

GLOUCESTER CITY COUNCIL MEETING

Tuesday, May 25, 2010

7:00 P.M.

Kyrouz Auditorium – City Hall

City Council Meeting 2010-012

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

Absent: None

Also Present: Mayor Carolyn Kirk; Linda T. Lowe; Kenneth Costa; Jim Duggan; Nancy Papows; Mike Hale; Anne Marchand

City Council meeting 2010-012 was called to order at 7:03 p.m.

Flag Salute and Moment of Silence

Oral Communications: None.

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

Confirmation of Appointments:

Jill Buchanan, Clean Energy Commission, TTE 02/14/2012

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Theken, the Ordinances & Administration Committee voted 2 in favor, 0 opposed to recommend to the City Council the reappointment of Jill Buchanan to the Clean Energy Commission, TTE 02/14/2012.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint Jill Buchanan to the Clean Energy Commission, TTE 02/14/2012.

Debra Ryan, Tourism Commission, TTE 02/14/2013

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

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to reappoint Debra Ryan to the Tourism Commission, TTE 02/14/2013.

Consent Agenda:

• ***MAYOR'S REPORT***

1. Adoption of MGL C71 § 37M Consolidation of administrative functions with city or town (Refer O&A)
2. Appointment of Melissa Teixeira as City's representative to Essex NS Agricultural & Technical School District School Committee (Info Only)
3. Memo from CFO requesting modification to the action taken by Council in 2007 & 2008 re: Loan authorization For the purchase of a new ladder truck (Refer B&F)
4. Memo from CAO re: MORE Jobs Grant Funding final grant payment (Refer B&F)

5. Special Budgetary Transfer (#10-33) from the Mayor's Office (Refer B&F)
6. Special Budgetary Transfer Request (#10-34) from the Tourism Department (Refer B&F)
7. Memo from Gloucester Archives Department re: acceptance of grant from Roger Owen David Fund in the Amount of \$15,000 (Refer B&F)
8. Memo from Max Schenk of Health Dept. re: acceptance of grant from Mass Coastal Zone Management, the US Fish and Wildlife in the amount of \$16,000 (Refer B&F)
9. Memo from Community Dev. Director re: acceptance of expanded Seaport Bond Funds for Harbor Plan Implementation in the amount of \$50,000 (Refer B&F)
10. Memo from Community Dev., Director re: acceptance of second year grant funding for Get Fit Gloucester in The amount of \$60,000 (Refer B&F)
11. Report from City Auditor re: accounts having expenditures which exceed their appropriations (Refer B&F)
12. Appointment: Michael McLeod Gloucester Housing Authority (TTE 05/28/15) (Refer O&A)
13. Response to the Ordinance and Administration subcommittee request re: Trust Fund accounting (Refer O&A)
14. Invitation from Fire Chief and EMS Coordinator to attend annual meeting of the Gloucester Service Zone Plan Advisory Board (Info Only)
 - **APPROVAL OF MINUTES**
 - 1. City Council Meeting 05/11/2010
 - 2. Standing Committee Meetings: O&A 05/17/10, P&D 05/19/10, B&F 05/20/10 (Under separate cover) (Approve/File)
 - **APPLICATIONS/PETITIONS**
 - 1. SCP2010-004: Cape Ann Brewing Company re: 9-11 Rogers Street §2.3.4(8) & (9) for restaurant (Refer P&D)
 - 2. SCP2010-005: Gloucester Marine Terminal, LLC re: Amendment to existing SCP pursuant to §2.3.4(8) or (9) (Refer P&D)
 - **COMMUNICATIONS**
 - 1. COM2010-024: Cape Ann Farmers Market request change location from Gloucester Heritage Center to I4-C2 (Refer P&D)
 - **INVITATIONS**
 - 1. Firefighter's Memorial Services Sunday, June 13, 2010 (Info Only)
 - 2. Cape Ann Chamber of Commerce invitation for Monday, June 7, 2010 (Info Only)
 - **ORDERS**
 - 1. CC2010-028 (Mulcahey) Amend GCO Sec. 22-287: delete 44 Warner Street, one handicapped space and Add 46 Warner Street (Refer O&A & TC)
 - 2. CC2010-029 (Hardy) Amend GCO Sec. 22-270 "Parking Prohibited at all Times" re: Dennison Street (Refer O&A & TC)
 - 3. CC2010-030 (Hardy) Amend GCO Sec. 22-291 "Tow Away Zones" re: Dennison St. (Refer O&A & TC)
 - 4. CC2010-031 (Hardy) Amend GCO Sec. 22-269 "Stop Intersections" re: Leonard St. from its Intersection with Rogers Lane (Refer O&A & TC)
 - 5. CC2010-032 (Hardy/Mulcahey) Amend GCO Sec. 22-93 "Marked crosswalks; yielding right of way to Pedestrians" re: Harbor Loop (Refer O&A & TC)
 - 6. CC2010-033 (Hardy) Amend GCO Sec. 22-292 "Fire Lanes" re: Andrews Street along Lanes Cove Seawall (Refer O&A & TC)
 - 7. CC2010-034 (Hardy) Amend GCO Sec. 22-267 "One-way-Generally" by deleting Washington St. from Andrews St. to Butman Ave. and amend Sec. 22-270 "Parking prohibited at all times" by adding Washington Street from Andrews Street (Refer O&A & TC)
 - 8. CC2010-035 (Hardy) Amend GCO Sec. 22-270 "Parking Prohibited at all Times" re: Leverett Street (Refer O&A & TC)

Items to be added/removed from the Consent Agenda:

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

Councilor Hardy wished to remove Item #13, Response to the O&A subcommittee request re: Trust Fund Accounting.

[NOTE: The unanimous consent referrals with the exception of Item #13 removed from the consent agenda by Councilor Hardy were taken out of order, at the end of Committee Reports. For good order sake they appear in this space to be consistent with all previous minutes approved by the Council.]

By unanimous consent the City Council referred out the following matters:

- **National Grid Access Agreement to the Planning & Development Committee;**
- **Memo from Administration re: Open Air Parking During Fiesta to Planning & Development Committee;**

- **Response to the O&A subcommittee request re: Trust Fund Accounting to the Budget & Finance Committee *instead of* the referral to O&A;**
- **Possibility of the DPW taking over the Maintenance of the Schools for a review of the draft of an ordinance to Ordinances & Administration Committee.**

Scheduled Public Hearings:

1. **PH2010-026: Amend GCO Sec. 22-287 “Disabled veteran, handicapped parking re: 12 Webster Street**

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend GCO Sec. 22-287 re: one handicapped parking space in front of 12 Webster Street with signage to be placed as close to the address as possible.

Discussion:

Councilor Theken spoke to this person who does need this space because of multiple disabilities.

Councilor McGeary noted his constituent will be cognizant of the school nearby as much as possible

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to amend GCO Sec. 22-287 re: one handicapped parking space in front of 12 Webster Street with signage to be placed as close to the address as possible.

2. **PH2010-027: Amend GCO Sec. 22-291 “Tow Away Zone” and Sec. 22-271 “Parking Prohibited From May 1 to September 15-Generally” re: Hickory Street and Sawyer Avenue**

This public hearing is opened.

Those speaking in favor:

Mike Thibodeau, 10 Hickory Street stated there are serious problems on the street; that people all over the North Shore come to party at the quarry there. The police are a constant presence in season. The neighborhood has had enough and wants this situation alleviated. A neighbor goes up frequently in the morning to clean up after the ‘parties’ and takes away bags of beer cans (photographs submitted and on file). They are asking for an increase of police patrols, which he believed were now working to quell the overwhelming situation. The noise and influx of out of towners starts at 10 a.m. and ends on or around 2 a.m. He complimented the police noting their courtesy and effectiveness. Having their street as no parking would be a band aid. Sooner or later the situation needs addressing as he believed someone will die. He can’t spend 20 minutes on his porch without hearing loud noise, swearing and cursing. He and his neighbors have had enough.

Leslie Bartlet, 11 Hickory Street stated his is the last house that precedes the Plum Cove School and pointed out there’s been a great effort on the part of the City to expand the capacity of Plum Cove School

as an educational institution. He's experienced in mid-summer at 2:00 or 3:00 a.m. people arriving to go to the quarry. If they are unable to find the quarry in the dark, they go to the school property and many times vandalize the premises. Sound travels well; and police respond well. He believed the no parking seasonally is valuable in maintaining the school's integrity.

Harry Romsey, 14 Hickory Street believed the problem will be alleviated by better enforcement. He felt aggressive towing would be of great assistance. Sometimes vehicles are ticketed but not often towed. He understood there was a shortage of available cruisers which was a concern for that section of Gloucester. His is the third to the last house on Hickory Street. Vehicles go 55 mph down the road from its end out to the main road. It took 2-1/2 hours for a response that day for a cruiser to get to Hickory Street to investigate a complaint. The signs are a part of the problem. The parking will move to other streets. It will move to the Cove area. Who owns the quarry? Who's liable? Does the City own it? Or does someone else? That's all part of the issue. Putting signs up would be a great start.

Steve Tousignant, 18 Hickory Street who along with his neighbors has experienced the difficulty of the area and thought he was buying an idyllic home in a beautiful spot two years ago. Because of this issue his property is devalued. Part of the gate leading into the quarry is on his property, believing that he may be liable. He's had to drive people to the hospital; people who were too intoxicated; and mentioned other emergency situations where he was involved. He was deeply concerned that there would be an unfortunate accident that would be grievous. He suggested that a police officer be positioned further down the path to Vernon's quarry to stop trespassers and ticket them for that transgression. It would be a nice way for the City to augment its revenue and pay for the officer at the same time. It's diminished his quality of life. It is far from a quiet place.

Allen Bell, 9 Hickory Street noted this is a true public safety issue noting he has young children as do many families in that neighborhood. If the parking ban is in place it will prevent problems.

Those speaking in opposition: None

Communications: None

Questions:

Councilor Whynott wanted to be sure this is a total parking ban, for residents as well.

Councilor Ciolino was concerned that if it was passed this evening it would take 28 days to go into effect and asked how they might push it along since it was the season for these issues, and would lose one month out of the summer suggesting it may be an emergency situation and to notify the Police Chief that these signs are to be immediate.

Councilor Tobey speaking to Councilor Ciolino's point noted Section 2-11b of the City Charter would give rise to immediate effect.

Councilor Hardy stated it was her intent to do that immediately after the vote.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Theken, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend GCO Sec. 22-291 "Tow Away Zone" by DELETING Sec. 22-291 (Tow Away Zone) Hickory Street both sides, beginning at a point 100 feet from its intersection with Sawyer Avenue for a distance of 260 feet in a southerly direction and ADDING Sec. 22-291 (Tow Away Zone) and Sec. 22-271 (Parking Prohibited from May 1 to September 15-Generally) Hickory Street, both sides, beginning at its intersection with High Street for its entire length in a southerly direction. Signs should state No Parking May 1 to September 15 Tow Away Zone.

Discussion:

Councilor Theken noted many residents of the area came to the O&A Meeting expressing their concerns. It was right to expect a peaceful neighborhood. She supported this ordinance change.

Councilor Tobey, noting that an emergency existed in the neighborhood of Hickory Street affecting the health, welfare and safety of the residents offered an amendment to the proposed ordinance.

MOTION: On motion by Council Tobey, seconded by Councilor Theken, the City Council voted 9 in favor, 0 opposed that an emergency exists under Charter section 2-11(a) and (b) concerning public health and safety on Hickory Street as evidenced by police activity to date.

Following such emergency vote, the City Council then voted as follows:

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by Roll Call 9 in favor, 0 opposed to amend GCO Sec. 22-291 "Tow Away Zone" by DELETING Sec. 22-291 (Tow Away Zone) Hickory Street both sides, beginning at a point 100 feet from its intersection with Sawyer Avenue for a distance of 260 feet in a southerly direction and ADDING Sec. 22-291 (Tow Away Zone) and Sec. 22-271 (Parking Prohibited from May 1 to September 15-Generally) Hickory Street, both sides, beginning at its intersection with High Street for its entire length in a southerly direction. Signs should state No Parking May 1 to September 15 Tow Away Zone.

Mike Hale, DPW Director assured they could have the signs up by Friday, May 28, 2010.

Councilor Tobey asked that the Administration apply the Babson Watershed situation where Joe Orange was warden, and the fine example he set for protecting the watershed. If there was any way to work with that neighborhood, if someone would be willing to take on the constable's badge to work with the police to snuff the situation out. The policing will be key to stopping this problem.

Councilor Hardy noted the cooperation of many of the City employees, the Administration, the Police Chief and the neighbors who worked together on the matter to come to this solution.

3. PH2010-028: Amend GCO Sec. 22-291 "Tow Away Zone" and Sec. 22-271 "Parking Prohibited From May 1 to September 15-Generally" re: Sawyer Avenue from its intersection with Hickory Street

This public hearing is opened.

Those speaking in favor:

Leslie Bartlett, 11 Hickory Street spoke of spill over onto Sawyer Avenue once the signs go up on Hickory Street. Sawyer Avenue is a very narrow roadway and residents can't get to their homes because of all the vehicles parked along the sides of the avenue. These people use the street as their changing room, a public bathroom. It's important to include Sawyer Avenue.

Mike Thibodeau, 10 Hickory Street agreed with Mr. Bartlett. This roadway receives the run off from Hickory Street. It is the same situation. A couple of years ago Lt. Aiello showed up on a 4-wheeler. They thought it was a great idea but haven't seen it since. Perhaps it could be kept at the [Plum Cove] school. It would be a great help there.

Laurie Ure, 11 Hickory Street described the street situation. Today she was walking on Hickory Street watching kids walking through neighbor's properties to get to their vehicles which was trespassing and a safety and liability issue.

Beverly Cain, 3 Hickory Street spoke in favor of the change in ordinance.

Those speaking in opposition: None

Communications:

Questions: None

This public hearing is closed.

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

Sec. 22-291 "Tow Away Zone and GCO Sec. 22-271 (Parking Prohibited from May 1 to September 15-Generally) by ADDING Sawyer Avenue, from its intersection with Hickory Street, both sides for its entire length in a westerly direction. Signs should state No Parking May 1 to September 15 Tow Away Zone.

Discussion:

Councilor Theken stated these people have the same issues and supported this totally.

Councilor Tobey, citing the same reasons in the previous public hearing on Hickory Street, declared an emergency existed in the neighborhood of Sawyer Avenue affecting the health, welfare and safety of the residents, and offered an amendment to the proposed ordinance.

MOTION: On motion by Council Tobey, seconded by Councilor Theken, the City Council voted 9 in favor, 0 opposed that an emergency exists under Charter section 2-11(a) and (b) concerning public health and safety on Hickory Street as evidenced by police activity to date.

Following such emergency vote, the City Council then voted as follows:

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by Roll Call 9 in favor, 0 opposed to recommend to the City Council to amend GCO Sec. 22-291 "Tow Away Zone and GCO Sec. 22-271 (Parking Prohibited from May 1 to September 15-Generally) by ADDING Sawyer Avenue, from its intersection with Hickory Street, both sides for its entire length in a westerly direction. Signs should state No Parking May 1 to September 15 Tow Away Zone.

4. PH2010-029: Proposed Fiscal Year 2011 Budget

NOTE: The following public hearing minutes and transcription were taken, completed and submitted by Anne Marchand, Substitute Recorder.

This public hearing is opened.

Those speaking in favor:

Mayor Kirk stated that her presentation will be brief and she will take some of the points from the transmittal memo, which was presented to the Council on May 4, 2010. Now, she said, it is the City Council's Budget.

Mayor Kirk noted there has been a rebound in services and the City is moving in the right direction, presenting a balanced budget in spite of the conservative estimates on revenue. The City is able to bring back services, given the freeze on city wages for three years, which allows for the essentials and the flexibility to invest in service areas rather than putting into payroll. Staff was downsized by 10%, other items, such as health insurance, are less.

Further, the City is making good use of new revenue and is continuously evaluating spending patterns and priorities.

She continued, noting other items of importance in the budget which include:

- The restoration of two police officers which is connected directly to the concerns for increasing patrols. This item is essential in this budget.
- Growth is \$975,000, with two-thirds allocated to the schools, one-third to the City.
- Local Aid from the State to the City in FY11 has been cut by one-half million dollars.
- Meals and Food taxes are estimated to bring \$420,000 in revenue; offsetting the cut in Local Aid.
- Revenues are conservative. Important to take a view and continue to control spending.

With regards to the Fire Department, **Mayor Kirk** stated that there was a pattern of hiring paramedic – paramedic-paramedic; however, the pattern should have been paramedic-firefighter-paramedic. Over time, there will be a turn-over of staff in the department and will see paramedic-advanced ALS service. Sixty percent of calls to the department generate revenue.

The DPW is managing citizens' demands and as well as the workload. A position of Engineer has been added to the Department.

Within the Senior Center, staffing is being increased for a small investment. The \$7000 will give the Director flexibility.

The Library was in jeopardy of losing its certification, and for \$40,000, a corner will be turned. The Library cannot be brought back in one year; however, this investment is a beginning to bring the Library back, over time, to certification.

The City is heading in the right direction. She reported that the Water and Sewer Budget discussion will be held during the Public Hearing on the CSO Debt Exclusion, later this evening.

In conclusion, **Mayor Kirk** stated that this balanced budget takes into consideration the priorities of the citizens of Gloucester and the City Council.

David Anderson, 16 Middle Street, stated he is not speaking in favor or opposition of the Budget; however, has general comments. He noted he has attended Budget and Finance meetings and has to commend the Mayor and the Council for getting the budget in gear. He noted that, for three years, the city has worked hard to repair loose ends.

Mr. Anderson stated that he is disappointed as this is the year it was time to take bold, aggressive steps to help put the city back in order. A 1 and ½ percent increase and zero growth is not a healthy budget. He further stated that layoffs are something every city and town has to deal with; and, hiring more personnel is a questionable endeavor in that it creates long-term indebtedness. Grants, he said, are like putting a finger in the dike and is not good budgeting.

He spoke to regionalization and privatization and said this helps change budgets. He noted that the schools are in disrepair; and, Gloucester is in the lower percent with educational progress. Further, he stated public service employees have not lost one thing. And, we are part of a global society and need to look at contracts and what Gloucester is paying in relationship to other cities and towns.

Mr. Anderson stated that he is not being negative; however, the city has to deal with serious issues for which the taxpayer will pay. He concluded by stating that transportation for schools should be going out to bid; the need to be more creative; the need to research to evaluate where the City is; and, need to be different with regard to business and infrastructure. Lastly, the City needs to analyze what has been spent.

Councilor Hardy thanked Mr. Anderson for his comments.

Questions/Discussion by the City Council.

Councilor Theken thanked the Budget and Finance Committee, noting they are doing a good job. She stated that the City compares everything, is dotting every "I" and crossing "Ts". Other cities, she stated have more money to spend. She questioned whether there is an increase in health insurance. **Mayor Kirk** stated there is a 13% increase reflected in the budget. Further, teachers represent 70% of health insurance costs; there are no plan design changes; the government mandate does not apply to Gloucester; and, because of various factors regarding unions, the increase was taken and budgeted on that increase. **Councilor Theken** said that the city should talk to the insurance companies; that the City should tell them what it wants, not visa versa; and, the city should be in control.

Councilor Whynott stated that he enjoyed Mr. Anderson's comments and agreed that he does not like comparisons with other cities in that it is a case of apples to oranges. What Gloucester spends for services should not be compared to other cities and towns. Given Gloucester is at the end of the line, it needs to try harder to attract new business. With regard to Homeland Security, he stated that experts have said there will be smaller targets and commends the Mayor on being concerned.

Councilor Mulcahey commented on the issue in Watertown, noting that Gloucester has an LNG on its doorstep. She stated it would be foolish if Gloucester does not take precautions and thanked the Mayor for her special efforts.

Councilor Tobey commented on health insurance and stated it is important that each Councilor and the Mayor share their concerns with Senator Tarr. Currently, the State legislature is having discussions on the FY11 Budget and the Senate is moving to give cities and town the same benefits. A defense and design plan can be established, in that there will likely be amendments regarding binding arbitration that will get to the Senate floor which will make it more difficult for cities and towns. Money, he stated, will likely be held hostage; and, once again encouraged people to connect with Senator Tarr. There are efforts to put in place mandatory compliance, and referred to Chapter 32B, Section 19 of MGL.

Councilor Curcuro stated that this is his third budget process and the theme seems to be a shrinking budget. Revenue, being underestimated, is an encouragement. He thanked Mr. Anderson for attending and observing budget meetings.

Mr. Towne, CFO, noted, in reference to **Mr. Anderson's** comments regarding putting a finger in the dike, that previously, one had to put all fingers and toes in the dike. He stated that it takes eighteen to twenty-four months to turn the ship around. He noted the positives such as the review of contracts; Wastewater Treatment Plant; changing companies for water treatment operations; changing trash contractors; and, meals and rooms taxes allowing for more expenditures.

Mr. Towne stated the City is catching up with its financial condition and is currently closing audits that were outstanding. Further, the external auditor was changed in order for the City to gain a new perspective. He commented on the State qualified bonding; receiving principal / interest forgiveness for capital projects; and, catching up on tax title projects. He reported that the City, last week, realized \$270,000 on three foreclosures on tax title properties. The City, he said, is serious about collecting taxes, and that \$2 million has been collected on tax balances.

In conclusion, he stated that a lot has been done in 12 – 18 months, including a new parking enforcement plan beginning July 1st; all but one contract left to be settled; and, the Gloucester Crossing project which is increasing the commercial tax base. The sails are filling up with the wind behind our backs.

Councilor Hardy stated that the budget process is ongoing, and this Public Hearing is a part of the budget review. Budget meetings, she said, are open to the public, although are not public hearings.

It should be noted there were approximately twelve people in the audience including staff.

This public hearing is closed.

A brief recess was called at 8:15 p.m.

The City Council reconvened at 8:25 p.m.

Councilor Hardy asked to take the Committee Report from Budget & Finance regarding the City Auditor which the Council granted by unanimous consent.

MOTION: On motion by Councilor Whynott, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council that Kenneth Costa of Haverhill, MA be elected as City Auditor for the City of Gloucester to fill the vacancy for the balance of the unexpired term at a salary of \$84,866.60 in accordance with the provisions of Chapter 2-7a of the Gloucester City Charter as amended November 3, 1987.

Discussion:

Councilor McGeary noted he, Mr. Towne, Mr. Bain and Councilor Curcuru interviewed Mr. Costa twice, having been very impressed with his credentials; with the spirit he will bring to the job, felt he would be an asset to the City and encouraged his fellow Councilors to vote for Mr. Costa's election as City Auditor.

Councilor Hardy stated prior to the meeting that evening, the resume of the City Auditor-elect was circulated to the Councilors for their review. She invited Mr. Costa to come to the podium and be introduced to the Council. She welcomed him to Gloucester and asked him to tell the Council a bit about himself and why he was interested to come to work for the City.

Kenneth Costa noted he was very excited about the opportunity. He was currently employed with the City of Somerville as Deputy City Auditor, holding that position for the last four years. During his tenure he'd been 'protecting' the City's books and ledgers. He's been working with the Department Of Revenue and the outside auditors. He has been progressing, working his way up towards a City Auditor's position. **Councilor Curcuru** was part of the interview team, noting they had a good pool of qualified candidates. He felt Mr. Costa's answers to their questions were spot on and that his enthusiasm was a key element. He thanked him for coming and wished him good luck.

Councilor Tobey welcomed Mr. Costa noting he was impressed by his professional experience in both the private and public sectors. He observed that in Somerville the Mayor directs the oversight of the City Auditor. He noted the financial management team work together in Gloucester, but under the City's Charter, it is one of the two department heads that report directly to the Council. That is where the ultimate line of responsibility lays.

Mr. Costa stated he understood that from his interviewing process and felt there were more checks and balances and accountability as structured this way; and it was good for the City.

Councilor Ciolino welcomed Mr. Costa. He felt he understood he worked for the City Council and that they'll depend on him to tell the truth of what is going on, no matter the case, good or bad. If they're going in the wrong direction, he is to tell the Council. They wanted to hear the information first, not through other sources. The Council will depend on him.

Councilor Theken also welcomed Mr. Costa noting the uniqueness of the Gloucester community.

Councilor Hardy reiterated the direct responsibility is to the City Council and his direct line of communication was through the Chair of the Budget & Finance Committee. She asked Mr. Costa to not

wait for the Council to ask a question but to come directly to the Councilors to apprise them of what is going on. She asked that he be proactive. She thanked him for taking the time to come before the Council that evening on such short notice.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by Roll Call vote 9 in favor, 0 opposed to elect Kenneth Costa of Haverhill, MA the City Auditor for the City of Gloucester to fill the vacancy for the balance of the unexpired term at a salary of \$84,866.60 in accordance with the provisions of Chapter 2-7a of the Gloucester City Charter as amended.

Councilor Hardy asked when Mr. Costa could start his employment with the City, and he replied it would be in about two weeks.

5. PH2010-030: CSO Debt Exclusion

This public hearing is opened.

Those speaking in favor:

Mayor Kirk stated there has been a lot of discussion on what's the difference this year than last year in the CSO (Combined Sewer Overflow) debate. The second matter is, unfortunately, correcting the Gloucester Daily Times headline, that it's not sewer costs that are going on the tax. That was a very misleading headline. Last year what the Council contemplated was bundled debt for multiple capital projects: water, sewer (which was the wastewater treatment plant), and CSO. This year they have not put before the Council the water debt or sewer debt; it is strictly CSO debt that they're asking the Council to shift. She felt it was very important to understand that distinction. In FY11, they'll be looking at \$10 million more or less on water debt associated with the water system improvements. The budget that is being proposed is to go on the water rate, not shifted towards the tax rate. On sewer, there is \$20 million rehabilitation project underway right now at the Wastewater Treatment Plant, which the Council has previously taken a vote for in two phases: a \$7 million loan authorization and a \$13 million loan authorization. This totals \$20 million. That capital expenditure debt in the budget is proposed to go on the sewer rate. The third category of capital debt is Combined Sewer Overflow (CSO). The overriding obligation on the community is to uphold the Clean Water Act. It is a stormwater management plan to manage stormwater going off to Gloucester Harbor. The contention of the Administration is that the community as a whole has a responsibility for clean water. It is that portion of the capital debt associated with CSO that is different this year from last year. She reiterated that the previous year it was a bundled situation with water, sewer and CSO. This year the water debt is going on the water rate; the sewer debt is going on the sewer rate for those projects they talked about; and CSO is the portion that is being proposed for a debt shift in the tax rate.

Jeff Towne, CFO spoke to the actual numbers and how they're in the FY11 budget. There's \$1.75 million which is broken into three categories: long-term principal, long-term interest and short-term interest in the General Fund that relate to CSO debt. Last year there was approximately two-thirds of that in the Sewer Fund as part of the rate structure. In FY10, the sewer rate was \$12.90. If CSO debt stayed in the Sewer Fund, it would go up to about \$13.90 just as it relates to CSO debt, in other words, going up an additional dollar. Pulling the \$1.75 million and putting it to the debt shift, it would increase property tax by 33 cents for residential and an estimated 35 cents for commercial industrial properties, thereby dropping the sewer rate to \$10.65, which he noted was a significant drop in the rate. The debt shift is a function of Massachusetts General Law (MGL). To answer Councilor Tobey's earlier question regarding how many votes it would take to pass a debt shift, it takes a majority vote to adopt MGL.

Nancy Papows, Principal Assessor spoke to the Debt Shift Estimator (on file) showing what happens if the Council chose to implement the debt shift. She went through the options developed with Mike Wells, IT Director. Example #1 is a three family dwelling with an estimated value of \$475,000.00. The tax rates

and the values are for FY10. This shows the estimated increase in the sewer charges if the debt wasn't shifted to the tax levy. It also shows what happens in estimation what happens with real estate taxes if the debt is shifted to the tax levy. So it shows the increase of the real estate taxes on the parcel. It also shows the corresponding decrease in the sewer cost due to the reduction of the rate because the debt has been shifted. This didn't reflect anything to do with the Proposition 2-1/2 increase that will take place in FY11. She went through the other five examples: A property that is not serviced by City sewer (and would be paying about \$127 more annually because of the debt shift contributing towards the CSO). A three-family dwelling centrally located would be a high volume user of water who would see a slight increase in their water rate but would benefit from a decrease in the sewer cost if the debt was shifted with that particular property with a savings of over \$500.00. The 4th example was an industrial property which is also a high water user. They see a significant decrease in the sewer cost if the debt is shifted which more than offsets the increase in property taxes. The 5th example is a higher value property that would see an increase in taxes, a decrease in their sewer, but not enough to offset the tax increase. In this case they would see an annual increase of roughly \$211.00. The last example, the 6th, illustrated a property that is breaking even. It is a 'lower priced' single family. The increase in the real estate tax is being offset by the decrease in the sewer savings with the debt shift. They're breaking even in this scenario. The point was to illustrate while property taxes would go up, there are savings elsewhere. It will vary per property, depending on consumption and value of the property.

Joseph Grace, 75 Holly Street noted many homeowners had been forced to pay for sewer betterment. He is still paying on \$16,000.00, with many others paying even more. The properties where the CSO is taking place either don't have a viable sewer or a storm drain in the system. In the past the most honest and fairest method of payment was to charge a betterment fee to these properties, the same done to him and hundreds of others. The second and far more distant solution is to charge the CSO to the tax rate. It has always been done, but not through a tax add on. A storm drain can also be figured on property tax values. Why do it twice? We should not do this twice; this is storm drain taxes. Using storm drain taxes is bad. We have to comply with rules and conditions, some of which are impossible to work out fairly. There are many legal loopholes. Some pay too much; some pay nothing. Betterment fees are the fairest and most honest. The most distance second best is to add the CSO to the tax rate; it is not a good option but another fair and honest and fair way to go.

Those speaking in opposition:

Stephen Malboeuf, 25 Overlook Avenue and a commercial property owner at 32 Maplewood Avenue was confused as someone who went to many of the meetings and hearings last spring and early summer on the subject. He noted the ordinance as it was written, and felt from his position as a citizen that it was being implemented. He expressed his shock at seeing the matter again before the Council in this manner a month ago. From his reading this Council meeting packet, he believed Councilor Tobey in his O&A discussion was right on. Something happened last year; the Council and the Administration were charged to set up the stormwater management fee and a mechanism to do that. He qualified his remarks by pointing out he has the highest respect for all of these people in the Administration as well as the Council; but someone has fallen flat here. If someone asked for assistance in something that needed to be reviewed – we need input but we don't have the staff; he believed there were people in the community besides himself who would have stepped forward to help. He noted Mayor Kirk's remarks that evening who spoke of this affecting the community as a whole and is to keep our harbor clean. That has morphed to taking care of the whole City. His drainage goes into Walker Creek through no drains. It runs overland to Essex Bay. It's not the harbor. He uses City streets and has a commercial business in town. He is affected both ways – as a commercial property owner in the City but also that it's unfair as someone who has to maintain his own private sewer and water system on Overlook Avenue to be shifting this. He spoke with Mike Hale before the meeting. The average user, \$300,000 or so homeowner saves \$70.00. He said he doesn't have that and loses something like \$200.00. It is unfair to the folks who live in the outlying areas. He has no problem paying for the CSO, but don't keep bleeding him [in adding on fees]. He noted a neighbor at Wingersheek Beach, where they don't have City water and sewer. Why should they subsidize the City? In this case it benefits the community as a whole. Fairly share this cost. Don't

ask him to pay more for someone to save money on their sewer rate. When it started as purely a debt exclusion, it was one thing; but has now turned into a new division in the City – a stormwater operation. If it's on the tax rate it will 'go crazy' – a system needs to be set up.

Christine Rasmussen, resident of 83 Woodward Avenue and former City Councilor spoke about fairness, dating herself to the early 1990's when the Clean Water Act was implemented in Gloucester. She noted the difficulty of it. There seemed to be a spirit of cooperation. To illustrate there was a concern at that point about fairness and how they were going to deal with the betterments some people were receiving and how people on septic systems could update their systems and still receive City support. Under Mayor Tobey, they established Chapter 255 of the Acts of 1998 which allowed the City to pay the equivalent of a betterment to those who upgraded their septic system. Councilor Verga held a meeting; and the Board of Health stated that the average septic system owner has to spend an average of \$45,000 to upgrade their system. There's no community support; there's no betterment subsidy. Think about those people who are really suffering with these expenses. Now you're going to charge them \$127.00 more on their taxes to pay for a CSO project that is working to clean the water. Yet, they are already paying 9 cents per 1,000 this year, or \$27.00 on a \$100,000.00 home, to pay for the betterment that other people have received. This is an issue of fairness. By putting the CSO fee on the tax rate is not fair. If you want to be fair, at the same time, put the funding on there so everyone on septic who has to upgrade can get their \$6,000.00 betterment fee. That would start to create a sense of fairness. The other thing that upset her about the proposal, and couldn't believe there weren't more environmentalists there that evening, was what they just heard if you're a high water user you'll save more, particularly if you're a high residential user. That was opposite of the policy that most people want adopted. You want to encourage conservation. She felt that as a public policy was wrong.

John Saunders, 5 Crane Way noted he was conflicted as a resident of West Gloucester and didn't benefit directly but as a citizen of Gloucester felt a responsibility. It comes back to the issue of fairness.

Mayor Kirk, in rebuttal on questions of fairness and why no progress was made, stated that the devil is in the details of trying to implement the stormwater fee. There were so many issues of fairness that came up: pervious vs. impervious, residential vs. commercial, the uploading of data through the Assessor's office, the formulas that would guide the fee structure. It quickly became apparent in that realm there were issues of fairness, and she didn't know if there was any true fair situation. Some of the folks not on City sewer and water under the Stormwater fee would definitely be assessed. Prudence should prevail. The Administration has tried to be reasonable to pull out debt that is a stretch – water debt, sewer debt - and really focus on CSO debt. Something phased in over time had a lot of merit.

Questions:

Councilor Curcuru noted Mr. Towne was a part of the committee that worked to find a solution as to what the best way to go on the issue; and asked, putting aside the CSO, what would they eventually put on this fee for cost.

Mr. Towne stated it's a good point because it speaks to the citizen questions about the fact they're going to have a CSO debt exclusion if passed that night. They have been and still are working on the stormwater management plan; and believed that plan, based on what they've looked at this year, would include an operational budget for cleaning storm drains, the equipment, salary and wages, updates for things like fly-overs to monitor the impervious surfaces, GIS mapping issues, billing, postage and assisting other enterprise funds because they split those and put that on the bill. So they feel a lot of those issues would be on the stormwater management plan fee, in addition to the debt the City has to pay.

Councilor Curcuru noted that was the point he was making that it is quite extensive as it is. Taking those costs Mr. Towne just stated, what is the debt they were speaking about, over these expenses.

Mr. Towne stated it's over \$34 million presently for CSO debt that's been authorized. In FY11 there's a principal and interest payment. With the \$34 million, they need to pay next year interest and principal over a 20 year period is \$1.75 million. The following year interest will probably be around \$2.0 to \$2.1

million and will probably stay around there if they don't issue any more long-term debt, if there's no additional phase work. Anything above that would tack onto that total.

Councilor Curcuru asked what the average cost per household be if they were to assume all those fees Mr. Towne enumerated previously plus the CSO debt and plus interest.

Mr. Towne stated this is where they ran into difficulties. They started looking at the fee being closer to about \$200.00 per residential parcel.

Councilor Curcuru asked if there's a debt shift would it be tax deductible, to which Mr. Towne responded yes, it would be tax deductible if it the debt was shifted with Councilor Curcuru noting there is a bit of savings on that end.

Mr. Towne also noted there is an elderly homeowners' exemption which would become available automatically when the debt exclusion is adopted. Taxpayers have to file an annual application. The exemption is a calculation and is limited to up to \$200.00.

Councilor Tobey made clear it was a difficult issue, that there was no happy answer, although thought they had one when they passed an ordinance last fall. He recapped that there was \$34 million of CSO debt that is the subject of this shift before the Council.

Mr. Towne stated that's just the loan orders. There is \$34 million that's been approved to spend on CSO work. The \$1.75 million is the principal and interest payments towards that \$34 million.

Councilor Tobey noted for FY11 is \$1.75 million which will vary over time as the debt amortizes over a 20 year term. Given their obligations under the federal court ordered consent decree this Administration inherited, is \$34 million all they need to borrow or will there be more debt on top of that will have to be undertaken.

Mike Hale, DPW Director responded that the lion share of the CSO debt was relative to the 002 catchment area, the outfall off of Pavilion Beach. That was borrowed at \$27 million in 2005. There was a loan authorization of \$7 million in February 2010 to cover design and construction of the next three pieces of the CSO debt. He felt as it stood, they could now get through the control plan which is the engineering outline for CSO mitigation with the \$7 million that is borrowed currently, bringing them to the total \$34 million borrowed to date.

Councilor Tobey asked if this was likely to cover their obligations under the consent decree as it's currently structured to which Mr. Hale responded yes. Councilor Tobey noted that the EPA continues to look at the stormwater management area as a setting for more regulation; more stringent requirements, not less. As a matter of policy, he asked what are the Administration's recommendations regarding these evolving regulatory costs above and beyond their current obligation; is this precedent or not; Prop 2-1/2 override or not.

Mr. Hale stated the City has a stormwater discharge permit, a 5-year permit issued from the EPA. They're in their 8th year of that 5 year permit. The next permit is set to be issued later this summer or fall. It's much more stringent regulations in the second phase. They're looking at about \$100,000 annually just to implement the permit above and beyond what they do every day. That doesn't include the capital or operational costs associated with stormwater. Stormwater is a mix of general funding and CSO work. They have labor that cleans catch basins and street sweeping; repair culverts, etc. They'd be looking about \$500,000 to \$600,000 per year under the proposed Phase 2 permit over the next five years to manage just stormwater. That doesn't take into account larger capital expenditures like relaying large portions of drain line or the replacement of a significant amount of catch basins. The EPA is pushing towards much, much more stringent guidelines for discharge. If they have to get to treatment devices on their outfalls, all bets are off on what annual costs would be. He would anticipate that will be coming in the 3rd or 4th round of stormwater permitting, not the 2nd round.

Councilor Tobey summarized that through no fault of our own there'll be more costs. He asked if the Administration had an emerging policy perspective on how additional costs would be handled.

Mayor Kirk responded the emerging policy is having an enterprise fund with a revenue source in order to pay for those expenses. There is a huge educational curve to the citizens, not just Gloucester, but of many communities, about those fees and obligations that are coming. To put it out to a Prop 2-1/2

override may be way down the line in the future. But there's a huge public education outreach to be made to get a tax override passed for that purpose. They can't be left in a position where they're not fulfilling their regulatory obligations. The groundwork that has been laid with the stormwater management fee, the generation of that revenue source is the basis of an enterprise fund that will be needed to create the revenue to support an enterprise fund, to support those operations, to fulfill that regulatory profile. A Prop 2-1/2 override, if you look across the City at the capital expenditures that are going to be required in the next 5-7 years, on school buildings, that is probably more of a policy direction they would take in terms of utilizing a Prop 2-1/2 override strategy especially if there's a 40% or 50% match by the MSBA. She felt they didn't want to go to that well of an override fairly often. She understood it was the same taxpayer paying. But because of the outreach component, they need a strategy in place so they don't get caught flat footed as they are today on CSO.

Councilor Tobey noted the concept for those additional stormwater costs was that the notion of the referendum for an override was on her mind; and yet the statute allowing this Council potentially to vote tonight could just as well be applied to that set of costs. If that's the case, he suggested perhaps this set of costs should go to the voters as a referendum.

Mayor Kirk spoke to timing as an issue; and these are a very complicated set of obligations and regulations the City must fulfill. Since 2002, with the consent order signed in 2005, they've not figured out how to pay for it which is why they're before the Council that evening. She used the analogy of the trash issue, and how that's been taken care of with fees generated over time. It was an evolution. With a subject as complicated as stormwater, which they don't even know the full regulations that are before them, it's going to evolve over time. And it's a timing issue. We need to have a budget; get it passed; pay for the debt, \$1.75 million, in FY11 there's no choice. She promised this was nowhere near the end of the discussion about how they're going to handle stormwater management.

Councilor Tobey noted he was hearing there are three rates. There's the proposed sewer rate of \$10.65 per 1,000; the existing rate of \$12.90 per 1,000; and of \$13.90 per 1,000. What would be the three revenue yields because, for example, if they left the rate level at \$12.90, how much 1.75 million would remain uncovered. Is there an opportunity in looking at the model of the trash conversations from 20 years ago for the creation of a fee to cover that sum.

Mr. Towne responded they had approximately a little over \$1 million included of CSO debt in the rate of \$12.90. The incremental difference of \$1.00, from \$12.90 to \$13.90, is about \$700,000.00 to get up to that amount.

Councilor Tobey asked how many real estate tax bills accounts the City had – about 14,000 perhaps.

Ms. Papows stated there are about 14,000 plus parcels with about 925 that are tax exempt.

Councilor Tobey thought the \$700,000.00 was the difference. He stated if you round it, if each real estate tax account was charged \$50 fee as an interim fee, they would both honor the ordinance and fill the gap.

Councilor Whynott thought the presentation by Ms. Papows was terrific and opened his eyes to the matter. He wanted to know if that could be put on the website in a simple manner so that the public could see what it would cost at each rate.

Mr. Towne noted if people want to go and put in their particular address, it will calculate what it would cost if they did the debt shift or what it would cost if they went up to \$13.90 for sewer if they didn't do the debt shift by going to on the internet: <https://portal.gloucester-ma.gov/>. He will post it on the Treasurer's page of the City's website as soon as possible.

Councilor Verga asked where are the lines that feed exactly into the CSO in the City – how far out into the City. They all know the streets they've seen torn up over the years.

Mr. Hale stated there are a number of different watersheds; at the Fuller School; at the Head of the Harbor (park) and towards the Boulevard in that wedge is the majority of the CSO they're dealing with today.

Councilor Verga followed up asking are they expanding to a lot of new projects there that are on-site treatment.

Mr. Hale responded CSO is specific to regulated outfalls to the harbor. As stormwater mixes with sanitary waste, there are relief points along the harbor wall that spills into the harbor. Those are the only CSO's they have. There are more within that area that have been abandoned over the years.

Councilor Verga asked what Plan B was. His understanding was the last Council voted to adopt a stormwater fee thereby splitting it off of the sewer rate. So if this should go up for a vote tonight to put on the tax, and doesn't pass, was Plan B to get this CSO stormwater fee put in, in time for this budget.

Mayor Kirk noted the balanced budget the Council has before it includes the debt shift of the \$1.75 million as revenue coming in; and therefore, has an impact on the sewer rate and was also reflected in the budget. If the Council were to reject the CSO debt shift, it would reject the revenue; and that revenue would need to be made up in the Sewer Enterprise Fund. The Council would then, perhaps, have to take another vote to increase the sewer rate.

Mr. Towne noted the rate projected, depending upon what B&F does with enterprise funds is about \$10.65. If they put the debt back on, it would raise it back up from \$10.65 to \$13.90 if there's no debt shift. It would be about \$3.30 on the sewer rate.

Councilor Verga stated if there's not a debt shift meaning no debt shift to the tax rate, are we saying the stormwater fee isn't going to happen; or is that there's still a possibility – we'll sharpen our pencils and get that in place.

Mr. Towne replied they have no calculations on impervious surfaces so that was why he believed it would be impossible to get a stormwater management fee in FY11 for the rate structure.

Mayor Kirk stated there was a question whether or not a \$50 or some dollar flat fee can be applied across the board on all parcels. Their understanding was that it wasn't possible. It had to be tied to something whether it's the tax rate or a formula in the stormwater fee that has some criteria; impervious vs. pervious, size of lot, grass vs. wooded. There were lots of variables. But to assess every parcel a \$50 stormwater flat fee, their understanding was that it was not legal.

Councilor Tobey stated that was not what they were told by General Counsel during extensive conversations with the previous Council on this matter. That was the premise of much of the discussion, [A flat fee not tied to a formula] as a point of beginning.

Mr. Duggan noted that was originally presented by General Counsel, but over the past twelve months as they've explored looking at a stormwater utility, there have been a number of issues that have come out that they need to be consistent; that the \$50.00 flat fee was not the most appropriate fee available. They're trying to draft a stormwater utility that is both equitable and defensible program cost and rate structure. There have been a number of different issues they're trying to explore.

Councilor Verga noted his understanding as a bystander last year the number discussed was a \$75 flat fee. He wanted to find out from General Counsel if "more appropriate" means not legal. It's two different things. He agreed that maybe it's not the most appropriate; but if it's legal it would be nice to know that. To Councilor Tobey's point of an override, if that seemed to be where things were leading, how quickly could it happen; and if in the end the vote is no or it just doesn't happen on time, then fall back onto Plan B.

Mayor Kirk stated they would like to take the question back on the legality of a flat fee for stormwater management to General Counsel and have a written opinion submitted to the City Council forthwith. On Prop 2-1/2, MGL gives the Council the opportunity to override Prop 2-1/2 for a debt exclusion; and that is the question that is before you. In terms of a referendum out to the citizens of Gloucester, she didn't see the timing working out between now and the end of the fiscal year. As an interim first step that was a combination of a debt shift and a fee, where they would 'flat' the sewer rate and not capture the savings and split it as Councilor Tobey was suggesting, this was a conversation that goes on and on. They would have time in the fall or in the spring to put a big picture question on stormwater management, in addition to CSO, to the citizens of Gloucester through a referendum; and that would be their recommendation.

Councilor Theken noted she was here last year and wanted a fee and was told it could be done; that it was just a matter of having it figured out. It was mostly on how it could be done fairly. She was invited to go to meetings weekly with the Administration over the last two months, and was convinced this was the only way to go because they have \$1.75 million they have to get rid of. Then they were talking about

maintenance. She understood this was a one-time debt shift. But this is for the next 20 years; and then there are all these other projects that are coming up and on top of our taxes will be a stormwater fee. There were questions brought up this evening that weren't brought up in their committee meetings. She had asked Councilors to please talk with their wards and hear what people have to say, in particular the wards where the majority don't have sewer. She noted the chart received this evening (from Ms. Papows noted previously on file). She didn't understand why she just got it. A lot of people have 'rich' homes but don't have rich incomes. They are being assessed in wards 1, 2 and 3, where there are many multi-family structures, very high and who pay too dearly. It's not fair. She asked the DPW Director prior to the meeting this evening what else are they getting out of this. She wasn't sold on the debt shift by what she was hearing that evening – something that was said in committee does not appear to be coming forward this evening to convince her. She stated that the attorney said that once this is approved it doesn't have to come back to the Council on what the increase is. She asked what they were going to do with the rest of the CSO project. Mr. Hale said that some of the shift that you put in your budget that comes out of the enterprise fund can be switched and shifted to this, like the street sweepers, your maintenance. What does the DPW save? What gets switched – from the enterprise fund to the sewer to the CSO for this year. Like Councilor Tobey says, this is just the tip. She heard it's one time and then they'll work on a stormwater fee. Everyone who was here said they'd pay a little bit; they'll pay their share. If we do a stormwater fee including those 925 tax exempt parcels we can't bill.

Ms. Papows noted its 14,000 parcels including vacant parcels. 925 are exempt; but they pay water and sewer. Whether the exempt properties are to pay the stormwater fees remains to be seen, and is under conversation.

Councilor Theken continued in all fairness they did go over all those issues; and Mr. Hale said they could add to his budget to get more street sweepers; he had convinced her.

Mr. Hale responded if you take a look at the sewer enterprise budget, they have personnel, ordinary, and within the ordinaries, debt service. Part of the debt service is relative to CSO. It's not all CSO, but a portion of it is. The idea is taking that out of the enterprise account and shifting it somewhere else; whether it shifts to a stormwater enterprise or a debt shift to property taxes, that's what gets it out of the sewer rate. If they had a stormwater utility, part of the sewer enterprise would shift to a stormwater enterprise. They have personnel who would be paid a portion out of perhaps water, sewer, and stormwater. Vehicles could be charged and purchased through a stormwater, sewer or water. You pay for all of the elements of personnel out of the ordinary costs out of a new enterprise account. The idea of starting a new enterprise already \$34 million in debt is a bit scary. They've just started getting better collections on the water and sewer rates. The idea that they have debt service that they owe on a schedule; and collecting that debt on a stormwater fee, may be difficult, too. There is merit for a stormwater utility. It should cover the operational costs. People don't pay their water and sewer bill(s). People are going to pay a rain tax? There is merit for a stormwater utility. It should cover the operational costs. To all of a sudden flood it with \$34 million of debt is perhaps unwise.

Mayor Kirk noted the only cost that would be shifted was the \$1.75 million in debt for CSO in FY11. In terms of future of stormwater management, a utility, revenue, charges to support those operations, was down the road. She felt that was something that they have to be ahead of; they have to watch and have to understand the regulatory environment that the DPW Director and Councilor Tobey spoke of tonight. She reiterated the only the debt qualified under a debt shift is \$1.75 million associated with CSO for FY11.

Councilor Theken continued that people who have City sewer are paying for everything on the CSO project, which Mr. Hale confirmed - the CSO debt is in the sewer enterprise. That \$1.75 million to be taken out is for work that's been actually done on the CSO to date. So last year the sewer users paid for it. So you're saying that you want to take that \$1.75 million for everyone to pay. Why can't \$1.75 million be spread out evenly on taxes and not by value.

Mr. Towne quoted MGL Chapter 83, section 16 talks about where the City can "establish just and equitable annual charge for the use of common sewers and main drains and related stormwater facilities which shall be paid by every person who enters his particular sewer therein. The money so received may be applied to the payment and the cost of maintenance and repairs of such sewers or of any debt

contracted for sewer purposes. In establishing quarterly or annual charges for the use of main drains and related stormwater facilities, the city, town or district may either charge a uniform fee for residential properties and a separate uniform fee for commercial properties or establish an annual charge based upon a uniform unit method; but the charge shall be assessed in a fair and equitable manner. The annual charge shall be calculated to supplement other available funds as may be necessary to plan, construct, operate and maintain stormwater facilities and to conduct stormwater programs.” The last sentence just speaks about giving credits to people who have on-site facilities.

Councilor Theken stated she wasn't saying do a stormwater fee for this \$1.75 million. Why can't it be divided evenly on everyone's taxes instead of the value.

Mr. Towne noted when he spoke to the City Solicitor, it must be assessed in a fair and equitable manner; and that was the key portion of the paragraph. He pointed out that it can't be done in a flat fee.

Councilor Theken expressed her extreme disappointment that the City Solicitor was not there that evening. Never once in their meetings did they say cut it across as a flat fee on our taxes. They weren't focused on that.

Mr. Towne couldn't speak to that, but he believed they could not assess a flat fee on the taxes. It had to be based on the assessed value of the property. Your tax bill is based totally on the assessed value of your property. There's no way to do a flat fee.

Councilor Theken agreed with Mr. Towne by saying she recalled there was no way, and they couldn't do a second billing either. They couldn't send out a separate bill; it had to be added to something unless they did a stormwater bill. She asked how long this had been on the City sewer.

Mr. Hale responded for as long as there's been CSO debt it's been charged off, a decision of a Council many years ago, to the Sewer Enterprise Account. He believed that was done in 2005 and put on the sewer rate – the first borrowing, the first interest rate, short-term.

Councilor Theken stated they tried to put it on the taxes before and the community complained and asked that they be treated equally and fairly. That's when we came up with the stormwater bill.

Councilor Tobey replied he brought in an order as the “proverbial straw man” to get the conversation on the table. The order said, let's do a debt shift, which got the conversation going, and the conversation went from debt shift to fee. It was all about getting the process going and thought it was a good process.

Councilor Theken continued that it did come forward as a debt shift, and no one wanted it. It was going to fail at City Council. We have \$1.75 million - do you put \$3 more on someone's sewer. Who's going to pay for this. Do you go under the General Fund and force the Administration to do a stormwater bill so we can get that back. Can you borrow money against the General Fund. How do you get it to be fair and get it that \$1.75 million away from a \$3.00 hike on the sewer and make it fair. We all have to share that cost. Do we leave the rate at \$12.90; borrow from the general fund; force that stormwater bill to get done and reimburse it.

Mr. Hale felt if the stormwater fee was simple to implement, more communities would do it. We're not the only community that's facing CSO issues. There are three communities in Massachusetts that have this out of 351 communities in Massachusetts. There's not a simple formula for it. There's still a lot of confusion on who's going to be assessed a stormwater fee. It's not necessarily only people on sewer, but people like Councilor Theken who are on septic. You do have a contribution on the storm sewer. There's a catch basin at the base of your driveway. The City maintains that, so you have a contribution to that. He heard a conversation earlier in the evening that a person had a septic system, and they don't contribute to a drain system. That person would still be charged a storm utility fee. Was that equitable? He didn't know. How do we not assess something that's equitable, defensible? Mr. Malboeuf is right – he lives in an area that has no contribution to any defined municipal drainage system. It's streams and wetlands. But how do we not assess him and someone at the bottom of his street who many have a contribution to a City road or drain system. It is very complicated.

Mayor Kirk felt if they could convey anything between this year and last year, it was that they had a major infrastructure crisis last year. City staff probably lost six months of time just to overcome the water crisis; put together the \$10 million capital improvement project now underway – doing an 18 month project in six months to get the Babson water treatment plant back up on line for July. There is a context

here for the attention and dedication of City resources on solving this problem. They lost six months in that process and asked the Council to be mindful of that as well.

Councilor McGeary asked once they make this debt shift it is permanently on the tax rate until the debt is retired. We don't have to renew it every year.

Mr. Towne stated that was correct. If the Council voted 100 % of the CSO debt, it would stay on there until acted upon by a future Council.

Councilor McGeary followed that if they had to borrow additional money, would that be automatically added in or would that require future action of the Council.

Mr. Towne responded if the Council voted 100% of the CSO debt, it was his understanding it would stay on and be added to the \$34 million.

Councilor McGeary asked that in addition to the debt cost, there is envisioned a stormwater management fee for ongoing maintenance and service of the stormwater system. You were ball-parking \$500,000.00 to \$600,000.00 a year. What would that translate to on a rate, whether it is a stormwater management fee or on the sewer rate.

Mr. Hale stated that was operational costs. That doesn't include any capital costs. With capital borrowing there would be debt service relative to that. That could be debt service relative to a stormwater enterprise. There is no hope that a stormwater fee is going to be a static number. It's going to be like the water and sewer rates. As your budgets change, so does the fee. You only have so many users. The formula can change. It is a very dynamic number. It's not \$50.00 a year forever. It could be \$200.00, or drop to \$185.00, or it could spike up to something higher. It's dependent on what the budget is.

Councilor Mulcahey reminded him about flooding conversation they've had where it empties out into; and it was too much water for the pipe at Myrtle Square.

Mr. Hale responded that the area around Myrtle Square, both the Myrtle Square side of Maplewood Avenue and Grove Street, the Strong Leather side of Maplewood Avenue, the initial drain line was installed around the 1870's to drain that area for development and also to facilitate the rail yard. That was the main drain that homeowners started tying into the sanitary system over the next 100 years. The CSO separates that and brings that old drain out to off of Pavilion Beach in a separate stormwater drain. The drainage pipes in that area have become inundated with road sands, silts from the wetland, becoming restricted and don't accept the flow of stormwater they once did, or they were undersized relative to the impervious area around them. There were roads but there was no pavement 100 years ago. There were a comparable number of buildings and a large number of parking areas that were never conceived 100 years ago. That whole area has become much more impervious contributing much more stormwater more quickly to this wetland. Consequently those discharge pipes can't carry the water out that's coming in. Storm water is not only a result of how much it rains, but how fast it gets from point A to point B. It's a very old system, and that's what the CSO improvements are doing for that area.

Councilor Mulcahey asked about the status of the work being done in that area, and Mr. Hale stated the majority of the work had been done. There was still a big cleaning portion to be done on that very old culvert. Councilor Mulcahey noted these people are going to have pay taxes on it and wondered if they'd be happy about it.

Mr. Hale noted they're either going to be paying it from their sewer rate or their taxes. He didn't think anyone was happy to be paying more for anything. But he felt that the improvements to the services would be well received, however.

Councilor Ciolino noted \$1.75 million needed to be paid. They have three options to pay the bill. One is the debt exclusion. The second, the enterprise fund; and the third would be a stormwater bill. The third is out of the question. There is no history. You can't find other communities that are doing this. In order to put this together, it's going to take a lot more work. That leaves two options - it has to go on the sewer rate if not shifted, mentioning the other two issues to follow, that of the stormwater management fee and an enterprise fund and asked Mr. Towne to explain an enterprise fund for the benefit of the newer Councilors.

Mr. Towne explained an enterprise fund is designed by accounting standards to be a self-supporting fund, segregated and allowed by law, that will pay for the expenses of establishing and maintaining a

sewer system; water system provide with water – you'd use a consumption factor which is the fair and equitable manner for billing people based on a water rate. A sewer rate also based on the water consumption would be billed to anyone who uses that. He noted enterprise funds are intended to be self supporting funds, which is why they are segregated.

Councilor Ciolino felt the key word was maintenance, and asked Mr. Towne if he felt enterprise funds were ever designed to do the heavy duty infrastructure work that the City of Gloucester is undertaking.

Mr. Towne did feel they had a significant portion of capital meaning your water treatment plant and the debt associated with that would be in the enterprise fund, so yes, he would say that.

Councilor Ciolino thought they were in this situation because they had a proverbial gun to their head – they have to do all this infrastructure work, and they've been carrying it on the sewer rate which is a very limited place to put it. It shouldn't go there because the enterprise fund is for maintenance. He asked if Mr. Towne agreed that it was not the place where heavy debt should go.

Mr. Towne noted it's at the point where it's unaffordable for the sewer rate users to continue to support that. We do have some of the highest rates, if not the highest rate in the country. He looked at a predecessor of his who had compared Gloucester to Seattle, WA and projecting them to go above that in 2010. We're right up there in 2011 as the highest rate payers.

Councilor Ciolino stated they're just scratching the surface. They can continue to layer the sewer rate; but at some point they have to shift it so the burden is spread out to the whole City. The City has a bill to pay. We either skyrocket the sewer rate or shift this debt and spread the burden out evenly through the tax rate. If tonight they take no action, they're going to have a \$1.75 million shortfall. If they don't do this debt exclusion it will go to the sewer rate, again burdening the sewer rate payers. They have to pay a bill of \$1.75 million.

Councilor Hardy posed to the Council if at this time they felt they could vote on the matter that evening or are they looking for something to go a little bit further.

Councilor Tobey stated he would yield to the majority, but felt they needed a legal opinion from General Counsel interpreting MGL Chapter 83, Sec. 16 on whether the statute allows a "uniform" or "flat" fee. He requested that it be in the form of a brief with citations which defend/explain the answer. They have an ordinance in place that has mandatory language in place that we shall have this fund; we will have this fee. Do we need to repeal that if we're going to go this route which he'd like an answer to; particularly now that the statute has been read to us expressly saying a uniform fee is the way to go. He felt there was a loose end; and that Councilor McGeary noted we're asked to vote with a 20 year consequence. Could this be framed as a one-time vote, and thereby give the Administration time to figure something out. We have some serious legal issues that need to be answered. He noted that there are over 400 communities, according to Mr. Duggan, that have done this already. He realized in the public sector no one wanted to be first; but where would be honor in being the 401st?

Mr. Towne responded to an assertion by Councilor Theken that they are not just voting on a one-time issue of \$1.75 million but on the whole \$34 million debt. At the committee meetings they spoke of language that said "existing authorized CSO debt", which is what they were talking about for the \$34 million. In trying to answer Councilor McGeary's question which was if we vote 100% of the CSO debt what does that mean. It means it would be 100% of CSO debt, now or later, if they added to it. At those committee meetings, they also discussed they could put in language that talked about funding 100% of the existing authorized CSO debt which would intend to cover the \$34 million. There's like almost \$500,000.00 of old CSO debt that started this whole matter. Existing CSO debt was what they had talked about at the committee meeting. \$1.75 million over 20 years is going to include principal and interest. He wanted to be clear that when you add up 20 years of what the debt payment is, it includes interest. So they're talking about paying for the loan authorizations and the corresponding debt that goes with it which is principal and interest which will be more than the \$34 million.

There was a spirited discussion of voting for \$1.75 million versus \$34 million at this time in which Councilor Curcuro and Councilor Theken disagreed.

Councilor Ciolino asked if the administration would be agreeable to the idea of this Council voting for \$1.75 million with the understanding that the Administration would work on the stormwater fee.

Mayor Kirk responded the Council would still have to adopt the statute to allow the debt shift, as long as that was understood. The risk that they take is that they're there next year at the same time having the same conversation. Speaking to Councilor Tobey's point, if you look at it as an iterative conversation, to put the toe in the water on a stormwater management for the City of Gloucester, that would be a very good first step to do it for one year, \$1.75 million and then a year from now, a budget that is presented to the Council that gives the Administration time to figure out the fair and equitable piece, which is some sort of calculation. That does give the Administration breathing room to get that right next year and would have to be revisited the following year and the following year.

Councilor Ciolino thought that would work for what they had to do that evening. We have a bill to pay. All the Councilors have gotten the word from a lot of constituents that they want a flat fee, if that can be done legally. He understood through his conversations with the CFO it is a complicated issue. We're inventing the wheel; and it may take a little longer. We couldn't just copy other communities. This is brand new. It's a good compromise for this year.

Councilor McGeary asked Mr. Towne to confirm that he said that a future Council could rescind this action; that once it's on it's on; but that a year from now the Council came up with another plan they could rescind this action and essentially take the CSO debt over to a stormwater enterprise fund.

Mr. Towne reviewed MGL Chapter 59, Section 21C(n) and then moved to the IGR, which is a guidance document from the Division of Local Services.

Councilor Hardy felt that Suzanne Egan, General Counsel, had a lot to offer this Council in the way of answering some questions. She asked the Mayor if Ms. Egan would be available over the next few evenings.

Mayor Kirk responded that the issue before the Council was the question of the CSO debt shift as part of the balanced budget. They were not prepared to go through the matters pertaining to the stormwater management fee which is where they were struggling to answer the Council's questions but were prepared to handle the questions on the debt shift as it pertained to the FY11 budget.

Councilor Hardy noted part of the debt shift question was could they adopt it for one year where it's a local law, can they rescind it? Usually, if it can be rescinded, it says so in the statute as does the School Committee law MGL Chapter 71, section 37M which is something also under review (but not that evening) which states specifically within the MGL that it can be rescinded which Chapter 59, Section 21C(n) does not. But she qualified that she was not a lawyer.

Mayor Kirk felt the City Solicitor would see the questions the next day or as soon as they can.

Councilor Theken wondered if they would actually be voting that evening because she would not vote for \$34 million, 20 year situation. She had no problem in voting for \$1.75 million this year and divide it up into how many years they want; get the questions answered because she refused to leave "a mess" for another City Council. She wanted for it to be fair – to not always be on the rate payer, not to someone who was richer, or someone who was low income. She wanted to give everyone a one-time chance. She recognized it wasn't easy and doesn't take four or five months to accomplish. She believed they could pull something together in the next year – by next budget, they'll likely have something they can bring forward they can bill. She didn't mind giving them \$1.75 million, but couldn't give them \$34 million open book and they have no say.

Mayor Kirk responded that adopting the statute would give the Council the authority to shift the debt and the budget, in the figures there spells out how much. Again, to Mr. Towne's point, if the language would change to not include the full loan authorization but just FY11 \$1.75 million, then that would cover that.

Councilor Tobey stated assuming that is legal, assuming the DOR rulings and other interpretations of how MGL Chapter 59, Section 21C(n) is intended to work, is it intended to work so that a body can accept it and then apply it one year only. That's a real leap of faith.

Mr. Towne added he was looking at a Commonwealth of Massachusetts document, from the Department of Revenue (DOR), Division of Local Services, called the informational guideline release of local services (IGR) #93-207. It is old but still in effect which he confirmed with DOR. In the guidelines

section under paragraph 1A, it says, "Once adopted, the scope, percentage or amount of exclusion will remain the same unless and until changed by a new vote of the Board of Selectmen, Town Council or City Council, with the Mayor's approval wherever required by law." That is the section where it speaks to where it will stay in effect until changed (copy of IGR #93-207 on file).

Councilor Tobey likened their efforts as jumping rock to rock to keep it alive which he felt was not the right way to do an analysis. What he was hearing from what Mr. Towne had just read, when they land, they have to approve it; it's in place for all time until it is changed and the Mayor agrees with the change.

Mr. Towne stated that was his understanding based on the IGR.

Councilor Tobey countered that it was a blank check.

Mayor Kirk felt it got to the heart of the question asked by Councilor Ciolino in the spirit of this discussion they were talking about compromise; and at the \$1.75 million, would that be acceptable to the Administration which again she mentioned brings them to next year at this time. It will be this Council and this Mayor next year. "If it is the will of the Council to rescind that, then the Mayor will support that." By this time next year they will have had that opportunity to put in place a rational stormwater fee that meets that standard of fair and equitable. So she "will make that commitment to this Council tonight."

Councilor Theken stated she knew the Mayor said it, and it was on record that we bring that and you would rescind it. Like you said, if we had another water shutdown, or we had another crisis, or we need a new water treatment plant. We would have just given you a blank check. And you could come to the Council and say, you know, I'm sorry, I know I said that but we didn't plan on these crises. It wasn't that she didn't trust the Mayor, but they don't know what's going to happen. We're gone, and there's still a blank check. We have this bill over there, and we didn't do what we needed to do. Because she was unsure of the legality, the Councilor questioned if they adopted the MGL with an amendment to it saying "only \$1.75 million." Can that be done? Not with your word or her word.

Mayor Kirk responded no. She felt that was fine tuning. As to the remark from Councilor Tobey, was the vote the full amount, the full loan authorization or is it just that payment. That is a question they do not have the answer for that evening.

There was a discussion between Councilors Ciolino, Tobey and Hardy regarding the pursuit of getting the budget squared away; and that perhaps there should be a special meeting of the City Council that week and to have the City Solicitor present; however, this was not met favorably. Several Councilors preferred to deal with the question that evening and discussed how they might proceed.

Councilor McGeary felt the language about their ability or any future Council's ability to be able to rescind the vote was sufficient protection and felt they should move the question so they could move forward with the budget.

Councilor Theken wasn't worried about rescinding the vote, but no one could tell her if they could vote the \$1.75 million only. You are willing to vote for the whole \$34 million. If this comes before her that evening for \$34 million she would vote no.

Communications:

Jamie Crawford, 134 River Street expressed her opinion on water and sewer rate hikes, "in my opinion it should be a user-based fee and not a hike in property taxes. User based fees are fair and equitable to all citizens and does not put an undue burden on property owners. Please consider this when voting."

Esther Martin of 144 Wheeler Street statement was read into the record by the City Clerk noting the struggle to pay taxes and stay in her home because of the taxes. She felt the assessment on the more expensive homes is unfair. She urged them to listen to the voices from last year. She preferred the increase on sewer rates instead.

This public hearing is closed.

Councilor Hardy asked if there was a motion to come to the floor at that time but no motion was offered. The City Council then proceeded with a discussion on a motion and as to how it should be framed. A discussion then ensued.

Councilor McGeary felt all the citizens of Gloucester benefit from it. He understood living on a fixed income, as he did himself. Everyone needs passable roads. Property taxes are the only instrument they have. He offered the analogy of someone who doesn't have kids can say they won't pay for the schools. He felt this is the fairest.

Councilor Whynott supported the debt shift feeling it was the least painful way and also tax deductible. **Councilor Theken** stated she will not vote for this [because of previously stated reasons].

Councilor Curcuro stated he will support the debt shift. It was time to give the rate payers some relief as they've been paying this for five years already. He will vote for this.

Councilor Ciolino pointed out he's on septic. He'll get higher taxes, but he'd rather pay higher taxes in order to have a clean harbor and river and separate out the sewer. He appreciated the comments about those having sewer and no drains but can't agree with that. He reminded them of the "bubbler" in the Harbor. They emptied the sewerage into the Harbor in a rising tide. He noted the clean beaches now. That's progress, and that's how it benefits everybody. He noted there are expenses that we all have to bear with our taxes. A lot of properties will increase in value because this is a beautiful place to live. When he became a City Councilor he thought the enterprise fund was not a construction fund. Why do we have the highest water and sewer [rates]. We have it because of the debt. We are voting for the common good. But somewhere along the line when these projects are done, and there's maintenance we need to find a way to be fair with the maintenance costs to go to the entire City.

Councilor Verga will support this, which is difficult for him to say that noting three of his constituents in the audience. From statements made by other Councilors, he had to agree that what's the fairest -there's no fair solution that's going to make everyone happy. You have to look at what's the fairest solution. Three people here are very unhappy with this, but to go by what he's been hearing over the last few weeks through emails and phone calls, he hoped going forward as the Administration looks at the stormwater fee, we don't lose sight of a referendum question, even though in a sense the 'cat's out of the bag now' with this vote tonight which looks like it might pass. We still should have the opportunity to let the people speak before we waste time on a stormwater fee. Again, he will vote for this, feeling he had to vote his conscience.

Councilor Tobey noted there were five votes for this, feeling it was a shame. One thing that was different between the budget considerations from last year; rate issues from last year to this year. In September, the previous Council in a 6 to 3 vote adopted, with the Administration's assent and the Mayor's signature on it, an ordinance for a stormwater fee to deal with this very issue. That's what different. There are consistencies but also inconsistencies coming forward as he listened to the dialog that evening. He spoke of the Councilors and their stances. They didn't even know what the legal consequences of what they were voting on this evening, handing a blank check to the future. He stated it was an override without the vote of the people. He felt what was ultimately most unfortunate about this vote was they were telling the people in the community, for all who came out all those nights, that their voices will not be heard in that hall; and all those who thought, despite this loophole in the law, that Prop 2-1/2 protected them against real estate tax increases; and that only they on referendum could vote to add to that tax rate – that their voices don't matter either. He felt strongly that it was wrong. He would vote no.

Councilor Mulcahey stated if they were voting for \$1.75 million she'd be for it. For \$34 million, it felt like an override without the people's permission.

After a collaborative effort on the part of the City Council, the following motion was made:

MOTION: On motion by Councilor Theken, seconded by Councilor Whynott, the City Council voted by Roll Call 6 in favor, 3 (Mulcahey, Theken, Tobey) opposed to adopt MGL §59, sec. 21C(n)

authorizing taxes to be assessed in excess of amount otherwise allowed by the Chapter 59, section 21C, solely for payment of all of the existing combined sewer overflow debt service charges, provided however that sewer charges shall be reduced by the amount of any such aggregate additional taxes assessed; such additional taxes assessed shall be on all real property.

Councilor McGeary, under the City Charter, Section 2-11(e) called for a reconsideration of the vote just taken by the City Council on the matter of the adoption of MGL §59, sec. 21C(n), seconded by Councilor Whynott, and by Roll Call vote of the City Council the MOTION FAILED.

Committee Reports:

Ordinances & Administration Meeting: 05/17/10

There were no motions requiring City Council action to be brought forward at the time.

Planning & Development Meeting: 05/19/10

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant permission to National Grid, Malden, MA to construct a line of electric conduits, including the necessary sustaining and protecting fixtures under and across the public way or ways hereinafter named and further given permission to run and maintain underground electric conduits, together with such sustaining and protecting fixtures as it may find necessary for the transmission of electricity. Said underground conduits to be located substantially in accordance with the plan filed herewith, signed and dated by the Planning & Development Committee Chair, marked National Grid, UG-WR#8285513 03/20/10 for the purpose of the installation of approximately 42' of 2-4" concrete encased conduit across East Main Street near Gerring Road in Gloucester, MA with the following conditions:

1. Street paving shall be in accordance with DPW standard as outlined herewith:
 - A) DPW to be notified 72 hours in advance of the proposed work;
 - B) All proposed lines and /or conduits are placed so as to cause minimum conflict with other underground services and mains;
 - C) The excavated trench shall be patched flush with the surrounding asphalt using 2-inches hot mix asphalt binder, and 2-inches hot mix asphalt top, totaling 4-inches;
 - D) Install 2-inch hot mix asphalt top course pavement with emulsion sprayed on prepared surfaces, including all joints.
2. 18-month bond to be purchased for the construction duration.
3. No water shall be pumped from underground structures or conduits onto public streets and ways.

Discussion:

Councilor Ciolino noted there'll be one day of digging and one day of hot topping. The roadway will be open always. P&D is now giving specific instructions in that regard and bonding to enable remediation in the future if necessary.

Councilor Mulcahey noted National Grid has been doing testing and when they open the ground up and find contamination the homeowner has to pay for clean up. Will this be part of it.

Councilor Ciolino stated that was another issue.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to grant permission to National Grid, Malden, MA to construct a line of

electric conduits, including the necessary sustaining and protecting fixtures under and across the public way or ways hereinafter named and further given permission to run and maintain underground electric conduits, together with such sustaining and protecting fixtures as it may find necessary for the transmission of electricity. Said underground conduits to be located substantially in accordance with the plan filed herewith, signed and dated by the Planning & Development Committee Chair, marked National Grid, UG-WR#8285513 03/20/10 for the purpose of the installation of approximately 42' of 2-4" concrete encased conduit across East Main Street near Gerring Road in Gloucester, MA with the following conditions:

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 - D) Install 2-inch hot mix asphalt top course pavement with emulsion sprayed on prepared surfaces, including all joints.**
- 2. 18-month bond to be purchased for the construction duration.**
- 3. No water shall be pumped from underground structures or conduits onto public streets and ways.**

Fiesta 5K Race, June 24, 2010:

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant permission to the Cape Ann YMCA in order to run the St. Peter's Fiesta 5K Road Race on Thursday, June 24, 2010 with the start at 6:00 p.m. to start from 33 Commercial Street in front of the Chamber of Commerce, proceeding onto Rogers Street to Harbor Loop, returning to Rogers Street, turning right onto East Main Street, proceeding to Wall Street, onto the State Fish Pier to the end, back onto Parker Street, to Rogers Street, left onto Harbor loop, returning to Rogers Street and finishing at the corner of Washington and Rogers Streets in front of the main staging area of the St. Peter's Fiesta with the following conditions:

- 1) A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk's office seven (7) business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race;
- 2) A memorandum of understanding (MOU) be on file in the City Clerk's office seven (7) business days prior to the race between the St. Peter's Fiesta Committee and the Cape Ann YMCA permitting North Shore Timing to park their work truck on the grounds of the main staging area of the Fiesta from approximately 5:00 p.m., until approximately 7:30 p.m. Also included will be permission for the YMCA to park a truck on the road at the end of the runner's finish line chute for the duration of the race from approximately 6:00 p.m. until 7:30 p.m.
- 3) All memorandums of approval shall be obtained by the YMCA and delivered to the office of the City Clerk.

Unanimous consent to waive the reading of the conditions.

Discussion:

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted 9 in favor, 0 opposed to grant permission to the Cape Ann YMCA in order to run the St. Peter's Fiesta 5K Road Race on Thursday, June 24, 2010 with the start at 6:00 p.m. to start from 33 Commercial Street in front of the Chamber of Commerce, proceeding onto Rogers Street to Harbor Loop, returning to Rogers Street, turning right onto East Main Street, proceeding to Wall Street, onto the State Fish Pier to the end, back onto Parker Street, to Rogers Street, left onto Harbor loop, returning to Rogers Street and finishing at the corner of Washington and Rogers Streets in front of the main staging area of the St. Peter's Fiesta with the following conditions:

- 1) A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk's office seven (7) business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race;
- 2) A memorandum of understanding (MOU) be on file in the City Clerk's office seven (7) business days prior to the race between the St. Peter's Fiesta Committee and the Cape Ann YMCA permitting North Shore Timing to park their work truck on the grounds of the main staging area of the Fiesta from approximately 5:00 p.m., until approximately 7:30 p.m. Also included will be permission for the YMCA to park a truck on the road at the end of the runner's finish line chute for the duration of the race from approximately 6:00 p.m. until 7:30 p.m.
- 3) All memorandums of approval shall be obtained by the YMCA and delivered to the office of the City Clerk.

“Run the Goose 7K Race, Monday, September 6, 2010:

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant permission to the Cape Ann YMCA in order to run the “Run the Goose” 7K race on September 6, 2010 with the start at 10:30 a.m. to start from Cherry Street at the intersection of Cherry and the entrance to the O'Maley School, turning right onto Gee Avenue, to the end, entering Goose Cove Reservoir, right on Access Road and following that road around the Reservoir, exiting onto Cherry Street with a right into O'Maley School and turning right to finish with the following conditions:

- 1) A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk's office seven (7) business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race;
- 2) A memorandum from the Assistant School Superintendent, Brian Tarr on file with this approval in the City Clerk's office seven (7) business days prior to the race indicating permission for use of school property for the day of the race ;
- 3) Signs indicating “Runners in the Road” shall be placed at key locations along the race course for safety purposes. They are to be posted the morning of September 6, 2010 and removed by 3:00 p.m. the same day.
- 4) All memorandums of approval shall be obtained by the YMCA and delivered to the office of the City Clerk.

Unanimous consent to waive the reading of the conditions.

Discussion:

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 9 in favor, 0 opposed to grant permission to the Cape Ann YMCA in order to run the “Run the Goose” 7K race on September 6, 2010 with the start at 10:30 a.m. to start from Cherry Street at the

intersection of Cherry and the entrance to the O'Maley School, turning right onto Gee Avenue, to the end, entering Goose Cove Reservoir, right on Access Road and following that road around the Reservoir, exiting onto Cherry Street with a right into O'Maley School and turning right to finish with the following conditions:

- 1) A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk's office seven (7) business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race;**
- 2) A memorandum from the Assistant School Superintendent, Brian Tarr on file with this approval in the City Clerk's office seven (7) business days prior to the race indicating permission for use of school property for the day of the race ;**
- 3) Signs indicating "Runners in the Road" shall be placed at key locations along the race course for safety purposes. They are to be posted the morning of September 6, 2010 and removed by 3:00 p.m. the same day.**
- 4) All memorandums of approval shall be obtained by the YMCA and delivered to the office of the City Clerk.**

Around Cape Ann 25K Road Race, Monday, September 6, 2010:

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant permission to the Cape Ann YMCA in order to run the Around Cape Ann 25K Road Race, Monday, September 6, 2010 with the start at 9:00 a.m. to start from the O'Maley School, turning right onto Washington Street, following that street to the Rockport line, with runners returning to Gloucester streets at the Gloucester/Rockport line on Thatcher Road, continuing onto Bass Avenue onto Main Street to Prospect Street, to Maplewood Avenue to the end, left onto Poplar Street, right onto Cherry Street, left into O'Maley School, turning right to finish with the following conditions:

- 1) A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk's office seven (7) business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race;**
- 2) A memorandum from the Assistant School Superintendent, Brian Tarr on file with this approval in the City Clerk's office seven (7) business days prior to the race indicating permission for use of school property for the day of the race ;**
- 3) Signs indicating "Runners in the Road" shall be placed at key locations along the race course for safety purposes. They are to be posted the morning of September 6, 2010 and removed by 3:00 p.m. the same day.**
- 4) All memorandums of approval shall be obtained by the YMCA and delivered to the office of the City Clerk.**

Unanimous consent to waive the reading of the conditions on the motion.

Discussion:

Around Cape Ann 25K Road Race, Monday, September 6, 2010:

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted 9 in favor, 0 opposed to grant permission to the Cape Ann YMCA in order to run the Around Cape Ann 25K Road Race, Monday, September 6, 2010 with the start at 9:00 a.m. to start from the O'Maley School, turning right onto Washington Street, following that street to the Rockport line, with runners returning to Gloucester streets at the Gloucester/Rockport line on Thatcher Road,

continuing onto Bass Avenue onto Main Street to Prospect Street, to Maplewood Avenue to the end, left onto Poplar Street, right onto Cherry Street, left into O'Maley School, turning right to finish with the following conditions:

- 1) A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk's office seven (7) business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race;**
- 2) A memorandum from the Assistant School Superintendent, Brian Tarr on file with this approval in the City Clerk's office seven (7) business days prior to the race indicating permission for use of school property for the day of the race ;**
- 3) Signs indicating "Runners in the Road" shall be placed at key locations along the race course for safety purposes. They are to be posted the morning of September 6, 2010 and removed by 3:00 p.m. the same day.**
- 4) All memorandums of approval shall be obtained by the YMCA and delivered to the office of the City Clerk.**

Budget & Finance Committee: 05/20/10

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to transfer (#10-SA-10) of \$202,820.00 from R/A Sale of Blackburn – OFU – Transfer Out, Unifund Account #294008.10.992.59600.0000.00.000.00.059 to Treasurer/Collector, Debt Service, Principal/Debt, Unifund Account #101000.10.145.59100.0000.00.000.00.059.

Discussion:

Councilor McGeary explained funds are being transferred to pay for the principal and interest on Blackburn land debt. This is a one-time purpose.

MOTION: On motion by Councilor McGeary, seconded by Councilor Theken, the City Council voted by Roll Call 9 in favor, 0 opposed to transfer (#10-SA-10) of \$202,820.00 from R/A Sale of Blackburn – OFU – Transfer Out, Unifund Account #294008.10.992.59600.0000.00.000.00.059 to Treasurer/Collector, Debt Service, Principal/Debt, Unifund Account #101000.10.145.59100.0000.00.000.00.059.

Funds are being transferred to eliminate a deficit in a Capital Project Fund #300071 Beach Rakes deficit (see motion below).

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to transfer (#10-SA-11) of \$51,371.84 from Treasurer/Collector, Debt Service, Principal Debt, Unifund Account number 101000.10.145.59100.0000.00.000.00.059 to General Fund – Transfers to CIP Funds, Unifund Account #101000.10.993.59600.0000.000.00.059.

Discussion:

Councilor McGeary explained that funds are being transferred to eliminate a deficit in a Capital Project Fund #300071 Beach Rakes deficit and was for a one-time purpose.

Mr. Towne stated the money is being used to pay down the debt for Blackburn. This is a quirky thing that has to be done.

Councilor Tobey noted this was not appropriate that it was being used to pay down the debt on something else and breaches the agreement.

Councilor Ciolino stated that this has always been revenue coming into the City which was coming to an end. This is a past practice. This is not a new item for this year.

Councilor Theken asked why beach rakes aren't being paid for by beach parking.

Mr. Towne stated it comes from the General Fund. All beach revenue goes to the General Fund. It's a continuing effort to clean up deficits that exist.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by Roll Call 8 in favor, 1 (Tobey) opposed to transfer (#10-SA-11) of \$51,371.84 from Treasurer/Collector, Debt Service, Principal Debt, Unifund Account number 101000.10.145.59100.0000.00.000.00.059 to General Fund – Transfers to CIP Funds, Unifund Account #101000.10.993.59600.0000.000.00.059.

Unanimous consent to extend the meeting by a half hour.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to transfer (#10-SBT-32) of \$151,450.54 from Unifund Account #101000.10.145.59100.0000.00.000.00.059 to Unifund Account #101000.10.423.52970.0000.00.000.00.052.

Discussion:

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted 8 in favor, 1 (Tobey) opposed to recommend to the City Council to transfer (#10-SBT-32) of \$151,450.54 from Unifund Account #101000.10.145.59100.0000.00.000.00.059 to Unifund Account #101000.10.423.52970.0000.00.000.00.052.

MOTION: On motion by Councilor Whynott, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the acceptance of a \$9,000.00 grant from Health Resources in Action for the purpose of proper storage and disposal of prescription drugs for the City of Gloucester.

Discussion:

Councilor McGeary noted this was a very effective model program. There was no match.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council by Roll Call voted 9 in favor, 0 opposed to acceptance of a \$9,000.00 grant from Health Resources in Action for the purpose of proper storage and disposal of prescription drugs for the City of Gloucester.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the acceptance of the amendment for the MassCALL Grant on Substance Abuse Prevention to add an additional \$20,000.00, bringing the total grant to \$120,000.00.

Discussion:

Councilor McGeary explained this will allow EMS responders update information in real time on overdoses. There was no match.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by Roll Call 9 in favor, 0 opposed to accept the amendment of the MassCALL Grant on Substance Abuse Prevention to add an additional \$20,000.00, bringing the total grant to \$120,000.00.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the acceptance of \$6,000.00 from the Massachusetts Office of Public Safety and Security for implementation of the "Click It or Ticket" grant program.

Discussion:

Councilor McGeary noted this allows the dedication of an officer six times to go out and enforce seat belt laws. There was an in-kind match. There was no discussion on quotas. It had to be mixed with some other violation.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the City Council voted by Roll call 9 in favor, 0 opposed to accept \$6,000.00 from the Massachusetts Office of Public Safety and Security for implementation of the "Click It or Ticket" grant program.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the acceptance of the FY11 Community Preservation Act funds budget as submitted.

Discussion:

MOTION: On motion by Councilor McGeary, seconded by Councilor Theken, the City Council voted 9 in favor, 0 opposed to the accept the FY11 Community Preservation Act funds budget as submitted.

Councilor's Requests Other Than to the Mayor: None.

It was moved, seconded, and voted UNANIMOUSLY to adjourn the meeting at 11:13 p.m.

Respectfully submitted,

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

And

**Anne Marchand
Substitute Recorder**