

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, December 15, 2015 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

**Present:** Chair, Councilor Paul McGeary; Vice Chair, Councilor Whynott (entered the meeting at 7:13 p.m.); Councilor Joseph Ciolino; Councilor Steve LeBlanc, Jr.; Councilor Greg Verga; Councilor Paul Lundberg; Councilor William Fonvielle; Councilor Robert Stewart (entered the meeting at 6:02 p.m.)

**Absent:** Councilor Cox

**Also Present:** Mayor Theken; Linda T. Lowe; Kenny Costa; Jim Destino; John Dunn; Police Chief Leonard Campanello; Fire Chief Eric Smith; Chip Payson; Mike Hale; Mark Cole; Bill Sanborn; Donna Compton; Adam Curcuru; Noreen Burke; James Pope; Matt Coogan; Lucy Sheehan; Tom Daniel; Max Schenk; Nancy Papows; Gregg Cademartori; Dr. Richard Safier; Jonathan Pope; Tony Gross; Kathy Clancy; Chris Pantano; Councilor-Elect Sean Nolan; Councilor-Elect Valerie Gilman; Councilor-Elect Scott Memhard

The meeting was called to order at 6:00 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.** Council President McGeary dedicated the Moment of Silence in honor of the city's Poet Laureate, Peter Todd, who passed away this morning. He read a poem composed by Mr. Todd heralding the many beauties of his beloved home, the city of Gloucester.

**Oral Communications:**

**Councilor Elect-Valerie Gilman**, 75 Revere Street, thanked the five outgoing Councilors for their service to the city, and asked them to consider working together to work towards the preparation for the decennial 2020 review of the City Charter.

**Presentations/Commendations:**

Remarks were offered by the Clerk of Committees, **Dana C. Jorgensson** commending the departing City Councilors. **Linda T. Lowe**, City Clerk with **Joanne Senos**, Assistant City Clerk then offered Special Council Commendations to: Council President, Ward 1 **Councilor Paul McGeary**; Council Vice President, **Councilor Robert Whynott**; Planning & Development Chair, At Large **Councilor Greg Verga**; Budget & Finance Vice Chair, Ward 5 **Councilor William Fonvielle**; and Ward 4 **Councilor Bob Stewart**.

**Mayor Sefatia Theken** offered remarks and thanks to the outgoing City Councilors accompanied by: CAO, Jim Destino; heads of city departments -- Kenny Costa, City Auditor; John Dunn, CFO; Police Chief Leonard Campanello; Fire Chief Eric Smith; Dr. Richard Safier, Superintendent of Schools; Chip Payson, General Counsel; Mike Hale, DPW Director; Mark Cole, Assistant DPW Director; Bill Sanborn, Building Inspector; Donna Compton, Purchasing Agent; Adam Curcuru, Veterans' Agent; Noreen Burke, Public Health Director; James Pope, IT Director; Gregg Cademartori, Planning Director; Matt Coogan, Senior Planner; Lucy Sheehan, Director of the Rose Baker Senior Center; Tom Daniel, Community Development Director; Max Schenk, Manager of Environmental Health Services; Nancy Papows, Principal Assessor; and Chris Pantano, Executive Secretary to the Mayor.

**Council President McGeary**, speaking on behalf of the outgoing City Councilors, thanked all of those who offered their kind remarks and said that those who worked for the city were, in his experience, a very dedicated, professional and hard working group of people, and it was their honor to work with them all.

**The Council recessed at 6:19 p.m. and reconvened at 6:24 p.m.**

**Appointments:****1. *New Appointments:***

Gloucester Cultural Council

TTE 02/14/18 Dorothy Nelson

**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 appoint Dorothy Nelson to the Gloucester Cultural Council, TTE 02/14/18.

**Ms. Nelson** briefly reviewed her association with the Gloucester Veteran's Writing Workshop at the city's Veteran's Center, the Gloucester Writer Center as well as her association with the Rocky Neck Cultural Center and said that she has been involved in the arts for most of her life. She noted she taught at the University of Massachusetts/Boston.

**Councilor Whynott** said that the Committee was very impressed with Ms. Nelson's qualifications and supported her appointment.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor Stewart, the City Council voted 8 in favor, 0 opposed, 1 (Cox) absent, to appoint Dorothy Nelson to the Gloucester Cultural Council, TTE 02/14/18.**

Magnolia Woods Oversight & Advisory Committee      TTE 02/14/18      Richard Jabba

**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 appoint Richard Jabba to the Magnolia Woods Oversight & Advisory Committee, TTE 02/14/18.

**Mr. Jabba** explained that he has 20 years of experience in community planning, and had worked on the Gloucester Community Development Plan 2001. He said he currently works with the state and the city of Boston in planning. Noting that his two sons are involved with the Fishermen Youth Soccer (FYS) organization, he said Dean Sidell, a member of the Magnolia Woods committee and President of the FYS organization he suggested he seek out this volunteer position.

**Councilor Fonvielle** said he knows Mr. Jabba through his work on the Gloucester Community Development Plan 2001 and recommended his appointment. **Councilor Whynott** noted Mr. Jabba's mother taught his children, and he voiced his support for Mr. Jabba's appointment.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor , the City Council voted 8 in favor, 0 opposed, 1 (Cox) absent, to appoint Richard Jabba to the Magnolia Woods Oversight & Advisory Committee, TTE 02/14/18.**

**Consent Agenda:**

- **MAYOR'S REPORT**
- 1. Grant Application & Checklist from Fire Department re: City Council approval to apply for a FFY2015-EMPG Emergency Management Performance Grant in the amount of \$6,460 (Refer B&F)
- 2. Memorandum from the GPS Director of Finance & Operations re: Special Budgetary Transfer Request 2016-SBT-4 (Refer B&F)
  - **COMMUNICATIONS/INVITATIONS**
  - 1. Letter from Executive Director of PERAC re: Appropriation for Fiscal Year 2017 (Refer B&F)
    - **INFORMATION ONLY**
    - **APPLICATIONS/PETITIONS**
    - 1. SCP2015-008: Western Avenue #53, Map 3, Lot 47, GZO Sec. 2.3.1.7 multi-family, Sec. 3.2.2 reduction in minimum lot area and open space per dwelling unit (Refer P&D)
    - 2. SCP2015-009: Bass Avenue #53, Map 55, Lot 13, GZO Sec. 2.3.1.7 multi-family, Sec. 3.2.2 reduction in minimum lot area and open space per dwelling unit (Refer P&D)
      - **COUNCILORS ORDERS**
      - **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
  - 1. Special City Council Meeting: November 8, 2015 (Approve/File)
  - 2. Standing Committee Meetings: B&F 11/10/15 (under separate cover), O&A 11/07/15, P&D 11/09/15 (Approve/File)

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

**By unanimous consent the Consent Agenda was accepted as presented.**

**Committee Reports:**

**Budget & Finance: December 10, 2015**

COMMITTEE RECOMMENDATION: On motion by Councilor Fonvielle, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to approve a Financing Agreement Lease for the City of Gloucester's LED Streetlight Retrofit as follows:

Ordered: That the Gloucester City Council ("Council") authorizes the Mayor, the Treasurer, and any other appropriate Gloucester City ("City") official to execute any and all documents relating to a Financing Agreement Lease ("Lease") with Siemens Public, Inc. The Lease will finance the costs of the retrofit project ("Project") converting all city-owned streetlights to LED lighting technology. The Lease will be for a maximum term of 10 years and pay gross costs for equipment, installation and associated expenses not to exceed an amount of \$1,362,639. Further, the Council adopts a Financing Agreement Lease Resolution (placed on file) authorizing the acquisition of such equipment and the approval of the execution of any and all necessary and related documents. Further, the Council authorizes the Mayor and any other appropriate City official to apply for and accept any and all grants or gifts that may be available to the City to pay costs of the Project or to reduce the budgetary costs of lease payments, such as grants or gifts to include without limitation a Massachusetts Green Communities grant(s) or incentive payments from National Grid.

**DISCUSSION:**

**Councilor Fonvielle** explained that the city's streetlight LED conversion project held out the prospect of great cost savings to taxpayers but is also smart from an environmental standpoint. He lauded the work of Matt Coogan, Senior Planner, for initiating and guiding this Green Communities program.

**Councilor Ciolino** said there are a lot of streetlights that aren't working and asked whether Siemens fix these issues, highlighting those lights on Main Street. **Mike Hale**, DPW Director, said that if a light is burned out, Siemens will replace the bulb so that the streetlight is brought back up on line very quickly. If the fixture is no longer serviceable, Siemens has been asked to expedite the process at an accelerated rate for replacing those light poles with new LED lamps once this process is approved, he pointed out. He said that Siemens have ordered about 30 fixtures of the model he is looking at. He advised that Main St. is 100 percent lit this evening, which he said was the case at 1:00 p.m. that afternoon. The Main St. fixtures will be replaced with new LED fixtures in the near future. He said that if there are poles that are down, citing a situation on the corner of Dale Ave. and Middle St., they will examine whether there is a different way to fix the situation as that pole has been struck previously taking the pole down. **Councilor Ciolino** commented that there is a mechanism in place to repair non-working fixtures. He asked if the fixture repair will be an added expense to the city. **Mr. Hale** said this conversion project will replace all streetlight fixtures and that it is not just conversion to LED bulbs. If a streetlight is out today, the bulb will be replaced until the fixture is replaced -- if the fixture is broken, once the Council process is concluded, they can have Siemens expedite the list of broken fixtures and replace them with the model they have chosen.

**Council President McGeary** said it was his recollection from the Dec. 10 B&F Committee meeting that Mr. Coogan talked about the difference between the poles and armatures of the streetlight. **Matt Coogan**, Assistant City Planner, confirmed the DPW Director's statements. He said pursuant to the LED streetlight conversion, if there are damaged armatures they will be replaced by Siemens as well and will do tree trimming if need be. **Mr. Coogan** confirmed for **Council President McGeary** that double poles are not within the scope of this project.

**MOTION: On motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to approve a Financing Agreement Lease for the City of Gloucester's LED Streetlight Retrofit as follows:**

**Ordered: That the Gloucester City Council ("Council") authorizes the Mayor, the Treasurer and any other appropriate Gloucester City ("City") official to execute any and all documents relating to a Financing Agreement Lease ("Lease") with Siemens Public, Inc. The Lease will finance the costs of the retrofit project ("Project") converting all city-owned streetlights to LED lighting technology. The Lease will be for a maximum term of 10 years and pay gross costs for equipment, installation and associated expenses not to exceed an amount of \$1,362,639. Further, the Council adopts a Financing Agreement Lease Resolution**

**(placed on file) authorizing the acquisition of such equipment and the approval of the execution of any and all necessary and related documents. Further, the Council authorizes the Mayor and any other appropriate City official to apply for and accept any and all grants or gifts that may be available to the City to pay costs of the Project or to reduce the budgetary costs of lease payments, such as grants or gifts to include without limitation a Massachusetts Green Communities grant(s) or incentive payments from National Grid.**

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 one-time Planning Assistance Towards Housing (PATH) Grant from the Massachusetts Department of Housing & Community Development for \$15,000 for the purpose of creating a Housing Production Plan for the City of Gloucester.

**DISCUSSION:**

**Councilor Fonvielle** explained that the PATH grant will allow the city:

- To conduct an inventory survey of its existing housing stock;
  - To conduct a comprehensive needs assessment of housing needs in the city of rental and homeownership;
  - To develop future goals and planning strategies for housing development and preservation;
  - And to create a formal Housing Production Plan for increasing the city's affordable housing stock.
- The Metropolitan Area Planning Council (MAPC) will be assisting the city in this endeavor and have pledged \$5,000 of in-kind services which will be used for the match for this grant.

**MOTION: On a motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed, 1 (Cox) absent, to accept under MGL c. 44, §53A a one-time Planning Assistance Towards Housing (PATH) Grant from the Massachusetts Department of Housing & Community Development for \$15,000 for the purpose of creating a Housing Production Plan for the City of Gloucester.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Fonvielle, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A, a Mass. State FY2016 Formula Grant Allocation from the Mass. Executive Office of Elder Affairs for a total of \$66,636.

**DISCUSSION:**

**Councilor Fonvielle** said this is an annual grant from the state which helps to subsidize the salaries of the Rose Baker Senior Center's Senior Clerk, Outreach Coordinator and part-time Social Worker. He noted there was no match required of the city.

**MOTION: On a motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted 8 favor, 0 opposed, 1 (Cox) absent, to accept under MGL c. 44, §53A, a Mass. State FY2016 Formula Grant Allocation from the Mass. Executive Office of Elder Affairs for a total of \$66,636.**

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 Health and Human Services passed through the Massachusetts Department of Public Health Emergency Preparedness Bureau and the International Institute of Greater Lawrence in the amount of \$5,840.48 for the purpose of supporting the public health emergency preparedness and response activities throughout the North Shore and Cape Ann Coalition.

**DISCUSSION:**

**Councilor Fonvielle** explained this is the last funding from the Mass. Dept. of Public Health Emergency Preparedness Bureau through the U.S. Dept. of Health & Human Services. Henceforth this funding will be handled on a regional basis for the entire northeast of the state by another non-profit agency based out of Lawrence. There is no match.

**MOTION: On a motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed, 1 (Cox) absent, to accept under MGL c. 44, §53A a federal grant from the U.S. Department of Health and Human Services passed through the Massachusetts Department of Public Health Emergency Preparedness Bureau and the International Institute of Greater Lawrence in the amount of \$5,840.48 for the purpose of supporting the public health emergency preparedness and response activities throughout the North Shore and Cape Ann Coalition.**

***Allocation of General Fund Free Cash and three Supplemental Appropriation-Budget Requests (2016-SA-9, 2016-SA-10, 2016-SA-11) and the establishment of a Building Maintenance Stabilization Fund***

COMMITTEE RECOMMENDATION: On 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-9 in the amount of \$980,326.00 (Nine Hundred Eighty Thousand Three Hundred Twenty Six Dollars) from the General Fund, Fund Balance Undesignated (“Free Cash”), Account #1010000.10.000.35900.0000.00.000.00.000 to Capital Projects Stabilization Fund -Transfers In-from the General Fund, Account #850000.10.991.49700.0000.00.000.00.040 per the Capital Plan Funding and Free Cash Distribution Policy.

**DISCUSSION:**

**Jim Destino, CAO,** explained the Free Cash transfers as follows: The state Department of Revenue (DOR) had certified General Fund free cash on October 15 in the amount of \$3,450,816. The Administration with the Council’s approval will use \$1,000,000 of this to amortize the FY15 Snow & Ice deficit. This leaves \$2,450,815 to be allocated according to the Capital Plan Funding and Free Cash Distribution Policy which the City Council had approved in 2015 (Funding and Policy on file). The allocation of free cash funds are proposed as follows:

Capital Projects Stabilization Fund (40 percent)	\$980,326
Building Maintenance Stabilization Fund (to be established) (20 percent)	\$490,163
General Stabilization Fund (10 percent)	\$246,081
Remaining as unreserved free cash	<u>\$735,245</u>
<b>TOTAL</b>	<b>\$2,450,815</b>

**Councilor Fonvielle** said that the Budget & Finance Committee thought this to be prudent fiscal policy and management and will be well appreciated by both the DOR and bond rating agencies.

**MOTION: On motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to approve Supplemental Appropriation 2016-SA-9 in the amount of \$980,326.00 (Nine Hundred Eighty Thousand Three Hundred Twenty Six Dollars) from the General Fund, Fund Balance Undesignated (“Free Cash”), Account #1010000.10.000.35900.0000.00.000.00.000 to Capital Projects Stabilization Fund -Transfers In-from the General Fund, Account #850000.10.991.49700.0000.00.000.00.040 per the Capital Plan Funding and Free Cash Distribution Policy.**

**ESTABLISHMENT OF A BUILDING MAINTENANCE STABILIZATION FUND:**

COMMITTEE RECOMMENDATION: On motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council establish a new Stabilization Fund to be known as the “Building Maintenance Stabilization Fund” pursuant to Massachusetts

General Law (MGL) Chapter 40, Section 5B, for the purpose of funding extraordinary facility maintenance (repair and upkeep) expenditures relating to all municipal buildings (City and School).

**DISCUSSION:**

**Councilor Fonvielle** said it is a wise decision to establish this fund to meet on-going city needs.

**John Dunn**, CFO, at the request of **Council President McGeary**, briefly described a Stabilization Fund as a reserve fund of the General Fund balance that puts money aside for a specific purpose or general need. Putting money into the fund and transferring money out of the fund requires a two-thirds vote of the Council. Stabilization Funds, he said, are a layer of security for the city. Stabilization Funds can be established for general purposes and specific purposes, he pointed out. He noted that by the Council's positive vote for the establishment of a new Building Maintenance Stabilization Fund there would now be three city General Fund Stabilization Funds.

**MOTION: On motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to establish a new Stabilization Fund to be known as the "Building Maintenance Stabilization Fund" pursuant to Massachusetts General Law (MGL) Chapter 40, Section 5B, for the purpose of funding extraordinary facility maintenance (repair and upkeep) expenditures relating to all municipal buildings (City and School).**

COMMITTEE RECOMMENDATION: On 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-10 in the amount of \$490,163.00 (Four Hundred Ninety Thousand One Hundred Sixty Three Dollars) from the General Fund, Fund Balance Undesignated ("Free Cash"), Account #1010000.10.000.35900.0000.00.000.00.000 to Building Maintenance Stabilization Fund-Transfers In-from the General Fund, Account #860000.10.991.49700.0000.00.000.00.040 per the Capital Plan Funding and Free Cash Distribution Policy.

**DISCUSSION:**

**Councilor Fonvielle** said that this transfer now funds the newly created Building Maintenance Stabilization Fund.

**MOTION: On motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to approve Supplemental Appropriation 2016-SA-10 in the amount of \$490,163.00 (Four Hundred Ninety Thousand One Hundred Sixty Three Dollars) from the General Fund, Fund Balance Undesignated ("Free Cash"), Account #1010000.10.000.35900.0000.00.000.00.000 to Building Maintenance Stabilization Fund-Transfers In-from the General Fund, Account #860000.10.991.49700.0000.00.000.00.040 per the Capital Plan Funding and Free Cash Distribution Policy.**

COMMITTEE RECOMMENDATION: On 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-11 in the amount of \$245,081.00 (Two Hundred Forty Five Thousand Eighty One Dollars) from the General Fund, Fund Balance Undesignated ("Free Cash"), Account #1010000.10.000.35900.0000.00.000.00.000 to the General Stabilization Fund -Transfers In-from the General Fund, Account # 840000.10.991.49700.0000.00.000.00.040 per the Capital Plan Funding and Free Cash Distribution Policy.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent to approve Supplemental Appropriation 2016-SA-11 in the amount of \$245,081.00 (Two Hundred Forty Five Thousand Eighty One Dollars) from the General Fund, Fund Balance Undesignated ("Free Cash"), Account #1010000.10.000.35900.0000.00.000.00.000 to the**

**General Stabilization Fund -Transfers In-from the General Fund, Account # 840000.10.991.49700.0000.00.000.00.040 per the Capital Plan Funding and Free Cash Distribution Policy.**

***FY16 Free Cash Appropriations and three Supplemental Appropriation-Budget Requests (2016-SA-18, 2016-SA-19, 2016-SA-20)***

**Councilor Fonvielle** explained that the following three motions are relatively small transfers from Free Cash to meet some pressing city needs.

COMMITTEE RECOMMENDATION: On 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-18 in the amount of \$35,000 (Thirty Five Thousand Dollars) from the General Fund, Fund Balance Undesignated (“Free Cash”), Account #101000.10.000.35900.0000.00.000.00.000 to Mayor-Contingency/Emergency, Account #101000.10.121.57800.0000.00.000.00.057 for the purpose of funding Labor Counsel and for unforeseen expenditures.

**DISCUSSION:**

**Councilor Fonvielle** reviewed that with six union contracts up for negotiation starting after the first of the year, the Administration will be seeking the assistance of specialized legal counsel which accounts for the bulk of the money to be transferred. The rest will remain as a reserve in the Mayor’s contingency account. He noted that compared to other North Shore communities the Gloucester Mayor’s contingency fund is extremely modest.

**MOTION: On motion by Councilor Fonvielle, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to approve Supplemental Appropriation 2016-SA-18 in the amount of \$35,000 (Thirty Five Thousand Dollars) from the General Fund, Fund Balance Undesignated (“Free Cash”), Account #101000.10.000.35900.0000.00.000.00.000 to Mayor-Contingency/Emergency, Account #101000.10.121.57800.0000.00.000.00.057 for the purpose of funding Labor Counsel and for unforeseen expenditures.**

COMMITTEE RECOMMENDATION: On 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-19 in the amount of \$3,000 (Three Thousand Dollars) from the General Fund, Fund Balance Undesignated (“Free Cash”), Account #101000.10.000.35900.0000.00.000.00.000 to Public Property Maintenance-Downtown Improvements, Account #101000.10.470.52181.0000.00.000.00.052 for the purpose of funding various downtown enhancements.

**DISCUSSION:**

**Councilor Fonvielle** explained that this transfer will supplement the original appropriation of \$20,000 and be used for various enhancements in the city’s downtown. This is to backfill the Downtown Improvements account.

**MOTION: On motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to approve Supplemental Appropriation 2016-SA-19 in the amount of \$3,000 (Three Thousand Dollars) from the General Fund, Fund Balance Undesignated (“Free Cash”), Account #101000.10.000.35900.0000.00.000.00.000 to Public Property Maintenance-Downtown Improvements, Account #101000.10.470.52181.0000.00.000.00.052 for the purpose of funding various downtown enhancements.**

COMMITTEE RECOMMENDATION: On 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-20 in the amount of \$15,000 (Fifteen Thousand Dollars) from the Building Maintenance Stabilization Fund, Transfers Out – to Trust & Agency Funds, Account# 860000.10.995.59600.0000.00.000.00.059 to the City Hall Annex Building Maintenance Fund, Transfers In – from

Trust & Agency Funds, Account # 860001.10.995.49700.0000.00.000.00.040 for the purpose of funding reception area renovations at the City Hall Annex at Pond Road.

**DISCUSSION:**

**Councilor Fonvielle** reviewed that these transferred funds will be used for the customer service initiative to help improve city permitting and economic development services. Funds will go towards improving signage from the street, on the building and directing customers inside the City Hall Annex, along with a renovation to create a reception area where a desk will be manned to assist people seeking permitting as well as have permit applications available for distribution. He advised that the manner in which the information desk will be staffed is under consideration by the Administration at this time.

**MOTION: On motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to approve Supplemental Appropriation 2016-SA-20 in the amount of \$15,000 (Fifteen Thousand Dollars) from the Building Maintenance Stabilization Fund, Transfers Out – to Trust & Agency Funds, Account# 860000.10.995.59600.0000.00.000.00.059 to the City Hall Annex Building Maintenance Fund, Transfers In – from Trust & Agency Funds, Account # 860001.10.995.49700.0000.00.000.00.040 for the purpose of funding reception area renovations at the City Hall Annex at Pond Road.**

**Ordinances & Administration: December 7, 2015**

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 allow the withdrawal of CC2015-038 to Amend Sec. 22-269 “Stop Intersections” as it relates to Leonard Street without prejudice.

**DISCUSSION:**

**Councilor Stewart** said one stop sign is already in place and so this order is not necessary.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, 1 (Cox) absent, to allow the withdrawal of CC2015-038 to Amend Sec. 22-269 “Stop Intersections” as it relates to Leonard Street without prejudice.**

**Planning & Development: December 9, 2015**

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor LeBlanc, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve a Conservation Restriction from Christopher and Bonnie Covington for a property of 18.61+/- acres at 72 Coles Island Road, Map 252, Lot 18, to the Essex County Greenbelt Association, Inc., for the purpose of the preservation of a natural resource of the city and being in the public interest pursuant to M.G.L. c. 184, §32.

**DISCUSSION:**

**Councilor Verga** said that this is another opportunity to put property into protection. He thanked the Covington’s for their donation of land. **Chris LaPointe**, Director of Land Conservation for the Essex County Greenbelt Association said that this is the donation of an 18.61 +/- acre parcel at 72 Coles Island Road by Christopher and Bonnie Covington. This action will extinguish one potential future house lot, and allowing one lot remaining for a potential future house but protecting a great deal of land. He advised that the land is in an area of critical environmental concern and is adjacent to a significant amount of existing protected land. The Conservation Commission has endorsed this Conservation Restriction, and the state has approved this action as well, he noted.



**MOTION: On a motion by Councilor Verga, seconded by Councilor Stewart, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to approve a Conservation Restriction from Christopher and Bonnie Covington for a property of 18.61+/- acres at 72 Coles Island Road, Map 252, Lot 18, to the Essex County Greenbelt Association, Inc., for the purpose of the preservation of a natural resource of the city and being in the public interest pursuant to M.G.L. c. 184, §32.**

**Scheduled Public Hearings:**

**Public Hearings #1-#4 were taking out of order.**

- 2. PH2015-048: Petition for road repairs in accordance with Article IV “Repair of Private Ways” Sec. 21-80 et. seq. re: Starknaught Road**

**This public hearing is opened at 7:00 p.m.**

**Council President McGeary** announced that due to the fact that the abutters not meeting the requirements of GCO Sec. 21-83 and following in that they did not achieve a majority of the abutters in order to move forward, he asked that the abutters be allowed to withdraw their petition to improve Starknaught Road without prejudice.

**This public hearing is closed at 7:00 p.m.**

**COMMITTEE RECOMMENDATION:** On motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to allow the withdrawal of the Petition brought forward by the abutters of Starknaught Road under Sec. 21-83 of the Gloucester Code of Ordinances to repair/repave that private way without prejudice.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Whynott, seconded by Councilor Fonvielle, the City Council voted 8 in favor, 0 opposed, 1 (Cox) absent, to allow the withdrawal of the Petition brought forward by the abutters of Starknaught Road under Sec. 21-83 of the Gloucester Code of Ordinances to repair/repave that private way without prejudice.**

- 1. PH2015-047: Petition for road repairs in accordance with Article IV “Repair of Private Ways” Sec. 21-80 et. seq. re: Starknaught Heights**

**This public hearing is opened at 7:01 p.m.**

**Those speaking in favor:**

**Kimberly Voltero**, 3 Starknaught Heights, said she and her husband along with 32 abutters that live on Starknaught Heights followed the Code of Ordinances procedures as outlined in Article IV “Repair of Private Ways” Sec. 21-80 et. seq., ensuring proper notice was made, and that the majority of abutters voted in favor in a meeting, and then when GCO Art. IV was amended by the Council, they met at a duly noticed meeting and voted again achieving a 51 percent of abutters present and voted overwhelmingly to move forward with a betterment project to repair and repave their road. She asked if some city funds should become available, the residents of Starknaught Heights ask that the city consider in some small way subsidizing a part of this project from Free Cash as the residents are hopeful that by this betterment project the city will consider taking this road public thereby adding to the city’s street miles eligible for reimbursement by the state (Chapter 90).

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 7:03 p.m.**

**COMMITTEE RECOMMENDATION:** On motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council under Sec. 21-83 of the Gloucester Code of Ordinances that the City is to repair/repave the private way of Starknaught Heights. The abutters agree to provide all easements, rights of way, designs, permits and legal certifications necessary for said

improvements. The cost resulting from said improvements to be carried out is based on Sec. 21-83, "Funding for approved Construction and Repair." The full cost of this project is not to exceed \$145,000; one hundred percent of the costs shall be borne by abutters and assessed as betterments.

#### **DISCUSSION:**

**Council President McGeary** explained that as ward Councilor he worked on this matter with the residents of Starknaught Heights for almost a year. He advised there was a meeting in July, and then it was brought to their attention by General Counsel that the related ordinance had been amended, and so a second meeting was held with 51 percent of all abutters in attendance who voted to move forward to seek a betterment to repair and pave their road. He said that the residents of Starknaught Heights knew they had voted on the expectation they wouldn't receive any contribution from the city for this project. He suggested that if the additional Snow & Ice FEMA aid helps free up Free Cash funds between now and the paving season, there may be a possibility the Administration may be able to find funds to release towards this project, but that is not sure. As requested, the full cost of the project will be borne by the abutters and assessed as betterments, he reminded all the abutters present.

**MOTION: On motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, that under Sec. 21-83 of the Gloucester Code of Ordinances that the City is to repair/repave the private way of Starknaught Heights. The abutters agree to provide all easements, rights of way, designs, permits and legal certifications necessary for said improvements. The cost resulting from said improvements to be carried out is based on Sec. 21-83, "Funding for approved Construction and Repair." The full cost of this project is not to exceed \$145,000; one hundred percent of the costs shall be borne by abutters and assessed as betterments.**

#### **4. PH2015-050: Petition for road repairs in accordance with Article IV "Repair of Private Ways" Sec. 21-80 et seq. re: Joseph's Way**

**This public hearing is opened at 7:07 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 7:07 p.m.**

**COMMITTEE RECOMMENDATION:** On motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council under Sec. 21-83 of the Gloucester Code of Ordinances that the City is to repair/repave the private way of Joseph's Way. The abutters agree to provide all easements, rights of way, designs, permits and legal certifications necessary for said improvements. The cost resulting from said improvements to be carried out is based on Sec. 21-83, "Funding for approved Construction and Repair." The full cost of this project is not to exceed \$41,000; one hundred percent of the costs shall be borne by abutters and assessed as betterments.

#### **DISCUSSION:**

**Council President McGeary** explained this is part of what was intended to be a four street project in the immediate area to achieve economies of scale. There are some economies that can be realized by combining Joseph's Way into the project. The abutters met and voted in sufficient number in favor to approve moving forward with the road repair and paving project to be paid by 10 year betterment under the expectation that all the abutters would bear the full cost of this project, he advised, and recommended the project to the Council.

**MOTION: On motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, that under Sec. 21-83 of the Gloucester Code of Ordinances that the City is to repair/repave the private way of Joseph's Way. The abutters agree to provide all easements, rights of way, designs, permits and legal certifications necessary for said improvements. The**

**cost resulting from said improvements to be carried out is based on Sec. 21-83, “Funding for approved Construction and Repair.” The full cost of this project is not to exceed \$41,000; one hundred percent of the costs shall be borne by abutters and assessed as betterments.**

**3. PH2015-049: Petition for road repairs in accordance with Article IV “Repair of Private Ways” Sec. 21-80 et seq. re: Oxford Road**

**This public hearing is opened at 7:09 p.m.**

**Those speaking in favor:**

**James Caulkett**, 10 Oxford Road, expressed his full support for this paving and repair project. He said that a 51 percent majority of the abutters had voted in favor of the project at a public meeting in October. He said the repaving of the road is a safety issue for all vehicles that travel the road. Potholes continue to grow, worsening pedestrian and vehicle hazards. At less than \$1 a day [the estimated cost of the project to the abutters] it is worth their efforts to support this measure, he said.

**Michelle Galante Duason**, 12 Oxford Road, said that she and her husband bought a condominium early in 2015 and expressed her support of the road being repaired and paved. Her husband passed away in August, and she described how when her husband was ill how difficult it was for an ambulance to reach them on the poor roadway. She urged the Council to vote in favor of the residents’ petition.

**Faye Passanisi**, 9 Oxford Road, expressed that she was concerned that the abutters completed the process for their petition to meet the letter of the law, and that she attended every meeting. She said despite this, she was told that even though their following the ordinance, voting with a 51 percent abutter majority, that they may not see a positive outcome. She said the repaving was is a safety issue and that they need to see the road fixed—that it is not a matter of aesthetics but a matter of safety, and the road’s condition is only getting worse.

**Those speaking in opposition:**

**Janet Rice**, 15 Starknaught Road, said her property was at the corner of Oxford Road and Starknaught Road and had 65 feet of frontage on Oxford Road. She explained that currently that part of Oxford Road cuts across the front of her property which creates a zig zag on the road and is not connected to the end of Oxford Road which causes a lot of issues with snow and snow plowing. She said that during this entire process she was never asked for permission to pave across her property. She added that she had repeatedly asked for the road to be moved about 25 feet away from her property for the road to be in its proper surveyed position, and said that she was told the city would never do this. She was told that she could either let the city pave through and over her personal property (about 15,000 square feet) which she noted she has paid real estate taxes on for 30 years or to stop the Oxford Road paving project by not authorizing the city to pave her on her property. She said that although she didn’t want to stop the road repair and paving project, and that the city needs good roads, she suggested that no one else has been asked to give 15,000 square feet of their own property. She then proposed that the city Engineer come back to reassess what it would cost to move the 65 feet of roadway to where it is supposed to be connected to the end of Oxford Road. She suggested if they are going to do it, to do it right to prevent future problems. Since she has been told of the two options, she said she would object to the Oxford Road petition and request that the Council not vote to allow the petition to go forward.

**Communications: None.**

**Councilor Questions:**

**Councilor Stewart** asked Ms. Rice to point out on Google maps the location of the house she owns. She approached the dais pointing out her house on 15 Starknaught Road and said that she also owns 13 Oxford Road. She pointed out where she said the road should connect. When asked by **Councilor Stewart** how long the road had been on her property, **Ms. Rice** said she purchased the property 35 years ago and didn’t know the road was on her property until 16 years ago when she split the property to build a second house, and at that point she had asked the former DPW Director to move the road off of her property. She said that the former DPW Director had advised her that the abutters of the road would have to go through this process they are currently undertaking.

**Councilor Verga**, noting that Ms. Rice had indicated she had two options, asked whether, if the Council voted to approve this improvement, Ms. Rice, exercising her property rights, could stop the project from happening on her property. **Chip Payson**, General Counsel, suggested to the Council that there were enough legal issues here to make the proposed project problematic. He indicated there were legal issues to be solved and that it was unclear as to whether the city is able to do this without Ms. Rice’s approval. He said she very well may have the ability to stop the project as the road goes across her property. He said it is his understanding that there isn’t enough evidence that can say one way or the other.

**Councilor Verga** asked if the road can be moved away from Ms. Rice's property does it create a problem for whoever owns the property directly across from Ms. Rice's property or was it a matter of logistics trying to move boulders out of the way. **Mr. Hale** said he didn't know how far the abutter across Oxford Road may or may not have encroached into the layout of the way. The travelled way is on Ms. Rice's side of Oxford Road and cuts across the corner of her property, he noted. He said he didn't think that the building or moving the road is not just moving boulders and cutting trees but is a much more involved activity. He said there is no survey done by the city for that purpose. The survey that is available was done at the behest of Ms. Rice in 1999. **Councilor Verga** asked how soon any work would start. **Mr. Hale** said it would not start before the spring, and the plan was to complete the project in the spring. In light of the questions raised this evening, he noted, there remained four months to resolve them. **Councilor Verga** observed that there yet remained time for the abutters to come to an agreement. **Mr. Hale** said it wouldn't be the city that comes back before the Council but the abutters. **Council President McGeary** said this is a suggestion that they would give leave for the abutters to withdraw their petition without prejudice, and to see if they can come to some agreement amongst themselves with some city technical assistance to see if there can be a resolution to this problem in the next three months so it could be a part of the repair and paving project to be advantageous to them financially. **Mr. Payson** expressed his agreement that it is appropriate to give the abutters sufficient time to work matters out amongst themselves and that he and Mr. Hale are available to answer questions. He said once the abutters have come to a resolution they can come back before the Council. **Council President McGeary** asked whether the abutters of Oxford Road have met all the conditions of the ordinance and could come forward again without restarting the entire process. **Mr. Payson** said he would look at the matter when it returns before the Council.

**Councilor Ciolino** asked if the scope of work includes the city using the services of a surveyor to determine where property lines actually lay. **Mr. Hale** said it is not, that these projects are to pave what is on the ground today and always have been. He said this is a unique situation where the travel way deviates so far out of the right of way. Other private way paving projects they've done haven't had this sort of a question -- most of them may have had slight encroachments by some abutters or vegetation that needed cutting back or removed, but not like this in his experience. He indicated the city knows where the road is supposed to be. Ms. Rice's survey clearly shows where her property is encroached on by this way which is recognized by her deed that it is encroached on. This is a private road, and at some point in time the travel way traversed her property and has been like that ever since. **Councilor Ciolino** suggested the Council could move the matter and not take out a loan order on this roadway until it is ready to go because he didn't want to see it all be for naught. **Council President McGeary** said he was hopeful that some agreement can be reached but is clear it would not happen this evening. He said Councilor Verga's suggestion that the abutters be given leave to withdraw without prejudice and bring the petition forward at some future date is likely the best they could achieve.

**Ms. Duason** said she and her upstairs condominium owner and abutters on the other side of the property in question have no issue with utilizing whatever area necessary to make this a road to traverse then if lot lines had to be moved the abutters had no issue with that if it would make the road eligible to be improved upon.

**Councilor Whyntott** said rather than withdrawing the petition without prejudice, he suggested the Council continue the public hearing until late March 2016.

**Councilor Fonvielle** said he believed the city had to be a party to this process to enable the petition to move forward. **Council President McGeary** said that is why the city will be providing technical assistance.

**Councilor Ciolino** said if Oxford Road doesn't move forward the abutters would lose the economy of scale. He said he believed that this can be resolved by the spring before the project starts.

**Councilor Stewart** said the issue isn't a matter of convenience but who owns a strip of land. The city has no right to pave a strip of land that is privately owned and that road has been there for at least 35 years. He said the only option the city has is to take the strip of land by adverse possession, but that is an action in court decision. He said that is the only recourse the city has from what he has heard this evening. If the owner consents to doing that, she is consenting to having her private property improved by the road.

**Councilor LeBlanc** said he would like to see the matter continued that there is enough time before the paving season commences to give the abutters' time to resolve their issues.

**Council President McGeary** said by continuing the matter it will remain an active situation. The cost is estimated at \$57,000 now, but \$10,000 would be added to accommodate the set up costs if it is not done at the same time the other adjacent roads. He said the resolution has to be among the neighbors with whatever help the city can give in terms of the possibility of moving the road, and the neighbors have to agree. He observed the project must be technically feasible, which will be the call of Mr. Hale and the City Engineer, and then the abutters must agree to a solution. He added that the fact that the road would be improved would not take away Ms. Rice's property rights,

that she would still own the underlying road. The improved road would run across Ms. Rice's property, and have certain rights inherent with that property ownership.

**Glenda Zink**, owner of 17 Oxford Road, 17R Oxford Road and two properties on Starknought Road which she said she will be developing, and needs to bring a water line to it which will require them to go down and around that corner for water access. She said the existing road is broken up hot top and dirt which she added is hardly much of a road at all. She also described issues with the roadway when she built 17R Oxford Road.

**Ms. Voltero** said that they are in favor of moving the road to where it was originally and asked how they can get the help of the DPW Director to implement this change and pay a bit more to do it the right way. This puts in article 4, Sec. 80 to be 100 percent not 51 percent, and asked that the road be paved in its original location not in the place to where the road has been tracked. If the cost is not significantly different and this matter is continued a month and Mr. Hale gives them another cost estimate then there is no issue, but if it is significantly different the residents should have the opportunity to vote on the new price.

**Council President McGeary** asked if it was fair to say, leaving aside technical questions, that if legal documents were drawn up that abutters agreed that the relocation of the road to allow the road to pass over their property to change the roadway, that General Counsel would want a written legal document. **Mr. Payson** said, "Absolutely." that there are legal thresholds and requirements that has to be met for that to take place. **Council President McGeary** said if the neighbors were to agree to the legal aspects of relocating the road, had the DPW Director sufficiently examined road to say yes or no if it is technically feasible and have an estimate of costs to move the road. **Mr. Hale** said it would be unfair to guess but suggested that the cost wouldn't be insignificant and would be significantly different than the basic paving price. He said this would be building a new road in essence. **Council President McGeary** asked that if the abutters' legal issues were addressed and the engineering plan was done with an estimate in the next three and a half months could the DPW Director be ready to move the project forward. **Mr. Hale** said a three month timetable would be tight. He asked who would do the work. He reminded the Council his is a petition of private way owners for the city to improve their road, and that the city is partners in the project primarily by managing the money and project for them. **Council President McGeary** said the abutters would bear the cost. He said he understood that an engineering plan is a significant cost and takes significant time. He pointed out that if the abutters were willing to come to an agreement which clears up the legal issues away, the city might find a way to at least to give estimates, understanding they are just that -- estimates. The abutters know what they are buying into, and if a new engineering plan were required it should be included in the cost estimate.

**The Council voted unanimously to continue the public hearing to March 22, 2016.**

**4. PH2015-050: Petition for road repairs in accordance with Article IV "Repair of Private Ways" Sec. 21-80 et seq. re: Joseph's Way**

**This public hearing is opened at 7:07 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 7:07 p.m.**

COMMITTEE RECOMMENDATION: On motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council under Sec. 21-83 of the Gloucester Code of Ordinances that the City is to repair/repave the private way of Joseph's Way. The abutters agree to provide all easements, rights of way, designs, permits and legal certifications necessary for said improvements. The cost resulting from said improvements to be carried out is based on Sec. 21-83, "Funding for approved Construction and Repair." The full cost of this project is not to exceed \$41,000; one hundred percent of the costs shall be borne by abutters and assessed as betterments.

**DISCUSSION:**

**Council President McGeary** explained the proposed improvement was part of what was intended to be a four-street project. He said there were some economies by having Joseph's Way as a part of this project. The abutters had met and voted in favor for this project and betterment.

**MOTION: On motion by Councilor Fonvielle , seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, that under Sec. 21-83 of the Gloucester Code of Ordinances that the City is to repair/repave the private way of Joseph’s Way. The abutters agree to provide all easements, rights of way, designs, permits and legal certifications necessary for said improvements. The cost resulting from said improvements to be carried out is based on Sec. 21-83, “Funding for approved Construction and Repair.” The full cost of this project is not to exceed \$41,000; one hundred percent of the costs shall be borne by abutters and assessed as betterments.**

**The Council recessed 7:43 p.m. and reconvened at 7:50 p.m.**

**5. PH2015-071: Loan Order 2015-006: Loan Authorization in the amount of \$275,000 for Betterment Project on Starknaught Heights, Oxford Road and Joseph’s Way**

**This public hearing is opened at 7:50p.m.**

**Those speaking in favor:**

**Mr. Dunn** said this is a loan order specifically references Oxford Road, Joseph’s Way and Starknaught Heights. At this point because whether or not the Oxford Road piece would be carried out was up in the air he said he recommended the Council vote on the loan order as presented. At the Council meeting in March when the petition comes back, the Council could amend the loan order if something changed.

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions:**

**Councilor Whynott** asked when the borrowing would take place. **Mr. Dunn** said the funds would not be borrowed until paving season which would be in June at the end of the fiscal year. **Council President McGeary** confirmed that the repayment of the loan would be by betterments over the next 10 years on the abutters’ tax bills.

**This public hearing is closed at 7:51 p.m.**

**COMMITTEE RECOMMENDATION:** On motion by Councilor McGeary, seconded by Councilor Fonvielle, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council to approve the following Loan Order:

Ordered: That Two Hundred and Seventy-Five Thousand Dollars (\$275,000) is appropriated to pay costs of making temporary repairs, including paving, to the following private ways:

Starknaught Heights  
Oxford Road  
Joseph’s Way

To meet this appropriation the Treasurer, with the approval of the Mayor is authorized to borrow said amount under and pursuant to M.G.L. Chapter 44, Section 7(5), or pursuant to any other enabling authority. Although any borrowing by the City to meet this appropriation shall constitute a general obligation of the City and a pledge of its full faith and credit, one hundred percent (100%) of the amount needed to repay any borrowing pursuant to this order shall be raised through the assessment of betterments upon the abutters of each of the private ways, in accordance with M.G.L. Chapter 80, and any other applicable authority. The Mayor and any other appropriate official of the City are authorized to take any and all actions necessary to assess the betterments described above, the term of which will not exceed ten years.

Further Ordered: That the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under M.G.L. Chapter 44A any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to approve the following Loan Order:**

**Ordered: That Two Hundred and Seventy-Five Thousand Dollars (\$275,000) is appropriated to pay costs of making temporary repairs, including paving, to the following private ways:**

**Starknaught Heights  
Oxford Road  
Joseph's Way**

**To meet this appropriation the Treasurer, with the approval of the Mayor is authorized to borrow said amount under and pursuant to M.G.L. Chapter 44, Section 7(5), or pursuant to any other enabling authority. Although any borrowing by the City to meet this appropriation shall constitute a general obligation of the City and a pledge of its full faith and credit, one hundred percent (100%) of the amount needed to repay any borrowing pursuant to this order shall be raised through the assessment of betterments upon the abutters of each of the private ways, in accordance with M.G.L. Chapter 80, and any other applicable authority. The Mayor and any other appropriate official of the City are authorized to take any and all actions necessary to assess the betterments described above, the term of which will not exceed ten years.**

**Further Ordered: That the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under M.G.L. Chapter 44A any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.**

- 6. 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**

**Council President McGeary** advised that the public hearing about to be opened is about a general zoning amendment and the remarks should be focused on that point -- to construction of residential buildings in the velocity zone present on federal maps on the Back Shore/Atlantic Road.

**This public hearing is opened at 7:54 p.m.**

**Those speaking in favor:**

**Mark Poulin**, 84 High Popples Road, gave a review with photographs of the Back Shore describing conditions there transpiring due to extreme weather showing pictures of damage to homes and infrastructure from storms and storm surge. He noted that building in a FEMA flood zone should be subject to more oversight to safeguard persons and property. He showed a boulder thrown up by wave action onto 178 Atlantic Road due to a storm. He asked the Council to take the steps to institute common-sense ordinances protect its citizens. A full written statement of Mr. Poulin's remarks was placed on file (no photographs accompanied his written remarks).

**Mark DelVecchio**, 11 Tragabigzanda Road, said he was in favor of the Atlantic Road Overlay District. He expressed his concern about a quote by the Mayor in a local newspaper where she said about this proposal that she didn't want to see the city being sued. He said that he didn't mind that the city would be sued, only that they should win. He said if the due diligence is done they can amend the zoning laws equitably to withstand legal challenge. He cited a legal challenge faced by the town of Chatham (Gove v. Chatham) that did what the Council is being asked to do now. The case went to the Supreme Judicial Court of the state which said the town has the right to defend that which it holds valuable, that it is not a taking or spot zoning, he said. He then showed a video of basking sharks off of the Back Shore from May 2015; and video taken several weeks ago, a North Atlantic Right Whale visited, and advised that this would be in the same area to be contained within the proposed overlay district. He added that by allowing building on the water side of Atlantic Road, residents and visitors alike won't be able to see these things, or have access to the ocean, just a few privileged people, he said.

**Louise Dell Russo**, 189 Atlantic Road, citing a recent study by the state Coastal Erosion Commission, said that the report clearly outlines that there should be no new building on shorelines based on climate change, coastal erosion and rising sea water.

**Maria Valente**, 103 East Main Street, said that she never thought that anyone would build or think about building on the ocean side of the Back Shore, and that property owners can't do whatever they want. She expressed her support for the overlay district, and cited city reports such as the 2000 Community Development Plan, which identified the Back Shore as a heritage resource. The city's 2011 Open Space and Recreation Plan also said these areas are critical resource areas, and called the Back Shore a world renown scenic area which needs to be preserved.

She said she works on environmental health issues and espoused that nature is a real health benefit. The Back Shore is the city's restorative landscape, she pointed out. It is an economic and natural resource that should be treasured. Saying that today's flood will become tomorrow's high tide, she urged the Council to protect the city's natural resources. A full written statement of Ms. Valente's remarks was placed on file.

**Robert Miceli**, 183 Atlantic Road, said an important issue posed by construction on the Back Shore is that of public safety. He pointed out that this area during severe weather experienced 35-foot-high waves, and hurricane-force winds that can cause windblown debris injuring property, people, and first responders who must render aid to those injured people or quell a fire caused by the damage. He said to expect first responders to go out in such dangerous conditions is unreasonable. For public safety purposes, he asked there be no building in the zone.

**Ronn Garry**, 209 Atlantic Road, said that the AROD has been through three planning Board meetings finalizing language prohibiting any building but is now changed to a Special City Permit process. He said the ordinance amendments are in a state a flux, and suggested that any action on the AROD be postponed for a minimum of six months in order to craft a better Zoning Ordinance amendment. He said that a 25-unit development proposal for a housing subdivision on the former Ocean View Inn property is being submitted which is in a flood plain bordering on wetlands zone. He said there have been no traffic studies, no safety studies and no environmental impact studies. Then there is the proposed development at 178 Atlantic Road for a home to be built, he noted. He said no one has an idea of what the impact of either of these proposals means for the Back Shore.

**Mr. Garry**, referring to a document he submitted for the record about an environmental and geological study analysis for the area of the AROD, described two rocks which he displayed to the Council saying he had taken them from the property at 178 Atlantic Road, types of rocks there by the thousands. He mentioned that the Conservation Commission (ConCom) has by Request for Proposal identified a consultant to produce an environmental impact report to include a geotechnical report on the rock formations on the ocean side of 178 Atlantic Road. He noted a series of pictures from his documentation that he said indicated to him that the granite was exceptionally striated and layered and that its structural integrity could be compromised. As a result any structure built upon such rock formations would be questionable, he observed. He suggested if that is true, then an AROD is unnecessary as it renders such structures unbuildable. A copy of an email Mr. Garry sent to the city's Conservation Agent regarding the susceptibility of the Back Shore granite to storm damage was placed on file.

**Rev. Richard Emanuel**, 149-153 East Main Street, said that passage of the AROD will ensure public safety, public access and the protection of coastal environments. He then gave a four point rationale for support of the AROD:

- By building on "unbuildable property" it jeopardizes the greater good of the community when natural coastal buffer zones and velocity flood plains are destroyed or weakened.
- Gloucester has no regulations governing special coastal properties that are not necessarily under the governance of ConCom for Coastal Zone Management.
- Scientific evidence has shown that oceans are rising and extraordinary super tides will grow exponentially. The already challenged resources of the city will become increasingly stressed.
- Uncontrolled development will continue and drive changes in zoning density. The loss of natural environments stresses the city's ability to deliver services and continue maintenance of its existing infrastructure.

**Rev. Emanuel** urged a unanimous vote of the Council in favor of the AROD to help check uncontrolled development. A full written statement of Rev. Emanuel's remarks was placed on file.

**J. Michael Faherty**, 83 Mt. Pleasant Avenue, said he is speaking in support of the AROD so that the Chair of the P&D Committee can read aloud what is now properly in front of the Council. He suggested that many people don't realize what was agreed to by P&D is that the AROD would require a Special Council Permit which engenders a hearing process, and is not an outright prohibition. He said the only criteria to be applied to this Special Permit are the same criteria that already exists in the Zoning Ordinance, and no special criteria is being applied to in the VE zone.

**Those speaking in opposition:**

**Meredith Fine**, 85 Eastern Avenue, representing James Harwood who has a proposal for 178 Atlantic Road. Noting that the case Gove vs. Chatham (Roberta Gove vs. Zoning Board of Appeals of Chatham) had been previously cited, she said the difference between the zoning amendment before the Council now and what happened in Chatham is that Chatham already had a conservancy district in place, and that the issue was someone trying to build a house in a preexisting conservancy district. This case, she said, didn't apply here. She said this is about the Council possibly taking control of the Back Shore without due process which was concerning to her.

**Ms. Fine** spoke to what she termed flaws in the process, indicating that the Zoning Ordinance requires that notice must be sent at the same time that the public hearing is scheduled and must contain the general nature of the



proposed amendment, the text of the proposed amendment and the full section of the Zoning Ordinance that explains how a zoning amendment is passed. She said that package didn't go out to the residents affected by this proposal. She said as of today the owner of 178 Atlantic Road still hasn't received the notice required by the ordinance. She said the Council can't waive the notice retroactively. She said she was also concerned that a Committee or a Chair can say they aren't going to follow what is contained within the Zoning Ordinance, and by doing so she contended it defeated the purpose of the notice. She noted that what she was told by the City Clerk's office that was sent had a retroactive date on it of Dec. 1 for a public hearing that was scheduled for Nov. 17 reiterating that in her opinion that is not due notice. She said notice is an important part of due process, she said.

Speaking to the AROD ordinance amendment language, **Ms. Fine** argued that an overlay district is intended to enhance zoning not replace it. She noted that the two existing Hotel Overlay Districts in the city were requested by the property owners which was not the case here, and the purpose the hotel overlay districts serve make the zoning districts focused on hotels. She noted that during the Dec. 9 P&D Committee meeting Councilor Ciolino defined the elements of an Overlay District and added that such an overlay has to define a separate purpose beyond the current zoning rules, identify the location and develop separate rules for the district. The proposed AROD, she said, does have a purpose which is to, "protect the coastal shoreline known as Gloucester's Back Shore from any development." She said the language appeared to be like a [building] ban. The use section of the proposed amendment, she noted, says, "No permit for residential use shall be issued for construction in this zone except by with approval of a Special Permit by the City Council," which makes the amendment appear less like a ban. She added that the language made no sense in light of the earlier text. She said that in one section the amendment says the AROD purpose is to prevent any development and the next it says only residential use. She pointed out that it means that uses allowed by right in this district wouldn't require a Special Council Permit such as a school, public utility facility, a nursery school, a greenhouse, a golf course would continue to be allowed. She said she was unsure whether the Council is saying that some use, no use or just no residential use would be permitted. She expressed her opinion that the Council didn't need this Zoning Amendment to accomplish their purpose. She argued the matter arose because someone has made an unpopular proposal. The statute governing the situation requires her client to have a building permit in hand to protect from any changes in zoning which he does not have, she noted. She added that her client won't get a building permit until the Conservation Commission signs off, and that ConCom and FEMA regulations and the state building code heavily regulate this proposal and present high hurdles. She concluded her remarks by saying this amendment contains the wrong language, done the wrong way, and urged the Council to think carefully when considering taking control of private property without due process. She further urged the Council to return the amendment for further review.

**Rebuttal:**

**Mr. DelVecchio** said he understood Gove vs. Chatham is not identical in every way to this current situation, but that the state Supreme Judicial Court (SJC) did say that towns have the right to zone to protect their interests. He argued that the current proposal was not taking the land and not spot zoning. He said that the SJC has upheld the city's right to do what they see as right and the right to fight for what they want, and asked that the Council fight for the proposal if necessary.

**Mr. Miceli** said that there is a component of reasonableness – that applying for a Special Permit is due process. He said that attorneys will argue different things to different groups. It is the Council's purview to be concerned about public safety, he added.

**Communications:**

**Cheryl Soomes**, owner of 178 Atlantic Road said she is strongly opposed to this ordinance amendment passing, saying that it is unnecessary.

**Councilor Questions:**

**Councilor Verga** said there was a vote by the Council to waive notice for a Zoning Ordinance at a Special Council Meeting by a vote of 4 in favor, 3 opposed, which he was unable to attend [Note: a vote of the Council taken on 12/08/15 was a vote to waive notice to abutters being deemed impractical for the matter of CC2015-039 to Amend GZO by deleting Sec. 5.5 "Lowland Requirements" and adding newly titled Section 5.5 "Floodplain Requirements which will add special permitting requirements in Sections 5.5.1, 5.5.2 and 5.5.3 for principal structures for residential use in special flood hazard areas]. He said he understood it had been clarified that the people within the overlay district had been noticed, and that Ms. Fine didn't dispute that at the P&D Committee meeting of Dec. 9 and that he wanted to make sure that hadn't changed since then. **Ms. Fine** said the Zoning Ordinance is specific of what has to be in the notice to abutters and reiterated her contention that is not what was sent out. **Council President McGear**y said that the abutters were noticed. **Ms. Fine** alleged that the owner of 178 Atlantic Road, Ms. Soomes, did not receive notice, and that as of today still had not received notice, **Ms. Fine** pointed out. **Ms. Lowe** said she had a list of properties that received proper notice for this public hearing, and that

Ms. Soomes was on the list of those notified. If she didn't receive notice, **Ms. Lowe** said, she should check with the US Postal Service. **Ms. Fine** further said that the notice didn't include the section of the Zoning Ordinance that explains that process. At the request of **Council President McGeary** who asked if it was Ms. Fine's client who didn't receive notice or the property owner, **Ms. Fine** said she was speaking of the land owner, Ms. Soomes and that Mr. Harwood is not the property owner. **Councilor Ciolino** noted Ms. Soomes had a Florida address. **Council President McGeary** declared that the Council's list shows that Ms. Soomes was properly noticed. **Ms. Fine** said she wasn't disputing that fact. **Council President McGeary** said whether or not the mail went through, the city made a good faith effort to reach out to Ms. Soomes according to the law. **Ms. Fine** said she had two points, that Ms. Soomes didn't receive notice and that even if it was sent, it wasn't received and what was sent out was not in accordance with the Zoning Ordinance. She said that the notice didn't include the section (GZO Sec. 1.11.5) which describes how zoning amendments are approved as stated in GZO Sec. 1.11.4(b) Public Hearings that describes the format by which the notice shall be made to abutters. **Council President McGeary** asked if that was not routinely done nor had it been past practice to which **Ms. Lowe** said, "No." **Ms. Fine** reiterated that GZO Sec. 1.11.5 was not in the notice to the abutters as required in GZO Sec. 1.11.4(b) and that the notice was out of date. She alleged that the hearing was going to be on Nov. 17 and notice was sent Dec. 1. **Council President McGeary** noted that as a matter of administrative procedure the public hearing had been continued to Dec. 15, and the actual notice stated that the public hearing had been opened on Nov. 17 but continued to Dec. 15, and he said that meets the letter of the procedure.

**Council President McGeary** said that it has not been the practice historically to include the full citation alluded to by Ms. Fine in the notice of proposed change in the Zoning Ordinance. **Mr. Payson** said that it appears that Ms. Fine is correct in referencing GZO Sec. 1.11.4(b) and read the same portion of the Zoning Ordinance as Ms. Fine had, and saying that he couldn't speak to the past pattern or practice.

**Council President McGeary** said that the official notice did allude, though it didn't quote in full, GZO Sec. 1.11, it did say that, "the hearing would be held in accordance with Sec. 1.11," and that the notice did note although the notification was for Nov. 17, the meeting had been continued to Dec. 15 -- therefore the Dec. 1 notification was within the 14 days required. **Council President McGeary** said that there is the word of the City Clerk that this has not in the past has been process and procedure and he would hold that the allusion to Sec. 1.11 meets the spirit and the intent of the ordinance.

**Councilor Stewart** asked Ms. Fine to give an overview of her objections. **Ms. Fine** reviewed her objections as: the notice was improper and that it can't retroactively waived; the notice that should have been sent on Nov. 17; the purpose of the AROD amounts to a ban, and the use section is inconsistent with what the use is because it talks of banning residential use and leaves open all other uses. **Councilor Stewart** asked Ms. Fine to then read through the permitted accessory uses as she had previously stated.

**This public hearing is closed at 8:47 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Lundberg, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend the Gloucester Zoning Ordinance by ADDING a new Section 5.28 "Atlantic Road Overlay District (AROD) as follows:

#### Section 5.28.1 Purpose

The purpose of the Atlantic Road Overlay District is to protect the coastal shoreline known as Gloucester's Back Shore from any development, and in order to minimize potential loss of life, destruction of property and environmental damage inevitably resulting from storm, erosion, and current and future flooding.

#### Section 5.28.2 Map

The Atlantic Road Overlay District is an overlay district that encompasses land on the water side of Atlantic Road from the intersection of Grapevine Road (including Assessor's Map 76, Lot 57) to the intersection of Bass Rocks Road (including Assessor's Map 69, Lot 1). Such land is also shown on the map entitled, "Atlantic Road Overlay District, Located in Gloucester, MA," dated November 3, 2015, incorporated herein by reference and hereby made part of the city's official zoning map.

#### Section 5.28.3 Uses

No building permit for residential use shall be issued for construction in the AROD except on the approval of a Special Permit issued by the City Council. Special Permits granted under this section shall be subject to the procedural requirements and standards in Section 1.8 and to any other sections of the Zoning Ordinance which the Council may determine applies.

#### **DISCUSSION:**

**Councilor Verga** said the P&D Committee felt the overlay district was a good idea, and made some changes about the Special Permit. He said he stands by the fact that notice was given. He noted that all the properties that would be included in the AROD are currently not assessed as buildable lots and that the overlay district amendment is not pulling the rug out from under anyone. He said he still wholeheartedly supports the zoning amendment and that he didn't think that a technicality in the notice provision was sufficient to stop the passage of the overlay amendment. He pointed out that Ms. Fine has had several matters before the Council where notice was made in the same manner and it had never been an issue before. He concluded his remarks saying that there is good ground to stand on for this zoning amendment and urged the Council to vote in favor of the Overlay District.

**Councilor Ciolino** pointed out that this went first through the Planning Board where draft language changes were made before being forwarded to Planning and Development Committee. He said he had been called and asked if he was agreeable to the language changes and he had said that he was. The issue is property rights -- that everyone has a right to build on their property and is why the language was changed to a Special Council Permit so as to not deny property owners' right to build, but they do have to come before the Council to make that happen. In response to any thoughts this may be spot zoning, **Councilor Ciolino** said that the reason the AROD works in this particular area is that no property is being treated any different from the next and all the properties abut and are alike. He pointed out the assessed values of the properties to be contained within the AROD are assessed as unbuildable and so there is no monetary loss to the property owners. He said the Overlay District assures that if someone decides they want to build on their property, they have to come before the Council, a legislative body which is accountable to the citizens of Gloucester. This is not a neighborhood issue, it is a city-wide issue, he said. He added that the Back Shore is a part of the city's heritage which needs to be protected, and he urged the Council to pass the AROD.

**Councilor Lundberg** stated that he intended to support the AROD. He pointed out that the proposed ordinance says that the Special Council Permits will be granted subject to the procedural requirements and standards in the Zoning Ordinance which are the same six standards that all Special Council Permits must meet: the social, economic and community needs; traffic flow and safety; adequacy of utilities; neighborhood character and social structure, quality of the natural environment and potential fiscal impact.

**Councilor Fonvielle** said this Council action is overwhelmingly in the public interest, but he expressed concern as to how notice was made. **Council President McGeary** responded that the spirit and intent of the law was met.

**Councilor LeBlanc** said he would support the AROD. A woman from East Gloucester who is in Ward 1 called him as the Ward 3 Councilor, saying she was concerned about the Boulevard which is in his ward because she considered the Boulevard as her neighborhood too, he recounted. He said that the Back Shore is the entire city's neighborhood.

#### **AMENDMENT TO THE MAIN MOTION:**

**Councilor Stewart** moved to amend the main motion by deleting the words, "for residential use," from Sec. 5.28.3., and was seconded by **Councilor Verga**.

#### **DISCUSSION:**

**Councilor Stewart** said the objection was made that the Council is applying the Special Council Permit process only for residential uses in the zoning area in which the overlay district will lay, and permits other uses. By way of this amendment now if someone proposed other uses they would want a Special Council Permit process as well. This amendment also gives the provision the breadth the purpose and is consistent with what Councilor Ciolino in offering this zoning amendment intended.

**MOTION: On a motion by Councilor Stewart, seconded by Councilor Verga, the City Council voted 7 in favor, 1 (Whynott) opposed, 1 (Cox) absent, to amend the main motion by DELETING the words, "for residential use," from Sec. 5.28.3.**

**AMENDMENT TO THE MAIN MOTION:**

**Councilor Stewart** moved to amend the main motion under Sec. 5.28.1 Purpose. He said he didn't think the purpose of this isn't to protect from any development but to protect the nature of the development in the area and to now have the purpose to read, "The purpose of the Atlantic Road Overlay District is to protect the coastal shore line known as Gloucester's Back Shore from any **detrimental development...**" and was seconded by **Councilor Verga**.

**Council President McGeary** offered a friendly amendment to Councilor Stewart's proposed amendment to Sec. 5.28.1 Purpose to delete the words, "**from any development and...**" and add the words, "**in order...**" in their place.

**MOTION: On a motion by Councilor Stewart, seconded by Councilor Verga, the City Council voted 7 in favor, 1 (Whynott) opposed, 1 (Cox) absent, to amend the main motion by DELETING the words, "from any development and..." and add the words, "in order..." in their place.**

**Councilor Whynott** said he wouldn't support the amendment to the Zoning Ordinance saying that it is a rush to judgment. He said this should be rethought pointing to the two amendments made already. He said that the notice to abutters was a concern as were possible lawsuits.

**Council President McGeary** said he would support the AROD. He said that his proposal calling for a city-wide Special Council Permit process in both velocity zones and floodplains, he will be asking the Council's leave to withdraw and to refer it back to the Planning Board and the Planning & Development Committee to deal with this matter in a more thorough way. He said that they need to look at flood plains beyond velocity zones and examine both those issues around the cape. He said he believed this is zoning amendment is good law upheld in Gove vs. Chatham. While a conservancy district existed in Chatham beforehand, if the AROD is passed now this "conservancy district" will exist beforehand. He then explained the following: The point in raising the Council Order to amend GZO Sec. 5.5 and working with Councilor Ciolino on his was that when the Council did away in 2013 with the Lowlands Permit requirement it was clear the intention of the Council due to being bogged down with a lot of Special Council Permits for docks, wharves and sheds the Council determined such permits could be properly dealt with on an environmental basis by ConCom and the state office of Coastal Zone Management, and had unintended consequences. The Council now understands that the purview of ConCom and the Planning Board has limits and neither body wasn't specifically able to deal with the issue of public safety. One of the criteria of a Special Council Permit is public health and safety. That was something that was a loophole created when the Council took away the Lowlands Special Council Permit.

**Council President McGeary** said that this Council action is closing a loophole in a single overlay district, but he expressed that he hoped the Council agreed with him that they do need to look at this matter in a more thorough way and that a more fully fleshed out and reflected upon proposal would come forward in the early part of the new year. He said in the interim, the concept of the zoning overlay district, the holding of the Supreme Judicial Court in Gove vs. Chatham puts the Council on solid ground. He said that in at this instance, notification to all of the abutters to the lots in question was forthcoming in time, the actual hearing though not its formal opening. He added that on the technical issues he believed that the Council was also on solid ground.

He pointed out that the key is public safety. He said that in considering whether to allow structures on the Back Shore, one needed only to go to Lane's Cove to see the results of such a situation. Noting that the average single family house weighs about 100 tons, they are faced with the prospect of a 30 foot house and a 40 foot wave and a "100-ton bowling ball" rolling down Atlantic Road or alternatively the building being converted to shrapnel, he said, which is a legitimate public safety issue. If it were just the occupants of the building at risk and if they were willing to take the risk on their own, it would be one thing, but they won't say the ambulance doesn't have to come or the Fire Department or Police Department, he said. He pointed out that the occupants of such a building will expect that they will be afforded the same services any taxpayer would expect. He said that allowing a house or any structure to be built on the water side of the Back Shore without looking in depth at the public safety issues is a slippery slope. The climate change issues have been alluded to, and are something the city must deal with, but he said that they don't have to wait for climate change. He pointed out that the AROD is in a velocity zone, an area not only subject to rising water but to wind and wave action, and that is why there is a public safety issue. He added that the proper way to assess the public safety issues of any proposal is through the Special Council Permit process which was why it was created and is one of the criteria the Council must assess. It is why, he said, he supports the AROD as amended this evening.

**MOTION: On a motion by Councilor Verga, seconded by Councilor Lundberg, the City Council voted by ROLL CALL 7 in favor, 1 (Whynott) opposed, 1 (Cox) absent, to Amend the Gloucester Zoning Ordinance by ADDING a new Section 5.28 “Atlantic Road Overlay District (AROD) as follows:**

#### **Section 5.28.1 Purpose**

**The purpose of the Atlantic Road Overlay District is to protect the coastal shoreline known as Gloucester’s Back Shore, in order to minimize potential loss of life, destruction of property and environmental damage inevitably resulting from storm, erosion, and current and future flooding.**

#### **Section 5.28.2 Map**

**The Atlantic Road Overlay District is an overlay district that encompasses land on the water side of Atlantic Road from the intersection of Grapevine Road (including Assessor’s Map 76, Lot 57) to the intersection of Bass Rocks Road (including Assessor’s Map 69, Lot 1). Such land is also shown on the map entitled, “Atlantic Road Overlay District, Located in Gloucester, MA,” dated November 3, 2015, incorporated herein by reference and hereby made part of the city’s official zoning map.**

#### **Section 5.28.3 Uses**

**No building permit shall be issued for construction in the AROD except on the approval of a Special Permit issued by the City Council. Special Permits granted under this section shall be subject to the procedural requirements and standards in Section 1.8 and to any other sections of the Zoning Ordinance which the Council may determine applies.**

- 7. PH2015-063: Amend GZO by deleting Sec. 5.5 “Lowland Requirements” and adding newly titled Section 5.5 “Floodplain Requirements which will add special permitting requirements in Sections 5.5.1, 5.5.2 and 5.5.3 for principal structures for residential use in special flood hazard areas**

**This public hearing was opened at 9:10 p.m.**

**Council President McGeary** said that he wished to be allowed to withdraw this Council Order and that the general matter of development within federally-designated flood hazard areas be referred to the Planning Board and to the City Council Standing Committee, Planning & Development for their review and recommendation. He and **Mr. Faherty** briefly discussed a matter of process and the Council President reiterated that his intention was that the general matter of development in flood plains, not his specific proposal, be referred to the two bodies.

**This public hearing was closed at 9:13 p.m.**

**MOTION: On a motion by Councilor Fonvielle, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed, 1 (Cox) absent, that the Council allow the withdrawal of CC2015-039 to Amend GZO by deleting Sec. 5.5 “Lowland Requirements” and adding newly titled Section 5.5 “Floodplain Requirements which will add special permitting requirements in Sections 5.5.1, 5.5.2 and 5.5.3 for principal structures for residential use in special flood hazard areas without prejudice and refer the matter of development within federally designated flood-hazard areas to the Planning Board and the City Council Standing Committee on Planning and Development for their review and recommendation.**

- 8. PH2015-043: Amend GCO Chapter 22, Sec. 22-279 “Thirty-minute parking re: Atlantic Road**

**This public hearing is opened at 9:14 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition:**

**Mr. Poulin** asked how these parking spaces can be enforced. In the 20 years he’s been on the Back Shore there has never been a problem with parking on Atlantic Road and asked what the Council is trying to fix. He said the process is confusing, and the Council is trying to fix something that isn’t broken.

**Mr. Miceli** said that this creation of parking is inappropriate expressing concerns with public safety.

**Susan Richards**, 45 Atlantic Road, said as a family they have owned their property for 40 years and haven't seen any issues with parking on Atlantic Road adding that she didn't see how the parking would be properly enforced.

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 9:18 p.m.**

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Stewart, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 2 in favor, 1 opposed, to recommend that the City Council AMEND GCO Sec. 22-279 "Thirty-minute parking" by ADDING Atlantic Road, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located at Atlantic Road (northwest) landward side at a point from High Popples Road heading southwest starting at 830 feet and ending 940 feet."

#### **DISCUSSION:**

**Councilor Whynott** said that this matter has been vetted many times with the city's Engineering Department looking at this area and they drew it all out on maps which were available at the O&A meetings. There is objection to any change to this area, but he said that it shows that there is area that can be carved out that is across from the only city-owned property on the Back Shore for about four or five vehicles. He said he's witnessed cars parked on the sidewalks on the water side of Atlantic Road as an example of problems with parking there, and that needs enforcement as the 30 minute parking observation area as well.

**Councilor LeBlanc** said he would support this amendment. He said they haven't permitted parking on the water side of Atlantic Road. He noted several residents who came forward this evening said there wasn't a parking problem on the Back Shore. He pointed out there is a glitch in that there is no parking permitted now at all there. This amendment is to allow short-term parking to enable anyone to enjoy the beauty of the Back Shore. This is in just a very small area, he said.

**Councilor Verga** said he would support this amendment also. The Back Shore belongs to everyone and to be consistent, he said, he would support people being able to park here. The police will do their best to enforce this amendment if it is on the books, he noted.

#### **AMENDMENT TO THE MAIN MOTION:**

**Council President McGeary** accepted an amendment to clarify the location of the proposed parking area, which was moved by **Councilor Verga** and seconded by **Councilor LeBlanc** as follows:

**TO STRIKE THE PHRASE: "Atlantic Road, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located at Atlantic Road (northwest) landward side at a point from High Popples Road heading southwest starting at 830 feet and ending 940 feet." AND REPLACE IT WITH: Atlantic Road, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located on the landward (northwest) side of Atlantic Road beginning at a point 940 feet northeast of the intersection with High Popples Road and extending southwest to a point 830 feet northeast from that intersection."**

**MOTION:** On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted 8 in favor, 0 opposed, 1 (Cox) absent, to amend the main motion by DELETING the words, "Atlantic Road, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located at Atlantic Road (northwest) landward side at a point from High Popples Road heading southwest starting at 830 feet and ending 940 feet." and ADDING the words, "Atlantic Road, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located on the landward (northwest) side of Atlantic Road beginning at a point 940 feet northeast of the intersection with High Popples Road and extending southwest to a point 830 feet northeast from that intersection."

#### **CONTINUED DISCUSSION ON THE MAIN MOTION:**

**Councilor Ciolino** said he voted against this proposed amendment all the way through the process, that the Assistant Police Chief John McCarthy and Officer Jeremiah Nicastro were not in favor of this change; the Traffic Commission weren't in favor of this, and the neighbors are against this change as well. He said there has never been an issue with any parking on the Back Shore. In winter anyone can park there all they want, he pointed out, and said that it is just the short summer months where parking control is needed to keep beach parking off of Atlantic Road as well as trash that goes along with it. He said it is not worth it, he said, and would not support the amendment.

**Councilor Lundberg** said this is not well thought out and would not vote for it.

**Councilor Stewart** expressed his disagreement saying that this ordinance change has been well thought out. There was a site visit and that he also viewed the area several times himself. It is the area where the wetlands begin and ends and blocks no one's view, he said, and that this is a reasonable proposal. There should be a way to see the Back Shore, he added.

**Council President McGeary** said he would oppose the ordinance amendment. The Police came to the Council and asked that the that the summer ban on Atlantic Road be extended to year round from Nautilus Road to Farrington Avenue. In the process it was decided that from Moorland Road to Farrington Avenue there were enough lines that it was less of a safety issue, but in the summer with high traffic that ban which was in force at the time and being strengthened and more precise should remain in force. While that was happening the idea of a layby was brought forward. He said that while laybys aren't bad, the possibility of abuse, for it to become an area for beach parking is very strong. He said as much as they love the Back Shore, people stop for a minute or two and move on, and a 30-minute parking limitation leaves open too big a possibility for abuse.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor , the City Council voted by ROLL CALL 5 in favor, 3 (Ciolino, Lundberg, McGeary) opposed, 1 (Cox) absent, to AMEND GCO Sec. 22-279 "Thirty-minute parking" by ADDING Atlantic Road, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located at Atlantic Road (northwest) landward side at a point from High Popples Road heading southwest starting at 830 feet and ending 940 feet."**

**9. PH2015-072: Amend GCO Chapter 5, Art. II, Sec. 5-19 "Inspection of buildings erected on pilings" by deleting Sec. 5-19 in its entirety and adding a new Sec. 5-19**

**This public hearing is opened at 9:31 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 9:31 p.m.**

**Councilor Whynott** noted that the current ordinance is, "strict" and that this amendment will create an ordinance that is workable.

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to AMEND GCO Sec. 5-19 by DELETING Sec. 5-19. Inspections of pilings." in its entirety and to ADD:

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection except where the context clearly indicates a different meaning:

*Engineer* shall mean a structural engineer licensed by the Board of Licensing of Professional Engineers in the Commonwealth of Massachusetts.

*Notification* shall mean a written and dated notification produced by the building inspector.

*Other property* shall mean all property supported by, or built at least in part upon, pilings that are not residential such as retail, business, commercial and industrial.

*Pilings* shall mean, for the purposes of this section, property with a structure or structures on it.

*Ramp* shall mean a gangway connecting the piling supported structure or one's property to a float.

*Report* shall mean a written document produced by an engineer that indicates that the engineer has visually inspected the pilings and they appear to have no visual material defects. If there are visual material defects the engineer shall make recommendations for repairs.

*Residential property* shall mean one and two family structures supported by, or built at least in part upon, pilings.

*Structure* shall have the same meaning as defined in the zoning ordinance and include those that are supported by, or built at least in part upon, pilings.

(b) *Requirements: notifications; time limits.*

(1) Property owners of structures supported by, or built at least in part upon, pilings are required to keep those structures safe at all times.

(2) Effective January 15, 2016, the building inspector shall issue notification to property owners and require them to have their pilings inspected, by an engineer.

(3) Notification shall be issued every ten years thereafter for residential property owners and every five years thereafter for all other property owners.

(4) Within 30 days of the issuance of a notification, the owner shall demonstrate to the building inspector that either the structure owner has entered into a contract with an engineer to inspect the structure and the pilings upon which it sits and issue a report a copy of which shall be delivered to the building inspector after it has been issued, or the property owner shall produce a report issued within the five year period prior to the notification for the building inspector by an engineer.

(5) Upon production of a report by the property owner to the building inspector, the building inspector may, in his/her discretion, postpone the next notification for up to ten years.

(6) If the building inspector shall determine that by continuing use of the structure in question until it is inspected and a report has been issued, the building inspector may order the owners of the property to cease occupancy until such time as repairs are completed and until such time as the structure and the pilings upon which it sits are inspected and a new certificate of occupancy is issued.

(7) The building inspector shall keep a log book of all notices sent and all reports received beginning February 15, 2016.

(8) Failure to timely supply the report of the engineer, to perform the repairs, or cease occupancy may constitute a continuing violation of this section and may be subject to penalties under Section 1-15.

(c) *Exemptions.* Structures that are not covered by this section are as follows:

(1) Ramps and floats;

(2) Bridges which are required by state or federal laws or regulations to be periodically inspected;

(3) Boardwalks for single-family residential use which are eight feet wide or less; and

(4) Any piling supported structure less than or equal to 400 square feet in total footprint;

However, the building inspector retains jurisdiction to require emergency repairs to any such boardwalks or structures of less than 400 square feet which, at any time, he/she deems to be unsafe.



(d) *Penalty.* The penalty for violation of this section is \$300.00 per day and may be applied at the discretion of the building inspector if a notice under clause (b)(1) properly addressed to the owner has been issued.

(e) *Enforcing persons.* The persons responsible for enforcing this section are the building inspector and the police.

#### **DISCUSSION:**

**Councilor Whynott** explained that this doesn't change a lot, and he recommended the ordinance.

**Councilor Ciolino** noted that O&A put together a Pilings Ad Hoc Committee with General Counsel, the Building Inspector and three members of the public commercial waterfront property owners and a member of the Waterways Board that created a workable ordinance and is what is before the Council. He added that the O&A Committee endorsed this well thought out ordinance amendment and that it was a good idea.

**Councilor Stewart** said he served as the O&A Committee's representative to the Pilings Ad Hoc Committee. He said what came from those meetings is an ordinance much better than the current ordinance, one done through good process one time and won't need to be revisited. He pointed out that there is a reduction in the frequency of engineering inspections that result in an opinion of the engineer that the pilings are structurally sound. The engineer reports to the Building Inspector to recommend things that could make the pilings better. It is self-enforcing and there is due process involved. The mechanics produce results that the Ad Hoc Committee all agreed on, he noted. He said that public safety is well served by this ordinance amendment.

When **Councilor Ciolino** asked how the Building Department would enforce the new ordinance **Bill Sanborn**, Building Inspector, said his department will enforce the ordinance by sending a letter to property owners of buildings and wharves on pilings; keep a register of everyone who was sent a letter, and look for the reports. There are timelines and details, but he said he would work with people as they have in the past as they understand this can be a bit of a burden on property owners, he said. He pointed out that this ordinance is meant to prevent building and wharf collapses, and that this is another tool to help people to comply. He confirmed to **Councilor Ciolino** that he is satisfied that the ordinance amendment is workable.

**Councilor LeBlanc** said he would support the amendment in light of the fact that the ordinance supports visual inspections rather than inspections by borings. It will be more efficient and give a good picture of what is sound and what needs remediation, he said.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor Verga, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to AMEND GCO Sec. 5-19 by DELETING Sec. 5-19. Inspections of pilings." in its entirety and to ADD:**

(a) *Definitions.* The following words, terms and phrases, when used in this section, shall have the meaning ascribed to them in this subsection except where the context clearly indicates a different meaning:

***Engineer*** shall mean a structural engineer licensed by the Board of Licensing of Professional Engineers in the Commonwealth of Massachusetts.

***Notification*** shall mean a written and dated notification produced by the building inspector.

***Other property*** shall mean all property supported by, or built at least in part upon, pilings that are not residential such as retail, business, commercial and industrial.

***Pilings*** shall mean, for the purposes of this section, property with a structure or structures on it.

***Ramp*** shall mean a gangway connecting the piling supported structure or one's property to a float.

***Report*** shall mean a written document produced by an engineer that indicates that the engineer has visually inspected the pilings and they appear to have no visual material defects. If there are visual material defects the engineer shall make recommendations for repairs.

***Residential property*** shall mean one and two family structures supported by, or built at least in part upon, pilings.

**Structure** shall have the same meaning as defined in the zoning ordinance and include those that are supported by, or built at least in part upon, pilings.

**(b) Requirements: notifications; time limits.**

(1) Property owners of structures supported by, or built at least in part upon, pilings are required to keep those structures safe at all times.

(2) Effective January 15, 2016, the building inspector shall issue notification to property owners and require them to have their pilings inspected, by an engineer.

(3) Notification shall be issued every ten years thereafter for residential property owners and every five years thereafter for all other property owners.

(4) Within 30 days of the issuance of a notification, the owner shall demonstrate to the building inspector that either the structure owner has entered into a contract with an engineer to inspect the structure and the pilings upon which it sits and issue a report a copy of which shall be delivered to the building inspector after it has been issued, or the property owner shall produce a report issued within the five year period prior to the notification for the building inspector by an engineer.

(5) Upon production of a report by the property owner to the building inspector, the building inspector may, in his/her discretion, postpone the next notification for up to ten years.

(6) If the building inspector shall determine that by continuing use of the structure in question until it is inspected and a report has been issued, the building inspector may order the owners of the property to cease occupancy until such time as repairs are completed and until such time as the structure and the pilings upon which it sits are inspected and a new certificate of occupancy is issued.

(7) The building inspector shall keep a log book of all notices sent and all reports received beginning February 15, 2016.

(8) Failure to timely supply the report of the engineer, to perform the repairs, or cease occupancy may constitute a continuing violation of this section and may be subject to penalties under Section 1-15.

**(c) Exemptions.** Structures that are not covered by this section are as follows:

(1) Ramps and floats;

(2) Bridges which are required by state or federal laws or regulations to be periodically inspected;

(3) Boardwalks for single-family residential use which are eight feet wide or less; and

(4) Any piling supported structure less than or equal to 400 square feet in total footprint;

However, the building inspector retains jurisdiction to require emergency repairs to any such boardwalks or structures of less than 400 square feet which, at any time, he/she deems to be unsafe.

**(d) Penalty.** The penalty for violation of this section is \$300.00 per day and may be applied at the discretion of the building inspector if a notice under clause (b)(1) properly addressed to the owner has been issued.

**(e) Enforcing persons.** The persons responsible for enforcing this section are the building inspector and the police.

**10. PH2015-061: Acceptance of roadways as public ways in accordance with MGL Chapter 85 and GCO Sec. 21-1, 21-35 and Sec. 21-43**

**This public hearing is opened at 9:40 p.m.**

**Council President McGeary** advised that this public hearing is continued to 01/12/16 at the request of the Director of Public Works.

**This public hearing is continued to January 12, 2016.**

**11. PH2015-062: Amend GCO Sec. 22-269 “Stop Intersections” re: Leonard Street**

**This public hearing was opened at 9:41 p.m.**

**Council President McGeary** announced that since this matter had been withdrawn earlier under Committee Report this matter is now moot.

**This public hearing is closed at 9:41 p.m.**

**No further Council action is necessitated on this matter.**

**12. PH2015-073: Amend GCO c. 22, Sec. 22-267 “One-way streets-Generally” and Sec. 22-270.1 “Resident sticker parking only” re: Kent Circle**

**This public hearing is opened at 9:41 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 9:42 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to AMEND GCO Sec. 22-267 “One-way streets-Generally” by ADDING “Kent Circle for its entire length from its intersection with Essex Avenue in a southwesterly direction to its intersection with Western Avenue.”

**DISCUSSION:**

**Councilor LeBlanc** said he held a neighborhood meeting at Kent Circle to talk about traffic issues there. The neighbors agreed to make it one way which the Traffic Commission also endorsed.

**Councilor Fonvielle** said this is a small roadway and serves as a portal into Ward 5 and thought it should be one way and will support this. When the bridge is up it will increase congestion heading towards the city, he noted.

**Councilor Whynott** said he preferred it would be one way from the opposite direction as stated in the ordinance amendment but would accede to the wisdom of the ward Councilor.

**Councilor LeBlanc** said this came up because there were almost one dozen traffic accidents in this small area with a blind corner and parking on one side. The Traffic Commission and the residents asked for the direction of the one way street in the ordinance amendment, he said and confirmed that there is a broken yellow line on the roadway which allows traffic to merge onto Kent Circle.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to AMEND GCO Sec. 22-267 “One-way streets-Generally” by ADDING “Kent Circle for its entire length from its intersection with Essex Avenue in a southwesterly direction to its intersection with Western Avenue.”**

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to AMEND GCO Sec. 22-270.1 “Resident Sticker parking only” by ADDING “Kent Circle for its entire length on the westerly side (houses) from May 1-September 15 only.”

**DISCUSSION:**

**Councilor LeBlanc** said the residents asked for in the neighborhood meeting that there be resident sticker parking only, as during the summer because there is no parking for the neighbors due to out-of-town visitors to the city. He reported that the recommendation of the Traffic Commission was to institute seasonal resident sticker parking (for which a beach sticker will also work as the same permit). People park on this road and on the Kent Circle War Memorial itself as well to use Stage Fort Park. The residents understand that residents from other areas with stickers can park there also.

**Councilor Fonvielle** asked why the resident sticker parking was being instituted during summer months only and not year round. **Councilor LeBlanc** said it is more of an issue in the summer and The intent to review the ordinance after a year.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to AMEND GCO Sec. 22-270.1 “Resident Sticker parking only” by ADDING “Kent Circle for its entire length on the westerly side (houses) from May 1-September 15 only.”**

**13. PH2015-074: Amend GCO Sec. 22-270 “Parking prohibited at all times” re: intersection of Washington and Tucker Streets**

**This public hearing is opened at 9:50 p.m.**

**Councilor Stewart** asked that his Council Order be withdrawn so that a more comprehensive approach may be found.

**This public hearing is closed at 9:50 p.m.**

**MOTION: On a motion by Councilor Stewart, seconded by Councilor Whynott, the City Council voted 8 in favor, 0 opposed, to permit the withdrawal of CC2015-041 (Stewart) Amend GCO Sec. 22-270 “Parking prohibited at all times” re: intersection of Washington & Tucker Streets without prejudice.**

**14. PH2015-075: Amend GCO Chapter 19, “Second Hand Goods, Sec. 19-30(b) by deleting definition of “Junk Yard” and adding a new definition of “Junk Yard” and amend GCO Chapter 19, Sec. 19-32 “Fee” by deleting this section and adding to Sec. 19-1 “License Fees” subsection (1) Secondhand furniture and Articles \$100; Sec. 19-1(3) Junk \$100; and Sec. 19-1(4) Antiques \$100**

**This public hearing is opened at 9:52 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 9:52 p.m.**

**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 Chapter 19 “Second Hand Goods, Sec. 19-30(b) by DELETING the definition of “junk yard and ADDING a new definition of “junk yard” as follows:

“Junk yard or recycling center 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 Whynott** explained that now that the Council has amended the Zoning Ordinance as it relates to the definition of “Junk Yard,” the Code of Ordinances must now reflect that change.

**Councilor Stewart** said this is the best definition of Junk Yards he’s come across.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 8 in favor, 0 opposed, 1 (Cox) absent, to Amend GCO Chapter 19 "Second Hand Goods, Sec. 19-30(b) by DELETING the definition of "junk yard and ADDING a new definition of "junk yard" as follows:**

**"Junk yard or recycling center 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."**

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 Chapter 19 "Second Hand Goods, Sec. 19-32 by DELETING this section in its entirety and ADDING to Sec. 19-1 "License Fees" subsection (1) Secondhand furniture and articles \$100 (DELETE \$20); Sec. 19-1(2) Junk and/or old gold \$100 (DELETE \$20) and Sec. 19-1(3) Antiques \$100 (DELETE \$20)."

**DISCUSSION: None.**

The second motion was described by **Ms. Lowe** as an administrative action to make clear the fees associated with various aspects of the related ordinance.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor LeBlanc, the City Council voted by ROLL CALL 8 in favor, 0 opposed, to Amend GCO Chapter 19 "Second Hand Goods, Sec. 19-32 by DELETING this section in its entirety and ADDING to Sec. 19-1 "License Fees" subsection (1) Secondhand furniture and articles \$100 (DELETE \$20); Sec. 19-1(2) Junk and/or old gold \$100 (DELETE \$20) and Sec. 19-1(3) Antiques \$100 (DELETE \$20)."**

**For Council Vote:**

**Councilor Ciolino stepped away from the dais.**

1. **CC2015-042 (Stewart) Whether the City Council shall refer the matter of the speed limit on Seeall Street to the Mass. Dept. of Transportation to lower the speed limit from 30 m.p.h. to 20 m.p.h.**

**MOTION: On a motion by Councilor Verga, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 0 opposed, 2 (Ciolino, Cox) absent, to direct the City Clerk on behalf of the City Council to forward a letter to the Mass. Dept. of Transportation to request that the speed limit on Seeall Street be lowered from 30 miles per hour to 20 miles per hour, with accompanying speed study documentation from the Traffic Commission.**

**Councilor Ciolino returned to the dais.**

2. **CC2015-045 (LeBlanc) Centennial Avenue Train Bridge**

**Councilor LeBlanc** explained that this the Centennial Avenue train bridge pavement has deteriorated to a condition where it is down to the boards. He said that before the boards get worn and rotted and snow plows cause further damage during the winter, he wanted to see that the bridge was repaved by the state as soon as possible.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Lundberg, the City Council voted 8 in favor, 0 opposed, 1 (Cox) absent, to direct the City Clerk to forward a letter to the Mass. Dept. of Transportation to direct the City Clerk on behalf of the City Council to forward a letter to the Mass. Dept. of Transportation requesting that they evaluate and repair the Centennial Train Bridge pavement before the winter season sets in.**

**3. PH2015-038: Amend Chapter 22-270 "Parking prohibited at all times," Sec. 22-272 "Parking prohibited from May 1-September 15 Saturdays, Sundays, holidays" and Sec. 22-291 "Tow-away zones" re: Atlantic Road (referred back to O&A from 07/28/15 CCM)**

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 2 in favor, 1 (Ciolino) opposed, to recommend that the City Council AMEND GCO c. 22, Sec. 22-272 Same - Saturdays, Sundays, holidays by deleting "*Atlantic Road*, both sides, between Nautilus Road and Farrington Avenue, on Saturday afternoons, Sundays, and holidays."

**DISCUSSION:**

**Council President McGeary** said that the new ordinance amendment instituted earlier in the evening for parking on Atlantic Road supersedes this section of the ordinance and so this language should be deleted.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor Verga, the City Council voted by ROLL CALL 7 in favor, 1 (Ciolino) opposed, 1 (Cox) absent, to AMEND GCO c. 22, Sec. 22-272 Same - Saturdays, Sundays, holidays by deleting "*Atlantic Road*, both sides, between Nautilus Road and Farrington Avenue, on Saturday afternoons, Sundays, and holidays."**

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 2 in favor, 1 opposed, to recommend that the City Council AMEND GCO c. 22, Sec. 22-272 Same-Saturdays, Sundays, holidays ADDING "*Atlantic Road*, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located at Atlantic Road (northwest) landward side at a point from High Popples Road heading southwest starting at 830 feet and ending 940 feet."

**DISCUSSION:**

**Council President McGeary** offered an amendment to correct directional issues as was done for a similar situation in the language for the earlier amendment to GCO Sec. 22-279 as follows:

**TO STRIKE THE PHRASE:** "*Atlantic Road*, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located at Atlantic Road (northwest) landward side at a point from High Popples Road heading southwest starting at 830 feet and ending 940 feet."

**AND REPLACE IT WITH:** Atlantic Road, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located on the landward (northwest) side of Atlantic Road beginning at a point 940 feet northeast of the intersection with High Popples Road and extending southwest to a point 830 feet northeast from that intersection."

**MOTION: On a motion by Councilor Whynott, seconded by Councilor Stewart, the City Council voted by ROLL CALL 7 in favor, 1 (Ciolino) opposed, 1 (Cox) absent, to AMEND GCO c. 22, Sec. 22-272 Same-Saturdays, Sundays, holidays ADDING Atlantic Road, landward side between Nautilus Road and Farrington Avenue on Saturday, Sundays, and holidays except for an observation area located on the landward (northwest) side of Atlantic Road beginning at a point 940 feet northeast of the intersection with High Popples Road and extending southwest to a point 830 feet northeast from that intersection."**

**4. PH2015-057: Amend Sec. 9-10 "Penalty for violation of Sec. 9-10" by DELETING Sec. 9-10 in its entirety and ADDING new Sec. 9-10 (referred back to O&A form 10/27/15 CCM)**

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 2 in favor, 1 (Whynott) opposed, to recommend that the City Council Amend GCO Chapter 9, Sec. 9-10 "Penalty for violation of Sec. 9-10" by DELETING Sec. 9-10 in its entirety and ADDING a new Section 9-10 as follows: "The Police shall recommend to the District Court that the Court fine the violator \$200 for each offense."

**DISCUSSION:**

**Councilor Stewart** explained that the Committee and Councilors who were at the last Council meeting had expressed the opinion that they wanted the \$200 fine specific for each offense, not for, "up to \$200" for each offense. This is a clarification at the request of the Council.

**Councilor Whynott** said he would not vote to raise any fee and would be voting against the fee again.

**Councilor Stewart** then offered to amend the main motion in order to include GCO Sec. 9-8 and that the rest of the language of the Committee recommendation would remain intact.

**Councilor Verga** offered that it would be prudent to continue this matter to the new Council to iron out without conflicting language between the Council agenda, the O&A meeting minutes and the Committee Report, and what is being offered verbally.

**MOTION: On a motion by Councilor Whynott, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 1 (Stewart) opposed, the matter of PH2015-057: Amend Sec. 9-10 "Penalty for violation of Sec. 9-10" by DELETING Sec. 9-10 in its entirety and ADDING new Sec. 9-10 was continued to January 12, 2016.**

This matter is continued to January 12, 2016.

5. PH2015-058: Amend Chapter 1, Sec. 1-15 "Penalty for violation of certain specified sections of the Code" Chapter 9, Sec. 9-18 "Littering prohibited" by DELETING \$300 for each offense and by ADDING \$50 PER DAY (or the amount allowed by MGL c. 40, §21 as amended) including the day the action of depositing the litter occurred and each day thereafter in which the litter remains for any part of the day" and ADDING After "Enforcing persons" the words "Building Inspector" (referred back to O&A from 10/27/15 CCM)

**MOTION: On a motion by Councilor Whynott, seconded by Councilor LeBlanc, the City Council voted 7 in favor, 1 (Stewart) opposed, the matter of PH2015-058: Amend Chapter 1, Sec. 1-15 "Penalty for violation of certain specified sections of the Code" Chapter 9, Sec. 9-18 "Littering prohibited" by DELETING \$300 for each offense and by ADDING \$50 PER DAY (or the amount allowed by MGL c. 40, §21 as amended) including the day the action of depositing the litter occurred and each day thereafter in which the litter remains for any part of the day" and ADDING After "Enforcing persons" the words "Building Inspector" was continued to January 12, 2016.**

This matter is continued to January 12, 2016.

**Unfinished Business: None.**

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

**Councilor Fonvielle** thanked the voters of Ward 5 for allowing him the privilege to serve them for the past two years, an experience he enjoyed and expressed the hope he did well by them and said that he thought that he had. He expressed his regard for his fellow Councilors, the Administration and city staff.

**Councilor Verga** thanked his fellow Councilors whom he served with over the past six years and wished the best of luck to the incoming Councilors, saying there is a great opportunity moving forward. He reminded them they represented the city as a whole and to vote their conscience.

**Councilor Stewart** said he was pleased to have filled in for a wonderful Councilor, Jackie Hardy. Ward 5 will be greatly represented by his successor, Val Gilman he said. He thanked the members of the Council whom he said have made his job easy from the beginning. He spoke to each of the sitting Councilors thanking them individually.

**Councilor Ciolino** said he is finishing up his sixth term, and this is one of the better Councils he's served alongside. He thanked the City Clerk and Clerk of Committees for keeping the Council on task. He said the Council can be proud of the work they've done, all having had a small part in the future of Gloucester.

**Councilor LeBlanc** thanked the outgoing Councilors noting he has learned a great deal from them and honored to call them colleagues and friends. He said this is a great Council who didn't always agree with each other but found time for each other, adding they can agree to disagree and still respect each other.

**Councilor Lundberg** thanked the outgoing Councilors for their service to the city and said that this Council will serve a great example to what a good Council can be.

**Councilor Whynott** said it has been a long time and that he has a fun time over 39 years working for the city in one capacity or another. He wished everyone a Merry Christmas and a Happy and New Year.

**Council President McGeary** said he enjoyed working with the Council and thanked Ms. Lowe and Ms. Jorgenson for their support and assistance, as well as the rest of the staff in the City Clerk's office and the staff of the city departments who assisted him during his tenure on the Council. He then made the following statement to the Council in summation of his six years of elected municipal service for the city of Gloucester:

I know it is late, but as this is my last meeting as your president, I hope you will indulge me to make a few parting remarks.

Gloucester has always been a special place. For more than 400 years, this place has welcomed immigrants to the New World. It gave them hope and sustenance. Eventually it grew to feed the nation through the efforts of those who, as the psalmist said, "go down to the sea in ships and do business upon Great Waters."

WE—you and I—have been given a singular privilege and a sacred trust. To be stewards for some brief time of this very special place, a place honored in the history of our nation. Here at Land's End we have a particular understanding of our place in the world. We know the savage beauty of the sea and the steadfast beauty of the land. Here, where those two are met, is nurtured the beauty of the soul.

Those that are leaving with me, I thank you. I have enjoyed working with you and look forward to working with you in the future, whatever that may hold.

To those who remain and those who will join this Council in January I remind you of the words of Abraham Lincoln who said: "Every man is said to have his peculiar ambition. . . . I for one have no other so great as that of being truly esteemed of my fellow men, by rendering myself worthy of their esteem."

To the people of Gloucester, I hope I have made myself worthy of your esteem. To you, my fellow Councilors, know that in working together for the good of this city, you have earned my respect and esteem. I hope I have earned yours. We can hope for no greater reward.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 10:25 p.m.**

**Respectfully submitted,**

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

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- **Written statements and/or documents from the following individuals pursuant to PH2015-069: Amend GZO by adding a new section titled "Atlantic Road Overlay District":**
  1. **Mark Poulin, 84 High Popples Road**
  2. **Marie Valente, 103 East Main Street**
  3. **Ronn Garry, 209 Atlantic Road**
  4. **Rev. Richard Emanuel, 149/153 East Main Street**
  5. **Herb Wennerberg, 31 Prospect Street (prior to the opening of the City Council meeting and did not speak at the public hearing)**