

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, January 26, 2016 – 7:00 p.m.

Kyrouz Auditorium – City Hall

**-MINUTES-**

**Present: Chair, Councilor Joseph Ciolino; Vice Chair, Steven LeBlanc, Jr.; Councilor Melissa Cox; Councilor Paul Lundberg; Councilor Valerie Gilman; Councilor Scott Memhard; Councilor Sean Nolan; Councilor James O'Hara; Councilor Joseph Orlando, Jr.**

**Also Present: Mayor Sefatia Theken; Linda T. Lowe; Kenny Costa; Jim Destino; Chip Payson; John Dunn; Fire Chief Eric Smith; Jonathan Pope; Mike Hale; Debbie Laurie; Assistant Fire Chief Tom Aiello; Fire Captain Tom LoGrande; Gregg Cademartori; Melissa Teixeira; James Pope**

**The meeting was called to order at 7:02 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.****Oral Communications:**

**Charles Marcous**, 20 Ocean Avenue, said that the Magnolia Fire Station has been closed off and on in recent months. Noting that on December 26, 2005 his home burned down, which he said, in his opinion, would have been a minor fire had that station been open at that time because there needs to be four firemen on the scene before a firefighter will enter the home to fight the fire. He said two men showed up from West Gloucester and they had to wait another ten minutes for "two" to show up from Central Station in downtown Gloucester. He added that half the city in West Gloucester is on the other side of the bridge, covered by two men. He said they need four.

**Presentations/Commendations:**

**1 of 1:** Fire Chief Eric Smith with Fire Department update on staffing and station coverage

**Fire Chief Eric Smith** noted that much of Fire Department staffing and station coverage was discussed at the January 21 Budget & Finance Committee meeting. He recounted for the Council that the Fire Department undertook a significant reorganization in 2013. A memo was submitted to the Mayor by him that December on the reorganization, what his vision was and what they were trying to accomplish. The memo specified that outskirt stations would be open more frequently aided by moving from a 42 hour work-week structure with four firefighting groups to a 56 hour work-week structure with three firefighting groups. That was the language used then as well as now, **Chief Smith** pointed out, citing that even during the FY16 budget meeting when this issue was discussed. This is a tight budget year and as much as could be was allocated to the Fire Department, he said, and that every department was going to have to live within their budget they were given. He indicated his department has done that faithfully throughout this fiscal year.

He also pointed out that it was stated in the B&F meetings that if the department continued as they had in FY15 with the level of use of the Family and Medical Leave Act (FLMA), the disabilities with injured-on-duty personnel, and retirements the department didn't have the money to replace staff immediately which he added that staff replacement is a slow process, if that continued in FY16 that the department would experience probably the shutdown of one of the stations and run with Magnolia closures. He said it is unfortunate and isn't the goal of the Administration -- they as do the citizens want the Magnolia Station open as does he and the men and women of the Gloucester Fire Department. They know how critical it is to public safety, but with finances as they are, with staffing hampered by injuries, leave and retirements -- these are things out of their control that they can't specifically manage but have to work within the budget to manage the situation as it is presented.

**Chief Smith** explained that his department has made a series of internal budget transfers of over \$120,000 out of different line items into the Overtime Account to keep the station open as much as the possibly could which stretched the overtime account out until Dec. 10. He said on that date he discussed with the Mayor's office that there was nowhere else to pull funding from and in working with officers on his staff, re-examining what department needs were else he could pull funding from quickly into the overtime account to bolster it. He said while they are concerned about continuing to short the department funding on things such as training which he added is in his opinion critical to the future of the department and the present operations of the department, but opening a fire station is more important, he said. As of Dec, 10, the department went from 18 personnel minimum staffing which is two above the contractual minimum of 16, that doesn't allow Magnolia Station to be open. Sixteen personnel will only open three of the stations and closes Magnolia down, and is the fiscal reality. It is balancing the overtime pay with the actual department budget, and that they have to meet that 16 minimum manning contractually because closing the Bay View Fire Station is unacceptable. While this is not as acceptable for Magnolia Station to be closed,

it is the best they can do under the circumstances with their FY16 staffing challenges which mirror what happened in FY15 with 10 personnel injured on duty with significant injuries; three of those injured on duty staff have been converted to disability retirements because the injuries were so significant that they were not fit for duty and had to be put out on medical retirement. The department is waiting for funding to hire the replacements and now only have funding to fill one of the vacancies. He pointed out that the Civil Service process is not a quick one, having found several candidates on the first generated list that weren't qualified to take the position, and now they have another list generated they are working from, and at the same time are transferring funding into overtime to keep Magnolia open. He reiterated that with ten injuries on duty with long healing processes, returning those personnel to active duty is also a slow process. The department and the physicians want firefighters back on the on the line only if they are at 100 percent. **Chief Smith** noted that six firefighters were out in FY16 under FMLA with relatives or injuries to themselves that occurred off duty, and reiterated that there are four retirements they've not yet been able to replace that lost staff due to funding with the exception of one position which they're working on.

He said that due to all these combined factors it has led to the closure more often of the Magnolia Fire Station. Based on Monday, Jan. 25 numbers, the Magnolia Fire Station is opened a little more than 70 percent of the time. He said it is his expectation that number will rise slightly should the Supplemental Budgetary Transfer coming before the Council this even passes. The plan in place for that was much like the plan for allocation of a one-time free cash infusion to open Bay View more often two years ago. He explained the process by which the money is spread out through the shifts by the Deputy Chiefs who run the shifts, and said that as long as they manage it within the amount of funding per pay period, to spread it through the rest of the shifts for the fiscal year. He said that when there are days that they are only one person short and have 17 staff on a shift they would only have to hire one firefighter on overtime to the night shift and see what improvements that makes. He said he thought and the residents he has spoken with their greatest concern are for the evening hours and is where they'll focus their attention and funding to immediately to see what they can do about improving those numbers.

#### COUNCILOR QUESTIONS:

**Councilor Gilman** recalled her home having two fires, one occurring with Bay View Fire Station open, one with Bay View Fire Station closed. She expressed her empathy for the concerned residents of Magnolia. She asked about the decision process to close Magnolia Station rather than another outlying station and how it affects the manning of other stations when one outlying station is closed and how it affects response time. **Chief Smith** said it is straight math -- how long it to get to the scene, and call volume plays a part. When comparing a twelve minute response time versus an eight minute response time when speaking of headquarters or West Gloucester station, getting into those areas, typically the department is in the four minute response time range on average when fully staffed. When Magnolia Fire Station is closed that moves up to about eight minutes; when Bay View is closed with the long-standing history of the department it is about twelve minutes response time to Bay View from Central Station. He said that because of those response times, it shows that Bay View is the priority to open first, and the run volume is fairly balanced. Magnolia has had an uptick in its call volume -- there is a lot of new housing, new families moving in, and pointing out he and his family live in Magnolia also, he too, wants the Magnolia Fire Station open as much as any citizen who lives there. Any time a station movement occurs, if it is a major alarm, the typical response is West Gloucester comes in as the second pump along with the ladder truck and front line pump at headquarters with the rescue unit which is considered their basic first line complement. The next pump to come in to cover headquarters because the department always puts an asset under those circumstances at headquarters to cover that area of town as that is where the bulk of the calls are and where the most risk is. When doing the risk assessment, if they only are staffing one station full time that is the station you would pick. When headquarters is emptied out on a response that is the first station they have to move to cover. The coverage rotates in typically from Bay View into headquarters so that there is an asset on and off the island. The only time Bay View doesn't rotate in is if the call was in Magnolia and Magnolia Fire Station was open, headquarters would roll into Magnolia with the Magnolia pump and West Gloucester would come in to cover headquarters and Bay View would remain in quarters. This process is set forth in Fire Department policies and is how it is managed. **Chief Smith** commented that it made common sense, and the evaluations for response time dictates how these policies are developed and how the department manages such situations. Once they step up beyond just a response to find out what is going on at a location, if it is a working fire it brings every vehicle on duty to the scene or minimally that third engine is coming to the fire to make sure there is enough staff and coverage and the last remaining pump that would have sat gets pulled out into headquarters. On a working fire until a second alarm is sounded, the Chief said that all department resources from the city are committed to the incident. If the Deputy Fire Chief doesn't feel he needs that fourth pump it sits at headquarters. There is no net effect to those outlying stations, he said. He pointed out that the Rockport Fire Department responds in to cover during a working fire when a second alarm is sounded with an additional two engines and a ladder truck which is the same courtesy Gloucester gives to them when they have

working fires as well with neighboring Cape Ann communities of Essex and Manchester (known as “mutual aid”). Some things have changed, he pointed out, since they put a fourth fire station back in service, but it has been the same basic structure for years which he said works. The way the contract is laid out, the way the staffing is dictated and the national standards on how they fight fires and staff, the Gloucester Fire Department is doing well, he said, and although not perfect this is as close as they can get given the range of affordability and staffing issues, he said.

**Councilor Gilman** asked had the department been able to get some of the firefighters on disability to come back for light duty for desk jobs, and if so, did those firefighters could as part of the 18 personnel headcount on a shift. **Chief Smith** said that it is. He briefly explained the process by which they keep track of their personnel out on disability. He noted that light duty is spelled out in the contract. But because of the certain rehabilitation processes to get people in for light duty is very difficult. He advised that light duty is not completely without physical ability. Central Station doesn't have an elevator and there are stairs. The firefighter has to be able to use both arms simultaneously to work the phones, radios and computers, nor can they be on any drugs that may impair their judgement to dispatch in an emergency situation. Light duty personnel helps but doesn't get put into play as often as they would like, he said. **Councilor Gilman** said overtime policy is different for firefighters than the traditional 40 hour FLSA (Fair Labor Standards Act) and where time and a half is triggered. **Chief Smith** said Police and Fire follow the same rule unless they do something contractually different. The bottom line rule for FLSA overtime baseline minimum agreed to, firefighters don't do any overtime until they exceed 212 worked hours on the job. If they take any time off for sick, vacation time, or personal leave, it deducts from their actual work hours. If the firefighter meets the 212 hours in a 28 day cycle (two back-to-back pay periods), they're due time and a half for working beyond the 212 hours. A typical cycle is 216 hours, he noted. Firefighters are already scheduled to work four hours, they will be at the overtime rate. They are already paying the straight time rate and budgeted for the addition for the FLSA increase, but in the old system if it was over 42 hours by a minute then overtime kicked in, he pointed out, and was why it was so expensive to maintain the stations, and spent almost \$700,000 to keep Bay View open more often. He said this solution of a three group system was the best way to go to keep people in the same group and makes training operations simpler. He noted they added lieutenants to the line, an Assistant Chief's position, and a civilian master mechanic who has the fleet in better shape than it's been in some time. He also pointed out that previously the Fire Department wasn't responsible for retirement payouts which came out of the Personnel Department's budget. Now those payouts come from the Fire Department's budget, and because of the number of the retirements in FY16 that payout came to \$180,000.

**Councilor Nolan** commented that there is a reason to see the Magnolia Fire Station open and the Chief understands the issues and is doing what he can. With Magnolia closed a certain amount of time he asked if that situation is giving the Chief any insights for the development of the FY17 Fire Department budget and what can be done to prevent these closures moving forward. **Chief Smith** said in July 2016, which is the start of the new fiscal year; the funds will be available to hire more firefighters. As funding is now, salary lag money has paid the budget gap for retirement payouts. He expressed confidence that on July 1 the department will be ready to move forward and cover four of the open positions. They will do the best they can with the staff they have and the funding available to the department for the time being, he said. With twenty personnel out and retirements, it is a tough situation to manage -- it means the department has been down 10 percent of its workforce since the beginning of FY15 with an overtime investment available.

**Councilor O'Hara** thanked the Chief and the Administration for the Chief coming forward to questions from the Council. He noted that he was on the Fire Chief Selection Committee for the hiring Chief Smith. He expressed his appreciation for what the Fire Department does to keep the city safe. He said that with Magnolia Fire Station closed with a structure fire what is the deployment of apparatus. **Chief Smith** reiterated that both West Gloucester and Central Station respond with Bay View coming in to cover headquarters. **Councilor O'Hara** said with Magnolia Fire Station closed due to manpower reductions and budget limitations what station closes next. **Chief Smith** said they won't close another station and is why they made the reduction to 16 minimum manning and is compelled by the contract to maintain 16 minimum manning and would be a violation of the contract to do otherwise, and espoused he was doing everything he could to meet that 16 minimum manning requirements of the contract and to keep the station open. He said not only is it his goal but a goal of the community. He reiterated his earlier statement that the department has managed to keep the Magnolia Fire Station open about a 70 percent rate and with tonight's transfer into the overtime account, it could nudge that percentage up further. At **Councilor O'Hara's** prompting, **Chief Smith** re-reviewed that there are three shifts with 72 firefighters on the line divided into 24 staff per group. With four retired firefighters, one staff comes off of each group which means three shifts of firefighters, 72 personnel on the line divided to 24 per group. He reported that the Assistant Chief is responsible for deployment of the staff and is constantly moving people around to keep the three groups balanced so not to short any one group to prevent recurrent overtime. With that many people out, they are very close to not making the 16

minimum manning, he said, and is where the expense on the overtime budget has gone through what was budgeted. He pointed out that shift staffing has hovered in the 22 to 21 man range, but with several staff off on training, someone goes out sick or on vacation they drop to below minimum manning, and this is how they went through the original \$100,000 budgeted for overtime. He reiterated the department had put in \$120,000+ into the overtime account from within its own department budget. He reiterated that he is confident with the money remaining they can maintain 16 minimum manning but that he said he can't guarantee 18 personnel reporting every day to open the Magnolia Fire Station. **Councilor O'Hara** asked if there is the ability on a weekly basis to project station closures. **Chief Smith** said that they can project vacations, holidays, knowing when people typically take off. When this system was designed going from 18 to 24 personnel, the number of personnel who can take leave time hasn't changed -- and is a restriction on the union. Five personnel off were allowed under the contract when there were only 18 per group. Eighteen is what it takes to open all the stations, he reminded the Councilor, but the firefighters are also entitled to take the time off they've earned in accordance with the contract and their Standard Operating Guidelines. It means they have to hire on overtime to keep the minimum standard to maintain the stations. When the department went to 24 staff per group, he said, they could absorb five people being off, having 19 personnel reporting gets every station is open plus one person and was some of the thought process behind the three group configuration, he said. He noted that in general they are faced annually with two to three personnel out on injuries which are the nature of the job of a firefighter. **Councilor O'Hara** asked if the department typically builds retirements into their budget for buyouts and sick time payouts. **Chief Smith** said all contractual pieces are accounted for in the budget of which some is legally required by the state, and portions of it are what are contained in the contract. Those have been funded to a degree and any needed additional funding is required to be pulled out of salary/wage lag money once someone retires -- the balance of their salary still sits in the account and that funding is then used to fund the payoffs they're short in that line item. He said they were only able to fund that with \$50,000 in FY16 knowing they were looking at maybe about \$180,000 cost overall. Three of four retirements they couldn't predict when those retirements would come through from the State Retirement Board. They are on hold for hiring until the funding is truly available he said. They have the money to hire one firefighter and possibly a second one by the end of FY16, but it is about the numbers. **Councilor O'Hara** asked what response time to the Magnolia station area is if Magnolia Fire Station is closed. **Chief Smith** said depending on the kind of vehicle and type of response required, it is an eight minute response on average. West Gloucester would beat rescue to the Ocean Avenue area if it's an EMS call; if it's a fire call more westerly or over off of Western Avenue, headquarters would beat West Gloucester to the scene and is dependent upon whether it is EMS or a fire call and where the call is sited in the district. **Councilor O'Hara** asked what does the national standard for response time. **Chief Smith** said under the National Fire Protection Association (NFPA) standard it is four minutes and that under most situations with all stations staffed they have met those standards most of the time. He said it is a tough community to cover with 42 square miles divided by a river and with water delivery. The stations are widespread and the cost of doing business takes a lot of funding to deliver the level of service the community needs. It is why they're only putting two staff minimally in the outskirts station which doesn't meet the NFPA standards either, he said. He said that is why the headquarters task force is staffed with four on the pump and four on the ladder because those apparatus have full capability and are stationed in the area with the highest risk and highest call volume and can at least muster that kind of firefighting force right away. He said that while this isn't optimal, it is the best that the department can afford to do. **Both Councilor O'Hara** and **Chief Smith** agreed the city had some high hazard buildings. **Chief Smith** said his door is always open and said that Councilors could contact him with their concerns or questions, as well as any of his personnel. He said since becoming Chief he has maintained a transparent operation. He reiterated it is hard math as to what they do to keep stations open with the resources available. He said the staff isn't happy about this; there is not enmity between the union and the city over this because everyone is realistic and understands the problem and they're doing what they can. **Councilor O'Hara** said residents want all the stations opened and expressed his appreciation again for the department and the Chief for answering Councilor questions.

**Councilor Orlando** asked about the Special Budgetary Transfer to come forward under the Budget & Finance Committee Report out of the department's safety equipment budget that will see money moved into the salary/wage overtime account. He asked what the department won't be able to purchase as a result. **Chief Smith** said it was projected they would have the five retirements and would have five personnel they'd have to fully equip for a new hire which is significant, and \$20,000 is about equal to four personnel equipage, and it is unlikely four will be hired in FY16 (as stated earlier, one possibly only two new hires) which makes these funds available in this line item. **Councilor Orlando** asked if the funds are moved what is the improved percentage the Magnolia Station will be open. **Chief Smith** reiterated that it is his hope to increase the number of openings in Magnolia and said he didn't want to give a number without being able to predict future injuries and leaves. He said once the transfer is approved they have to crunch the numbers and see how it will work with possibly several firefighters returning to work. He

suggested the percentage of openings could rise to 80 percent. **Councilor Orlando** asked if the new hires the department intends to bring in, based on the four or five retirements in process, will that reduce the payroll footprint and allow funds to be moved into the overtime account to keep Magnolia open. **Chief Smith** said that has already been rolled into the decision on when they can hire for FY16. He explained he can afford to hire one new firefighter/paramedic and won't know what they'll be paying out for any other retirees yet. For FY17 they should be starting at 72 personnel, short of those staff out for injuries or FSLA.

**Councilor Memhard** also expressed his appreciation to the Chief for taking his time addressing the B&F Committee and the Council and made the following statements: He commending the Chief for the job he's done, that the city is enjoying more stations open as a result of the careful work in budgeting and planning the Chief has done. He noted that the Chief said it is a matter of straightforward math and analysis, but the fear and consequence of a fire when it is our home or our neighbor's is not straightforward but is emotional, affecting insurance and many other things and is an area of concern. The community has had a sense this has been addressed, and the Council has been caught unawares and has been a communications issue. He asked what the overall department budget was. **Chief Smith** said it is about \$8.5 million with 79 total staff and includes station equipment and maintenance. **Councilor Memhard** noting Mr. Marcous' statements under Oral Communications about his house fire in 2005 that two people manning the Magnolia Fire Station is good but doesn't mean the department can initiate fire response at the site. **Chief Smith** said that was correct depending on the nature of the incident. If there isn't a life in the building at risk federal law prohibits making direct entry unless there is two personnel to go in and two personnel remaining outside with a fifth to maintain incident command which is a safety factor that is in the national standards. This policy is followed to the letter so long as no life is in jeopardy, he said. But if there is a life in jeopardy, the Chief indicated that rule is moot, and the federal government acknowledges that allowing the firefighters go in with two or three people but he cautioned it is not optimal because it is a superficial response -- they don't have anyone to hook up water, manage apparatus and direct the scene. Based on the risk assessment they will do what they have to do, but he said he is tasked with keeping his personnel safe. **Councilor Memhard** said that they are making substantial progress with a time of concern between now and the end of the fiscal year and when the new budget goes into effect July 1. He said he hoped the Chief will address these concerns with the Council, and the Administration with enough foresight within the limits of the injuries so that next year the department will be in a better situation with the new budget and contract to give Gloucester residents the peace of mind they all pay for with their tax dollars. **Chief Smith** indicated his agreement with Councilor Memhard.

**Councilor Lundberg** expressed that the Council appreciates the relationship the Chief has developed with the firefighter's union and that they also appreciate their attitude toward their mission. These are difficult financial times, and that the Chief deserves a lot of credit as does the Administration to honoring the firefighter's role in crafting a good working relationship.

*The Council recessed at 7:53 p.m. and reconvened at 7:58 p.m.*

**Confirmation of New Appointments:** None.

**Consent Agenda:**

- **CONFIRMATION OF REAPPOINTMENTS**
  - **MAYOR'S REPORT**
1. Communication from Superintendent of Schools re: requesting Council vote on MSBA Statement of Interest-Accelerated Repair Program-Gloucester High School Roof (Refer B&F)
  2. Memorandum from Fire Chief re: acceptance of two grants-FY16 S.A.F.E. in the amount of \$4,837 & Senior Safe grant in the amount of \$2,917 from Dept. of Fire Services (Refer B&F)
  3. Memorandum, Grant Application & Checklist from Fire Chief re: FEMA Assistance to Firefighters Grant in the amount of \$422,300 (Refer B&F)
  4. Memorandum from Police Chief re: requesting approval to pay two grievances from previous fiscal years with FY16 funds (Refer B&F)
  5. Memorandum from Personnel Dept. re: permission to pay for goods procured in FY15 with FY16 funds (Refer B&F)
  6. Memorandum from General Counsel & Assistant General Counsel re: changes to GZO Sec. 5.27 et al entitled, "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities" (Refer P&D)
  7. New Appointments:
    - Conservation Commission TTE 02/14/19 William Cook (Refer O&A)
    - 8. Report to Mayor by the Ad Hoc Recreation Boating Advisory Committee (Info Only)
      - **COMMUNICATIONS/INVITATIONS**
      - 1. Request from Council on Aging re: City Council acceptance of Gloucester Council on Aging By-Laws (Info Only)
        - **APPLICATIONS/PETITIONS**
        - 1. Special Events Application: Request to hold the 10K Lone Gull Road Race on September 25, 2016 (Refer P&D)
          - **COUNCILORS ORDERS**
          - 1. CC2016-003 (Gilman) Request that the soon to be rehabilitated baseball/softball field adjacent to Wilson Field (Dr. Osman Babson Rd.) be dedicated to a long-tenured Board Member and volunteer of the Gloucester Little League (Refer O&A)
            - **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**

1. City Council Meeting: 01/12/16

(Approve/File)

2. Standing Committee Meetings: B&F 01/21/16 (under separate cover), O&A 01/18/16 (no meeting), P&D 01/20/16

(Approve/File)

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

**Councilor Lundberg** asked to pull Item #6 Memorandum from General Counsel & Assistant General Counsel re: changes to GZO Sec. 5.27 et al entitled, "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities" from the Mayor's Report and then made the following two motions:

**MOTION: On a motion by Councilor Lundberg, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed, to make certain corrective amendments to the Gloucester Zoning Ordinance Sec. 5.27 et al "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities under Sec. 1.11.2(e) of the Zoning Ordinance.**

**MOTION: On a motion by Councilor Lundberg, seconded by Councilor Cox, the City Council voted 8 in favor, 1 (Orlando) opposed, that the public hearing of the corrective amendments to the Gloucester Zoning Ordinance Sec. 5.27 et al "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities shall be held February 23, 2016, and that under Section 1.11.4(b) that the notice to the abutters be waived because it affects so many properties making notice impracticable.**

By unanimous consent of the Council the Consent Agenda as accepted as amended.

**Committee Reports:**

**Budget & Finance: January 21, 2016**

**1. *Supplemental Appropriation-Budgetary Request (2016-SA-21) from DPW Water Department***

COMMITTEE RECOMMENDATION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2016-SA-21 in the amount of \$78,000 from Account #610000.10.480.32620.0000.00.000.00.000, Water Enterprise Fund, Retained Earnings Water Construction Renewal to Account #610000.10.450.52000.0000.00.000.00.052, Water Enterprise Fund, Contractual Services for the purpose of funding an amendment to an engineering contract in order to comply with current Mass. DCR Office of Dam Safety orders and requirements.

**DISCUSSION:**

**Councilor Memhard** explained that this supplemental appropriation is from the Water Enterprise Fund retained earnings, Water Construction Renewal account that would be used to fund an amendment for an engineering contract the city currently holds in order to comply with current Massachusetts Department of Conservation and Recreation Office of Dam Safety orders and requirements for the purpose of mandated dam inspections and another round of testing. There are 12 dams and half have been done and the other half will now be taken care of.

**Council President Ciolino** noted the standards have changed and indicated his understanding that was the reason why the contract was being amended. **Mike Hale**, DPW Director, said it wasn't that the standards had changed that much but rather it is compliance with the standards. He said that the city has managed its compliance to the Office of Dam safety for about the last eight years; prior to that the city was well in arrears with the inspections of its dams and dikes. High hazard dams which are those if breached could cost life and/or property damage, and there are 10 such dams in the city. They require a report to be done every two years. There are three significant hazard dams in the city, which require inspection every five years. It is important to keep up with the inspection of city dams to ensure their integrity, he said, and know of any problems in advance so capital plans can be budgeted for. They are doing this with the Haskell Dam for which they were awarded a \$172,000 from the state this past summer to begin the engineering services for the rehabilitation of that 70 year old dam, he noted.

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve Supplemental Appropriation 2016-SA-21 in the amount of \$78,000 from Account #610000.10.480.32620.0000.00.000.00.000, Water Enterprise Fund, Retained Earnings Water Construction Renewal to Account #610000.10.450.52000.0000.00.000.00.052, Water Enterprise Fund, Contractual Services for the purpose of funding an amendment to an engineering contract in order to comply with current Mass. DCR Office of Dam Safety orders and requirements.**

**2. *Special Budgetary Transfer Request (2016-SBT-5) from Fire Department***

COMMITTEE RECOMMENDATION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2016-SBT-5 in the amount of \$20,000 from Account #101000.10.250.55810.0000.00.000.00.054, Fire Department, Work/Safety Clothes, to Account #101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage, Overtime, for the purpose of funding the Fire Department Overtime account to ensure fire station openings.

**DISCUSSION:**

**Councilor Memhard** indicated that this transfer was similar to an October 2015 transfer and is intended to assure that the salary/wage overtime account is funded to enable three stations are fully opened with a fourth open as often as possible based on staffing coverage.

**Councilor O'Hara** asked if there is a method to track this funding to ensure its use for overtime funding to staff Fire Stations. **Council President Ciolino** said he understood that this would open the stations more often, and he added the question how far this would take the department's overtime funding for station openings. **Chief Smith** said the department will stretch the funding to the end of June by breaking it up into pay periods and be strictly encumbered into the salary/wage overtime account which is solely used for hiring for shifts to open stations.

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2016-SBT-5 in the amount of \$20,000 from Account #101000.10.250.55810.0000.00.000.00.054, Fire Department, Work/Safety Clothes, to Account #101000.10.220.51300.0000.00.000.00.051 Fire Department, Salary/Wage, Overtime, for the purpose of funding the Fire Department Overtime account to ensure fire station openings.**

**Council President Ciolino** stated by way of this vote the Council is showing their support and solidarity with the Fire Department.

**3. *Memorandum from CFO & Director of Information Services & Special Budgetary Transfer request (2016-SBT-6) from Treasurer/Collector's Office***

COMMITTEE RECOMMENDATION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2016-SBT-6 in the amount of \$42,750 from Account #101000.10.145.57420.0000.00.000.00.057 Treasurer/Collector-Property Insurance-General Liability to Account #101000.10.155.52000.0000.00.000.00.052, Information Technology-Contractual Services for the purpose of funding the transition to a new email platform.

**DISCUSSION:**

**Councilor Memhard** said that IT Director, James Pope, and CFO, John Dunn addressed this matter in some detail during the B&F meeting explaining to the Committee that this transfer relates to a change-over of the city-wide email system. He briefly recalled for the Council that the entire city's municipal email platform several months ago went down for seven consecutive days. As a result the Administration reviewed three different plans as how to move forward to provide email service to the city's employees. The CFO and the IT Director concluded that Google Apps offered the best choice for a range of features as well as being very competitive financially which turns out to be the lowest cost solution to provide the level of service the city needs. To achieve the conversion a transfer is needed to pay for it. The funds are coming from an account in the Treasurer/Collector's Department, the General

Liability Property Insurance, which was budgeted in the spring of each year based on information they get from MIIA, and then when they get the actual bill they have historical credits that offset that bill. He said because of good history it allowed for a positive budget variance in this account, and therefore can be used to source this \$42,750 conversion cost and first year of the Google Apps service includes training.

**Councilor Ciolino** said that this isn't \$47,000 for Gmail. **John Dunn**, CFO, explained that: the impetus for this conversion is the problems with the city email platform and concerns for "seat" licenses. When looking to fix the problem, three different approaches were assessed and determined that Google Apps will provide a suite of software useable by clerks and users throughout the system. It will put the city's information in the Cloud in a distributed format which will provide a high level of security. The city won't have to maintain equipment or programs. Given the set of circumstances, this appears to be the best approach, with the city getting email and a suite of services with storage in the Cloud.

**Councilor Cox** said at her place of employment they are utilizing Google Apps which works extremely well and briefly described a few advantages users will have. She commended the foresight of the Administration for moving forward with this.

**Councilor Orlando** added that this move will save the city money over a five-year period per Mr. Pope's excellent presentation which will provide the city with better email and information security and save the city money.

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2016-SBT-6 in the amount of \$42,750 from Account #101000.10.145.57420.0000.00.000.00.057 Treasurer/Collector-Property Insurance-General Liability to Account #101000.10.155 52000.0000.00.000.00.052, Information Technology-Contractual Services for the purpose of funding the transition to a new email platform.**

**4. Request from Police Chief for acceptance of \$42,700.60 from MIIA for the replacement cost of cruiser 1692**

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Orlando, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c.44, §53, to appropriate \$42,700.60 for a new Gloucester Police Department cruiser from insurance proceeds received from the city's insurer, Massachusetts Interlocal Insurance Association (MIIA) in the amount of \$42,700.60 for a total loss payment for the Gloucester Police Department cruiser #1692, a 2013 Ford Interceptor.

**DISCUSSION:**

**Councilor Memhard** recognized that the Police Chief was on the front page of the New York Times New England edition with a long full article in Section A1 the previous day regarding the Angel Program.

He explained that on October 3, 2015 there was a serious accident where Police Cruiser #1962, a 2013 Ford Interceptor was totaled, badly injuring an officer. On December 15 the city's insurer, MIIA, issued a check for \$42,700.60 for the cruiser's replacement value. These funds are to be deposited into an account so that the money can be used to replace the cruiser with a new vehicle. The Chief indicated the recovered specialized equipment will also be installed in the new vehicle.

**Councilor Cox** asked the Administration for an update on the condition of the injured police officer. **Jim Destino**, CAO, said that the officer broke his neck and is still recovering and is hoped to make a full recovery.

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Gilman, the City Council voted 9 in favor, 0 opposed, to accept under MGL c.44, §53, to appropriate \$42,700.60 for a new Gloucester Police Department cruiser from insurance proceeds received from the city's insurer, Massachusetts Interlocal Insurance Association (MIIA) in the amount of \$42,700.60 for a total loss payment for the Gloucester Police Department cruiser #1692, a 2013 Ford Interceptor.**

**5. Memorandum from Affordable Housing Trust for approval of Affordable Housing Trust funding in the amount of \$10,000 for 206 Main Street**

COMMITTEE RECOMMENDATION: On a motion by Councilor Memhard, seconded by Councilor Lundberg, the Budget & Finance Committee voted 2 in favor, 1 (Orlando) opposed, to recommend that the City Council appropriate \$10,000.00 for an affordable housing project as requested by the Affordable Housing Trust Committee

for the 206 Main Street LP, Harbor Village Housing Project from Fund# 820022, Affordable Housing Trust fund for the purpose of supporting the creation of affordable rental units for households earning no more than 60 percent to Area Median Income adjusted for household size. Units shall carry a State Affordable Housing Restriction in perpetuity.

#### **DISCUSSION:**

**Councilor Memhard** said that the discussion on this matter at the B&F meeting was fairly involved. The Affordable Housing Trust (AHT) felt this was an appropriate use of their funds, as Councilor Lundberg confirmed being compatible with the AHT mission statement. He said concern was expressed that the city was already incurring extra expense to retain counsel to represent the city for the 40B project, called a “friendly” 40B, but the city does incur extra costs that precedent was being set to subsidize or assist other housing projects coming into the city. Tom Daniel, Community Development Director, stated and representatives from Action, Inc., that this was an essential part of the community’s commitment to supporting this project and essential to the consideration of the state level grant approval as a city statement of support for the project.

**Councilor Cox** pointing out that this project is in her ward and had done a great deal of reading on the 40B projects. She said one of the ways a project such as this can leverage their request to the state for preference such as to city resident preference, veteran’s preferences, while it isn’t guaranteed, it is a request that can be put forward in the application to the state. She explained that when the state looks at the application they also look at the support that the city is giving the project and one of the ways the city can show their support is through funding. Noting that the AHT has a \$247,000 balance, a \$10,000 show of support, she said, is extremely weak. She said she had hoped there would have been more money put forward, and knew the applicant had hoped that as well, and city residents, of whom there are many in support the project. She confirmed that the city did hire an attorney at the request of the Zoning Board of Appeals (ZBA) to assist them on this one project. Penalizing the project or the ZBA for an attorney to assist them won’t appear as positives in the eyes of the state when making a request for local preferences.

**Councilor Orlando** said he voted at B&F against this funding for several reasons none of which are related to the need for affordable housing that the city needs. He said his reservations about the project are that the city will incur more costs in a project of this magnitude than just in a legal bill. He noted he had asked the Mayor’s office to advise the Council what has been spent to date as a result of the project and what it will total. He recounted that at the B&F meeting he asked if the city contributed this \$10,000 can it have some say in how that money is used --for things like the exterior design to comport with the downtown, or used for something the city could control like water and sewer connections to take some of the burden off taxpayers. He said he wasn’t given any assurances that the city had any say in how the funds would be spent because it is a 40B project. He pointed out he wasn’t given any kind of guarantee or hope the city wouldn’t have to spend a great deal of money for a sizeable infrastructure project on Main Street to increase water and sewer capacity as a result of this project. He suggested that the city will have to bear a lot of costs in the future because of this 40B project, and that in of itself would show a great deal of support and was why he didn’t think they should use \$10,000 towards the project. He added that the city shouldn’t be getting in the way of a private entity building on their private property, but said it shouldn’t require the city to put city funds and resources towards this project and would vote against the funding tonight.

**Councilor Gilman** said she spent quite a bit of time looking at previous AHT minutes. She noted that in 2009 for the Central Grammar apartment project, the AHT contributed \$50,000 for affordable housing units; \$30,000 for Taylor Street for three affordable housing units in 2011; and two units on Marsh Street in 2011 at \$40,000. She said that if the developer’s request was \$10,000, then that is sufficient as a sign of good faith, and suggested that is likely the minimum likely that the state would see as an indication of the city’s support. This is a small amount and she would support the motion, she said.

**Councilor Cox** offered a correction that the \$10,000 wasn’t the project partnership’s request. The request was higher, and this was what they were able to settle for, she said.

**Councilor LeBlanc** said he agreed with Councilor Orlando, that this 40B project will be a bigger burden on the city financially moving forward and that the \$10,000 would be better served to be left in reserve for a different project and would not support the appropriation of this funding for the 40B project on Main Street.

**Councilor Lundberg**, pointing out that Councilor Orlando had said there was no assurance about the extra burden on the downtown infrastructure, Tom Daniel, Community Development Director, specifically addressed that point at the B&F meeting by saying that water and sewer was sufficient as it exists today to support this development.

**Council President Ciolino** said at the B&F meeting he heard that the \$10,000 was a good faith indication on the part of the city to show the state that the city supports the 40B project, but that a good faith effort for a 40B

project is a contradiction. He pointed out that a 40B project bypasses every city board and commission except the ZBA -- and if they turn the project down, the project appeals to the state and likely gets it passed. He said were this a regular housing project with affordable housing units attached it would be a great investment. He noted this project is coming as a whole 40B project. He said he viewed 40B projects as hostile but added that he agreed with the project which would be good and agreed that the volunteers of the AHT have done a good job, but he said he believed that a project will come forward the city can spend its money on and have more control. He asked where one goes to get \$10,000 in funding with no strings attached -- the city doesn't get a performance report of where the taxpayer dollars went and expressed his concern. He said it would be better if the \$10,000 was put in an appropriation account for reimbursing expenses associated with the project the city is going to incur when the ZBA hires an attorney to make sure the city is properly represented which he surmised would be expensive. He said he would vote against this funding.

**Peggy Hegarty Steck**, Action, Inc. and **Mickey Northcutt**, CEO, North Shore Community Development Corporation came forward at the request of **Councilor Memhard** who said it is a competitive track to make the financial application to the state and asked through the Chair that they speak to the role of the \$10,000 contribution and their expectation. He said he is concerned that the Council not do anything that would delay the development plans for the project as it will take several years to get up and running and indicated he is motivated to see this accomplished in as quick a timeframe as possible for the benefit of the community. **Mr. Northcutt** said when they apply to the state for funding; there is a prerequisite that the state looks for a local funding match. He said his organization has never had a 40B project that wasn't supported with funding in some way from the community where the project was being developed, either through HOME funds, Affordable Housing Trust Funds, or CPA funds. He indicated since he's never had a project that wasn't financially supported in some way by a community wasn't sure of the process. It is the state's view that they won't put state resources into projects where there isn't a local match, he pointed out. State funding is extremely competitive, he explained, and applications can be made once per year, and he said they would be submitting an application to the state in March. He said it is usual that 80 to 100 applications go in and only about 25 are funded, but it doesn't preclude their going forward again in a new funding cycle. The process is very competitive, he noted, pointing out that there hasn't been an affordable housing project that's applied for resources at the state level for many years. He said they knew the state to be supportive of the concept of doing something in Gloucester. The local match is a prerequisite, he said.

**Councilor Lundberg** said the idea the partnership has this funding without the city's contribution is not correct. If the city doesn't indicate its interest through this funding the project won't be funded on a state level and the project will not go forward. **Mr. Northcutt** said it was an accurate statement. **Council President Ciolino** said the Brier Neck project has an affordable housing aspect that the city didn't contribute to. **Councilor Cox** said that if that project didn't ask for funding from the city it wouldn't have extended it to them. **Ms. Steck** indicated that not all 40B projects are the same, and some projects use a portion of a project as affordable and finance it on their own to get the project done and are not going through the same funding process as the Main Street project which is 100 percent affordable housing units. **Mr. Northcutt** added that the AHT asked them to put a purpose on the \$10,000 and it was for masonry and it will be used for the side of the building to be on the main street side be brick. **Ms. Steck** said there was a tracking process and communication entailed.

**Councilor Nolan** said he recalled there would be no public funds to be used for this 40B project and there were no issues with that. He asked if this was a match funding from the state. **Mr. Northcutt** said they are applying for much more than \$10,000 at the state level and have private funds as well. The state administers some federal as well as state monies, and the total dollar amount they are applying for is several million. The \$10,000 indicates the city has some, "skin in the game." He said the last three project they've done they've had a range of \$100,000 to \$400,000 contributed from CPA, HOME money or from Affordable Housing Trust. The project can't be done without public funds, he said.

**Councilor Memhard** asked for an overview of the project. **Mr. Northcutt** said that the project is a 30 unit development, with three street-level retail spaces. There will be 10 one-bedroom units, 3 three-bedroom units and 17 two-bedroom units, all 100 percent deemed affordable housing with a 50 year deed restriction and all units will count towards the city's affordable housing inventory. He indicated Gloucester needs 300 units. **Councilor Memhard** said that to achieve these 30 affordable housing units lessens the exposure of private developers being able to hang their hats on a 40B project so they can avoid most all permitting bodies of the city. A project like this helps eliminate this loophole, he said.

**Councilor Lundberg** said that the Brier Neck Crossing project highlights an excellent example of putting in market rate units with an affordable unit to get around city permitting. This project is what 40B was designed to do. Once 10 percent of the housing stock for affordable housing is reached, the city doesn't have to deal with 40B projects.

**Councilor Orlando** asks if the ZBA turns the project down what happens to the \$10,000 if the Council approves the funding. **Mr. Northcutt** said they would never spend the money unless the project is built. He said he was sure the money would stay in the Trust until they start construction and would be when they draw down such funds. **Councilor Orlando** said if the ZBA hasn't given their approval he said there is no need for approval of these funds as there is no project moving forward at this time. He said that Councilor Nolan noted that at one of the presentations on the project suggested there would be no public funds required for this project. **Mr. Northcutt** said they didn't say that the project wouldn't require public funds because it isn't possible to build the type of affordable housing they're proposing to construct without public funds. **Ms. Steck** said this idea came from people in the audience who thought the city was paying for the whole thing which it isn't and that the city contribution is significantly smaller than private financing and the state. She said that the only city funds they're asking for is funds that can only be used for funding affordable housing which is the purpose of AHT funds. She confirmed some people thought that the city would have to spend millions for this project, and it is not true.

**Councilor LeBlanc moved** to postpone the Council vote on the appropriation of Affordable Housing Trust funds of \$10,000 until the ZBA comes forward with a recommendation on the 206 Main Street LP housing project, seconded by **Councilor Orlando**.

**Councilor Gilman** said she wanted more information, some historical data, as to why the other properties the AHT had funded received so much more than this project. Affordable housing is workforce housing, and she said she would support the postponement of the vote.

**Council President Ciolino** suggested that the Council they can send this matter back to the AHT and ask them to come back with this again when the ZBA renders its decision and to place restrictions on the funds so the city knows exactly where the money is going.

**Councilor Lundberg** pointed out that the AHT funds are not taxpayers' money; rather, the Trust money came from a developer who, in order to skirt affordable housing on his project, made that contribution to the Trust.

**Councilor Orlando** said the developer owns the property, so it is taxpayer money.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Orlando, the City Council voted 7 in favor, 2 (Lundberg, Cox) opposed, to postpone voting on a \$10,000 appropriation out of the Affordable Housing Trust fund for the purpose as recommended by the Affordable Housing Trust in support of the creation of affordable housing rental units for the 206 Main Street LP housing project until the Zoning Board of Appeals has rendered its decision on the project.**

**7. Memorandum from Community Development Director for approval of two grants from Mass. Cultural Council in the amount of \$4,000 for support of Gloucester Harbortown Cultural District and \$5,000 for support of the Rocky Neck Cultural District**

COMMITTEE RECOMMENDATION: On a motion by Councilor Memhard, seconded by Councilor Lundberg, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A a state grant from the Massachusetts Cultural Council a FY16 Cultural District Initiative Grant in the amount of \$4,000 for the purpose of supporting the Harbortown Cultural District. All funds for grant awards are to be spent by June 30, 2016. Matching funds must be raised by June 30, 2016 and is a 1:1 cash match.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a state grant from the Massachusetts Cultural Council a FY16 Cultural District Initiative Grant in the amount of \$4,000 for the purpose of supporting the Harbortown Cultural District. All funds for grant awards are to be spent by June 30, 2016. Matching funds must be raised by June 30, 2016 and is a 1:1 cash match.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A a state grant from the Massachusetts Cultural Council a FY16 Cultural District Initiative Grant in the amount of \$5,000 for the purpose of supporting the Rocky Neck Cultural District. All funds for grant awards are to be spent by June 30, 2016. Matching funds must be raised by June 30, 2016 and is a 1:1 cash match.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a state grant from the Massachusetts Cultural Council a FY16 Cultural District Initiative Grant in the amount of \$5,000 for the purpose of supporting the Rocky Neck Cultural District. All funds for grant awards are to be spent by June 30, 2016. Matching funds must be raised by June 30, 2016 and is a 1:1 cash match.**

**8. *Memorandum from Health Department for acceptance of a Nicotine Delivery Device Mini-Grant in the amount of \$1,000 from Health Resources***

COMMITTEE RECOMMENDATION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A a private grant from Health Resources in Action for a Nicotine Delivery Device Mini-Grant in the amount of \$1,000. The purpose of this grant is to fund the Gloucester Youth Council efforts in conjunction with School Administration to work to create a school policy to include guidelines for the use of nicotine delivery devices such as e-cigarettes and provide educational outreach to the school community.

**DISCUSSION: None.**

**Councilor Memhard** extended the Council's congratulations to Max Schenk upon being named to the post of Assistant Public Health Director.

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a private grant from Health Resources in Action for a Nicotine Delivery Device Mini-Grant in the amount of \$1,000. The purpose of this grant is to fund the Gloucester Youth Council efforts in conjunction with School Administration to work to create a school policy to include guidelines for the use of nicotine delivery devices such as e-cigarettes and provide educational outreach to the school community.**

**Ordinances & Administration: January 18, 2016** – No Meeting - National Holiday

**Planning & Development: January 20, 2016**

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor Cox, the Planning & Development Committee voted 2 in favor, 0 opposed, to recommend that the City Council grant a perpetual easement for consideration of one (\$1.00) Dollar to Massachusetts Electric Company the right to install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of high and low voltage electric current for the transmission of intelligence, an UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM located through, under, over across and upon a parcel of land situated on the southerly side of Western Avenue, being more particularly shown on a Plan of Land dated February 5, 1989 by Winslow L. Webster, City Engineer recorded with the Essex South Registry of Deeds and known as portion of Stage Fort Park and as shown on a sketch entitled, "national grid WR#18176220," being 50+/- feet of 2" – 3" conduit from MH123-1 near 119 Western Avenue, and 30 +/- feet from the edge of Western Avenue into Stage Fort Park to a transformer with padmount for a total distance of 80 +/- feet. The installation shall consist of lines of buried wires and cables and lines of wires and cables installed in underground conduits together with all equipment and appurtenances thereto for the transmission of intelligence and the furnishing of electric service to the described premises and to service others, and without limiting the generality of the foregoing but specifically including the following equipment: namely, manholes, manhole openings, bollards, handholes, junction boxes, transformers, transformer vaults, padmounts, padmount transformers and all housings, connectors, switches, conduits, cables and wires all located within the easement area of the property described herein, and also including the right to pass and repass over, across and upon said land in order to renew, replace, repair, remove, add to, maintain operate, patrol and otherwise change said "underground system" and to make such other excavations as may be necessary and to clear the portions of the areas where the underground system is located of such trees and bushes as may interfere with safe and efficient operation. Grantee

will properly backfill said excavations and restore surfaces of the land. It is the responsibility of Massachusetts Electric Company to file the granted easement at their expense with the Essex South Registry of Deeds.

**Councilor Lundberg** explained that this was an after-the-fact housekeeping situation. The installation of the transformer and pad mount already exist at Stage Fort Park.

**MOTION: On a motion by Councilor Cox, seconded by Councilor Cox, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to grant a perpetual easement for consideration of one (\$1.00) Dollar to Massachusetts Electric Company the right to install, construct, reconstruct, repair, replace, add to, maintain and operate for the transmission of high and low voltage electric current for the transmission of intelligence, an UNDERGROUND ELECTRIC DISTRIBUTION SYSTEM located through, under, over across and upon a parcel of land situated on the southerly side of Western Avenue, being more particularly shown on a Plan of Land dated February 5, 1989 by Winslow L. Webster, City Engineer recorded with the Essex South Registry of Deeds and known as portion of Stage Fort Park and as shown on a sketch entitled, "national grid WR#18176220," being 50+/- feet of 2" – 3" conduit from MH123-1 near 119 Western Avenue, and 30 +/- feet from the edge of Western Avenue into Stage Fort Park to a transformer with padmount for a total distance of 80 +/- feet. The installation shall consist of lines of buried wires and cables and lines of wires and cables installed in underground conduits together with all equipment and appurtenances thereto for the transmission of intelligence and the furnishing of electric service to the described premises and to service others, and without limiting the generality of the foregoing but specifically including the following equipment: namely, manholes, manhole openings, bollards, handholes, junction boxes, transformers, transformer vaults, padmounts, padamount transformers and all housings, connectors, switches, conduits, cables and wires all located within the easement area of the property described herein, and also including the right to pass and repass over, across and upon said land in order to renew, replace, repair, remove, add to, maintain operate, patrol and otherwise change said "underground system" and to make such other excavations as may be necessary and to clear the portions of the areas where the underground system is located of such trees and bushes as may interfere with safe and efficient operation. Grantee will properly backfill said excavation and restore surfaces of the land. It is the responsibility of Massachusetts Electric Company to file the granted easement at their expense with the Essex South Registry of Deeds.**

**Scheduled Public Hearings:**

**1. PH2016-003: Amend GCO Sec. 21-84(c)(g) and Section 21-85(b)**

**This public hearing is opened at 8:52 p.m.**

**Council President Ciolino** said that this public hearing is continued to February 9, 2016 as it is not yet through the Ordinances & Administration Committee.

**This public hearing is continued to February 9, 2016.**

**2. PH2016-004: Amend GCO Chapter 11, Sec. 11-1 by adding the definition of a Farmer's Market**

**This public hearing is opened at 8:53 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 8:53 p.m.**

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Gilman, seconded by Councilor Cox, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend the Code of Ordinances Chapter 11, Section 11-1 by ADDING the following definition:

"A farmer's market is a public market for the primary purpose of connecting and mutually benefitting Massachusetts farmers, communities and shoppers while promoting and selling products grown and raised by participating farmers. A proposed farmers market must meet the minimum qualification for Massachusetts Farmers' Markets as defined by the Massachusetts Department of Agricultural Resources (MDAR) that include, without limitation, two or more

farmers primarily selling products that they grew, produced or raised; set hours of regularly scheduled operation; products that are clearly labeled as to origin; and written rules that govern the operation of the farmers market that 1) assure its primary purpose is to provide a direct marketing opportunity for Massachusetts farmers, foresters and fisheries, 2) addresses the terms and conditions of sales, including pricing and labeling, vendor eligibility and product source, and compliance by all vendors with local, state and federal laws and regulations, 3) include a written grievance procedure, and 4) address market and vendor liability, including any insurance requirements.

Included in this definition are state licensed farm-wineries and fresh fish caught by local fishermen.

All vendors participating in a farmer's market covered by this definition are exempt as vendors under Code of Ordinances Section 11-14(a).

Any other vendors participating in the farmer's market must obtain a local vendors license.

Farmers markets are not included under Zoning Ordinance Use Schedule, "Open Uses," Section 2.3.3 (1) and (2). Farmers' markets must comply with all applicable local, state and federal laws and regulations."

#### **DISCUSSION:**

**Councilor Lundberg** said that the P&D Committee had voted to recommend a previous definition (May 6, 2015). He noted at that time that the Planning Board had recommended that rather than the Zoning Ordinance amendment, the definition belonged in the Code of Ordinances; and prompted the return of the matter to P&D to be reexamined. The result, as reviewed and recommended by General Counsel, is now before the Council to amend the Code of Ordinances codifying a definition of a Farmer's Market based on the Massachusetts Department of Agricultural Resources definition which also has the full endorsement of the P&D Committee. He added the purpose of the ordinance and the state recommendation is that vendors at a Farmer's Market who are farmers don't have to pay for a local vendor license. Vendors at a Farmer's Market who aren't farmers like the candle maker or a poster seller would need a local vendor's license to participate he said.

**MOTION: On a motion by Councilor Lundberg, seconded by Councilor Cox, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to Amend the Code of Ordinances Chapter 11, Section 11-1 by ADDING the following definition:**

**"A farmer's market is a public market for the primary purpose of connecting and mutually benefitting Massachusetts farmers, communities and shoppers while promoting and selling products grown and raised by participating farmers.**

**A proposed farmers market must meet the minimum qualification for Massachusetts Farmers' Markets as defined by the Massachusetts Department of Agricultural Resources (MDAR) that include, without limitation, two or more farmers primarily selling products that they grew, produced or raised; set hours of regularly scheduled operation; products that are clearly labeled as to origin; and written rules that govern the operation of the farmers market that 1) assure its primary purpose is to provide a direct marketing opportunity for Massachusetts farmers, foresters and fisheries, 2) addresses the terms and conditions of sales, including pricing and labeling, vendor eligibility and product source, and compliance by all vendors with local, state and federal laws and regulations, 3) include a written grievance procedure, and 4) address market and vendor liability, including any insurance requirements.**

**Included in this definition are state licensed farm-wineries and fresh fish caught by local fishermen.**

**All vendors participating in a farmer's market covered by this definition are exempt as vendors under Code of Ordinances Section 11-14(a).**

**Any other vendors participating in the farmer's market must obtain a local vendors license.**

**Farmers markets are not included under Zoning Ordinance Use Schedule, "Open Uses," Section 2.3.3 (1) and (2).**

**Farmers' markets must comply with all applicable local, state and federal laws and regulations."**

#### **3. PH2016-005: SCP2015-008: Western Avenue #53, GZO Sec. 2.3.1.7 multi-family, Sec. 3.2.2 reduction in minimum lot area and open space per dwelling unit**

**This public hearing is opened at 8:57 p.m.**

**Those speaking in favor:**

**Attorney Joel Favazza**, Seaside Legal Solutions, 111 Main Street, representing Donald A. Roby and Paul A. Jensen (owners/applicants) attorney for the permitting process only, explained that the applicants are seeking to

convert the property at 53 Western Avenue back to a four-family residential dwelling pursuant to GZO Sections 2.3.1.7 multi-family, and 3.2.2 (a) reduction in minimum lot area and open space per dwelling unit.

**Mr. Favazza** said that currently the owners use the property as a combination of two separate apartments and an inn with three rental suites. He pointed out that city records show that the property was used as a four-family as far back as 1982 and until as recently as 2010. Currently the building is categorized as having two apartments and a three-suite in. In 2015 his clients looking to purchase the property presented the neighborhood with an option of taking the building down, putting up a new structure, the neighborhood wasn't thrilled it was coming down. The Historical Commission heard of the proposal and was not enthusiastic either. The applicant's reconsidered the project and came back with a way to preserve the building and still make this project financially viable by turning it back into a four-unit building. This project meets the neighborhood concerns that there will be sufficient parking and the concerns of the Historic Commission that the façade will remain much as is seen today.

It was pointed out there are no proposed additions to or expansion of the existing building outside of its current footprint. The garage will be torn down and be replaced with open air parking. The building will have two units over two units each with two bedrooms and a view of the Boulevard and Gloucester Harbor.

**Mr. Favazza** then reviewed the six criteria for a Special Council Permit pursuant to GZO Sec. 1.8.3 as:

- Social, economic or community need served: The proposed conversion provides new downtown residences while maintaining the historical character of the existing building and provides quality housing in the downtown;
- Traffic Flow & Safety: The proposed use is less intense than currently exists on the property and will provide more parking than currently is available;
- Adequacy of utilities & other public services: The proposed use is less intense than currently exists and the utilities on site are adequate to handle the use;
- Neighborhood character & social structure: The building abuts a six-unit condominium and other two- and three-family condominium buildings along Babson Court and will fit into the R-5 zoning district, and the building has been in place for centuries;
- Qualities of the natural environment: There will be no negative impacts to the qualities of the natural environment. The paved surfaces will remain;
- Potential fiscal impact: Four units are required in order to make the purchase and renovation of the property financially viable.

**Mr. Favazza** noted that the lot area decrease is in keeping with the immediate area and that there isn't a lot of open space on Babson Court and Western Avenue. He noted that the building will look as it has historically. He said it is a good project and good collaboration with the neighbors.

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 9:02 p.m.**

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Gilman, seconded by Councilor Cox, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council GRANT a Special Council Permit (SCP2015-008) to allow for an existing building to be converted to four residential units at Western Avenue #53, Gloucester Massachusetts, Map 3, Lot 47, zoned R-5, pursuant to Section 2.3.1.7 reduction in minimum lot area per dwelling unit from 2,500 square feet to 1,900 square feet for a total of 600 square feet in relief; and Sec. 3.2.2., decrease in minimum open space per dwelling unit from 1,250 square feet to allow for no open space per dwelling unit. The application under GZO Sec. 1.8.3 is deemed in harmony with the intent and purpose of the zoning ordinance governing Special Council Permits.

#### **DISCUSSION:**

**Councilor Lundberg** said that with the due diligence of Ward 3 Councilor, Steven LeBlanc, who held meetings with the neighbors to work through any concerns about the project, as well as adjustment to the design of the building by the applicant through the airing of those concerns, and that the application meets the six standards of GZO Sec. 1.8.3 in its intent and purpose, the P&D Committee has unanimously recommended the Special Council Permit be granted for Western Avenue #53.

**Councilor LeBlanc** thanked Attorney Favazza and his clients for responding to the concerns of the neighborhood so that the project doesn't impact the neighborhood. The Boulevard is the entire city's neighborhood; he pointed out and expressed his appreciation to the applicants for doing the right thing.

**Council President Ciolino** noted many developers have come to him asking how to make something work in the city, and he said he advises it is important to get the neighbors on board. He congratulated Councilor LeBlanc for his efforts and the applicants for their responsiveness. He said they set a good example of how a project should be handled and expressed hope that this will help guide future applicants.

**MOTION: On a motion by Councilor Lundberg, seconded by Councilor Cox, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to GRANT a Special Council Permit (SCP2015-008) to allow for an existing building to be converted to four residential units at Western Avenue #53, Gloucester Massachusetts, Map 3, Lot 47, zoned R-5, pursuant to Section 2.3.1.7 reduction in minimum lot area per dwelling unit from 2,500 square feet to 1,900 square feet for a total of 600 square feet in relief; and Sec. 3.2.2., decrease in minimum open space per dwelling unit from 1,250 square feet to allow for no open space per dwelling unit. The application under GZO Sec. 1.8.3 is deemed in harmony with the intent and purpose of the zoning ordinance governing Special Council Permits.**

**4. PH2016-006: SCP2015-009: Bass Avenue #53, GZO Sec. 2.3.1.7 multi-family, Sec. 3.2.2 reduction in minimum lot area and open space per dwelling unit**

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

**Those speaking in favor:**

**Mr. Favazza**, Seaside Legal Solutions, 111 Main Street, representing 53 Bass Avenue, LLC (owner/applicant) seek to allow the existing five-unit dwelling which have existed on site. In 1977 a prior owner went to the ZBA and the City Council who received permission and proper relief to expand the building to four units. Between 1977 and 1981 a fifth unit appeared that had no permitting associated with it. The fifth unit persisted and existed from 1981 until the summer of 2015 when his client purchased the property and in his doing his due diligence he exposed the fact there was a permitting deficiency.

The initial tack was to go before the ZBA and then the Council and get what was on the ground reflected on paper. However, when the applicant went before the ZBA they were met with substantial "speed bumps." The ZBA wanted to see some concessions, and that they expressed that there were concerns about the parking situation on the property and the density on the property. This property is in the R-10 district so it isn't often to see five units on a property. Although it is a double lot, it is not overly large. The ZBA said they wanted the parking corrected as a condition of the relief to allow the five units to persist and also at the urging of the ZBA his clients have agreed to make one of the one-bedroom units to be restricted as an "affordable" rental unit (see ZBA decision dated December 10, 2015 on file) which counts towards the affordable housing stock for the city through a recorded deed restriction. The ZBA approved this in their decision also.

**Mr. Favazza** then reviewed the six criteria for a Special Council Permit pursuant to GZO Sec. 1.8.3 as:

- Social, economic or community need served: By allowing the existing fifth unit to remain provides the city with an affordably-priced workforce single bedroom housing unit that would otherwise be eliminated if the permit should be denied and will add a legally affordable housing unit to the city's affordable housing stock;
- Traffic Flow & Safety: The parking lot will have 8 paved lined parking spaces none of which will require tandem parking or backing out onto Bass Avenue. Given the demographic of renters typically on this property, very few own more than one car or none at all. It is unlikely that the eight spaces will be filled by tenant vehicles, but if that should happen there will be space for all eight. The only non-compliant aspect is that technically parking is included in the front yard setback for a multi-family that has a forty-foot front yard setback on a 70 foot deep lot, and that requires a variance.
- Adequacy of utilities & other public services: The utilities and available public services are sufficient -- no upgrades are required and there are no changes.
- Neighborhood character & social structure: The building has existed in its current five-unit configuration almost 35 years and does not nor has it in the past been in conflict with the neighborhood. A next-door-neighbor who lived at that location since the 1980's testified at the ZBA public hearing she has never had an issue with the number of people living in the building. The neighborhood character remains as is.
- Qualities of the natural environment: More paved surfaces will be created with some grassy area being removed. There will be removal of overgrowth from the property to be replaced with appropriate

landscaping. This is a double lot, and even though this is a reduction in non-paved area, there is enough open space in keeping with the neighborhood. It was noted this reduction is a trade-off in creating the eight conforming parking spaces, but when weighed out, it is more important to prevent vehicles from backing into Bass Avenue traffic than to have a few feet of grassy area behind the building.

- Potential fiscal impact: The rent collected from five units allows the owner to invest in the upkeep and maintenance of the property.

**Those speaking in opposition:** None.

**Communication:** None.

**Councilor Questions:**

**Councilor Memhard** said there is a substantial back lot and that the neighborhood is in support of this project. He noted there was a letter (on file) of support in the Special Council Permit file from an immediate neighbor in a single family home. **Mr. Favazza** said the neighborhood was alerted through normal channels when they received the abutters notice from the ZBA and for this Special Council Permit public hearing. He said in addition, there was an extra communication from his office explaining the trade-off proposed allowing the fifth unit to remain to make parking compliant. He recalled they received one letter from the immediate neighbor in support of the application, that no one appeared at the ZBA hearing to speak for or against the project and no one voiced support or objections neither at the P&D Committee meeting nor at this public hearing this evening. While people aren't lining up in support of the project neither are they voicing their objections, he concluded.

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Cox, seconded by Councilor Gilman, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council GRANT a Special Council Permit (SCP2015-009) to allow for an existing building to be legally converted to five residential units at Bass Avenue #53, Gloucester Massachusetts, Map 55, Lot 13, zoned R-10, pursuant to Section 2.3.1.7 reduction in minimum lot area per dwelling unit from 5,000 square feet to 1,463 square feet for a total of 3,537 square feet in relief; and Sec. 3.2.2., decrease in minimum open space per dwelling unit from 3,500 square feet to 400 square feet space per dwelling unit for a total of 3,100 square feet in relief. One unit shall remain an affordable unit pursuant to the Zoning Board of Appeals decision. The application under GZO Sec. 1.8.3 is deemed in harmony with the intent and purpose of the zoning ordinance governing Special Council Permits.

#### **DISCUSSION:**

**Councilor Lundberg** said that this Special Council Permit was recommended unanimously by the P&D Committee who were agreement with the decision of the Zoning Board of Appeal. By setting apart one apartment unit for affordable housing, the city is increasing its housing stock in a positive step forward. The project meets the six standards under GZO Sec. 1.8.3 in its intent and purpose, he pointed out.

**MOTION:** On a motion by Councilor Lundberg, seconded by Councilor Cox, the City Council voted by **ROLL CALL 9 in favor, 0 opposed, to GRANT a Special Council Permit (SCP2015-009) to allow for an existing building to be legally converted to five residential units at Bass Avenue #53, Gloucester Massachusetts, Map 55, Lot 13, zoned R-10, pursuant to Section 2.3.1.7 reduction in minimum lot area per dwelling unit from 5,000 square feet to 1,463 square feet for a total of 3,537 square feet in relief; and Sec. 3.2.2., decrease in minimum open space per dwelling unit from 3,500 square feet to 400 square feet space per dwelling unit for a total of 3,100 square feet in relief. One unit shall remain an affordable unit pursuant to the Zoning Board of Appeals decision. The application under GZO Sec. 1.8.3 is deemed in harmony with the intent and purpose of the zoning ordinance governing Special Council Permits.**

#### **For Council Vote:**

##### **1. Warrant for Presidential Primary Election on March 1, 2016**

**MOTION:** The City Council voted **BY ROLL CALL 9 in favor, 0 opposed to adopt the warrant for the Presidential Primary Election, to be held March 1, 2016.**

**Unfinished Business:** None.

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

**Councilors' Requests to the Mayor:**

**Councilor Gilman** reminded city property owners that they have an obligation to clear snow off sidewalks per city ordinance. She said the clearing of sidewalks would be appreciated by everyone as it is a public safety issue.

**Councilor Memhard** said that there was a request from a Harrison Avenue resident from his ward that was copied other Councilors that the Route 128 extension sidewalks are not cleared of snow and are unable to be traversed making this a very hazardous situation and needs the attention by MassDOT. **Council President Ciolino** advised he had copied State Senator Bruce Tarr's office on this matter.

**Councilor O'Hara** extended his thanks to the Council and to the Administration for allowing the Fire Chief to come before them to answer their questions on the importance of keeping fire stations open. He also thanked the men and women of the Fire Department for their dedicated service to the city.

**Councilor Orlando** requested through the Administration to receive from the Department of Public Works information on the infrastructure needs if any on Main Street pursuant to the 40B project proposed for 206 Main Street as well as to receive information on outside legal counsel's legal retainer and associated costs for advice to advise to the ZBA on the 40B project permitting process.

**Councilor Cox** invited those who are in favor of the 206 Main Street project come to the Zoning Board of Appeals' next meeting. Pointing out that the last snow storm wasn't accompanied by a parking ban, she asked that the DPW through the Administration clean up snow remaining on city roadways in advance of the next snow storm.

**Council President Ciolino** asked that the Kyrouz Auditorium clock be fixed. He offered his congratulations to Councilor Cox being named President of the Pride Stride organization.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 9:25 p.m.**

**Respectfully submitted,**

*Dana C. Jorgensson*  
**Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**