Gloucester Sidewalk Days;**
6. **Signage showing the location of the comfort stations to be located throughout the event area.**

The Clerk of Committees was directed to send a copy of the motion to the Police and Fire Chiefs as well as to Ms. Van Ness via email so the conditions may be distributed to the participants and vendors.

**Ordinances & Administration: 04/26/10**

**Councilor Theken** made note of the previous evening's public hearing on the ten year City Charter Review as a first step. There will be a creation of a Charter Review Committee, with Former Councilors Ab Khambaty and Jeff Worthley expressing they would be willing to participate. Under "Other Business" the Committee took up the matter of an amendment to the GCO Sec. 22-283 entitled "Bus stops and taxi stands" from a June 16, 2009 vote of the City Council. At that time they created the bus stop at Main and Pleasant Street as temporary for 120 days; and now need to make it permanent.

**MOTION:** On motion by Councilor Theken, seconded by Councilor Tobey, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council that the Gloucester Code of Ordinances, Sec. 22-283, entitled "Bus stops and taxi stands" be amended by **ADDING Main Street, 170 feet from the intersection with Pleasant Street for a distance of 40 feet.**

**Discussion:**

**Councilor Theken** stated this is just making a June 2009 Certificate Vote

**MOTION:** On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted in favor, 0 opposed that the Gloucester Code of Ordinances, Sec. 22-283, entitled "Bus stops and taxi stands" be amended by **ADDING Main Street, 170 feet from the intersection with Pleasant Street for a distance of 40 feet.**

**Unfinished Business:** None.

**Councilor's Requests Other Than To The Mayor:** None

**It was moved, seconded, and voted UNANIMOUSLY to adjourn the meeting at 10:51 p.m.**

**Respectfully submitted,**

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