

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, November 17, 2015 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

**Present:** Chair, Councilor Paul McGeary; Vice Chair, Councilor Whynott; Councilor Joseph Ciolino; Councilor Melissa Cox (left the meeting at 8:15 p.m.); Councilor Steve LeBlanc, Jr.; Councilor Greg Verga; Councilor Paul Lundberg; Councilor William Fonvielle; Councilor Robert Stewart

**Absent:** None.

**Also Present:** Mayor Sefatia Theken; Linda T. Lowe; John Dunn; Jim Destino; Chip Payson; Aleesha Nunley; Nancy Papows; Bethann Godhino; Tim Good; Councilor-Elect Joseph Orlando, Jr.; Councilor-Elect James O'Hara; Councilor-Elect Val Gilman; Councilor-Elect Scott Memhard

The meeting was called to order at 7:00 p.m. The Council President announced that this meeting is recorded by video and audio in accordance with state Open Meeting Law.

**Flag Salute & Moment of Silence.** The Moment of Silence was dedicated to those killed and injured in terrorist attacks which took place several days prior in Paris, France.

**Oral Communications:** None.

**Presentations/Commendations:** None.

**Consent Agenda:**

- **CONFIRMATION OF REAPPOINTMENT**
- 1. EDIC J. Ronald Ross TTE 07/01/18
- **MAYOR'S REPORT**
- 1. Memorandum & Loan Order Report from the Chief Financial Officer re: Road Betterment project proposed for Starknaught Heights, Oxford Road, and Joseph's Way (Refer B&F)
- 2. Memorandum, Grant Application & Checklist from the Community Development Department re: City Council acceptance of a Planning Assistance Towards Housing (PATH) Grant from the Massachusetts Dept. of Housing & Community Development for \$15,000 (Refer B&F)
- 3. Grant Application & Checklist from the Council on Aging re: City Council acceptance of FY2015 COA State Formula Grant in the amount of \$66,636 (Refer B&F)
- 4. Memorandum, Grant Application & Checklist from the Public Health Director re: City Council acceptance of a Public Health Preparedness Grant (PHEP) in the amount of \$5,840.48 (Refer B&F)
- 5. Memorandum and accompanying documents from the Chief Financial Officer re: LED Streetlight Retrofit Project (Refer B&F)
- 6. Memorandum from Community Development Director re: Essex County Greenbelt Association & a proposed Restriction at 72 Coles Island Road (Refer B&F)
- 7. New Appointments: Gloucester Cultural Council TTE 02/14/18 Dorothy Nelson  
Magnolia Woods Oversight & Advisory Committee TTE 02/14/18 Richard Jabba (Refer O&A)
- **COMMUNICATIONS/INVITATIONS**
- **APPLICATIONS/PETITIONS**
- 1. Notice of Filing & Public Hearing on November 30, 2015 from the Dept. of Public Utilities re: Petition of National Grid for approval by The Dept. of Public Utilities of its Three-Year Energy Efficiency Plan for 2016 through 2018 (Info Only)
- **COUNCILORS ORDERS**
- 1. CC2015-042 (Stewart) Request City Council petition MassDOT to lower speed limit on Seeall Street to 20 miles per hour (FCV 12/15/15)
- 2. CC2015-043 (Verga) Amendment to the Stage Fort Park Advisory Committee
- **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
- 1. City Council Meeting: October 27, 2015 (Approve/File)
- 2. Standing Committee Meetings: B&F 11/12/15 (under separate cover), O&A 11/09/15, P&D 11/10/15 (Approve/File)

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

By unanimous consent of the Council the Consent Agenda was accepted as presented.

**Committee Reports:****Budget & Finance: November 12, 2015**

**MOTION:** On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to accept the Budget & Finance Unanimous Consent Agenda of November 17, 2015 as follows:

**1. Police Department:**

*Memo, Grant Application & Checklist from Police Chief re: acceptance of U.S. DEA Overtime Funding for FY16 for \$17,548*

**MOTION:** On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a federal grant from the United States Department of Justice, Drug Enforcement Administration (DEA) FY16 Organized Crime Drug Enforcement Task Force for up to \$17,548, reimbursing the City Of Gloucester Police Department (GPD) for overtime by a GPD officer.

**2. Correspondence from Mass. Cultural Council re: transfer of FY16 Local Cultural Council Funding for FY16 for \$7,600 & acceptance of said funds**

**MOTION:** On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a grant from the Massachusetts Cultural Council in the amount of \$7,600 to the Gloucester Cultural Council for the purpose of supporting FY16 local cultural projects in the City of Gloucester by the Gloucester Cultural Council.

**3. DPW:**

A) *Memo, Grant Application & Checklist from DPW Director re: acceptance of a grant for \$504,869 from Executive Office of Energy & Environmental Affairs for rehabilitation of the Blynman Canal and Stacy Boulevard Bulkhead*

**Councilor Ciolino** expressed the concern there wouldn't be enough funds to finish the work on the Blynman Canal and Stacy Boulevard Bulkhead Rehabilitation Project. **Jim Destino**, CAO assured this grant funding would allow for the completion of both the Blynman Canal and Stacy Boulevard projects. **Councilor Ciolino** asked if this includes the bridge tender's house. **Mr. Destino** said MassDOT will take care of the bridge tender's house. The city is only repairing the land and bulkhead underneath it, he said.

**MOTION:** On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a grant from the Seaport Advisory Council through the Massachusetts Executive Office of Energy & Environmental Affairs for \$504,869 for the purpose of the rehabilitation of the Blynman Canal and Stacy Boulevard Bulkhead Improvement Project.

B) *Memo, Grant Application & Checklist from DPW Director re: acceptance of \$175,000 grant from the Executive Office of Energy & Environmental Affairs for the repair of the Haskell Pond Dam*

**MOTION:** On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a grant from the Massachusetts Executive Office of Energy & Environmental Affairs for \$175,000 for the purpose of the repair of the Haskell Pond Dam Rehabilitation Project.

C) *Memo, Grant Application & Checklist from DPW Director re: acceptance of a grant for \$19,000 from the Mass. Dept. of Environmental Protection (MDEP) to enhance performance of Gloucester's successful waste reduction programs*

**MOTION:** On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a grant from the Massachusetts Department of Environmental Protection (MassDEP) a Recycling Dividends & Small Scale Initiative Grant in the amount of \$19,000 for the purpose of enhancing the performance of Gloucester's successful waste reduction programs.

**\*\*\* END B&F UNANIMOUS CONSENT AGENDA \*\*\***

**1. Acceptance of Lead-Based Paint Hazard Control Grant Program from the U.S. Dept. of HUD COMMITTEE**

**Councilor Cox** advised the Council that the Acceptance of the Lead-Based Paint Hazard Control Grant Program did not come through the Mayor's Report and asked that the Council suspend its Rules of Procedure in order to take up and vote on the matter. By unanimous consent, the Council voted to allow the grant acceptance to be taken up and voted upon.

COMMITTEE RECOMMENDATION: On a motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A a federal grant from the U.S. Department of Housing & Urban Development (HUD) Lead Hazard Control Grant Program for a federal grant award of \$1,285,280 for the purpose of lead-based paint removal in the city's housing stock for low and moderate income families.

#### DISCUSSION:

**Councilor Cox** said that due mainly to the extraordinary efforts of Community Development Senior Project Manager, Emily Freedman, the city is one of two new grantees in the United States to be funded this year for a three-year grant from the U.S. Dept. of Housing & Urban Development. The city is in receipt of a federal grant award of \$1,285,280 for the purpose of lead-based paint removal in the city's housing stock for low and moderate income families. This requires a 10 percent local match which will be met by leveraging \$140,000 of the city's CDBG funds which is used for the city's housing rehabilitation program. This new grant program will allow for the abatement of lead hazards in housing as well as code violations remediation. A program manager will be hired, but their salary and benefits are covered within the grant funding.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a federal grant from the U.S. Department of Housing & Urban Development (HUD) Lead Hazard Control Grant Program for a federal grant award of \$1,285,280 for the purpose of lead-based paint removal in the city's housing stock for low and moderate income families.**

It was noted by Council President McGeary that reconsiderations for certain financial votes this evening are due to the need for the City Auditor to submit specific votes to the Department of Revenue for the city's Tax Recap.

#### Treasurer/Collector

2. A) *Memo from Chief Financial Officer & Supplemental Appropriation-Budgetary Transfer 2016-SA-6*
- B) *Memo from Chief Financial Officer & Supplemental Appropriation-Budgetary Transfer 2016-SA-7*

COMMITTEE RECOMMENDATION: On a motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2016-SA-6 in the amount of \$193,945 to Account #101000.10.145.59100.0000.00.000.00.059, General Fund, Debt Service, Long-Term Principal for the purpose of increasing the FY2016 General Fund Debt Service Budget. The approval of available funds of \$193,945 (One-hundred ninety three thousand nine hundred forty five dollars) is added to the FY2016 General Fund Revenue Budget.

#### DISCUSSION:

**Councilor Cox** explained that during the budget development in the spring of 2015 the Chief Financial Officer missed a sub-schedule as a result of a refunding process for debt which occurred in February. When the city transacts refundings there is a piece that is often "non-callable" but is still debt. That schedule was missed which has an impact both on the General Fund and the Water Enterprise Fund debt shift. They have to bring the debt that is scheduled and is paid out of the General Fund up to where it should be in order to make those payments.

**Council President McGeary** asked John Dunn, CFO, to explain where the money is coming from for Supplemental Appropriation 6 and 7. **Mr. Dunn** said that funds come from two sources. Part of it is caused by shifting the water debt shift to the general fund, which can increase long-term debt that is added to the tax levy limit. The other source is unbudgeted revenue already received in August 2015, a result of bond premium. **Council President McGeary** summarized for the Council that the net effect was that the budget is still in balance -- in order to raise the expenditure they had to raise the corresponding revenue which **Mr. Dunn** confirmed.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve Supplemental Appropriation 2016-SA-6 in the amount of \$193,945 to Account #101000.10.145.59100.0000.00.000.00.059, General Fund, Debt Service, Long-Term Principal for the purpose of increasing the FY2016 General Fund Debt Service Budget. The approval of available funds of \$193,945 (One-hundred ninety three thousand nine hundred forty five dollars) is added to the FY2016 General Fund Revenue Budget.**

**RECONSIDERATION OF VOTE:**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 1 (Whynott) in favor, 8 opposed, to reconsider its vote in favor of approving 2016-SA-6 in the amount of \$193,945 to be added to the FY2016 General Fund Revenue Budget.**

**MOTION FAILS.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Fonvielle, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2016-SA-7 in the amount of \$145,000 to Account #101000.10.145.59100.0000.00.000.00.059, General Fund, Debt Service, Long-Term Principal for the purpose of increasing the FY2016 General Fund Debt Service Budget. The approval of available funds of \$145,000 (One-hundred forty five thousand dollars) is added to the FY2016 General Fund Revenue Budget.

**DISCUSSION:**

**Councilor Cox** explained the following: Supplemental Appropriation 2016-SA-7 is for regular General Fund debt service in the amount of \$145,000. The funding source for this increase is the General Fund Bond Premium account which has a current unappropriated balance of \$297,593.60. This is unbudgeted revenue received in August 2015. The city could have chosen not to appropriate some or all of the funds, and at the end of the year the funds would have fallen to the bottom line and appear as part of the following year's certified free cash. This sort of transfer has traditionally been done in past years. These funds are already received and accounted for on the city's Year-To-Date Report.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve Supplemental Appropriation 2016-SA-7 in the amount of \$145,000 to Account #101000.10.145.59100.0000.00.000.00.059, General Fund, Debt Service, Long-Term Principal for the purpose of increasing the FY2016 General Fund Debt Service Budget. The approval of available funds of \$145,000 (One-hundred forty five thousand dollars) is added to the FY2016 General Fund Revenue Budget.**

**RECONSIDERATION OF VOTE:**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 1 (Whynott) in favor, 8 opposed, to reconsider its vote to approve 2016-SA-7 in the amount of \$145,000 to be added to the FY2016 General Fund Revenue Budget.**

**MOTION FAILS.**

- 3. *Memo from City Auditor re: request City Council adoption of a three-year Snow & Ice Amortization Schedule pursuant to Mass. DOR requirement in accordance with MGL c. 10, §58 of the Acts of 2015***

COMMITTEE RECOMMENDATION: On a motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council pursuant to the Massachusetts Department of Revenue requirement in accordance with MGL c. 10, §58 of the Acts of 2015 adopt a three-year Snow & Ice Amortization Schedule as follows:

<b>We have adopted the following amortization schedule:</b>					
<b>FY2016</b>		\$ 1,400,000.00			
<b>FY2017</b>		\$ 460,507.05			
<b>FY2018</b>		\$ 460,507.05			
<b>Total</b>		\$ 2,321,014.10			

<b>Amortization Tracking Schedule</b>					
	<b>General Fund - Balance Sheet Net Deficit as of 6-30</b>	<b>Less Reimbursements (Non FEMA)</b>	<b>Less Appropriations (Any Revenue Source)</b>	<b>Other Amount Raised on Page 2 Recap</b>	<b>Amount Deferred</b>
<b>FY2016</b>	\$ 2,321,014.10		\$ 1,000,000.00	\$ 400,000.00	\$ 921,014.10
<b>FY2017</b>	\$ 921,014.10		\$ 460,507.05	\$ -	\$ 460,507.05
<b>FY2018</b>	\$ 460,507.05		\$ 460,507.05	\$ -	\$ 0.00

SECTION 58. Notwithstanding section 23 of chapter 59 of the General Laws, section 31D of chapter 44 of the General Laws or any other general or special law to the contrary, a city or town may amortize over fiscal years 2016 to 2018, inclusive, in equal installments or more rapidly, the amount of its fiscal year 2015 snow and ice removal deficit. The local appropriating authority as defined in section 21C of said chapter 59 shall adopt a deficit amortization schedule in accordance with the preceding sentence before setting the municipality's fiscal year 2016 tax rate. The commissioner of revenue may issue guidelines or instructions for reporting the amortization of deficits authorized by this section.

**DISCUSSION:**

**Councilor Cox** explained that the Snow and Ice account, the only city account allowed by the Department of Revenue to be in a deficit, was in a deficit on June 30, 2015, in the amount of \$2,621,014. Legislation was enacted to allow Massachusetts cities and towns to amortize Snow and Ice debt over three years at not less than one-third each year. If the city took that approach the amortization would equate to \$773,671 per year. The city has chosen to amortize the debt more quickly than legislation allows. There is free cash and unbudgeted revenues available enabling the city to pay \$1.4 million towards the deficit this year. This would leave \$921,000 to be amortized over the next two years, or about 20 percent of the total net deficit per year. If more than \$300,000 in reimbursements from the Federal Emergency Management Agency (FEMA) for the end-January snow storms are realized it will also be used to pay off the deficit.

**Councilor Fonvielle** asked why the deficit was \$2.6 but the city is only amortizing \$2.3 million of the deficit. **Mr. Dunn** said the city is anticipating some amount of reimbursement from FEMA through the Massachusetts Emergency Management Agency (MEMA) for certain costs for snow removal that occurred during a two-day January storm. That amount is expected to be a minimum of \$300,000 and it may be more, and that reimbursement reduces the amount that the city needs to amortize.

**Councilor Ciolino** pointed out that there is about \$3.4 million in certified free cash from FY15 and asked when the administration would put forward a schedule for the use of free cash to be considered by the Council, understanding that there is a Supplemental Appropriation to fund the first year of the amortization schedule which will reduce the total amount available. **Mr. Destino** pointed to the city's financial policy regarding certified free cash -- 40 percent will be put into a Capital Projects Stabilization Fund; 30 percent will be used for unreserved free

cash; 20 percent will go to a Building Maintenance Stabilization Fund, and the remaining 10 percent will be placed in a General Stabilization Fund. He said the administration considered carefully the amount of free cash to be put towards the first year's amortization of the Snow and Ice deficit, and a discussion took place with the B&F Committee where they spoke of perhaps paying the entire amount down with free cash. He said they feel with strong revenues in the first two quarters of FY16 -- from beach parking, hotel/motel and meals excise tax -- that they will be able to manage the number. They raised funds on the recap and the bond indebtedness, but wanted some flexibility in the city's budget. He reminded the Council that for next year's budget, there are pensions and union contracts that are going to be difficult to fulfill. He said there are some capital improvements needed for city property which will be put forward in the next Mayor's Report, he advised. They will ask the Council to put the remaining \$2.4 million into the appropriate reserve accounts for future appropriations.

**Council President McGeary** commended the administration for putting a big down payment on the Snow and Ice deficit. He suggested that by amortizing the total amount by one-third each of the three years that the city runs the risk that if another winter like the one just past were to occur, the city would be further behind.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the Council voted by ROLL CALL 9 in favor, 0 opposed, pursuant to the Massachusetts Department of Revenue requirement in accordance with MGL c. 10, §58 of the Acts of 2015 adopt a three-year Snow & Ice Amortization Schedule as follows:**

<b>FY2016</b>		\$ 1,400,000.00			
<b>FY2017</b>		\$ 460,507.05			
<b>FY2018</b>		\$ 460,507.05			
<b>Total</b>		\$ 2,321,014.10			
<b>Amortization Tracking Schedule</b>					
	<b>General Fund - Balance Sheet Net Deficit as of 6-30</b>	<b>Less Reimbursements (Non FEMA)</b>	<b>Less Appropriations (Any Revenue Source)</b>	<b>Other Amount Raised on Page 2 Recap</b>	<b>Amount Deferred</b>
<b>FY2016</b>	\$ 2,321,014.10		\$ 1,000,000.00	\$ 400,000.00	\$ 921,014.10
<b>FY2017</b>	\$ 921,014.10		\$ 460,507.05	\$ -	\$ 460,507.05
<b>FY2018</b>	\$ 460,507.05		\$ 460,507.05	\$ -	\$ 0.00

**SECTION 58.** Notwithstanding section 23 of chapter 59 of the General Laws, section 31D of chapter 44 of the General Laws or any other general or special law to the contrary, a city or town may amortize over fiscal years 2016 to 2018, inclusive, in equal installments or more rapidly, the amount of its fiscal year 2015 snow and ice removal deficit. The local appropriating authority as defined in section 21C of said chapter 59 shall adopt a deficit amortization schedule in accordance with the preceding sentence before setting the municipality's fiscal year 2016 tax rate. The commissioner of revenue may issue guidelines or instructions for reporting the amortization of deficits authorized by this section.

**RECONSIDERATION OF VOTE:**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted 1 (Whynott) in favor, 8 opposed, to reconsider its vote to approve the city's three-year city Snow & Ice Amortization Schedule.**

**MOTION FAILS.**

**Councilor Cox** asked for and received the full assent of the City Council to suspend its Rules of Procedure in order to take up the following transfer associated with funding the first year of the city's Snow and Ice amortization schedule which did not come through the Mayor's Report for referral to the B&F Committee:

COMMITTEE RECOMMENDATION: On a motion by Councilor Fonvielle, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2016-SA-8 in the amount of \$1,000,000 from General Fund – Unreserved Fund Balance - (“Free Cash”), Account #101000.10.000.35900.0000.00.000.00.000, to Fund Balance, Designated for Authorized Snow and Ice Amortization, Account # 101000.10.000.35920.0000.00.000.00.000, for the purpose of funding the first year of a three-year Snow & Ice Amortization Schedule.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve Supplemental Appropriation 2016-SA-8 in the amount of \$1,000,000 from General Fund – Unreserved Fund Balance - (“Free Cash”), Account #101000.10.000.35900.0000.00.000.00.000, to Fund Balance, Designated for Authorized Snow and Ice Amortization, Account # 101000.10.000.35920.0000.00.000.00.000, for the purpose of funding the first year of a three-year Snow & Ice Amortization Schedule.**

**RECONSIDERATION OF VOTE:**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Verga, the City Council 1 (Whynott) in favor, 8 opposed, to reconsider its vote to approve 2016-SA-8 in the amount of \$1,000,000 to fund the first year of a three-year city Snow & Ice Amortization Schedule.**

**MOTION FAILS.****Ordinances & Administration: November 9, 2015**

**Councilor Whynott**, O&A Committee Chair, reported there are no matters under this heading for Council action from this meeting.

**Planning & Development: November 10, 2015**

**Councilor Verga**, P&D Committee Chair, reported there are no matters under this heading for Council action from this meeting.

**Scheduled Public Hearings: Matters were taken out of order.**

- 7. PH2015-056: Tax Classification in accordance with MGL c. 40, §56 and GCO Sec. 2-26 to determine the percentage of the local tax levy for the Fiscal Year 2016 to be borne by each class of real and personal property**

**This public hearing is opened at 7:28 p.m.**

**Nancy Papows**, Principal Assessor, was invited by the Council President to review information underlying the Council's assumptions in making their decision to vote on a Tax Classification Factor for Fiscal Year 2016. **Ms. Papows** conveyed the following information (on file):

Page 2 and 3 – Background of Tax Classification: There are four options to consider as part of the Tax Classification process. A Residential Factor must be adopted, and municipalities may consider an Open Space Discount, a Residential Exception and a Small Commercial Exemption. Prior to the public hearing the city's real estate values have to be approved by the Mass. Department of Revenue. The FY16 real estate values were approved on Oct. 14.

Page 4 – A Comparison of Fiscal 2016 Values by Class: The Residential class this year represents **89.45** percent (**\$4,952,400,301**) of the total value of the city, and Commercial/Industrial/Personal Property (CIP) class represents **10.55** percent (**\$584,358,919**). The total value of the property in the City is up approximately **3.92** percent from FY15. Based on sales analysis, the residential class as a whole is up **3.42** percent. Single family homes had an average increase of **3.98** percent; condominiums' average increase was **2.33** percent, and two- and three-family homes had an average increase of **2.0** percent. The Commercial and Industrial class was relatively stable.

Pages 5 – Fiscal Year Parcel Counts, Values, and percent of Total Taxable City Value: The table on these pages shows the parcel counts and the assessed values of each class from 2004 to present.

Page 6 – Previous Classification Factors and Resulting Tax Rate: The table shows the historic shift factors adopted over the years. On the bottom of the page shows the most recent shifts adopted; and the 1.06 shift factor has been adopted for the last ten years, which shifts a portion of the residential tax burden to the CIP class.

Page 7 – Calculating the Maximum Allowable Levy: The table shows the calculation of the maximum allowable levy for FY2016. It starts with the levy limit from FY15 and added to that is the increase permitted by Proposition 2-1/2 increase and new growth from the Residential and CIP classes which results in the FY16 levy limit. Added to that is the Pole's Hill debt exclusion (which runs through 2019); the CSO debt shift, and the water debt shift which results in the maximum FY16 allowable levy (**\$75,915,470**). That figure divided by the total value of all parcels in the city results in the FY16 tax rate at a factor of 1.0 is a tax rate of **\$13.71** per thousand dollars valuation (down 4 cents from FY15). The tax rate at a factor of 1.0 would result in all properties paying the same rate for all classes of property. At a factor above 1.0, a portion of the residential tax levy would shift to a different class.

Page 8 – FY16 Tax Rate at a Factor of One = **\$13.71**, Shift in Tax Rate: This shows approximate tax rates that would result from the various shifts to the CIP class. The maximum shift allowed by the State is 1.5 percent this year.

Page 9 – Comparison of Levy by Class at Various Shift Factors: Pages 9 further shows the levy by class and approximate shift of the levy and also shows the approximate excess levy capacity that results from the various shifts.

At the time the packet was created the Tax Recap was not complete, but is now, **Ms. Papows** noted, with the exception of the vote the Council will take to determine the FY16 Tax Classification Factor. She pointed that at the level that the Budget & Finance Committee has recommended for 1.1, when entered into the Tax Recap, that the residential tax rate rounds down a penny as well so that the rate shown here becomes **\$13.54** for the residential class, and the CIP remains at **\$15.07**. This changes the difference between the maximum allowable levy and what will be realized in terms of tax dollars which is the column on the far right of Page 9. For the factor of 1.1, the excess levy capacity is **\$53,681**.

Page 10 – Change in Tax Dollars at Various Shifts: This shows the actual change in tax dollars for properties at different levels in terms of valuations. It shows the savings to residential parcels versus the increase in tax dollars for the CIP taxpayer. A property value at \$500,000 is the closest to the average single-family home in Gloucester which is **\$492,214** this year. At last year's shift factor of 1.06 that would save the residential taxpayer of **\$50** per year while the CIP taxpayer would pay an additional **\$410** annually.

Page 11 – Open Space Discount and Residential Exemptions: This page explains the open space discount. There are no parcels defined as open space in the city at this time. This page also discusses the residential exemption and small commercial exemption which is at the option of the Mayor who has chosen not to take not to adopt either the residential or small commercial exemptions this year.

Page 12 and 12A Residential Exemptions (Cont'd) and Page 13 – Small Commercial Exemption.

#### **Councilor Questions:**

**Ms. Papows** reconfirmed for **Councilor Stewart** the Tax Classification Factor of 1.06 was adopted for FY15.

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

**Meredith Fine**, attorney, 85 Eastern Avenue, a member of the Chamber of Commerce, said during the election there had a great deal of conversation in support of city businesses and development of new business. She said her preference is a Tax Classification Factor (TCF) of 1.0, but added there is no reason to change it from 1.06. She said on one hand the business community received a break on the water rates and by changing the TCF, and on the other hand the Council would be taking that break back by raising the TCF which is not helpful to city businesses.

**Peter Webber**, Senior Vice President, Cape Ann Chamber of Commerce with 900 member businesses, the majority of which are in Gloucester he expressed his and that of the Chamber's concern in raising the Tax Classification Factor (TCF) at this time, which he said is pushing a burden onto the CIP class and thereby acting as an inhibition to new growth and new businesses in Gloucester. He said that the TCF should be ideally 1.0 and that the Chamber has advocated for that factor for some years. He urged the Council on the behalf of the Chamber members and its Board of Directors to hold the TCF at 1.06 saying that the benefit to the average tax payer is minimal to move the TCF to 1.1 but the impact to the CIP classes is significant. 1.06.



**Ruth Pino**, 82 Wheeler Street, Past President of the Cape Ann Chamber of Commerce, said that there are a number of small businesses in the city assessed for the same value as her home are assessed for. She said she would rather pay another \$27 on her tax bill than have the businesses pay an extra \$300. She noted there are a few big businesses within the city such as Gorton's, Gloucester Engineering, Varian, but said it is the many small businesses that support the community in a multitude of ways. She urged the Council to keep the TCF at 1.06 in support of the business community.

**Ronn Garry**, 209 Atlantic Road, indicated he is retired and a former small business owner. He pointed out small businesses are the economic foundation of the country and essential to the city's way of life, and the city is losing them rapidly. He recounted that in June 2015 the U.S. Economic Development Administration (EDA) awarded a \$555,500 grant for improvements to the infrastructure in the Blackburn Industrial Park. As a part of the requirements to apply for the grant and the approval, Gloucester had met the requirements of an economically distressed community according to the EDA. Based on those criteria, the unemployment rate in the city, he described that there are six census tracts represent 51 percent of the city's population and 65 percent of its labor force. He noted that in the EDA approval letter these six census tracts have an unemployment rate of 10.7 percent, which he said was more than twice the state average. He said many city small businesses and fishermen and the businesses that support them are all in dire straits, many of whom have employees with families, own homes and are commercial property owners. He asked if it was fair to raise taxes in an economically distressed community. He named six restaurants and other small businesses that have closed on Main Street in recent times. He said he attributed some of this to lower- and middle-income families being forced to pay more in mortgages and rents because of the increases in residential real estate taxes in the last eight years, noting that the tax rate has gone from \$8.61 per thousand dollars valuation in 2007 to \$13.65 in 2015 which is a 58.5 percent in eight years, he said years. He highlighted the commercial real estate tax rate in 2007 of \$9.18 which is now \$14.58, an increase of 58.8 percent or an average tax rate increase of 7.5 percent per year. He suggested that these tax increases take away from the disposable income that purchases goods and services small businesses needs to survive. He expressed concern for the city continuing to raise revenues through tax increases without considering the plight of the city's taxpayers.

**Robert Gillis**, 31 Sayward Street, said he understood one of the reasons for the shift in tax classification that the shift in the water bill benefited heavy industrial water users and also noted it benefited most residential property owners. He said tax classification sends a poor message, and this shift does very little to help residential property owners. Compared to last year tax rate with a differential of 1.06 if a home is valued at \$500,000 the homeowner would save \$30 a year which is \$0.10 per day, he said. He asked that the differential be kept the same and that the Council begin to consider moving the differential back to 1.0. He suggested the city may benefit further by continuing managing the city's financing so well and not increasing the property tax rate by 2.5 percent.

#### **Communications:**

**Tom Gillett, Executive Director, Economic Development and Industrial Corp., and its board** by email dated 11/14/15 objected to the raising of the tax rate which would act as an inhibiting factor to the continued development and growth of the city's commercial sector. He encouraged growing the commercial base and not increasing taxes.

**This public hearing is closed at 7:46 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council adopt a TAX CLASSIFICATION FACTOR OF 1.1 for Fiscal Year 2016.

#### **DISCUSSION:**

**Councilor Cox** put forward an amendment to the main motion, which she said was on the advice of the City Auditor, to include the motion language to read, "adopt a RESIDENTIAL TAX CLASSIFICATION FACTOR OF 0.988200 that equates to a CIP Shift of 1.10 for Fiscal Year 2016." The amendment was seconded by **Councilor Fonvielle**.

#### **DISCUSSION ON THE AMENDMENT:**

**Councilor Cox** noted that the way that the Council had been adopting the Tax Classification Factor for a while now has been incorrectly drafted. The Council should have been voting on the residential tax classification factor of the shift which is something that the Department Of Revenue pointed out this year, she explained.

**Councilors Ciolino** and **Whynott** briefly discussed with **Council President McGeary** the Council process of amending the main motion and for a possible amendment that would come forward promptly thereafter.

**The amendment passes on a vote of the City Council 9 in favor, 0 opposed.**

The motion before the Council is now: **“to adopt a RESIDENTIAL TAX CLASSIFICATION FACTOR of 0.988200 that equates to a CIP Shift of 1.10 for Fiscal Year 2016 a RESIDENTIAL TAX CLASSIFICATION FACTOR OF 0.98820 that equates to a CIP Shift of 1.10 for Fiscal Year 2016.”**

**Councilor Ciolino** moved to amend the main motion to “adopt a TAX CLASSIFICATION FACTOR of 1.06.” The amendment was seconded by **Councilor Stewart**.

**DISCUSSION ON THE AMENDMENT:**

**Councilor Ciolino** said under a TCF of 1.06, the commercial class is paying 6 percent more than the residential class. With the 1.1 factor would then be 10 percent more than the residential class.

**Ms. Papows** clarified at the behest of the **Council President McGeary**, that Tax Classification is a factor but also equates a percentage and the CIP class is picking up 6 percent more than they would have at the factor of 1.0 in total of their share is increased by 6 percent with that factor chosen.

**Councilor Ciolino** recounted that two weeks ago there was a municipal election and one of the subjects all candidates addressed was economic development and how to improve business and attract businesses. He said it is about the message that the city sends to the CIP classes and to any potential investors in the city. He said to increase the TCF to 1.1 is the wrong thing to do and urged the Council to keep it at 1.06. He said he promised during his campaign he would promote business in the city and create jobs, and that a TCF of 1.1 this is the wrong message at the wrong time.

**Councilor Whynott** said that he supports businesses in the city that employs its citizens. He said tax classification is taking a small group of people and forcing them to share more of the tax burden than the larger group of people. He pointed out that only 10 percent of all properties are in the CIP class in the city, he said, a fraction of what Beverly, Peabody and other communities on the North Shore have. He said he would support the amendment and that at some point the TCF should be 1.0 and all classes are even.

**Councilors LeBlanc, Lundberg and Verga** also added their voices in support of the TCF remaining at 1.06.

**Councilor Cox** suggested that if the Council was serious to make the shift more even then they should move the TCF to 1.03 and is only a \$205 burden to the CIP classes.

**Council President McGeary** said he would vote against the amendment. He said he campaigned on bringing businesses to Gloucester as did all the Councilors who ran for elected office. He added that on the list of what causes businesses to leave a community taxes are low on the list, that it is good city services and in particular good schools that bring people and businesses to the city. He said that to bear a slightly increased share of that cost is fair considering the residential tax payers have given to businesses in the city via shifting the water system debt onto the general fund – Americold, he pointed out, even at a 1.1 ratio saves \$54,000 in its net payments to the city; Gorton’s saves \$18,000, and Varian saves \$8,000. Small businesses save, and although small, use more water than the average single family home. He gave the example of St. John’s Church, as he is a member of the church and works with their finances, which saved \$450 last year on its water bill, and this is a three-person operation. If they paid taxes, the increase would have more than been offset by the cut in their water rate, he noted. He said that in February people were crying out that their tax rate had gone up inordinately because of the water debt shift. He pointed out this a fair way to adjust slightly the burden borne by the residential taxpayers and to have the businesses say to the 90 percent of the residential property taxpayers a small thank you. He said big and small businesses benefit by that water debt shift and this modest increase from 1.06 to 1.1 is a nice way for the businesses in the community to offer their thanks. He said he didn’t believe it is a disincentive for businesses to locate or to grow here. He added that the reason the Council enacted the water debt shift was that Mazzetta because they were a heavy user of water, and it was an impediment to them to locate in the city. He pointed out that Mr. Garry consistently refers to the growth in the tax rate and suggested it was a chimera. He explained that the tax rate in 2002 \$11 per thousand -- since that time the tax rate has only gone up 16 percent or 1 percent per year. The tax rate goes up and down depending on real estate valuation, he pointed out. The real way to assess impact is by examining total tax bills which reflect the true increase in the cost of city government. He concluded his remarks by saying that business benefited extremely by shifting the water debt onto the General Fund which was a gift the residential taxpayers gave to the city’s businesses to incentivize them to come here. He said it is more than fair to go to a very modest increase. Recounting Councilor Whynott’s reference to the city of Peabody, he asked to confirm that city’s TCF, which **Mr. Dunn** said was 1.7 as are the cities of Beverly and Salem. He noted that certain cities can exceed

the maximum levy limit under certain circumstances. **Councilor McGeary** then reiterated his stance to vote against the amendment as proposed.

**Councilor Fonvielle** said that as small business owner and resident he supported the Council President's position. He said he wished to signal his support to the city's residential taxpayers.

**Councilor Whynott** said that they should be celebrating the businesses got a break as it was timely. He pointed out that small businesses employ 80 percent of people worldwide. He said if they disincentive businesses it would be detrimental overall. They have to view this as a way to demonstrate that the city supports its business sector, he said. He asked the Council to give businesses a break, and let them know they are appreciated and needed.

**Councilor Stewart** said he would vote for the amendment. If the concept of giving a signal to the business community is a good one and the ratio is 10 to 1 -- if they shift from 1.06 to 1.1 the business pays \$10 for every \$1 homeowners save, and that he couldn't support that kind of a shift, he said. He added that without the businesses, residential tax rates would be raised to untenable levels.

**Council President McGeary**, referencing comments by Councilor Whynott, said that those numbers were after the 1.1 Tax Classification Factor, those significant savings. He pointed out that they have done a lot for businesses, and this is only modestly adjusting at the margins the amounts they've done for businesses, and not taking it away but still giving substantial incentives especially to the largest water users but also to small businesses. He said this is a rebalancing, not a taking away of the incentive. In fairness to the residential taxpayers he said this was a good thing to do, he added.

**AMENDMENT: To adopt a RESIDENTIAL TAX CLASSIFICATION FACTOR of 0.992920 that equates to a CIP Shift of 1.10 for Fiscal Year 2016 a RESIDENTIAL TAX CLASSIFICATION FACTOR OF 0.992920 that equates to a CIP Shift of 1.06 for Fiscal Year 2016.**

**AMENDMENT PASSES on a ROLL CALL VOTE of the City Council 6 in favor, 3 (Cox, Fonvielle, McGeary) opposed.**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 6 in favor, 3 (Cox, Fonvielle, McGeary) opposed, to adopt a RESIDENTIAL TAX CLASSIFICATION FACTOR of 0.992920 that equates to a CIP Shift of 1.06 for Fiscal Year 2016.**

#### **RECONSIDERATION OF VOTE:**

**MOTION: On a motion by Councilor Cox, seconded by Councilor Fonvielle, the City Council voted by ROLL CALL 1 (Whynott) in favor, 8 opposed, to reconsider its vote to approve the adoption of a RESIDENTIAL TAX CLASSIFICATION FACTOR of 0.992920 that equates to a CIP Shift of 1.10 for Fiscal Year 2016.**

**MOTION FAILS.**

*The Council recessed at 8:10 and reconvened 8:18 p.m. Councilor Cox left the meeting at 8:15 p.m.*

1. PH2015-043: Amend GCO Sec. 22-279 "Thirty-minute parking re: Atlantic Road (TBC 12/15/15)

**This public hearing is opened at 8:18 p.m. and is continued to December 15, 2015.**

2. PH2015-062: Amend GCO Sec. 22-269 "Stop Intersections: re: Leonard Street (TBC 12/15/15)

**This public hearing is opened at 8:18 p.m. and is continued to December 15, 2015.**

3. PH2015-063: Amend GZO by deleting Sec. 5.5 "Lowland Requirements" and adding a newly titled Section 5.5 "Floodplain Requirements" which will add special permitting requirements in Section 5.5.1 and 5.5.3 for principal structures for residential use in special flood zone areas (TBC 12/15/15)

**This public hearing is opened at 8:19 p.m. and is continued to December 15, 2015.**

4. PH2015-064: Application for License of Flammable & Combustible Liquids, Flammable Gases & Solids

**Re: 21 Great Republic Drive****This public hearing is opened at 8:19 p.m.****Those speaking in favor:**

**Sam Santuccio**, Facilities Manager, representing Gloucester Seafood Processing, Inc. (GSP), and 21 Great Republic LLC explained that there will be 13,400 lbs. of liquid ammonia stored on site which is used for their seafood processing.

**Those speaking in opposition: None.****Communications: None.****Councilor Questions: None.****This public hearing is closed at 8:21 p.m.**

COMMITTEE RECOMMENDATION: On motion by Councilor McGeary, seconded by Councilor LeBlanc, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council GRANT Twenty-One Great Republic LLC, as owner, for Gloucester Seafood Processing, Inc., a License of Flammable and Combustible Liquids, Flammable Gases and Solids for the property at 21 Great Republic Drive for the storage of 13,455 pounds of Combustible Liquids—under M.G.L. Chapter 148, Sec. 13 and regulations thereunder as well as Gloucester Code of Ordinances, Chapter 8, Fire Prevention and Protection, Article I, In General and sections thereunder.

**DISCUSSION:**

**Councilor Verga** said that the P&D Committee endorsed the license for Gloucester Seafood Processing through 21 Great Republic Drive LLC.

**MOTION: On motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to GRANT Twenty-One Great Republic LLC, as owner, for Gloucester Seafood Processing, Inc., a License of Flammable and Combustible Liquids, Flammable Gases and Solids for the property at 21 Great Republic Drive for the storage of 13,455 pounds of Combustible Liquids—under M.G.L. Chapter 148, Sec. 13 and regulations thereunder as well as Gloucester Code of Ordinances, Chapter 8, Fire Prevention and Protection, Article I, In General and sections thereunder.**

5. **PH2015-065: Amend GCO Sec. 22-145 “General prohibitions” and Sec. 22-191 “Tow-away zones” re: Wise Place**

**This public hearing is opened at 8:22 p.m.****Those speaking in favor:**

**Ken Whittaker, Conservation Agent**, said this matter has been before the Conservation Commission (ConCom) for two years. He explained the following: The matter concerns a small piece of land at the end of Wise Place that has been historically been used for parking by the residents. About a year and a half ago ConCom was approached by a resident of Wise Place who took issue with the parking there and called to ConCom’s attention a provision in its overall document giving it supervision of the land saying that ConCom was to preserve that land for conservation purposes. That individual put forward that by allowing unrestricted parking in this particular area it was not consistent with the conservation purposes and to deny all parking. After consideration, ConCom decided that denying all parking was not appropriate and was not suitably considerate of some of the needs of the residents and suggested placing certain limits on the parking. ConCom presented their proposal with the limitations to the Traffic Commission. At a public meeting of the Traffic Commission, they liberalized it to provide for slightly more parking for up to three cars for longer hours than ConCom had in their original proposal which is now what is before the Council. The Traffic Commission’s recommendation went back to ConCom, and ConCom agreed that the Commission’s parking proposal was reasonably consistent with what their obligation was for conservation purposes. This proposal allows for up to three cars to be parked and no overnight parking which allows parking from 6 a.m. to 12 a.m. and resolve some of the controversy in the neighborhood. **Mr. Whittaker** concluded his remarks by saying that none of the parties involved are is completely satisfied, but ConCom believes that this is a reasonable compromise.

**Attorney Joel Favazza**, 111 Main Street, representing Terry Greel, 3 Wise Place and Ross Robinson, 5 Wise Place, noted that it was those two gentlemen through his office who originally started this matter with ConCom in

2014. He recounted for the Council the history of the affected property as follows: In 1984 Margaret Hathaway owned a large tract of marshland with some upland attached to it at the end of Wise Place. In that deed she added a specific deed restriction, "that the land was to be managed and controlled by the Conservation Commission," and, "...shall be forever used for only conservation purposes." The only thing permitted in the deed restriction was, "passive recreational activities" which needed permission from the Conservation Commission. Over the years many neighbors made use of the piece of uplands for a variety of purposes -- boats had been formerly stored there, some gardens installed. In the 1990's there was a swing set erected by a neighbor, and the city ordered it to be removed because it was conservation land. Another neighbor now uses the land for overflow parking for his automotive repair shop.

**Mr. Favazza** said that his clients were concerned about the situation and wanted to see it corrected. Referencing the ConCom compromise, he noted that in this instance, the City Council is codifying the ConCom decision as ConCom is solely in charge of this land per the deed restriction. He advised that the Council's options are to perform a legislative function on something decided by public servants or not. He suggested that anything to contrary to the ConCom orders doesn't supersede their authority as the managers of this land. He reiterated that ConCom controls the land and have decided how it should be organized and are looking to the Council to enter this into the Code of Ordinances so the land can be efficiently governed as any other parking restriction in the city rather than ConCom enforcing a parking restriction which is not that body's purview.

**Mr. Favazza** summarized for the Council why ConCom reached their decision to reduce and regulate the existing problem at the end of Wise Place: Historically people were using the property, with one neighbor who runs an automotive repair shop out of his garage and was using this area for overflow parking of vehicles awaiting repair. At issue were cars being brought in via tow truck, being left there until being worked on. He suggested that cars that were "project type" vehicles were being left for weeks at a time which he said exacerbates the danger for the conservation land, in that cars in disrepair have a greater opportunity to leach their fluids into the seven acres of marsh. He said his clients thought that continuing this practice was inappropriate.

He distributed a packet of eight 4" x 6" color photos to the Council (placed on file) taken since they first went before ConCom. He pointed out that ConCom's original response was to clear out everything. His clients removed everything they had on the land -- there is a portion of a fence, a corner of a shed and one garden structure still encroach, technically, his client's property. There is no longer any storage of boats as well. He then described the photos depicting the conservation land with vehicles being brought in by tow truck, their off-loading, and those vehicles left there when a spot in front of the home of Anthony and Diane Frontiero at 4 Wise Place is empty as well as the spots in front of his garage, where Mr. Frontiero has a car repair business. He pointed out how deep the cars are parked right up to the edge of the vegetation. He highlighted the last photograph taken just that evening showing Mr. Frontiero's truck and a Hummer parked to the edge of the tall vegetation. The photographer reported to Mr. Favazza that right after taking that photograph the Hummer did a five-point turn mowing down tall vegetation on their way out of Wise Place, he said.

**Mr. Favazza** said that after many trips before ConCom came up with a plan which Mr. Whittaker mentioned earlier, had input from the Traffic Commission, and took their advice on traffic flow and safety to propose the parking scheme before the Council now. With this scheme it will keep cars from driving deep into the lot damaging vegetation, he said. He added that it will also keep cars that are in disrepair from being left day after day.

The last step if for the Council to codify the decision of ConCom to assist them in controlling parking on the uplands of the deeded conservation plan noting everything has been removed and through the pictures showing vehicles up against the ConCom controlled land. His clients are willing to accept the ConCom decision and the codification of the decision to keep vegetation from being further damaged.

**Mr. Favazza** reminded the Council as they consider codifying what ConCom considers the appropriate restrictions for this site is that the city's duty to this site, a citizen of Gloucester donated seven acres of land, asked to have it preserved and place ConCom in charge of it. He said the city owes no duty to a mechanic who has outgrown his shop he chose to open in a residential neighborhood with limited on-street parking. He added that the city owes no duty to residents on a private road who want extra parking spaces because the private road itself has limited parking. The city's duty is to protect this land per the wishes of the donor and to obey the directive of ConCom which is to allow three cars to park 7 a.m. to Midnight so it is next to the road. He suggested that if the Council indicates while they appreciate ConCom's recommendation but do something contrary to their recommendation what kind of message it sends to other citizens considering donating property to the city. He said for the city to ignore the ConCom's purview over this property sends a wrong message. This is former a piece of private property that abutted Wise Place that was given to the city in the 1980's so any parking spaces spoken of are strictly on city-owned land.

Speaking to the last portion of the deed restriction, **Mr. Favazza** explained that not only is ConCom in charge of protecting this land, but if this property is deemed not protected, not restricting parking, the land is supposed to be removed from the stewardship of the city and given over to the Essex County Greenbelt Association (ECGA). He indicated that in Mr. Whittaker's conversations with the ECGA found that the ECGA would completely close off of the land. He said he is favor of the ConCom decision for adoption into the Code of Ordinances by the Council.

**Those speaking in opposition:**

**Meredith Fine**, 85 Eastern Avenue, representing Anthony and Diana Frontiero, 4 Wise Place, said that the Council doesn't have a duty to obey ConCom. She said this matter has arisen due to one "unhappy" neighbor. This property has been used this way for years before Ms. Hathaway deeded the seven acres to the city as neighborhood parking. She suggested that Wise Place is not only unsuitable for parking, that it really was more of a path. She further suggested that the photos shown to the Council by Mr. Favazza were out of context of some cars that may or may not have been related to Mr. Frontiero's business could be misleading. The whole neighborhood has been parking for decades in this area. She showed a photograph to the Council which she claimed depicted Mr. Greel driving through the marsh (8" x 10" color photograph). She submitted a petition from homes in the area (Wise Place and Hartz Street with 27 signatures) urging the Council not to shut off parking in this area. She said there is no reason to change the way this property has been used for many decades. She explained that as they went through the hearings they asked for no changes all along. The compromise may be the best deal they can get, but their opposition is consistent that they don't feel there is a need for any change and this is how every resident who lives there feels. She alleged that there has never been evidence of harm from parking; the only leaking oil she witnessed was from Mr. Greel's boat. She described the parking area involved as very small part of a much larger parcel which and is not in any way a park. The area for parking is upland, she noted. One of the reasons it may look like it is hard to fit cars there is that one of the neighbors, Mr. Favazza's client's fence encroaches on city property. She said the reason she knew that to be the case was that her client, Mr. Frontiero, paid for a survey of the city's property because ConCom didn't have the funds to do it. She said she hoped they'd listen to the neighbors and is not about Mr. Frontiero's business but about safety.

**Alisha Oliver**, 23 Maycomber Road, said that she grew up on Wise Place and is Mr. Frontiero's daughter, recounted her formative years on the street and indicated that the area of dispute is hard packed land and its use hasn't changed in 30 years. She said this land was shared with all the neighbors as long as she could remember and up to eight cars could fit there which was never a problem. She said the business run on Wise Place is run properly with no oil leaks and is kept clean. She expressed her concern that there would be a permanent alteration to the parking taking place now that the Council considers any permanent structures to inhibit parking. If they block that area off, trucks and other vehicles will have to back out of the road, being unable to turn around. She suggested that emergency vehicles would have nowhere to park. She said this is taking a situation limiting parking that so many neighbors share and will only increase neighborhood tension and create safety issues for the residents.

**Anthony Frontiero**, 4 Wise Place, owner of an auto repair shop for over 20 years, said he makes his living through the business. He tried to have only one to two cars per day and has them removed promptly. He said on a rare occasion he may not have a part for a car, and while waiting for the part the car may sit for several days until he can work on it. He said he doesn't park cars in front of his house because it would limit vehicle access to the road. He asked ConCom what documented reason did they have to stop a car from parking there and what has it hurt. He indicated that cars had parked on this hard packed dirt area for over 70 years. If the Council limits the parking he indicated that someone will have to park on Hartz Street, such as an elderly person or a parent with a small child. He expressed concern that property values on Wise Place will be affected by the lack of parking. He said the petitions submitted were signed by people who see the parking situation every day. The cars in the photographs are further in to allow movement of other vehicles, he pointed out. He asked the Council to leave the area alone and that nothing has ever happened to the marsh that has been documented.

**Rebuttal:**

**Mr. Favazza** said that Ms. Fine claimed his client was driving through the marsh. He said this is called conservation land. It is not determined whether there is a marsh or wetland there; it is that every part of the land is supposed to be conserved for passive recreation. He said the portion of conservation land his client crossed to deliver a cord of wood to his property was on the uplands closest to the street. He added that it was still part of the conservation land but his client was not driving through a marsh. As to the claims of no evidence, he pointed out that in 2015 the ConCom response was to tell everyone to move off the property, and everyone did, Mr. Frontiero included. He suggested that Mr. Frontiero still managed to run his business without the use of the parking area at that time. He said during that timeframe all the hard packed dirt turned green which he said is shown in some of his submitted photographs. ConCom said that vegetation has a filtering effect, and they took that into account, he said. He pointed out that when the cars started parking there again it is now going back to dirt hard pack. He said that

devaluation of property comes from cars in disrepair being dropped off via tow trucks on otherwise pristine land not by limited parking. He reiterated that the Traffic Commission has weighed in as far as traffic and safety issues who said three spaces from 7 a.m. to Midnight which is their purview to consider public safety issues including large fire apparatus and asked the Council to codify ConCom's recommendations.

**Rebuttal of the Rebuttal:**

**Ms. Fine** said that Mr. Frontiero has never stopped parking cars on the end of Wise Place. If the grass rebounded immediately it is proof that no harm had been done by the cars to that area, she pointed out.

**Communications: None.**

**Councilor Questions:**

**Councilor Ciolino** said they heard the word codify invoked, and asked what happens if the Council did not vote to codify the ConCom recommendations. **Mr. Whittaker** said that under the provisions of the original grant, the land could revert to the ECGA, that if there is a finding that ConCom isn't taking the appropriate steps to preserve the land, ECGA would have the authority to take the land and manage it alone. He said whether they would do that is unclear. He advised that he had reached out to the ECGA to learn what they would do under a situation such as is before the Council, and the answer would be to just keep the cars off. **Councilor Ciolino** clarified that if the Council doesn't codify the ConCom decision, Mr. Whittaker would contact the ECGA. **Mr. Whittaker** said he would deal with it when it comes to that and suggested he would probably be obligated to report back to the ECGA on this matter. To be fair to all parties that if they fail to do that it would be a continuation of the status quo and has been in the ConCom jurisdiction for some time, he said.

**Councilor Verga** asked if General Counsel has reviewed the deed restrictions and what kind of position the City and ConCom is in. **Chip Payson** said he has not. **Mr. Whittaker** said he is an attorney and a member of the Massachusetts bar and had reviewed the deed restriction.

**Councilor LeBlanc** asked how many people from the neighborhood were at the ConCom meetings. **Mr. Whittaker** said that outside of the two primary parties there wasn't anyone in at least six instances. **Councilor LeBlanc** suggested that it would be inappropriate to have a large truck such as an ambulance or large truck turn around at the bottom of Wise Place. **Mr. Whittaker** said that ConCom looked at this matter from environmental issues standpoint, and that the Traffic Commission looked more to the safety and logistical issues traffic issues, he pointed out. He said that the overall concept was to put some type of barriers in place to allow three cars to be parked but to also allow for snow removal. He advised that there will be some room there and that this action would not block it off at the roadway. He said that the parking is open from the edge of the road to the edge of the marsh, which is approximately 45 feet. They would work with the DPW to place barriers about 20 feet back from the roadway and consider the turnaround. **Councilor LeBlanc** said if ECGA closes it off it would be a safety hazard and if the three spaces were there he questioned how a ladder truck would turn around. He noted having viewed the road today with a car parked on one side of the road that a safety apparatus wouldn't make it down Wise Place. **Mr. Whittaker** said it is a narrow road, and didn't feel it appropriate to comment on safety issues. **Councilor LeBlanc** said if they close off the area now used for parking it would be detrimental to the neighborhood.

**Councilor Fonvielle** said that if the Council creates three parking spaces it could violate the terms of the deed restriction, and the ECGA could say it did by that action and take the parcel back. **Mr. Whittaker** said it is unlikely but wouldn't rule it out. ECGA is aware of the situation and have done nothing about it to date, he added.

**Councilor Fonvielle** said if the city codifies the parking does it insulate the city. **Mr. Whittaker** said it shows the city to be consistent with the original grant. There is no question controlling the parking for that small piece of land which will stop compaction of soil and that traffic has distressed the vegetation that is there. Less parking is better than more parking for the area ConCom controls. **Councilor Fonvielle** said he saw great value for no parking after midnight. **Mr. Whittaker** said there was a concern that less than properly function cars could leak fluids and that would be less likely if there were some limitations on overnight parking. To be consistent with the grant the Commission considered allowing parking visitors to the site was consistent with ConCom purposes with passive recreational uses, whereas residential parking is a bit of a stretch.

**Councilor Whynott** said he viewed the road today and that two cars can pass each other under normal circumstances, but if one person was parked on a side of the road, two cars couldn't pass each other. He indicated that if there is not total snow removal any ambulance would have to back down the road. It is a difficult situation and there is a need to have a turn around, he said.

**Councilor Lundberg** noted that Mr. Whittaker said this matter was without an assessment of the safety issues, and Councilor LeBlanc had raised some good points. The ECGA mandate doesn't trump public safety and that they need to learn about it, he pointed out.

**Council President McGeary** said that this matter was discussed by the Traffic Commission whose membership includes former firefighters and policemen and that Commission did weigh in on this matter voting in favor of it.

**This public hearing is closed at 9:06 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, opposed, to recommend that the City Council Amend GCO Sec. 22-145 "General prohibitions" by DELETING in its entirety paragraph (a) and ADDING new paragraph (a) as follows:

"(a) No person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street, way, highway, road or parkway under the control of the city, including land under the supervision and/or control of the Conservation Commission, in violation of this chapter or any other traffic ordinances or orders adopted by the city council, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police official or traffic sign or signal; and in particular in any of the following places:..."

**DISCUSSION:**

**Council President McGeary** said he believed this was a reasonable compromise which allows for off-street parking without creating a difficult situation for ConCom whose prime directive is to preserve the conservation land. This first motion codifies and puts into GCO Sec. 22-145 that land under care and custody of ConCom is land where traffic and parking can be controlled. The second motion, he indicated, deals particularly with Wise Place. He said it is unfortunate that 24-hour parking for neighbors will not be allowed. It is in the best interest of the city which could possibly be placed in a position to lose the property, that this is still the best solution and will allow traffic to flow, he pointed out. He said that this needs to be put in the ordinances even if the Council doesn't vote to change the parking on Wise Place.

**Councilor Verga** commented this is a case of if it isn't broke don't fix it. He suggested that the Council would be causing more trouble than its worth if they were to move forward with the amendments. He said he would vote against both of these motions.

**Councilor LeBlanc** stated that in looking at the submitted petition that there are more people against this action. He said he wouldn't support this amendment and the next.

**Councilor Ciolino** added his lack of support for the amendments and said that the Council should not be involved in a neighborhood dispute. He said that the Traffic Commission is an advisory board and that the Council doesn't have to take their advice. He said he has dealt with the ECGA many times as a former Ward Councilor about the Farrington Avenue Seine Fields which is under ECGA control. He said that the Council should leave well enough alone and not interfere in something that already works.

**Councilor Whynott** confirmed with **Mr. Whittaker** that the city plows the road but not the area used for parking. **Councilor Whynott** expressed concern for parking cars in a snow emergency, and said he would not support the amendments.

**Councilor Fonvielle** expressed his concern for the situation and that the Council really should have no role in this and said he was in opposition to the amendments.

**Councilor Stewart** said he voted for these amendments in Committee but was persuaded by the neighbors and his fellow Councilors to leave well enough alone.

**Council President McGeary** said that the original position of ConCom was to put in boulders and shut all parking off. **Mr. Whittaker** said they discussed that, but because of the requirement for passive recreation that temporary parking was consistent with the conservation restriction. **Councilor McGeary** asked what would be the anticipated ConCom response should the Council vote the amendments down. **Mr. Whittaker** responded: that he would advise ConCom of the Council's decision, and let them decide what they wanted to do to find other avenues for enforcement. It is always possible that one of the parties may call ECGA and say that ConCom is not acting in accordance with the provisions of this grant, and suggest ECGA take the land back. At this point the ConCom has no role in this matter, being powerless to enforce any kind of restriction. ConCom may approach the Council in the future to ask that the Council allow ConCom to enforce parking restrictions on land under its jurisdiction. ConCom at this time is in no position to enforce anything and no authority to do so, he said. They are asking for is contained in the first amendment before the Council which gives ConCom the authority to deal with parking on land under their control. The minimum is setting some type of limitation to prevent parking on the immediate edge of the wetland. ConCom would be uncomfortable with no restrictions in place. **Council President McGeary** said that this land is in the care and control of ConCom and like any property owner they can forbid access to their land. **Mr. Whittaker** said, "That's true."



**Councilor Verga** said he still planned to vote no. **Council President McGeary** reminded the Council that there is a hole in the Code of Ordinances regarding the governance of parking on conservation land.

**Councilors LeBlanc, Whynott and Ciolino** reiterated their stance to vote no on the amendments.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 2 (Fonvielle, McGeary) in favor, 6 opposed, 1 (Cox) absent, to Amend GCO Sec. 22-145 “General prohibitions” by DELETING in its entirety paragraph (a) and ADDING new paragraph (a) as follows:**

**“(a) No person shall allow, permit or suffer any vehicle registered in his name to stand or park in any street, way, highway, road or parkway under the control of the city, including land under the supervision and/or control of the Conservation Commission, in violation of this chapter or any other traffic ordinances or orders adopted by the city council, except when necessary to avoid conflict with other traffic or in compliance with the direction of a police official or traffic sign or signal; and in particular in any of the following places:...”**

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Sec. 22-291 “Tow Away zones,” be Amended by ADDING as follows:

“Wise Place, the entirety of the land under the supervision of the Conservation Commission extending from the edge of the Wise Place Right of Way between and easterly of 3 and 5 Wise Place. The foregoing notwithstanding, within the confines of the three space parking area designated by the city with permanent or semi-permanent markers, the provisions of this subsection shall be applicable only between the hours of 12 p.m. and 7 a.m. or at any time when more than two cars are parked in the designated area.”

**DISCUSSION:**

**MOTION: On a motion by Councilor Whynott, seconded by Councilor Verga, the City Council voted by ROLL CALL 1 (McGeary) in favor, 7 opposed, 1 (Cox) absent, to Amend GCO Sec. 22-291 “Tow Away zones,” be Amended by ADDING as follows:**

**“Wise Place, the entirety of the land under the supervision of the Conservation Commission extending from the edge of the Wise Place Right of Way between and easterly of 3 and 5 Wise Place. The foregoing notwithstanding, within the confines of the three space parking area designated by the city with permanent or semi-permanent markers, the provisions of this subsection shall be applicable only between the hours of 12 p.m. and 7 a.m. or at any time when more than two cars are parked in the designated area.”**

**6. PH2015-066: Amend GZO by deleting the definition of “Junk Yard” in Section VI and adding a new Definition for “Junk Yard”**

**This public hearing is opened at 9:27 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 9:27 p.m.**

COMMITTEE RECOMMENDATION: On motion by Councilor LeBlanc, seconded by Councilor McGeary, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GZO Sec. VI definition of “Junk Yard” by DELETING the definition of “Junk Yard” and by ADDING: “Junk Yard” shall mean a site or facility used for the collection, storage, salvage, disposal, dismantling, processing, recycling, sale, or resale of waste materials including paper, rags, cloth, metal, glass, batteries, rubber, parts from old or damaged motor vehicles and equipment, and other discarded goods and materials. These materials are generally but not necessarily, stored in the open air or under a roofed structure rather than within a fully enclosed building.”

**DISCUSSION:**

**Councilor LeBlanc** noting that after two recent Special Permits before the Council regarding junk yards, he reached out to the Planning Department and asked for recommendations in order to better defines what a junk yard which is making clearer of what can be allowed in a junk yard.

**MOTION: On motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to recommend that the City Council Amend GZO Sec. VI definition of “Junk Yard” by DELETING the definition of “Junk Yard” and by ADDING: “Junk Yard” shall mean a site or facility used for the collection, storage, salvage, disposal, dismantling, processing, recycling, sale, or resale of waste materials including paper, rags, cloth, metal, glass, batteries, rubber, parts from old or damaged motor vehicles and equipment, and other discarded goods and materials. These materials are generally but not necessarily, stored in the open air or under a roofed structure rather than within a fully enclosed building.”**

**8. PH2015-067: Amend GCO Sec. 22-270 “Parking prohibited at all times” and Sec. 22-279 “Thirty-minute parking re: Emerson Avenue**

**This public hearing is opened at 9:30 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Statements:**

**Councilor LeBlanc** said he submitted the Council Order at the request of Pathways for Children whose facility is on Emerson Avenue but after speaking with them in the last several days after that organization consulted with their legal counsel, Pathways asked him to withdraw the request to amend the Code of Ordinances to institute thirty-minute parking which would have been created in front of their facility. He indicated Pathways has other plans for parking in front of their building and what is proposed would cause more traffic congestion than it would alleviate.

**On a unanimous vote of the Council, the Council Order 2015-036 to amend GCO Sec. 22-270 “Parking prohibited at all times” and Sec. 22-279 “Thirty-minute parking” for Emerson Avenue is hereby withdrawn without prejudice.**

**This public hearing is closed.**

**9. PH2015-068: Amend GCO Sec. 22-269 “Stop intersections” re: Shepherd Street**

**This public hearing is opened at 9:33 p.m.**

**Those speaking in favor:**

**Aleesha Nunley**, 112 Pleasant Street, noted that she and her family moved to this address from Holly Street at the end of July, and said the intersection between Pleasant Street and Shepherd Street especially in the crosswalk has no stop sign. She pointed out she has children who ride bicycles in this immediate area. She noted there is a stop sign on Pleasant Street on both sides, but when coming from Maplewood Avenue there is no stop sign with cars parked on both sides of the street so that when children are in the crosswalk cars can't see them. She said her son had almost been struck by a car while in the crosswalk there. She said she wanted to find a way to make sure the area was safer for her children and other children who live in her area.

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 9:33 p.m.**

**COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 0 in favor, 3 opposed, to AMEND GCO Sec. 22-269 “Stop intersections” be Amended by ADDING Shepherd Street at its intersection with Pleasant Street with a stop sign facing traffic proceeding in the eastbound direction.”**

**DISCUSSION:**

**Councilor Whynott** said that the Traffic Commission did not endorse the placement of this stop sign and that the O&A Committee agreed with their assessment on the matter. He said that he drives this roadway every day and didn't see a problem most of the time. There are three stop signs there facing three different directions and said that by adding a fourth stop sign it would cause gridlock.

**Council President McGeary** said four-way stop signs are done elsewhere in the city and that with the West Parish School children housed at the St. Ann's School nearby, another stop sign is warranted.

**Councilor LeBlanc** said he would vote in favor of the amendment. With Burnham's Field revitalized and being used more heavily, along with the West Parish School students this stop sign is a good addition for the safety of the children in that area.

**Councilor Stewart** noting he voted against the stop sign in Committee but would now vote in favor of it.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 7 in favor, 1 (Whynott) opposed, 1 (Cox) absent, to AMEND GCO Sec. 22-269 "Stop intersections" be Amended by ADDING Shepherd Street at its intersection with Pleasant Street with a stop sign facing traffic proceeding in the eastbound direction."**

**10. PH2015-069: Amend GZO by adding a new section titled "Atlantic Road Overlay District" on the water side of Atlantic Road from the intersection of Grapevine Road and Atlantic Road to the intersection of Atlantic Road and Bass Rocks Road**

**This public hearing is opened at 9:37 p.m. and continued to December 15, 2015.**

**For Council Vote:**

**1. Decision to Adopt: SCP2015-004: Maplewood Avenue #120, Map 39, Lot 4, GZO Sec. 1.8.3, 2.3.1(8) and 5.7.1, 1.10.1(1), 1.10.1(a)(3), 3.2.2 fn(a)**

**MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to adopt the Special Council Permit (SCP2015-004) decision for Maplewood Avenue #120, pursuant to Sections 1.8.3, 2.3.1(8), 5.7.1, 1.10.1(1), 1.10.1(a)(3), 3.2.2 fn(a).**

**2. Decision to Adopt: SCP2015-006: Pond Road #5, Map 264, Lot #39, GZO Sec. 2.3.5(1) for the use of a Junk Yard in the GI District**

**MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to adopt the Special Council Permit (SCP2015-006) decision for Pond Road #5, pursuant to Section 2.3.5(1).**

**3. Decision to Adopt: SCP2015-007: Pond Road #19, Map 264, Lot 36, GZO Sec. 2.3.5(1) for the use of a Junk Yard in the GI District**

**MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 7 in favor, 1 (Fonvielle) opposed, 1 (Cox) absent, to adopt the Special Council Permit (SCP2015-007) decision for Pond Road #19, pursuant to Section 2.3.5(1).**

**Unfinished Business: None.**

**Individual Councilor's Discussion including Reports by Appointed Councilors to Committees: None.**

**Councilors' Requests to the Mayor:**

**Councilor Ciolino** wished former City Councilor Gus Foote well.

**Councilor Fonvielle** announced that on Friday, Nov. 20 from 7:00-9:30 p.m. the Magnolia Library will hold the Taste of Magnolia and he invited everyone to attend this fundraiser for the Magnolia Library.

**Councilor LeBlanc** asked through the Mayor for the Animal Control Officers to provide the Council with an update on how to ease the coyote population or at least to combat it because the coyotes have been attacking domesticated small animals and a person had to escape an attack recently.

**Councilor Lundberg** noted the Sawyer Medal ceremony takes place on Wednesday, Nov. 18 at tomorrow at Gloucester High School.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 9:45 p.m.**

Respectfully submitted,

**Dana C. Jorgensson**  
Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- **Eight 4" x 6" color photographs taken on and around Wise Place submitted by Attorney Joel Favazza related to PH2015-065**
- **One 8" x 10: color photograph taken on or around Wise Place submitted by Attorney Meredith Fine related to PH2015-065**
- **Petition dated September 2015 signed by 27 residents of Wise Place and Hartz Street in support of making no changes to parking on Wise Place submitted by Attorney Meredith Fine related to PH2015-065**