

GLOUCESTER CITY COUNCIL MEETING

Tuesday, July 20, 2010

7:00 p.m.

Kyrouz Auditorium – City Hall

Council Meeting 2010-17

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

**Absent:** Councilor Tobey

**Also Present:** Linda T. Lowe; Kenny Costa; Attorney Robert Coakley; Anne Ziergiebel; Robert Ryan; John McNiff, Jr.; Donald Swimm; Suzanne Egan; Anthony and Faye Passanisi

**The meeting was called to order at 7:03 p.m.**

**Flag Salute and Moment of Silence**

**Oral Communications: None.**

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

**Confirmation of Appointments:**

MOTION: On motion by Councilor Verga, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Henry McCarl to the Planning Board, TTE 02/14/2015.

**Discussion:**

**Councilor Theken** stated that the O&A Committee has an open discussion regarding each candidate for reappointment and appointment. Mr. McCarl received very good reviews from the community and noted comments of how well he handles himself on the Planning Board and highly recommended his reappointment giving her thanks for his continuing commitment to the community.

**Councilor McGeary** noted Mr. McCarl is one of his constituents and was a thoughtful and intelligent gentleman who has the best interests of the City at heart and wholeheartedly endorsed his reappointment.

**MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to reappoint Henry McCarl to the Planning Board, TTE 02/14/2015.**

**Consent Agenda:**

• **MAYOR'S REPORT**

1. Report and recommendation from the Gloucester Poet Laureate Selection Panel re: appointment of Ruthanne (Rufus) Collinson as the next Gloucester Poet Laureate pursuant to Sec. 2-514 of the GCO (Refer O&A)
2. Memo and Grant Application/Checklist from Police Chief re: "Secure Our Schools" Grant (Refer B&F)
3. Memorandum from Harbormaster re: \$9,500 grant from Clean Vessel Act Pumpout Act Program (Refer B&F)
4. Memorandum from Fire Chief re: permission to pay invoice from FY2010 with FY2011 funds (Refer B&F)
5. Special Budgetary TRANSFER Request (#1-11) from Department of Public Works (Refer B&F)
6. Update from Community Development Director (Info Only)
7. Memorandum regarding Get Fit Gloucester 1<sup>st</sup> Year Report and Proposed Community Action Plan (Info Only)

• **APPROVAL OF MINUTES**

1. City Council Meeting 06/30/2010 (Approve/File)

2. Special City Council Meeting 06/30/2010 (Approve/File)
3. Standing Committee Meetings: O&A 07/12/2010, Special P&D and Planning Board 07/15/2010 (under separate cover), B&F (under separate cover) (Approve/File)
  - **COMMUNICATIONS**
1. COM2010-035: Request from Magnolia Road Race Committee re: September 2, 2010 Magnolia Road Race (Refer P&D)
  - **ORDERS**
  - 1. CC2010-049(Verga)Amend GCO Sec. 22-287 "Disabled veteran, handicapped parking re: Lexington Ave.(Refer O&A & TC)
  - 2. CC2010-050(Hardy/Tobey) Status Report from Capital Improvement Advisory Board pursuant to Sec. 5-1(d) of City Charter (FCV 08/03/10)
  - 3. CC2010-051 (Verga/Tobey/Hardy) re: Public hearing on location of City campus (FCV 08/03/10)
  - 4. CC2010-052 (Mulcahey) Amend GZO Sec. 22-284 "Service or Loading Zones" re: 6 Elm Street (Refer O&A & TC)

**ITEMS TO BE ADDED/REMOVED FROM CONSENT AGENDA:**

**Councilor Hardy** asked that Councilor Whynott's name be recorded in the June 30, 2010 meeting of the City Council showing him as present or absent. She asked that his name be recorded appropriately. She further noted City Clerk, Linda Lowe had received a communication from the Harbormaster that Item #3 of the Mayor's Report showing a grant amount of \$9,000.00 as incorrect. The correct grant total was \$9,500.00 and asked that the Agenda be amended to reflect that fact.

**By unanimous consent, the City Council accepted the consent agenda as amended.**

**FOR COUNCIL VOTE:**

**1. Amend June 15, 2010 Special City Council Minutes**

**Councilor Curcuru** stated the Assistant Auditor noted some typographical errors of the June 15, 2010 Special City Council Budget Adoption minutes discovered during data input of the FY11 budget. They checked the documents that were actually voted and found the amounts were voted upon properly; but there were typographical errors made during the transcription of the minutes. Therefore, the following motions are housecleaning measures to correct the errors made during transcription.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Whynott, the City Council voted 8 in favor, 0 opposed to amend page 2 of the minutes of the Special City Council Meeting of June 15, 2010 by deleting \$84,057,510.00 and inserting \$85,057,510.00.**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Theken, the City Council voted 8 in favor, 0 opposed to amend page 3 of the minutes of the of the Special City Council Meeting of June 15, 2010 by deleting \$84,457,510.00 and inserting in the emboldened motion and as listed "General Fund Revenue" by inserting \$85,457,510.00.**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted 8 in favor, 0 opposed to amend page 18 of the minutes of the of the Special City Council Meeting of June 15, 2010 by deleting \$6,204,022.00 in the emboldened motion by inserting \$6,204,922.00.**

**Councilor Theken** noted for the record that she was absent from the July 6, 2010 City Council meeting when the Council held the three public hearings (see below) for the Special Council Permit Decisions on tonight's agenda, so she would vote present on each of the three decisions.

**2. Vote to Adopt Decision: SCP2010-004 re: Cape Ann Brewing Company, 9-11 Rogers Street**

**MOTION: On motion by Councilor Theken, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 1 (Theken) present, to adopt SCP2010-004 decision for the Cape Ann Brewing Company, 9-11 Rogers Street, pursuant to Section 2.3.4(8) and (9) for restaurant, Section 1.8.3 and Section 5.18 of the Gloucester Zoning Ordinance.**

**3. Vote to Adopt Decision: SCP2010-005 re: Gloucester Marine Terminal, LLC (a/k/a Cruiseport), 6 Rowe Square**

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 1 (present) Theken, to adopt SCP2010-005 decision to amend the existing Special Council Permit for Gloucester Marine Terminal, LLC 6 Rowe Square (a/k/a Cruiseport), pursuant to Section 2.3.4(8) and (9) for restaurant, Section 1.8.3 of the Gloucester Zoning Ordinance.**

**4. Vote to Adopt Decision: SCP2010-006 re: Faye Passanisi/Anthony Passanisi, 5-7 Bass Avenue, Section 2.3.1(7) to allow Petitioner to maintain continued use of existing 6-unit multi-family dwelling structure**

**MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the City Council voted BY ROLL CALL 7 in favor, 0 opposed, 1 (Theken) present, to adopt SCP2010-006 decision for 5-7 Bass Avenue, pursuant to Section 2.3.1(7) of the Gloucester Zoning Ordinance.**

**Scheduled Public Hearings:**

Councilor McGeary suggested that the Public Hearing #1 should be opened and closed; and he will have to refile for the St. Anthony's Lane resurfacing and paving petition, as there was a preparation a step on his part in preparing the package for Council. The missed step was to have a public meeting of abutters with notice to all abutters on the matter prior to coming to the Council for a public hearing. The abutters are in favor of this, and that they will proceed with deliberate speed to correct the matter in order to bring it back to the Council pending a future application.

**1. PH2010-064: Petition for Road Repairs, St. Anthony's Lane**

**This public hearing is open.**

Councilor Hardy stated based on the information presented by Councilor McGeary on the matter of the Petition for Road Repairs, St. Anthony's Lane; she therefore would close the public hearing.

**This public hearing is closed.**

**2. PH2010-054: Amend GCO Sec. 22-269 entitled "Stop Intersections" by adding Leonard Street from its intersection with Rogers Lane**

**This public hearing is now open.**

**Those speaking in favor:**

**Robert Ryan, Traffic Commission Chairman**, 3 Blake Court stated at the Traffic Committee meeting of June 10, 2010 approved this order and highly recommended a stop sign being placed at the intersection of Rogers Lane and Leonard Street and also Bridgewater Street. Citing a letter from the president of the Annisquam Village Hall Association, Patsy Whitlock, he read, "This is a four way intersection where Leonard Street comes together with Rogers Lane and Bridgewater Street. It is up on a crest where a house obstructs the vision of anyone coming out of Rogers Lane; so this will not only stop the traffic on

Leonard Street but it will enhance the visibility and make it a much safer intersection.” He reiterated the Commission’s support of this order [Documentation read into the minutes on file.].

**Those speaking in opposition: None.**

**Communications: None submitted.**

**Questions: None.**

**This public hearing is closed.**

**MOTION:** On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend GCO Sec. 22-269 “Stop Intersections” by ADDING Leonard Street from its intersection with Rogers Lane.

**Discussion:**

**Councilor Hardy** spoke in support of the matter which came before her six to eight months prior, noting the dangerous intersection. Line of sight is interrupted by a home that sits right on the corner on Leonard; and you look directly across the way where the road naturally continues and don’t realize that another car could be coming down because it isn’t visible. She thanked the Traffic Commission for doing all the work for this order. There will also be a request to paint a wide white stop line to be painted on the roadway at this intersection to the DPW.

**MOTION:** On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to amend GCO Sec. 22-269 “Stop Intersections” by ADDING Leonard Street from its intersection with Rogers Lane.

3. **PH2010-055: Amend GCO Sec. 22-270 entitled “No Parking at All Times” by adding Dennison Street on the southerly (water) side for a distance of 200 feet in an easterly direction from its intersection with Washington Street (to pole #1412)**
4. **PH2010-056: Amend GCO 22-291 entitled “Tow Away Zone” by adding Dennison Street on the southerly (water) side for a distance of 200 feet in an easterly direction from its intersection with Washington Street (to pole #1412)**

**Councilor Hardy opened PH2010-055 and PH2010-056 simultaneously.**

**Those speaking to the matter:**

**Mr. Ryan, Traffic Commission**, stated this came to the Traffic Commission’s attention that there was a great deal of congestion at Dennison and Washington Street; pick up and drop off for school; people launching kayaks, boats. This is the southerly (water side) of Goose Cove. There is a great deal of traffic including people coming down the back side of Holly Street; residents of Dennison Street can’t make the turn onto Dennison off of Washington Street. At their meeting of June 10<sup>th</sup>, the Traffic Commission unanimously supported this order. He had met with the neighbors, noting several were present. The Commission felt prohibiting parking on one side of Dennison Street will help to solve the problem there. It will accommodate the residents who live on the northerly side of Dennison. When they have guests, people will be able to park on Dennison Street; but that it prohibits any parking on Dennison right up to pole #1412 which is a few hundred feet (from the intersection) which they believed to be adequate.

**Merrill Savage**, 5 Young’s Road spoke in favor of the matter. She has seen a tremendous increase in traffic at the intersection where Dennison Street meets Washington Street. It has become increasingly tight given that there are more houses, more people at the bus stops, and seasonal water activities. She felt this was very dangerous and that an emergency vehicle could be hard pressed to get through. She expressed

surprise that there hadn't already been a major incident there; thanking Councilor Hardy for her assistance. She encouraged passage of the orders to avoid problems in the future.

**Allen Young**, 62 Bennett Street spoke regarding parking on Dennison Street and found the biggest problems to be when school was in session citing the potential for collision during drop off and pick up. He noted haphazard parking habits and leaving car doors open with frequent parking in the crosswalk. He asked Mr. Ryan how far down Dennison Street the stop sign would be placed; would it be on the crest just after coming out of Young's Road.

**Mr. Ryan** responded he wasn't sure of the name of the resident, but that there was a garage there; and it would be right across from the garage there, the pole.

**Mr. Young** noted that would be the residence of Chris Young; about a couple hundred feet from the intersection. It was "OK" with him.

**Jeffrey Pope**, 2 Dennison Street spoke in favor of the proposal as written. He would be against stopping any parking on the north side of the street, however.

**Communications:**

**Questions:**

**Councilor Hardy** stated during the Traffic Commission meeting and site visit there was a discussion about the possibility of erecting another sign that isn't required by ordinance but would be a great help to people trying to get around the corner, which would be a "No Parking Here to the Corner" sign 20' from the intersection" on the northerly side.

**Mr. Ryan** stated the Traffic Commission highly recommended a sign be placed 20 feet from the intersection on the northerly side which was in their minutes of their June 10, 2010 meeting.

**Councilor Hardy** asked that a request be made to the DPW for the sign.

**These public hearings are closed.**

**MOTION:** On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend GCO Sec. 22-270 "Parking Prohibited at all Times" by adding Dennison Street on the southerly (water) side for a distance of 200 feet in an easterly direction from its intersection with Washington Street (to pole #1412).

**MOTION:** On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to amend GCO Sec. 22-270 "Parking Prohibited at all Times" by adding Dennison Street on the southerly (water) side for a distance of 200 feet in an easterly direction from its intersection with Washington Street (to pole #1412).

**MOTION:** On motion by Councilor Mulcahey, seconded by Councilor Curcuru, 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 ADDING Dennison Street on the southerly (water) side of for a distance of 200 feet in an easterly direction from its intersection with Washington Street (to pole #1412).

**Discussion:**

**Councilor Theken** stated there were many in attendance at the O&A meeting when the matter was taken up with neighbors from the area giving their input; with a review of the Traffic Commission minutes; and there was a thorough discussion on the matter by the Committee.

**MOTION:** On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to recommend to the City Council to amend GCO Sec. 22-291 "Tow

**Away Zone” by ADDING Dennison Street on the southerly (water) side of for a distance of 200 feet in an easterly direction from its intersection with Washington Street (to pole #1412).**

- 5. PH2010-057: Amend GCO Sec. 22-270 entitled “No Parking at All Times” by adding Leverett Street easterly side for its entire length**

**This public hearing is now open.**

**Those speaking in favor:**

**Mr. Ryan, Traffic Commission** stated at the June 10, 2010 meeting of the Commission unanimously supported the Council Order 2010-035 prohibiting parking at all times on Leverett Street on its easterly side from its intersection with Washington Street in a southerly direction, its entire length. Again, this was an offshoot of the last couple of meetings to clean up some of the safety features in that area, with respect to people going to the quarries and the narrow road having cars parked on both sides. Mr. Mike O’Dea was at that meeting, a homeowner on the westerly side of the road, noting the City encroaches a little bit onto his property. The Commission only went with prohibited parking on one side, the easterly side its entire length to keep it open enough for emergency vehicles. That was supported by the neighbors on Leverett Street. They also recommended that a sign be put on the westerly side within 20’ from the intersection stating “No Parking Here to the Corner.”

**Those speaking in opposition: None.**

**Communications: None.**

**Questions: None.**

**This public hearing is closed.**

**MOTION:** On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend GCO Sec. 22-270 “Parking Prohibited at all times” by ADDING Leverett Street easterly side for its entire length.

**Discussion:**

**Councilor Theken** stated this matter was taken up at O&A and that the Committee and the neighbors had an opportunity to provide their input.

**Councilor Hardy** asked that a request be made to the DPW for the “No Parking Here to Corner” to be erected on the westerly side of the street 20’ from the intersection of Washington and Leverett Street. She noted that some residents of the neighborhood recalled a sign having once been there like this but during the North Gloucester project, some signs were not put back up.

**MOTION:** On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to amend GCO Sec. 22-270 “Parking Prohibited at all times” by ADDING Leverett Street easterly side for its entire length.

- 6. PH2010-058: SCP2010-006 re: 474 Washington Street, GZO Sec. 5.5.4 Lowlands**

**This public hearing is now open.**

**Councilor Hardy** reiterated that with the new Open Meeting Law, that anyone making an oral presentation that has documentation at a meeting, that documentation must be submitted to become part of the record of the meeting. They will be asking all speakers with documentation to submit that documentation to the Clerk of Committees, Dana Jorgenson after their completed statement.

**Those speaking in favor:**

**Anne Ziergiebel**, 474 Washington Street spoke of the project “Ziergiebel Family Pier Project”, a pier with a seasonal ramp and float extending into the Mill River. The float will not constrict the river at mean low water. The float will remain 30 ft. from the “thread” of the Mill River. On June 8<sup>th</sup> the Conservation Commission approved their plan. The Order of Conditions has been filed with the Registry of Deeds. On June 16th, the P&D Committee approved the Lowlands Permit, Sec. 5.5.4; and July 20th, the Army Corps of Engineers, New England Division, sent their approval which she read into the record highlights of that letter as follows: “...based on the information you have provided, we have determined the that the proposed activity will have only minimal individual or cumulative environmental impacts on waters of the United States, including wetlands. Therefore, this work is authorized as a Category 1 activity under the attached Federal permit known as the Massachusetts General Permit (GP)...The Corps of Engineers has consulted with the National Marine Fisheries Service (NMFS) regarding the effects of your project on Essential Fish Habitat (EFH) as designated under the Magnuson-Stevens Fishery Conservation and Management Act. The NMFS has not provided EFH conservation recommendations...Your project is located within, or may affect resources within the coastal zone. The Massachusetts Office of Coastal Zone Management (CZM) has already determined that no further Federal Consistency Review is required.” She asked for Council approval of the project [Documentation read into the minutes on file.].

**Those speaking in opposition: None.**

**Communications: None.**

**Questions: None.**

**This public hearing is closed.**

**MOTION:** On motion by Councilor Verga, seconded by Councilor Whynott, the Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant the application of Ann M. Ziergiebel for a Special Council Permit 2010-006, Lowlands Permit under Gloucester Zoning Ordinance Sec. 5.5.4, at 474 Washington Street, Assessors Map 110, Lot 16, zoning district R-10, for a pier, ramp, and float on Mill River. The application meets the six (6) factors of Sec. 1.8.3(e) of the zoning ordinance especially as regards to the natural environment since Conservation Commission approval (05/19/2010) has been obtained, and meets neighborhood character as other nearby Mill River properties have similar structures; further the requirements of Sec. 5.5.4 are met as the requirements of M.G.L. Chapter 131, Sec. 40 are satisfied; and the project will not pose a hazard to health or safety and will be executed so as to conserve the shellfish and other wildlife resources of the City. Approval is based on the plans submitted to the Conservation Commission, included in this application, dated 04/21/2010.

**Discussion:**

**Councilor Ciolino** stated the Planning and Development Committee found that in accordance with Gloucester Zoning Ordinances, section 5.5.4 for lowlands special permit are met; the project has been designed to satisfy the requirements of the Hatch Act as there are no hazards to health and safety, and the project will be executed as to conserve shellfish and other wildlife resources of the City. In addition, the application met the six factors of Sec. 1.8.3(e) of the zoning ordinance especially in regard to the natural environment as the Conservation Commission had given its previous approval. For those reasons, the Planning & Development Committee endorses this Special Council Permit.

**MOTION:** On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted by **ROLL CALL 8 in favor, 0 opposed, 1 (Tobey) absent, to grant the application of Ann M. Ziergiebel for a Special Council Permit 2010-006, Lowlands Permit under Gloucester Zoning Ordinance Sec. 5.5.4, at 474 Washington Street, Assessors Map 110, Lot 16, zoning district R-10,**

**for a pier, ramp, and float on Mill River. The application meets the six (6) factors of Sec. 1.8.3(e) of the zoning ordinance especially as regards to the natural environment since Conservation Commission approval (05/19/2010) has been obtained, and meets neighborhood character as other nearby Mill River properties have similar structures; further the requirements of Sec. 5.5.4 are met as the requirements of M.G.L. Chapter 131, Sec. 40 are satisfied; and the project will not pose a hazard to health or safety and will be executed so as to conserve the shellfish and other wildlife resources of the City. Approval is based on the plans submitted to the Conservation Commission, included in this application, dated 04/21/2010.**

**7. PH2010-059: SCP2010-007 re: 168 Eastern Avenue, GZO Sec. 2.2 and Sec. 5.19**

**This public hearing is now open.**

**Councilor Curcuru** recused himself from the matter in front of the Council declaring a conflict of interest and left the dais at 7:44 p.m.

**Those speaking in favor:**

**Attorney Robert Coakley**, 64 Middle Street, spoke on behalf of the applicant, Abbie Morgan, LLC, with John McNiff, one of the managers of the LLC; and Donald Swimm, owner and operator of Meineke Muffler who has the property under agreement for purchase to relocate his business from Bass Avenue to that location from his client, are also present. [Documentation presented at meeting on file.] He oriented the Council to the site by describing an enlarged aerial photograph, stating the property used to house the CATA bus barn. His clients purchased the property immediately after CATA vacated the property. The property is located in the EB district, described as one of the most generous districts in the City. However, vehicle services are not allowed in any district in the City without a Special Council Permit. He noted the surrounding businesses such as a monument manufacturing facility; an auto body shop; Gloucester Dispatch, a Montagnino property; Speedway Welding; storage, tow and hold facility for Tally's; a Sprint Communications retail facility; and they do about one apartment building consisting of two apartments. They have been in discussions with both of those owners. Across the street from the property is the Calvary Cemetery. Enhancing this location, the property is bounded by two public ways. The other abutting businesses do not have access out onto Old County Road due to topography, where the grading is different behind their properties. He then presented a site map to the Council stating they went before Planning & Development in June and two days later to the Planning Board and submitted the same plan to both. P&D made some constructive suggestions as did the Planning Board. They took those suggestions and incorporated them into their plan which they filed July 16th with the City Council to show how the plan improved. That plan was dated 7/8/10. They then filed color copies to go in the Council packets for this meeting. When they got the color copies from their engineer, it had a date on the color copy of 7/10/10, but it was the same plan. 7/8/10 and 7/10/10 are the same plan except for the large sized copies which have color locus. The most significant change from the June plan was from a suggestion from Councilor Ciolino, that if you are coming from Pond Road, the right turn was too dramatic; and to make it a rolling turn for a smoother right hand turn for entry to the property and for traffic flow. That same radius was incorporated into the affirmative endorsement they received from the Planning Board. They also suggested that the loading dock be relocated away from the overhead doors. Proper signage/stop signs and a "No Turn" were discussed. While they can access Old County Road from Eastern Avenue, to go further down Old County Road, which on paper cuts through just before Pond Road, back out onto Eastern Avenue even though it is physically blocked; they (P&D) proposed a "No Right Turn". They didn't want to direct any cars that may exit onto Old County Road as opposed to Eastern Avenue, keeping drivers away from the residential area. This included a stop sign and stop bar at Eastern Avenue. When they were at the Planning Board, the Board spoke of a line of sight issue. The Board thought the line of sight should be improved on the applicant's property and beyond. But the



applicant can only control and improve the line of sight (re: vegetation) up to the property line. They have an agreement with the abutters that they can trim back vegetation to improve the line of sight. They are connecting, as required because you can't allow rain run off to spill onto a public road, a collection basin which he pointed to on the July 10 plan noting they are still working on the mechanics with the City's Engineering Department. The Planning Board recognized that fact and said that as long as those details are worked out prior to the issuance of a building permit they "were fine". The July 10 plan shows a catch basin going into the drain line. The Planning Board endorsed that as well. They're reopening a local curb cut on Eastern Avenue that was in existence when CATA occupied the property although CATA chose not to use it. They have an approved curb cut from the Engineering Department. Eastern Avenue changed from local control to State control. They are abandoning the curb cut that doesn't have a good line of site. The only change from the June plan that P&D and the Planning Board saw, was that it showed five display places for automobiles sales in the front. For the new automobile service to go in, the old drainage system will be replaced with a new one to trap any potential oil or gasoline spills. It will go out through a series of sand trap filters, filtered properly and monitored closely with access to clean the system, all approved by the Plumbing Inspector. The only place to locate that sand trap filtering system, due to ledge, was noted to the Council on the site plan, where there had been a tree, and showed the area where Mr. Swimm wanted spaces on the property for automotive sales. He felt that coming over to the commercial area, there are less display spaces shown than Mr. Swimm is currently using at the Bass Avenue location. Automobile sales are an allowed use in this district. The additional permitting process would be to apply for an independent permit from the City Clerk's office to allow the sale of vehicles on the property, subject to the Building Inspector's approval and a couple of other criteria being met. He noted the six special permit criteria under Zoning Ordinance, Sec. 1.8.3. Motor vehicle services have their own section in the zoning ordinances; Sec. 5.19; with four specific usage criteria for motor vehicle services. They meet all of those criteria and do not impact them; the generic categories for the special permit under the use category, motor vehicle service, fueling, and repair. They are not proposing fueling. Some of the tanks that were there from CATA's and Verizon's usage are being taken out by his client overseen by their LSP (licensed site professional), and double checked by Mr. Swimm's LSP to make sure they're code compliant. They are not going to put them back in. That aspect which was a condition, they agreed to with P&D. They are not going to have fuel tanks on site.

**Councilor Hardy** asked Attorney Coakley to address the six criteria specifically under Sec. 1.8.3. **Attorney Coakley** stated with regards to the social and economic aspect, this would provide a convenient opportunity for this type of business being designed to be on a major thoroughfare. The business provides employment, and the facility is expanding to better serve his customers. The business is relocating in a generally commercial area which was seen as a benefit. The traffic flow and safety has been addressed with Planning & Development; and in the site plan review process with the Planning Board, traffic flow being one of their primary mandates. This was why they have the lining, striping, directional arrows, and stop signs. They have two means of access; Old County Road and Eastern Avenue. The property has existing sewer and water available. They are taking some of the rainfall drainage and incorporating that in the City storm sewer. They're in a mixed use area; there is a residential component between their property and going down towards Pond Road. One of the criteria under Section 5.19 is that it is not located too close to residential district and is a lineal distance set forth with which they comply. The use of this area is light industry, transportation services and the like. They propose to "flip" the vegetation because they're putting in the automotive display area as well as well as their sand trap filtering system out of the front. As a buffer zone between the sidewalk and the car sales location; they are proposing low vegetation be placed so as not to interfere with any line of site. There is additional vegetation where the old state curb is because they are taking out pavement and replacing it likewise with loam and seed and low cutting. The potential fiscal impact is that this building will no longer be vacant. This is a good use; a double benefit for the East Gloucester community – they're relocating something from a residential neighborhood into a business district. The expansion of one, perhaps two lifts will create more employment opportunities.

**Faye Passanisi**, Old County Road stated she was unaware of this project and is not opposed to it but had concerns. She goes by this area and expressed concern on safety issues. She asked if they are going to be using Old County Road to enter or exit the property and wanted to be sure proper screening of the property would be in place.

**Anthony Passanisi**, Old County Road stated his concern regarding exiting onto Old County Road noting the poor shape of the roadway which raised his concern with more traffic. He personally fills the potholes with gravel and has asked the City for help in this.

**Marcy Pregent**, 8 Macomber Road, Property Manager and representative of the Montagnino property at 146 and 148 Eastern Avenue (JaJo Realty, P.O. Box 206, Gloucester) spoke in favor stating this was [commercially] zoned properly; and the more people expanding businesses, the better.

**Robert Ryan**, 3 Blake Court, speaking in his capacity as President and General Manager of Cape Ann Transportation Operating Company (CATOC), wanted to see the property developed which is in disrepair at present. It would create jobs; increase the tax base, all pluses for the City. He vouched for the sewer system as CATA put it in ten years prior. He supported the application for the Special Permit.

**Those speaking in opposition: None.**

**Councilor Hardy** called for rebuttal, asking that the applicant address the questions raised by the neighbors of the property, and asked if Old County Road was a public or private way.

**John McNiff, Jr.**, a manager of Abbie Morgan, LLC (owner of the property and building) stated as far as they knew Old County Road was a public way. One of the representations they made in front of the Planning Board and P&D was an especially bad spot where Tally's Service Station stores towed vehicles on top of a hill. It is very badly potholed, which naturally gets worse in winter. They will take that out and replace it with new paving. This spring the City cleaned out the catch basins on many properties and the drainage has been much better. Prior to that there was a lot of sheet drainage by-passing the catch basins. That was causing ice issues all the way out to Eastern Avenue. It was now better. In addressing the neighbor's concern, they will repave the worst part of Old County Road and will do additional paving on the property to install the curb cut.

**Faye Passanisi** asked about the screening.

**Mr. McNiff** was not aware of any screenings per se stating he was willing to address the neighbors concerns. There is significant green screening along Old County Road in the warm months and was willing to listen to suggestions.

**Attorney Coakley** stated currently on their northerly boundary line that there are substantial evergreen trees that almost totally separate the full length of the common boundary of the residential boundary to the north. All that vegetation is being maintained. They are putting in low vegetation on Eastern Avenue so that line of sight is maintained for people entering and exiting on Eastern Avenue. They can't screen the facility because of the line of sight on both points of access. They will be maintaining the vegetation as it exists now; some of it being tall and mature, 12-16 feet or taller on the northerly side.

**Communications: None.**

**Questions:**

**Councilor Ciolino** noted where the Meineke business is now located (Bass Avenue), the dumpsters are hidden in the back and there is also a back alley there. The current Meineke property is a clean property. But he saw nothing in the plans to screen off the old mufflers and tailpipes, and other debris and the dumpster; and asked what their plan was.

**Attorney Coakley** responded after conferring with Mr. Swimm that the best way to screen the dumpster would be to put a fence around it feeling it was a good suggestion.

**Councilor Ciolino** stated that the dumpster will be the biggest eyesore and that it would be best to screen it off and suggested it should be put in the conditions of the Special Council Permit.

**Councilor Mulcahey** asked what hours the facility will be in operation.

**Attorney Coakley** responded that the current business hours are 7:30 a.m. to 6:00 p.m. six days a week which allows people to drop off and to pick up their vehicles after servicing.

**Councilor Whynott** stated that one of the concerns he had in P&D was when you come down Old County Road going onto Eastern Avenue he felt it was an unsafe intersection, and wanted to see a "No

Left Turn” sign erected by the applicant there, noting he didn’t have a problem with the entrance and exit on the Eastern Avenue side; but there was no way to put one in because it is City owned land. He asked if the City erected a “No Left Turn” sign in that location would it be a “deal breaker”.

**Attorney Coakley** stated no; they still have their access out there. Since both roads are public, that matter would have to go to the Traffic Commission to have a report on it.

**Councilor Hardy** asked Councilor Whynott if it would necessitate a public hearing in and of itself since it was a public road.

**Councilor Whynott** stated yes; and it probably was separate from this; but wanted to know if they had a big problem with that in case the City wanted to do that in the future. He would wait to see if this intersection became a problem before initiating any action.

**Councilor Hardy** reiterated what Councilor Ciolino said about the dumpster and screening stating she was a great advocate of screening dumpsters with vegetation or with fences. She would be offering that as a condition.

**Attorney Coakley** also reiterated that was an acceptable condition.

**Councilor Hardy** expressed her concern regarding the multiple of sets of plans; who reviewed what and approved what pointing out she had in front of her two plans, one dated July 8<sup>th</sup>, the other July 10<sup>th</sup>. She believed the plans dated July 8<sup>th</sup> were the ones reviewed by Planning & Development in June. She asked if that was correct.

**Attorney Coakley** responded no it was not. The plan originally filed had a June date. The plan that P&D looked at had a June date on it as did the Planning Board. The two bodies already voted a June plan with the understanding that changes would be made.

**Councilor Hardy** stated she was looking at a plan that had Bob Griffin’s (Engineer) signature on it dated July 8<sup>th</sup>. **Attorney Coakley** reiterated all of what he went over with the Council was based on the July 8 and July 10 plans of which there was no perceptible difference except that the July 10<sup>th</sup> plan had a locus in color; July 8<sup>th</sup>’s was in black and white. That was the only distinction or material difference.

**Councilor Hardy** stated there was a material difference that he introduced as he was explaining it to the Council.

**Attorney Coakley** stated all the material differences he went over by narrative that evening were on the July 8<sup>th</sup> and July 10<sup>th</sup> plan.

**Councilor Hardy** asked how that could be a material difference if it’s already on the plan.

**Attorney Coakley** noted they went to P&D on the 16<sup>th</sup> of June and Planning Board on the 18<sup>th</sup> of June. Suggestions made at those two bodies were subsequently incorporated in an updated plan filed in the City Clerk’s office, and July 8 and 10, one black and white, and one color.

**Councilor Hardy** asked what was used at the site review meeting.

**Attorney Coakley** stated the July Plan was brought to Greg Cademartori to show him what was incorporated; and Mr. McNiff described the differences to that plan to be worked out prior to construction; the vegetation issue they had; and the softening of the radius going into the property, so that everything they wanted done has been done. Mr. Cademartori approved them.

It was at this juncture, noting the confusion over dates and which map represented the true site plan with the correct date, there was a discussion between the Attorney Coakley, Mr. McNiff, the Council, and City Clerk, Linda Lowe regarding the plans and which version was to be signed and incorporated into the record should the Council agree to grant the Special Council Permit.

**Councilor Hardy** stated she was comfortable with the map/plan now in front of them (dated July 10<sup>th</sup>).

**Councilor McGeary** stated that Old County Road was a public way.

**Councilor Hardy declared this public hearing is closed.**

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 Special

Council Permit 2010-007 for 168 Eastern Avenue, Assessors Map 160, Lot 6, zoning classification EB District, applicant/owner Abbie Morgan, LLC, under Gloucester Zoning Ordinance Sec. 1.5.3(b) and Sec. 1.8.3, Sec. 1.8.4(a), Sec. 2.2 and Sec. 5.19 to use the property for motor vehicle service, storage or repair. The application demonstrates the applicant meets the six factors of Sec. 1.8.3 as noted in the application and the four conditions of Sec. 5.19 and Sec. 1.8.4(a) for the location of motor vehicle service, storage or repair. Approval of this Special Council Permit shall be based on the Site Development Study of 168 Eastern Avenue signed by the Planning & Development Committee *with the following conditions*:

1. There will be no filling station on the property;
2. That a stop sign be at the exit on Old County Road and Eastern Avenue.

[NOTE: During the reading of the motion from Planning & Development, Councilor Ciolino noted a typographical error, with the word “fueling” being inserted between motor vehicle service and the word storage, which he asked be removed to reflect the motion accurately reflected here in these minutes above.]

#### **Discussion:**

**Councilor Ciolino** stated Mr. Swimm does a good job on his current property. The applicant addressed the concerns on the traffic on Old County Road. He didn't believe that there would be a high traffic count. This was another piece of property that is not earning tax dollars and needed help. It would be the best use for that property and recommended that his fellow Councilors vote in favor of special council permit.

**Councilor Hardy** asked by friendly amendment that there be a third condition added to read: Dumpsters be screened from view by fencing and that the fourth condition read: That the Planning Board conditions made during their June 17, 2010 Site Plan Review as in accordance with Section 5.8 of the Gloucester Zoning Ordinance become part of the conditions of this permit as follows:

- a) that the curb line on the eastern side of the entrance to Eastern Avenue be round to no greater than 25' curb radius;
- b) that the vegetation be cut back and controlled to the east of the site to improve visibility of the entrance for traffic flow from the east;
- c) that the applicant obtains approval from the Engineering Department to install a new catch basin and connection to the Eastern Avenue drainage system prior to construction.

**Councilor Ciolino** assented to the friendly amendments as stated by Councilor Hardy.

**Councilor McGeary** queried whether a Request to the Mayor should be put in place to have a “No Left Turn” sign on Old County Road.

**Councilor Hardy** stated that it was not a part of this process but could be done at a later time through a separate process.

**MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by ROLL CALL 7 in favor, 0 opposed, 1 (Curcuro) recused, 1 (Tobey) absent, to grant Special Council Permit 2010-007 for 168 Eastern Avenue, Assessors Map 160, Lot 6, zoning classification EB District, applicant/owner Abbie Morgan, LLC, under Gloucester Zoning Ordinance Sec. 1.5.3(b) and Sec. 1.8.3, Sec. 1.8.4(a), Sec. 2.2 and Sec. 5.19 to use the property for motor vehicle service, storage or repair. The application demonstrates the applicant meets the six factors of Sec. 1.8.3 as noted in the application and the four conditions of Sec. 5.19 and Sec. 1.8.4(a) for the location of motor vehicle service, storage or repair. Approval of this Special Council Permit shall be based on the Site Plans of Griffin Engineering Group, LLC plans for Abbie Morgan LLC 168 Eastern Avenue, Gloucester, dated 06/11/2010 and last revised 07/10/2010 signed by the Planning & Development Committee and the City Council with the following conditions:**

1. **There will be no filling station on the property;**
2. **That a stop sign be at the exit on Old County Road and Eastern Avenue;**
3. **That dumpsters be screened and maintained from view by either vegetation or fencing;**
4. **That the Planning Board conditions made during their June 17, 2010 Site Plan Review as in accordance with Section 5.8 of the Gloucester Zoning Ordinance become part of the conditions of this permit as follows:**
  - a) **that the curb line on the eastern side of the entrance to Eastern Avenue be round to no greater than 25' curb radius;**
  - b) **that the vegetation be cut back and controlled to the east of the site to improve visibility of the entrance for traffic flow from the east;**
  - c) **that the applicant obtains approval from the Engineering Department to install a new catch basin and connection to the Eastern Avenue drainage system prior to construction.**

**The Council recessed at 8:32 p.m. and reconvened at 8:40 p.m.**

8. **PH2010-060: Amend Chapter 17 "Police" Article II re: the non-civil service process of selecting the Chief of Police**

**This public hearing is now open.**

**Those speaking in favor:**

**Suzanne Egan, City Solicitor** stated the ordinance before them went before O&A. There were a number of discussions about it. The amendments this ordinance reflect those discussions out of O&A. The ordinance lays out the specificity of the selection process for the Police Chief. The ordinance sets out the qualifications of the Police Chief; the education, training and background. It also discusses a selection committee; the appointment of its members and qualifications of the members; the process of the selection committee to review candidates (Section 17-18); the selection committee makes a recommendation to the Mayor of at least three candidates. They Mayor can choose to accept or can reject all three potential candidates and start the process over again. The length of the term of the employment contract for the selected Police Chief would be no less than 3 years. The City Council reviews the contract and any amendments to the contact have to be approved by the City Council. Section 17-19 discusses the here powers and duties of the Police Chief which was essentially contained in the Code of Ordinances presently; but it was amended a bit because the Police Chief position is no longer covered by the Civil Service laws. Section 17-20 also is an amendment to the existing Code of Ordinances to the language deleting the language which discusses the Police Chief is covered by Civil Service which was changed to reflect that the Chief is no longer covered by Civil Service law and that is the same as 17-21. The other portion of the amendment is that the entire Article II has to be renumbered.

**Those speaking in opposition: None.**

**Communications:**

**Councilor Bruce Tobey via email dated July 18, 2010:**

"I regret that a long-scheduled obligation to speak at the annual Kentucky-Tennessee Water Professional Conference in Nashville requires that I miss the July 20, 2010 City Council meeting. If I were present at the meeting, I would vote enthusiastically for the proposed ordinance regarding the process for selecting a police chief now that the voters of our City have chosen to remove that position for the provisions of the Civil Service law. I urge each of my Council colleagues to support the proposed ordinance. It is modeled on the example of the Somerville ordinance. That ordinance has been tested and proven in that City, and the strengths it has offered there are exactly the strengths we need for Gloucester and our police department – transparency and the opportunity for full access for all interested parties; the community a new chief must serve, the bodies of city government with which a new chief must work, and the men and women of the department a new chief must lead. It precludes no qualified candidate, either local or from

over the bridge, and promises that professionalism and experience will be the 3 benchmarks against which each candidate will be assessed. Thank you.”

**Councilor Hardy** had a great deal of questions to ask Chief Lane who was unable to attend due to illness, and David Bain, Personnel Director and her inclination was to continue the public hearing itself to the August 17, 2010 meeting of the City Council with people who could be here to answer those questions.

**Councilor Ciolino** asked if the questions could be asked this evening and then have them answered in advance of that meeting.

**Councilor Hardy** stated she would like to ask them face to face and that the questions could be submitted to the City Clerk to be forwarded prior to the continued hearing.

**Councilor Theken** stated they will continue the hearing and that there will be a chance to speak in favor of and in opposition to the matter will be available to the public at that August meeting.

**Councilor Hardy** confirmed the Councilor’s statement.

**It was moved, seconded and voted unanimously to continue the public hearing to amend Chapter 17 “Police” Article II re: the non-civil service process of selecting the Chief of Police to the August 17, 2010 City Council meeting.**

#### **Committee Reports:**

##### **Ordinances & Administration: 07/12/2010**

**There were no motions to come forward for action by the City Council.**

##### **Budget & Finance: 07/15/2010**

MOTION: On motion by Councilor Hardy seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommended to the City Council to authorize the City Auditor’s Department to create a new Department 472 within the Publics Works section and all the personal services, ordinary services required to account for the transfer of the school custodial and maintenance department facilities to the City side, formerly Department 368.

#### **Discussion:**

**Councilor Curcuru** explained this was a housekeeping matter related to the Council’s previously having approving the merger of the School and City maintenance function to set up the department for the DPW so they can transfer money into it.

**Councilor Hardy** stated during the budget review there were monies that were taken from the School side of the budget to the City side of the budget. They were temporarily held in a DPW account. Now that the budget has been entered into the computer system and it’s become part of the program, they need a department to transfer out so that those monies can be identified clearly as having come originally from the School Department so that they know what they are actually expending against the schools, in order to maintain and support the schools. This way there will be a paper trail; everything coming out of this department will be directly attributable to the School Department. She noted the Committee had thought this had already been taken care of over a month ago. As it didn’t appear in the minutes, they are correcting this matter now.

**MOTION: On motion by Councilor Curcuru seconded by Councilor McGeary, the City Council voted 8 in favor, 0 opposed to authorize the City Auditor’s Department to create a new Department 472 within the Publics Works section and all the personal services, ordinary services required to**

**account for the transfer of the school custodial and maintenance department facilities to the City side, formerly Department 368.**

**MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted by ROLL CALL 0 in favor, 8 opposed to reconsider the vote to create a new Department 472 within the Public Works section under the City Charter, Section 2-11(e).**

**MOTION FAILS**

**Planning & Development: 07/15/2010**

**There were no motions to come forward for action by the City Council.**

**Councilors' Request other than to the Mayor:**

**Councilor McGeary** asked that a sign be placed for "No Left Turn" is placed on Old County Road onto Eastern Avenue. There was a discussion as to whether this was an ordinance change which would necessitate a public hearing and withdrew his request stating he would do some research and put it through as a Council order at a later date.

**Councilor Hardy** asked to have Legal Counsel at July 27th Special City Council meeting in order to ask her about the status of the pro bono representation related to DESE and Charter School. They'd like to have some type of communication set up between the legal office and the pro bono attorneys'; how it will be handled; will they be able to meet them. She wished to get that discussion going so there can be a further identification as to what the status is, how they're going forward, what the suit is going to say, since the Council is a party to the litigation.

**Councilor Whynott** spoke of Gloucester's sister City, Tamano, Japan, and wanted to thank the Gloucester Daily Times and those who stepped forward to help arrange housing for the students and their chaperones while they are visiting Gloucester. He also thanked Angela Sanfilippo and Councilor Ciolino for their assistance.

**Councilor Verga** noted a conversation of polling places at O&A. While he was not a member of that Committee, this came from a Council order he and Councilor Whynott submitted in March and wanted feedback from people about the concept of the reducing of the number of polling places (currently 10 polling places), to 3 or 5 polling places, potentially. He asked the public for their input by contacting their Ward Councilor to let their thoughts be known, and thought there would be some sort of ward meetings. He sent out an email to his ward on his list, and suggested they could talk about some joint ward meetings to get the conversation going.

**Councilor Curcuru** stated on Wednesday, August 11<sup>th</sup> a Ward 3 meeting in Kyrouz Auditorium at City Hall regarding revamping of Washington Street. There'll be an article in the paper on it coming up in the beginning of August and will appreciate constituents' input.

**Councilor McGeary** noted there will be a Ward I meeting the following evening and one of the topics may be the polling place consolidation and will follow up on St. Anthony's Lane repaving project and Swenson's Field as well as a number of other ward issues at 7:00 p.m. in Kyrouz Auditorium as well.

**Councilor Ciolino** said goodnight to the citizens of Gloucester.

**Councilor Mulcahey** wished for her constituents to "keep praying".

**Councilor Theken** thanked the Block Party and that it was a success. It was all done by volunteers and noted you didn't have to be a business owner to be a volunteer. She thanked Councilor Hardy for helping to start it. It was an asset to Gloucester. She also noted people were having trouble using their NeedyMeds card in conjunction with their insurance card. They're going to correct that problem. For people no longer on their extension on unemployment who lost their insurance who have applied for the Connector, please see her or go any Northeast Health System facility to obtain help.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 9:00 p.m.**

**Respectfully submitted,**

**Dana C. Jorgenson  
Clerk of Committees**

**STATEMENTS/DOCUMENTS SUBMITTED AT MEETING:**

**Robert Ryan** – via email, a letter from the Annisquam Village Hall Association

**Ann Mechen Ziergiebel** – Summary of Structure Sequence and Letter from the Department of the Army, New England District, Corps of Engineers

**John McNiff, Jr.** – Summary of Relief Requested, 168 Eastern Avenue, Map 160, Lot 6

###