

GLOUCESTER CITY COUNCIL MEETING

Tuesday, August 3, 2010

7:00 p.m.

Kyrouz Auditorium – City Hall

Council Meeting 2010-18

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

Absent: Councilor Tobey

Also Present: Linda T. Lowe; Jim Duggan; Kenny Costa; Fire Chief Phil Dench; William Sanborn; Sam Cleaves; Sarah Garcia; Susan St. Pierre; Ruthanne (Rufus) Collinson; Greg Krantz; Jonathan Pope; Dale Brown; Jill Buchanan; Michelle Dyer

The meeting was called to order at 7:00 p.m.

Flag Salute and Moment of Silence

Councilor Hardy announced the new City website, commenting how wonderful it was and that many people did much work for many months to bring it to fruition. While new, with a few kinks to be worked out, she felt the public would find it much more user friendly; having more information available in a timelier fashion. She asked the audience to view it; and if they had suggestions, please call their City Councilors or the City Clerk's office to make their suggestions on how the City can continue to improve its website.

Oral Communications:

Jonathan Pope, 16 Marble Street, speaking on behalf of St. John's Church, 48 Middle Street related that the church is an exemplary neighbor and member of the Gloucester community noting their hosting of AA, harvest meals serving 100 people on Thursday evenings, and the many other non-profits including the City's Health Department, who use their meeting rooms, as well as providing parking for citizens during snow emergencies. He spoke of their putting their trash out and recycling on Middle Street for many years, which has always been picked up. Apparently a neighbor complained about this, and it was found to be in violation of a City ordinance; which he understood. The church, trying to be good citizens, looked into alternative trash pickup and found it would cost them between \$80.00 to \$95.00 per month to have their trash picked up; generally consisting of one bag of trash and one container of recycling. Parishioners can't take the trash home to dispose of either as that is in violation of the City ordinance also. He asked that the Council consider amending the ordinance (Code of Ordinances sec. 9-2) suggesting the creation of a "commercial" trash bag that is pro-rated at the actual cost of picking up trash. He understood the purple trash bags are subsidized, but suggested \$4.00 to small businesses and non-profits so they don't have to incur this tremendous expense. All the same rules would apply as for homeowners. Mr. Pope believed this would be beneficial to a lot of small businesses.

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

Confirmation of Appointments:

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the approval of the appointment of Ruthanne (Rufus) Collinson as Gloucester Poet Laureate, TTE 08/2014.

Discussion:

Councilor Theken noted this was the first time the appointment of Gloucester's Poet Laureate has gone through the selection process under the new ordinance governing it.

Dale Brown, member of the Committee for the Arts and their representative on the Selection Committee for Gloucester's Poet Laureate explained that an ordinance was adopted last year, and that this year they received applications for the open post of Poet Laureate. A Poet Laureate selection panel was identified including representation from the City Council (Councilor Tobey) a member from the Committee for the Arts and two members of the public with expertise in poetry. The selection panel met to review the applications and made a recommendation to their Committee, which was a unanimous recommendation that Ruthanne (Rufus) Collinson be appointed as Gloucester's next Poet Laureate. Their Committee forwarded that recommendation on to the Mayor; and the Mayor sent it on to the City Council. She was pleased to endorse and recommend Ms. Collinson's appointment noting Ms. Collinson exemplified the qualities the Committee for the Arts was looking for; an accomplished and published poet. The poetry she included in her application impressed the entire Committee. She has been involved in the community; and therefore they felt sure she would do effective outreach, and continue the very good work of John Ronan, Gloucester's first Poet Laureate, and how he had established this position over the last couple of years.

Ruthanne Rufus Collinson thanked the Council for this honor, noting her two passions – poetry and Gloucester. She assured the Council the first thing she would do upon her appointment would be to meet with John Ronan in order to collaborate and, lauded his work over the last several years. Quoting Mr. Ronan's advice to her about her appointment as Gloucester's Poet Laureate, he said, "You have to put your own stamp on it." She let the Council know she would be in touch with them regarding her idea of the neighborhoods of Gloucester and their poetry.

Councilor Theken noted the O&A Committee spoke at length with Ms. Collinson at their meeting. She wants to continue her work with the children of Gloucester and thanked John Ronan for setting high standards and goals during his tenure as Poet Laureate, having done a "remarkable job". She highly recommended Ms. Collinson's appointment for the Council's approval.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the Gloucester City Council voted 8 in favor, 0 opposed to approve the appointment of Ruthanne (Rufus) Collinson as Gloucester Poet Laureate, TTE 08/2014.

Consent Agenda:

- **MAYOR'S REPORT**

1. Memorandum regarding the upgrade of the Director of Public Works pay grade [Note correction: Refer B&F & O&A]
2. Grant Application and Checklist from the Council on Aging for a Formula Grant Allocation FY2011 (Refer B&F)
3. 2010-2015 Draft Open Space and Recreation Plan Summary and Action Plan (on file in City Clerk's Office) (Refer P&D)

- **INFO ONLY**

1. Narragansett Town Council adopted Resolution respectively requesting the suspension of the current catch/share sector management in the Northeast implemented by the NOAA (INFO ONLY)

- **APPROVAL OF MINUTES**

1. City Council Meeting 07/20/10 (Approve/File)
2. Special City Council Meeting 07/27/10 (under separate cover) (Approve/File)
3. Standing Committee Meetings: O&A 07/26/10, Special B&F 07/27/10, P&D 07/28/10, B&F 07/29/10 (under separate cover) (Approve/File)

- **APPLICATIONS/PETITIONS**

1. SCP2010-008: 70 Holly Street, GZO Sec. 2.3.6(4) [NOTE CORRECTION: SCP2010-009] (Refer P&D)

- **COMMUNICATIONS**

1. Council Support to Gov. Patrick re: S.2515 – pediatric organ donations – Two Hearts – One Gloucester (File)

- **ORDERS**

1. CC2010-054 (Mulcahey) Amend GCO Sec. 22-287"Disabled veteran, handicapped parking: re: 21 Main Street (Refer O&A)
2. CC2010-055 (Mulcahey) Amend GCO Sec. 22-287"Disabled veteran, handicapped parking" re: 287 Main St. (Refer O&A)
3. CC2010-056 (Mulcahey) Amend GCO Sec. 22-287"Disabled veteran, handicapped parking" re: Arnold Way (Refer O&A)
4. CC2010-057 (McGeary) Amend GCO Sec. 22-273(f) "Parking prohibited between certain hours on certain days"
and Sec. 22-270.1 "Resident sticker parking only" re: Haskell Street (Refer TC & O&A)

Items to be added/removed from the Consent Agenda:

Councilor Curcuru asked to have Item #2 under the Mayor's Report removed from the Consent Agenda.
Councilor Theken wished to have Item #1 under the Mayor's Report removed from the Consent Agenda.
Councilor Hardy asked to pull Item #1 under Applications/Petitions from the Consent Agenda.

Councilor Curcuru noted the grant application under Item #2 of the Mayor's Report was missing information from the Council packet, and he asked that the Mayor's office give a copy to the Council.
Councilor Hardy instructed the Clerk of Committees to contact the Mayor's office on the Council's behalf to obtain copies of the grant application.

Councilor Theken explained that Item #1 of the Mayor's Report, the matter of the upgrade of the Director of Public Works pay grade, should also be referred out to the O&A Committee.

Councilor Hardy declared that the record should show the matter to be referred out to not only B&F but to O&A as well. Further, she asked that Item #1 under Applications/Petitions be pulled SCP2010-008. There has been a typographical error showing the matter of 70 Holly Street as SCP2010-008. It should be SCP2010-~~009~~ which was referred to Planning & Development.

By unanimous consent the consent agenda was approved as amended.

Scheduled Public Hearings:

1. **PH2010-061: Amend Gloucester Zoning Map and Zoning Ordinance re: 33 &47 Commercial Street (also known as the Birdseye Mixed Use Overlay District)**

This public hearing is opened.

Councilor Hardy noted the receipt of a letter from the Attorney Lisa Mead representing the applicant for the Birdseye Mixed Use Overlay District zoning change asking for a continuation of the public hearing for two weeks, continuing the matter to August 17th. She advised that this matter has yet to work its way through all Committees, Boards and the Council. She "firmly believed" that this would be continued to yet a further date. She asked that the public check with the City Clerk's office if they have any questions at all about the hearing date. They do not intend to have people to come out time and again just for a continuation. She suggested the public contact the City Clerk's office on August 16th to see when there might another date for a continuation on the matter. She didn't anticipate the matter would come forward on August 17th; but that it must be opened legally this evening, and now be continued.

This public hearing is continued to Tuesday, August 17, 2010 meeting of the City Council.

2. **PH2010-062: Adoption of "Stretch Energy Code" 780 CMR Appendix 120AA and amend GCO Chapter 5, Art. II Building Regulations**

This public hearing is open.

Those speaking in favor:

Sam Cleaves, Chair, Clean Energy Commission, 1111 Washington Street introduced the members of the Commission: Tom Balf, Jill Buchanan, Linda Brayton, Michelle Dyer, John Moskal, and Linda Saunders, some of whom were in attendance. He also welcomed Greg Krantz, a senior account manager at Massachusetts Energy Star Homes, Lexington, MA. Mr. Krantz who volunteered to be there, has been providing technical information and assisting Commissions like theirs to help them understand and answer questions about the Stretch Code. He was also their speaker at their second Stretch Code workshop held at The Building Center in March. There was one other previous public outreach piece in the fall of 2009. These workshops were held to help gain support of builders and to let people know what was going on. It was his opinion that Gloucester has the opportunity to become the 45th community in Massachusetts to be designated as a “green community” by the State. By becoming a Green Community, Gloucester will be a leader in sustainability and be eligible for substantial grants from the State’s Green Community program. These grants could help pay for Gloucester energy projects, such as replacing an oil-fired boiler at the O’Maley School with an efficient gas-fired boiler; developing City-owned and revenue-generating renewable energy projects such as a commercial grade wind turbine on City property; funding the replacement of inefficient street lighting which currently is costing the City over \$300,000.00 in energy bills paid to National Grid annually. They recently found that National Grid (NG) would be willing to give them these street lights; having fully depreciated and had no more value to NG. Increasingly communities like Swampscott and Lexington have taken over these streetlights and retrofitted them with far more energy efficient fixtures, “saving a bundle” over what they were previously spending. In order to become a green community Gloucester must meet five sustainability guidelines. Four have already been met with only adoption of the Stretch Code remaining. The Stretch Code is an optional appendix to the State building code, approximately 20% more efficient than the existing code, which was updated in 2010 and will be updated again in 2012. The Stretch Code came from the Mass Board of Building Regulations and Standards (MBBRS) because many municipalities asked the State for a stronger straight energy code or the rights to adopt stronger codes at the local levels as concerns have mounted about rising energy costs, climate change and national dependence on foreign energy sources. However, the State and the development community have been concerned, and continue to be concerned, about having multiple, inconsistent building and energy standards at the local level. In balancing these tensions, MBBRS decided to adopt one alternative energy code based on national standards, expert analysis and cost effectiveness to give communities the option to require stronger energy performance in building if they chose. Some of the benefits are savings on energy expenses, even with up front costs being included in the cost of a project; it’s been shown for both commercial and residential that you have a positive cash flow coming back to you based on energy costs in savings alone; and this is without incentives. In addition, there are cash incentives and rebates through the federal and state governments for builders and homeowners, who if they were part of the stretch code program, would be able to qualify and get these rebates. The Stretch Code provides highly desirable, energy efficient homes. He believed the market was already proving this out, supporters of the code believe. A discount can be taken by a buyer if your home, when you go to sell it, is not energy efficient. “It’s either pay now or pay later”. As far as the reduction of greenhouse gas emissions, it lessens the climate impact moving forward. It creates local jobs through the Home Energy Rating System (HERS) for builders. There are trainings on-going for people to become HERS inspectors. These are the folks who would be working with the Building Inspector to sign off on the work; turn in their work; and work with the City. Through their workshops, they met several “ambitious and forward thinking” builders from the area who are exploring becoming HERS raters, taking on what could be a profitable side line. Some of the costs associated with a Stretch Code – general figures indicate a 1% to 3% increase on commercial projects recouped rapidly through energy savings; residential costs on a new home construction are estimated at \$2,000.00 to \$8,000.00 on a 3,200 sq. ft. home. Once you incorporate savings, you end up with a positive cash flow on a 30 year mortgage based on your energy savings alone. As an example of residential rehabs, he explained that in gutting out a three-unit home, energy savings exceed additional financing costs by approximately \$1,600.00 per year on positive cash flows. Savings are coming back to the owner, and up front costs on residential projects are recouped in a two to three year period, and can be less if people participate with

rebates and tax incentives. The actual rating costs to have a home inspected can be rebated back through programs now available.

Councilor Hardy believed the City Councilors to have done their homework and research on the Stretch Code and asked for more information about what they were actually asking the City Council to approve that evening; and how it would affect the public.

Mr. Cleaves appreciating the Councilor's remarks noted that what wasn't covered by the Stretch Code were any historic structures listed in any recognized historic register and historic district; any commercial renovations; commercial structures less than 5,000 sq. ft.; commercial facilities with unusual energy usage requirements up to 40,000 sq. ft. such as laboratories, supermarkets, etc. Many projects aren't affected by the Stretch Code when exterior walls are not opened. If a homeowner doesn't open up an exterior wall, there's no stretch code in play. It was when a homeowner is changing an exterior shell. As an example, if you're doing window replacements, you're required to install efficient windows, new insulation, and air sealing around the windows. That would be it. There's no extension to a heating system, your appliances, or any other kind of thing. It is a common misconception. Examples of projects that *wouldn't* be covered by the Stretch code: exterior attached deck, a porch replacement, replacing storm windows, a bath remodel, a re-roofing job, a bath remodel that doesn't touch an exterior wall, a kitchen remodel that doesn't touch an exterior wall. There will be a new State building code in 2012, and the "scuttlebutt" on the street is this Stretch Code will likely become a part of the update. If the City adopts the Stretch Code this evening, there will not have to be full compliance in Gloucester until July 1, 2011. Starting January 1, 2011 would give six months where the old code runs concurrently with the new code. Then you go to the full Stretch Code as of July 1, 2011. Mr. Cleaves stated his argument was the State goes to a new Stretch Code in 2012, all they will have gained is a six month window, and they wouldn't become eligible for Green Community grants [if the City does not accept it now]. He emphasized that if the City tries the Stretch Code and really didn't like it, it can opt out at any time. It would be a vote of the City Council, and they would return to the standard code [until the State made the Stretch Code the standard].

Sarah Garcia, Community Development Director reiterated that by the City's adoption of the Stretch Code they then have the option to become a Green Community under State requirements and how this meets what Community Development and the City have been trying to accomplish. The City has already adopted the new wind turbine ordinances. The City permits a lot of industrial uses that are required under the Green Communities Act; but the City is missing the Stretch Code piece which is needed to be designated a Green Community by the State. By adopting the Stretch Code, it sets the City up for the grant opportunities. For example, in Community Development, they're carrying hundreds of thousands of dollars in grants which gets their open space plan written; get their facilities capital management plan underway; get the City's Clean Energy Commission funded, as well as someone to pursue the \$50,000.00 just awarded for a wind feasibility study. She asserted if they don't have these grants, they can't function. If Gloucester becomes a Green Community, it sets them up to get these grants. The other reason to become a Green Community is the attempt to grow the maritime sector on the harbor. They're trying to attract innovative companies, like Free Flow Power; and build on their existing base. They like the fishing based and visitor-based economy; but need to grow that emerging sector. She explained that while they don't have all the answers, they felt part of the ways to attract it are through things like their Harbor Walk and through being a Green Community – a place where people will want to live. As they look to reduce costs and create a City-owned wind turbine that the Council has asked for from them, is to look for a way for the City to carry its electric costs, not just private (wind turbines). This kind of grant opportunity allows them to fund that sort of thing and move forward.

Those speaking in opposition: None.

Communications: None.

Questions:

Councilor Mulcahey noted at the O&A meeting they spoke about the appliances; that they have to have Energy Star appliances, etc. Is there a way to change this so that these particular things aren't in it, feeling Energy Star was questionable, not being proven to be what 'they' say they are. She was not in

favor of that part of it (the Stretch Code), believing there should be a way of changing this to eliminate certain things that do not apply and shouldn't be applied.

Mr. Sanborn stated you can put any type of appliance you want into a project. This isn't saying you have to use Energy Star. What it is saying, however, is in the end when you do your report on how the insulation and values of the energy it's going to take to run your house, you have to meet a certain number. If you want to use an oven that's going to be a high use of energy, you'd have to make it up with more insulation in the wall; you may have to use other appliances elsewhere in the project that may give you a better rating so that in the end you come to that bottom number so as to not be in violation of the Code. He reiterated you can use any item you want if you can make it work somewhere else (in the project). You have the option to use whatever items you want. He believed it is not complicated, being no different from the current insulation code which says you have to do the same thing. The real difference was it doesn't take into consideration your appliances, or heating or cooling units. That's not figured into the formula they use now. He gave the example of if you wanted to build your walls of 2x4's, you may have to upgrade the insulation in your attic; upgrade your windows. It was the same idea. You use what you want, but you have to make up the difference somewhere else.

Councilor Mulcahey spoke of the many historic homes in Gloucester and wanted to know how the Stretch Code would apply to someone who owns an antique home and finds they need to renovate.

Mr. Cleaves stated any listed historic home or a home in a historic district does not have to comply. If you have an old house, like he does, if he opened up an exterior wall to do a project, he would have to comply because he's not in a historic district nor is his property listed as a historic home. But if yours is, then you are exempt. Those properties are specifically written out by the State when they put this language together.

Councilor Ciolino asked Mr. Sanborn if he had heard that the Cape Ann Chamber of Commerce has a contractor's division; and have they made a presentation to them.

Mr. Sanborn stated they were invited to several workshop presentations. He knew at the March workshop held at The Building Center that several attended. He was unable to discern if they were attending as representing the Chamber of Commerce

Councilor Ciolino asked Mr. Sanborn in his professional opinion if he believed the Stretch Code would hinder new construction or remodeling; was it just a big added expense at a time when people can't afford added expenses. He also asked whether Mr. Sanborn was for or against the adoption of the Stretch Code, as the Council respected his opinion.

Mr. Sanborn didn't believe it was going to add much more in costs to a project. There are some up front costs; but the projections for the payoffs are large. He believed it was made up very quickly in mortgage payments. He didn't believe it was much more costly to build a house to meet these regulations than it is to meet the existing insulation regulations. It was projected to be about 1%-3% on commercial and residential is a little bit higher. He was in favor of the Stretch Code and liked the idea of becoming a Green Community, and moving ahead and showing people the City is interested in saving energy. He would be in favor of passage of the Stretch Code.

Councilor Theken asked who will do the inspection on the homes after they're completed.

Mr. Sanborn stated the process starts before the construction even begins; as part of the design process. There is a report which is submitted to the Building Inspector for approval. You also have a HERS inspector involved in the process. That's a private inspector hired by the homeowner. Presently, those inspectors are paid for through the utility companies. There are grants they can be reimbursed from. He has spoken with construction companies that have used them (HERS inspectors/raters from the utilities) and declared they are "absolutely free". He was unable to say if it would continue to be free once the State adopts the Stretch Code, anticipated in 2012. They generate the report, doing two inspections of the property. In the end they give final reports back. As a Building Department they still have to review those reports and make sure they're compliant. They still will have to do their own inspections to make sure everyone is compliant.

Councilor Theken stated if she were to build a home today under the current code, who inspects it to see if she has all the appropriately installed insulation.

Mr. Sanborn stated the building inspectors do that.

Councilor Theken then asked what are the protections to homeowners with regard to the insulation, as there hasn't been a requirement for such previously.

Mr. Sanborn stated today if you were to build a house, you have to show how you're going to meet a "res check" which is a reporting system how they generate the insulation value for your house. He has to receive a copy of that report. It's based on the plans submitted to him. They go out after they do a rough frame inspection with utilities in; then they go back a week later to see if the insulation was done correctly. They're looking to see that the insulation was installed properly from a visual standpoint. The Stretch Code really does protect the consumer. It's taking a HERS inspector who is trained to make sure that you are getting your money's worth for this program, and that your home is being built in an energy efficient manner. He believed it would improve the energy efficiency performance of one's home greatly from "what's out there now".

Councilor Theken stated suppose she was building a home, she could go through any seller of appliances to buy them. There are rules she has to follow for energy efficiency standards in that home. She has a choice as long as she meets that energy code, to which Mr. Sanborn agreed. It would be up to her and her builder to do whatever combination of things they need to do to meet the Stretch Code energy efficiency requirements. She asked if there was a listing of information and sources to give to the homeowners at the Building Department; and were there contractors who specialize in working in these programs who are ahead of the curve already building like these homes in the City.

Mr. Sanborn responded no, they didn't.

Mr. Cleaves stated there are 44 communities who have already adopted a Stretch Energy Code. He believed you make the information available at every Building Department, every City Hall, making the rebates and incentives available and make that information also available on the City website.

Councilor Verga asked about the State standards in 2012 and wanted to know if it was a "done deal" or was this an indication of the way the State will go.

Mr. Sanborn stated in 2012 the International Building Code will come out with a new energy code. While they can't guarantee it will be the Stretch Code, all indications are it will come out at the least between what they use now and the new Stretch Code. It will start to become stricter. The Governor recently signed a bill which says every time a new International Building Energy Code comes out, that the state will automatically adopt that code within a year. In August, the 8th edition of the building code will come out. The energy code won't go through that. It just automatically becomes adopted as soon as it comes out, and there's no altering what is in it.

Councilor Verga asked what kind of grants are out there for municipalities and homeowners. When this becomes law, would the grants end or will the grants still be available (referring to the 2012 date).

Mr. Sanborn stated he didn't know personally, but believed that the utilities (providing free inspections) will "dry up" when it becomes law in the State because they're not going to be able to provide this service for everyone. Presently, the grant money is a \$10 million grant pool for designated Green Communities (each year).

Mr. Cleaves stated the funding source was not part of the State budget but is dictated by law that would take an act of the legislature to eradicate. It's not a typical state program that will disappear in two years. It's funded by the regional greenhouse gas initiative auction proceeds. It is \$10 million with a fair amount of flexibility with emphasis on municipal energy efficiency and adding renewables at the municipal level. They are open to providing revolving loans and similar for residents of a city or town for energy upgrade program(s).

Councilor Verga stated it sounded as if so far grant monies had been used for consultants and grant writing, things of that nature. He spoke of the City's management plan that they're working on noting he was on the Committee and hadn't heard about the plan moving ahead; asking what some of the tangible things were they could spend this grant money on.

Mr. Cleaves stated they are still in the process of researching and getting a handle on what the City's wind resources are. They're doing a feasibility study at the City property at the Blackburn Industrial Park, and hope to move forward with feasibility studies at Bond Hill and Magnolia Woods. A recent

State law change, the Green Communities Act, presents a real opportunity for wind development. The City has been heavily prospected by wind developers who would like to work with the City or own a project and it lease back to the City. However, they want to explore what would be best for Gloucester by developing a full range of options for the City, not for wind developers. One of the first actions of the Clean Energy Commission last year was to apply for a series of grants that would have provided some insulations, some updates, some solar arrays; with a larger pool of money they would be free to go after some of the known energy needs within the school system such as a boiler replacement at O'Maley School, rink improvements, solar arrays at the high school; and there is also the possibility of developing a coordinated energy strategy with a partner to develop a plan to provide benefits up front and paid for through the savings generated. A number of communities on the North Shore, smaller cities like Revere and Salem are doing that right now. It ties in with your capital management plan. It is electrical infrastructure upgrades budgeted in for 20 years that are paid for by the savings within the plan itself. Some of the money through the State provides the technical assistance in order to walk the City through that process to decide whether or not that is something you want to engage in. It is fairly technical and there are a lot of companies that would like to engage cities like Gloucester in the process.

Councilor Whynott had some of the same concerns that Councilor Ciolino expressed earlier. As much as he trusted Mr. Cleaves and Mr. Sanborn, and believed in "green" felt this (the Stretch Code) had "flown under the radar" and thought perhaps they hadn't heard from members in the construction industry because not enough of them knew about it, likening the Stretch Code to a tax. He wondered what their opinion was.

Mr. Cleaves stated they had gone to great pains to get the word out. They sponsored two public information meetings; the two workshops they had at least 50 people at each workshop. They contacted as many builders they could get in touch with. He mentioned that Phil Arsenault at the Building Center also helped to get the word out. The feeling he had was that builders and developers know this is coming; and the smart builders are doing this now. The Stretch Code matches Energy Star Homes; already in Massachusetts, 31% of new homes built in 2009 were Energy Star compliant, and those parameters are essentially the same as the Stretch Code. He felt smart builders were either becoming HERS raters, as a sideline, or they're ramping up knowing the changes are coming. At the workshops, homeowners came wanting to find builders who could build them a home that was energy efficient. No one wants to build a home and then try to sell it 10 years from now without this.

Councilor Curcuru stated this would be an \$8,000-\$10,000 increase to construction costs, which Mr. Cleaves confirmed for new construction on an approximately 3,200 sq. ft. home and asked Mr. Sanborn of the contractors to whom he had spoken, what their thoughts were on this.

Mr. Sanborn stated if they're not doing it, they're thinking about going that way. Some said they're doing it already, but don't want it to become an ordinance. He pointed out people knew about this and have known about it yet didn't come this evening, expressing surprise that more people didn't show up for the public hearing.

Councilor Curcuru asked what the City's chances were for grant money.

Mr. Cleaves responded the last grant round had an average grant award around \$150,000.00 to 200,000.00.

Councilor Curcuru expressed the concern that he didn't want the Stretch Code adopted for possible grant monies.

Councilor McGeary asked about the staggered introduction of the schedule for implementation if they adopt the Stretch Code.

Mr. Cleaves stated if they were to adopt the Code, starting January 1, 2011 there would be a concurrency of the current building code and the Stretch Code whereby anyone would have the choice of using either code until June 30, 2011. As of July 1, 2011, the Stretch Code would then be fully in place.

Councilor McGeary stated if they adopt (the Code), they would be the 45th community. What was the basis of the awarding of the grant money and were the grants competitive in nature.

Ms. Garcia responded it was a competitive grant round. She noted Councilor Verga had brought up their facilities management report. Whatever way they decide to go, whether with a new school or City

buildings, they will be looking to make them as energy efficient as possible which costs a lot up front. If they can say that we have the Green Community designation, it gives the City a new funding source. They don't know if any grants would come through; but if they're not there (with a Green Community designation), they can't apply. She posited why not position themselves to be there; and believe that it is coming anyway down the line regardless. January 1, 2012, the State is expected to change anyway, and this will position the City earlier.

Councilor Hardy asked was the \$10 million available statewide and every community could tap into it.

Mr. Cleaves stated it is only for communities designated by the State as Green Communities.

Councilor Hardy asked what benefit homeowners would realize. The homeowner is going to have to go to the Building Inspector, file the prerequisite plans, and get them approved. If they adopt this they'll have to go by certain guidelines. Can't they already opt to follow certain guidelines now and have a green home.

Mr. Cleaves stated many people are. As indicated earlier, 31% of new homes are Energy Star rated. It's that there's a benefit for the entire community. It's a 20% increase that what went in, in 2010. It's a little bit of additional insulation in your ceiling, its energy efficient windows. He felt if he were doing his house, he would "be doing it in a heartbeat".

Councilor Hardy stated she would too, and it's benefiting us as a community. But what benefit does the individual homeowner get if they can't afford to do this.

Mr. Cleaves replied the payback would be immediate. If you take out leaky, old windows and put insulation in the wall that didn't have any, and air seal around the windows, you get an immediate 25% to 30% more energy reduction use in your home. It was all going out the window before. You're paying a lot less for your energy bills. The money you put up front you get back in positive cash flow right away on mortgage payments where you're making more back on your energy savings than the cash you'd put out for your payment.

Councilor Hardy disagreed stating she would have to take a loan as a second mortgage to make the improvements and extend that for 15-20 years. She felt it would cost her more than the cost of putting in the windows because she's just expanded her principal. She didn't see the immediacy of it. She also felt there were some people who were "up against it". They're thinking that before they get foreclosed on they need to improve their house to sell it. To flip a house, if the Council adopted this, they'll have to pay extra for energy efficiency, the HERS inspectors, another level of bureaucracy that they have to pay for. How can they justify this to the homeowner just to get availability to grant monies? It will hurt individual homeowners. The ones that it won't hurt are those who can already afford to do it. She explained she can afford to put a good window in her house. Some people can't afford to do that for the energy rating that they need. What benefit is the homeowner going to get.

Mr. Cleaves disagreed with the premise that you're not helping the homeowner by becoming more energy efficient. The numbers show the immediate savings are helping the homeowner. People are already borrowing additional money, but the energy savings are paying for themselves and more right away. You're making a better, more valuable, energy efficient property. You are putting up more money up front, but you're getting more money back immediately.

Councilor Hardy asked about the HERS inspection.

Mr. Sanborn spoke first to the reference of a home in bankruptcy stating it was his experience that they won't do major renovations. A person in bankruptcy may paint and wallpaper their home, put in replacement windows, put in new carpeting, a new roof. That will not apply nor will it prompt in a HERS inspection or the stretch code.

Councilor Hardy asked if windows came under the Stretch Code and prompt a HERS inspection.

Mr. Sanborn responded not if it was just a window replacement. All it will say will be those windows you put in are going to need to meet the energy code which it does now. You have to meet the energy code now with any window replacements. You're not going to be affecting that person who may be in hard times now trying to flip their house. What you're really looking at the person who will be doing a total renovation, gutting the house down to the studs who is putting in new windows, new siding.

Councilor Hardy stated this wasn't what she was led to believe.

Mr. Sanborn added that it would include not just a complete renovation, but if there was a renovation of a section of a house. It doesn't come into play if someone takes out a window and replaces it. They'll not ask for a HERS inspector for a couple of windows. The code is saying if you are going to renovate your house, on a room-by-room basis, then you're going to make that room meet and fit the code. If it is a total renovation, then you're upgrading everything, that's where it comes in. If you're doing a section of your house, then that section will have to comply. It is a misconception that every little job, every time you call a carpenter, means you must comply with the Stretch Code. This is major projects. So that when the carpenters are working on your home is done correctly so that the house breathes and is insulated properly.

Councilor Hardy asked at what point in time HERS inspectors gets involved with the project and who pays for them.

Mr. Sanborn stated at present the HERS inspectors are paid for by the utilities and at present not a cost to homeowners. HERS inspections for major projects come in at two points. One is when they come in to do the "res check", which shows what you need to do to comply with the energy code. When you're doing your whole house, they come in and do a blower test which can be done on a room but can't be done on one wall. There is some common sense in this code as with all codes.

Councilor Hardy asked about up front costs.

Greg Krantz, ICF International, and hired by the State to do education on the Stretch Code stated the Stretch Code applies differently to new homes than it does to existing homes. For new homes there clearly will be an up front cost to make the home more energy efficient. The HERS rater is going to be the person to come in and verify that. For existing homes, with a few caveats, it just has to meet the 2009 IECC code, the current code. (International Energy Conservation Code – the base energy State code that became mandatory July 1, 2010)

Councilor Hardy asked what benefit would there be if the Council approved the Stretch Code tonight, which would become effective January 1, 2011; and on January 1st homeowners, developers and builders can use either code for six months. Why should the Council mandate this now when this was coming down the road anyway. Wouldn't this extra time give homeowners ample time to get the building and extra repairs they want to get done on their homes now between when it's mandated at a lesser cost. She wanted to give the public the opportunity to do this and explore it now by informing the community that in 2012 there was a good chance this would be mandated by the State and give them between now and then to fix it rather than the Council voting to mandate it, in essence. While it says they can vote it out, if it's mandatory in 2012, how would they be able to vote it out then. The public doesn't need permission to go green now, it is their option. She had difficulty with forcing someone to do this in these economic times. She looked for an overwhelming benefit and didn't see one, and then asked what were the grant monies being referred to this evening; were they subject to 9C cuts.

Ms. Garcia stated the 9C cuts don't affect these grant monies because they come through the energy trading credits. It's not State general funds. She noted Susan St. Pierre, the City's Clean Energy Project Manager who they hired with 'green up' grant funds (portioned from the little extra paid on electric bills). What people get from this is a pay back in 1-3 years. When she goes to do the renovation, she meets the building code. She stated she doesn't look to how she can do better or differently. Having something that pays back in 1-3 years and is going on her mortgage, the amount she would be making back would be better than that mortgage payment from day one. It's spread out over longer. If she wants to pay extra money into her mortgage she can, or she can use that money elsewhere. The Stretch Code would come into full effect July 1, 2011; so there is a six month leeway to ease into the mandate. She believed it was better to meet the new code and get the benefits of the free inspections and grants.

Councilor Hardy asked how much additional training would his department need to inspect the inspectors.

Mr. Sanborn stated they are familiar with it, and just need a little bit more training.

Councilor Hardy asked if he had enough inspectors to do this.

Mr. Sanborn opined he never had enough inspectors.

Councilor Theken asked how many new homes or major renovations were there in 2009 and 2010.

Mr. Sanborn stated he couldn't say exactly believing last year there were 10-15 new houses, mostly private homes with a couple of commercial buildings.

Councilor Theken asked about the trend for 2010.

Mr. Sanborn stated it had been pretty steady on the same pace as last year currently.

Councilor Theken asked if people come in advance with their projects to his office that wants to build for next year.

Mr. Sanborn stated they do this all the time. If you speak with most contractors, currently they are looking for work. It's a big change from having jobs lined up for two to three years, and now it's two or three jobs.

Councilor Theken asked about major renovations.

Mr. Sanborn stated that they're seeing a great deal of that. He reiterated the Stretch Code will apply mostly to new construction. You'll still have to comply on renovations but it eliminates the HERS inspection for most of them.

Councilor Theken asked what if they don't pass this tonight and wait.; 2012 comes along, will it be different for renovations or will it be the same thing.

Mr. Sanborn stated historic buildings have special privileges under the building code as in the Stretch Code. That won't go away. That's across the country. He felt it was hard to say what the 2012 code would look like. It is predicted that it's going to be the Stretch Code.

Councilor Whynott thought it was a "hurry while supplies last" situation. They haven't gotten any emails and calls, and thought not enough people know about this. He wondered if a two week postponement (of the public hearing) would be appropriate, adding would this be anything like cap and trade and believed it would cost more money for renovations.

Mr. Sanborn stated he had heard as homes become more energy efficient, and energy rated, it will eventually increase the value of your home for sale. That made sense to him that one could present a home as HERS inspected and had a particular rating and certification because it saves more energy.

Michelle Dyer, Clean Energy Commission noting one of her areas of expertise was cap and trade, addressed the Councilor's question by saying that the matter was politically dead this year. If the federal government does institute a federal cap and trade system, then they'll probably institute the charge at the point of entry of the fuel source or at the utility level not at the homeowner level. You could look at the HERS rating as encouraging homeowners to be more energy efficient which would help the homeowners to be less effected by increases in energy costs. With a \$10 million grant pool annually, at \$175,000 average per grant, there are 44 communities now in that pool. There was more potential now for larger grant awards; but as more communities adopt the Stretch Code, the pool narrows. There are a lot of issues at the schools and there is a desire to focus City funds on more important things. They are committed to going for every source of grant money they can to bring it into the City.

Councilor Whynott stated the Commission came prepared with a presentation from the workshops.

Councilor McGeary felt the points brought up this evening already were covered from their presentation, having seen it at the March Clean Energy Commission's workshop.

Councilor Theken asked for a clarification on Ms. Dyer's assertion of \$10 million annually.

Mr. Cleaves stated the \$10 million is forever on an annual basis as long as the State was selling carbon credits at the Massachusetts Carbon Auction, it is by law.

Councilor Whynott felt that they didn't hear from any member of the public, and he would like to hear from them.

Councilor Hardy stated this public hearing was duly advertised, and that there is no one in the audience. She didn't want to set a precedent to continue the public hearing because no one showed up when they were in these discussions.

Councilor Whynott then offered a motion asking the public hearing on the Stretch Code be continued for two weeks to the City Council's August 17, 2010 meeting, seconded by **Councilor Hardy** which she noted she seconded for the sake of discussion.

Discussion:

Councilor Whynott felt through postponement of the public hearing it would give people more time to come forward. He cautioned if this was passed that evening they will hear a great deal from the public unfavorably after the fact which he had seen in the past in the 17 years he was in the City Clerk's office.

Councilor Curcuru stated he was in the trades and that it had been discussed for the last few months hearing the pros and cons. There are changes on a regular basis, especially in his trade for energy efficiency, that come down all the time. Of course, it's going to cost more money. He noted the old saying, they don't build houses they way they used to; to which the typical response was, "thank G-d" they don't. They're moving forward now. He would be supporting the ordinance this evening.

Councilor Theken stated it came before O&A. If you look at those minutes and at the audience this evening, there were no members of the public there either. She also was upset that so many major things are discussed in subcommittees where you hash things out; and of late, with little public participation. She felt there was ample opportunity to come and was satisfied. She disagreed with the motion to continue.

MOTION: On motion by Councilor Whynott, seconded by Councilor Hardy, the City Council voted 1 (Whynott) in favor, 7 opposed to continue PH2010-062: Adoption of "Stretch Energy Code" 780 CMR Appendix 120AA and amend GCO Chapter 5, Art. II Building Regulations to the August 17, 2010 City Council meeting.

MOTION FAILS.

This public hearing is closed.

[The reading of other than the main portion of the motion was waived by the Council.]

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to enact Chapter 5, Article II Division 3, section 5-30 through 5-34 of the City of Gloucester Code of Ordinances, entitled "Stretch Energy Code" for the purpose of regulating the design and construction of buildings for the effective use of energy, by locally adopting the Massachusetts Building Code, 780 CMR Appendix 120 AA, "Stretch Energy Code", including all amendments or modifications thereto, a copy of which is on file with the City Clerk:

Article II Building Regulations
Division 3. STRETCH ENERGY CODE

§5-30 Definitions:

International Energy Conservation Code (IECC) 2009 – The international Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing January 1, 2011 the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

Stretch Energy Code – Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the international Energy Conservation Code (IECC) 2009 with amendments contained herein.

§5-31 Purpose

The purpose of 780 CMR 120 AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

§5-32 Applicability

On July 1, 2011 and thereafter, the Stretch Energy Code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61 or 93, as applicable.

§5-34 Authority

A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix.

780 CMR 120 AA may be adopted or rescinded by any municipality in the Commonwealth in the manner prescribed by law.

§5-34 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the City of Gloucester Code of Ordinances, Chapter 5-30.

The Stretch Code is enforceable by the Inspector of Buildings.

Discussion:

Councilor Theken stated there was disappointment at the Committee level that members of the trades didn't come forward. However, she did her homework in the community, went to the banks regarding the costs to the homeowner. She spoke to homeowners. She spoke to Senator Tarr's office about if they thought it was coming down soon. They have an opportunity to be in that small pool of communities. She didn't know that a house needs to breathe. HERS inspection would have saved her money over time. On a fixed mortgage, it would add \$26-32 dollars a year for 30 years. She agreed it seems expensive. But for people who aren't as knowledgeable, this would help protect the homeowners. She will support this because it will happen. The six month window sold her on the Stretch Code. When she spoke to the banks she was told they will increase their loans to work with the Code.

Councilor Ciolino congratulated the Clean Energy Commission on their first real piece of legislation. They as a Council had high hopes for their Commission and their work was "superb" noting that being a volunteer can be a difficult role. He will be supporting them and this Code. This was a six month difference, and ultimately the State was going this way. If there's any money available to them for energy conservation they need to be ahead of the curve, whether for wind turbines, for solar cells on the roofs of our schools; our need is great. The only way to get it done is through grants, as the City's tax base can't foot the bill. Noting he was in the construction businesses for a while, he pointed out the City has to progress even more, and this is the wave of the future. He would vote in favor of the Stretch Code.

Councilor Verga was also in support. He felt Councilor Ciolino was right about being ahead of the curve. The City has been ahead on many things. To not support this, and then claim Gloucester is a Green Community seemed to be a contradiction. He felt the pluses outweigh the minuses. He also noted that Councilor Theken pointed out, the extra payout to the homeowner over the course of 30 years really was negligible. They're getting something for this as opposed to when the City raises inspectional fees,

there's really no return on the investment for the homeowner; this will have some payback for them. He believed once homeowners get their first oil, gas or electric bill, there will be a savings or, rather, cost avoidance. He will vote yes.

Councilor Whynott saw the good things in this too, but he would vote no this evening as he wanted the matter continued and so they won't have to go through reconsideration.

Councilor McGeary would support the change in the ordinance. At some point he felt you do have to look at global issues, that it has to start locally. The ability to go after that grant money in the near term gives the City a bigger slice of that pie. Most of the builders liked it. They'll all be under the same rules, and they'll improve the housing stock over time. For all those reasons he will be supporting this tonight.

Councilor Mulcahey noted it really felt uncomfortable to have something mandated; that they're always under the gun and having it forced on them. However, where its energy, she will go with the flow.

Councilor Hardy would not be supporting the ordinance change. She felt that homeowners have a choice now to go green. The difference between when it is going to become mandatory and now was negligible. Further, she felt it will hurt a number of people who can't afford the up charges that the additional inspections will cost and the additional costs to purchase green energy windows, appliances, etc. She is a "green person" and has supported that all along; but not in these tough economic times she was unable to support this change.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 6 in favor, 2 opposed (Hardy, Whynott), 1 absent (Tobey) to recommend to enact Chapter 5, Article II Division 3, section 5-30 through 5-34 of the City of Gloucester Code of Ordinances, entitled "Stretch Energy Code" for the purpose of regulating the design and construction of buildings for the effective use of energy, by locally adopting the Massachusetts Building Code, 780 CMR Appendix 120 AA, "Stretch Energy Code", including all amendments or modifications thereto, a copy of which is on file with the City Clerk:

**Article II Building Regulations
Division 3. STRETCH ENERGY CODE**

§5-30 Definitions:

International Energy Conservation Code (IECC) 2009 – The international Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing January 1, 2011 the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.

Stretch Energy Code – Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the international Energy Conservation Code (IECC) 2009 with amendments contained herein.

§5-31 Purpose

The purpose of 780 CMR 120 AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.

§5-32 Applicability

On July 1, 2011 and thereafter, the Stretch Energy Code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61 or 93, as applicable.

§5-34 Authority

A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix.

780 CMR 120 AA may be adopted or rescinded by any municipality in the Commonwealth in the manner prescribed by law.

§5-34 Stretch Code

The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the City of Gloucester Code of Ordinances, Chapter 5-30.

The Stretch Code is enforceable by the Inspector of Buildings.

Councilor Ciolino called for a reconsideration of the vote on the Stretch Code.

Councilor Whynott objected with a point of order that calling for a reconsideration of the vote was inappropriate, with **Councilor Hardy** in agreement.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Theken, the City Council voted 2 (Hardy, Whynott) in favor, 6 opposed, to Reconsider under Charter sec. 2-11(e) the motion to enact Chapter 5, Article II Division 3, section 5-30 through 5-34 of the City of Gloucester Code of Ordinances, entitled “Stretch Energy Code” for the purpose of regulating the design and construction of buildings for the effective use of energy, by locally adopting the Massachusetts Building Code, 780 CMR Appendix 120 AA, “Stretch Energy Code”, including all amendments or modifications thereto.

MOTION TO RECONSIDER under Charter sec. 2-11(e) FAILS.

3. PH2010-063: Amend GCO §2-44(a) “Special Municipal Employees

This public hearing is open.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Code of Ordinance, §2-44(a) by DELETING the following boards, committees and commissions:

- Dog Control Board;
- City Forester;
- City Veterinarian;

- Superintendent of Insect and Pest Control;
- Armory Commission;

and by ADDING the following boards, committees and commissions:

- Affordable Housing Trust;
- Cable TV Advisory Commission;
- Clean Energy Commission;
- Committee for the Arts;
- Community Preservation Committee;
- Gloucester Cultural Council;
- Historical Commission;
- Historic District Commission
- Licensing Board
- Open Space Committee
- Plan Implementation Review Committee
- Waterways Board

and ADDING the definition of a “special municipal employee” as a “person performing services for or holding an office, position, employment or membership in a municipal agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation on a full, regular, part-time, intermittent, or consultant basis”.

Discussion:

Councilor Theken asked for clarification.

Ms. Lowe stated the deletions listed are all defunct committees and commissions. The ones listed as added are those created or established since the ordinance was last amended. This now makes the City ordinance current. Periodically the Council would need to add some commissions, boards and committees so as to keep current.

Councilor Theken asked if an individual could be added, such as the Poet Laureate.

Ms. Lowe stated one could, adding that it would be prudent once a year you to check to see if there were any new boards, commissions, or committees necessitating an updating amendment.

Councilor Theken made a friendly amendment to add the Poet Laureate.

Councilor Verga asked for a brief explanation of the definition of a “special municipal employee”, noting on several occasions he had called the State Ethics Commission with his concerns; and they used that term because he was an elected official.

Ms. Lowe referred to the minutes of June 28, 2010 of the Ordinances & Administration Committee. She used an example of a committee member of the Historical Commission and is also a board member of the Historic Museum who wanted to speak in front of the Historic District Commission. The State Ethics Commission informed him that he was fine because he was a special municipal employee; which in fact he was not due to there not being such a definition within the Code of Ordinances. The State Ethics Commission told this gentleman to come back to him and report any who were not (special municipal employees) should be. This was the impetus to make this recommendation to the Council, to protect the City’s volunteers. This is also why the State definition of the term will be added to the GCO.

Councilor Ciolino noted last winter that the administration brought forward a special municipal employee to get someone on a commission. Can a volunteer be on two commissions?

Ms. Lowe stated this term “special municipal employee” was the terminology under State law. This doesn’t give anyone extra rights.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council by ROLL CALL voted 8 in favor, 0 opposed to recommend to amend the Gloucester Code of Ordinance, §2-44(a) by DELETING the following boards, committees and commissions:

- Dog Control Board;
- City Forester;
- City Veterinarian;
- Superintendent of Insect and Pest Control;
- Armory Commission;

and by ADDING the following boards, committees and commissions:

- Affordable Housing Trust;
- Cable TV Advisory Commission;
- Clean Energy Commission;
- Committee for the Arts;
- Community Preservation Committee;
- Gloucester Cultural Council;
- Historical Commission;
- Historic District Commission
- Licensing Board
- Open Space Committee
- Poet Laureate
- Plan Implementation Review Committee
- Waterways Board

and ADDING the definition of a “special municipal employee” as a “person performing services for or holding an office, position, employment or membership in a municipal agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation on a full, regular, part-time, intermittent, or consultant basis”.

Councilor Hardy thanked Ms. Lowe for bringing the matter to the Council’s attention.

Committee Reports:

Ordinances & Administration: 07/27/10

Councilor Theken noted that many traffic matters are pending. They’re looking to the Traffic Commission for their assistance and hope they may be willing to meet more than once a month, as the Committee depends on the Commission for their recommendations. Their meeting once a month does not currently correspond with the many traffic matters in front of O&A at this time. She extended her apologies to the citizens awaiting relief on some of the pending traffic matters, and suggested anyone who has concerns to contact their ward Councilors to make inquiries as to when a particular matter will be coming in front of O&A for consideration.

Special Budget & Finance: 07/27/10

Councilor Curcuru reported there were no matters for action by the Council from this meeting as the Special City Council meeting that immediately followed theirs included the taking up of the one matter voted on by their Committee.

Planning & Development: 07/28/10

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant permission to the Magnolia Road Race Committee and the Magnolia Library Center in order to run the 34th running of the Magnolia 5K Road Race, Thursday, September 2, 2010 with a start of 6:30 p.m. to start from the Magnolia Library, Magnolia Square, turning left onto Shore Road, turning right onto Hesperus Avenue (through Stone Pillars unpaved street), left onto Norman Avenue (pass library) through Magnolia Square, right onto Magnolia Avenue, U-turn at Blyman School, straight onto Shore Road, left onto Hesperus Avenue, right onto Lexington Avenue and finish at the Magnolia Library with the following conditions:

- 1) A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk's office 14 business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race;
- 2) A memorandum from Fire Chief Phil Dench be on file with this approval in the City Clerk's office 14 business days prior to the race delineating the role of the Gloucester Fire Department, during and after the race;
- 3) Signs indicating "Runners in the Road" shall be placed at key locations along the race course for safety purposes. They are to be posted the morning of September 2, 2010 and removed by 9:00 p.m. the same day;
- 4) A Certificate of Insurance naming the City of Gloucester as the Certificate Holder;
- 5) The road closures are to be only as follows:
 - Lexington Avenue from Hesperus Avenue to Norman Avenue on September 2, 2010 from 4:00 p.m. to 8:00 p.m.
 - Magnolia Avenue from Magnolia Square to Western Avenue from approximately 6:50 p.m. to 7:20 p.m.;
- 6) All memorandums of approval shall be obtained by the Magnolia Road Race Committee and the Magnolia Library and delivered to the office of the City Clerk.

Discussion:

Councilor Ciolino stated this race has been going on for many years with great success.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted 8 in favor, 0 opposed to grant permission to the Magnolia Road Race Committee and the Magnolia Library Center in order to run the 34th running of the Magnolia 5K Road Race, Thursday, September 2, 2010 with a start of 6:30 p.m. to start from the Magnolia Library, Magnolia Square, turning left onto Shore Road, turning right onto Hesperus Avenue (through Stone Pillars unpaved street), left onto Norman Avenue (pass library) through Magnolia Square, right onto Magnolia Avenue, U-turn at Blyman School, straight onto Shore Road, left onto Hesperus Avenue, right onto Lexington Avenue and finish at the Magnolia Library with the following conditions:

- 1) A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk's office 14 business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race;
- 2) A memorandum from Fire Chief Phil Dench be on file with this approval in the City Clerk's office 14 business days prior to the race delineating the role of the Gloucester Fire Department, during and after the race;

- 3) **Signs indicating “Runners in the Road” shall be placed at key locations along the race course for safety purposes. They are to be posted the morning of September 2, 2010 and removed by 9:00 p.m. the same day;**
- 4) **A Certificate of Insurance naming the City of Gloucester as the Certificate Holder;**
- 5) **The road closures are to be only as follows:**
 - **Lexington Avenue from Hesperus Avenue to Norman Avenue on September 2, 2010 from 4:00 p.m. to 8:00 p.m.**
 - **Magnolia Avenue from Magnolia Square to Western Avenue from approximately 6:50 p.m. to 7:20 p.m.;**
- 6) **All memorandums of approval shall be obtained by the Magnolia Road Race Committee and the Magnolia Library and delivered to the office of the City Clerk.**

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant permission to the Magnolia Road Race Committee and the Magnolia Library Center in order to run the Magnolia Junior 1 Mile Fun Run, Thursday, September 2, 2010 with a start of 6:00 p.m. to start from the Magnolia Library, Magnolia Square, turning left onto Shore Road, turning left onto Cliff Road, right onto Lexington Avenue and finish at the Magnolia Library with the following conditions:

- 1) A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk’s office 14 business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race;
- 2) A memorandum from Fire Chief Phil Dench be on file with this approval in the City Clerk’s office 14 business days prior to the race delineating the role of the Gloucester Fire Department, during and after the race;
- 3) Signs indicating “Runners in the Road” shall be placed at key locations along the race course for safety purposes. They are to be posted the morning of September 2, 2010 and removed by 9:00 p.m. the same day;
- 4) A Certificate of Insurance naming the City of Gloucester as the Certificate Holder;
- 5) The road closures are to be only as follows:
 - Lexington Avenue from Hesperus Avenue to Norman Avenue on September 2, 2010 from 4:00 p.m. to 8:00 p.m.
 - Magnolia Avenue from Magnolia Square to Western Avenue from approximately 6:50 p.m. to 7:20 p.m.;
- 6) All memorandums of approval shall be obtained by the Magnolia Road Race Committee and the Magnolia Library and delivered to the office of the City Clerk.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed to grant permission to the Magnolia Road Race Committee and the Magnolia Library Center in order to run the Magnolia Junior 1 Mile Fun Run, Thursday, September 2, 2010 with a start of 6:00 p.m. to start from the Magnolia Library, Magnolia Square, turning left onto Shore Road, turning left onto Cliff Road, right onto Lexington Avenue and finish at the Magnolia Library with the following conditions:

- 1) A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk’s office 14 business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race;
- 2) A memorandum from Fire Chief Phil Dench be on file with this approval in the City Clerk’s office 14 business days prior to the race delineating the role of the Gloucester Fire Department, during and after the race;

- 3) **Signs indicating “Runners in the Road” shall be placed at key locations along the race course for safety purposes. They are to be posted the morning of September 2, 2010 and removed by 9:00 p.m. the same day;**
- 4) **A Certificate of Insurance naming the City of Gloucester as the Certificate Holder;**
- 5) **The road closures are to be only as follows:**
 - **Lexington Avenue from Hesperus Avenue to Norman Avenue on September 2, 2010 from 4:00 p.m. to 8:00 p.m.**
 - **Magnolia Avenue from Magnolia Square to Western Avenue from approximately 6:50 p.m. to 7:20 p.m.;**
- 6) **All memorandums of approval shall be obtained by the Magnolia Road Race Committee and the Magnolia Library and delivered to the office of the City Clerk.**

Councilor Whynott stepped away from the dais at 8:54 p.m.

Budget & Finance: 07/29/2010

MOTION: On motion by Councilor Hardy, seconded by Councilor Curcuru, the Budget & Finance Committee voted 2 in favor, 0 opposed to recommend to the City Council to accept a grant from the Massachusetts Division of Marine Fisheries under the Clean Vessel Act Pumpout Program in the amount of \$9,500.00 for the Gloucester Harbormaster’s Department.

Discussion:

Councilor Curcuru explained this was the eighth year for this contract grant through the Massachusetts Division of Marine Fisheries Clean Vessel Act Pumpout Program. The Harbormaster was seeking approval to continue his department receiving reimbursement for their pumpout boat expenses, this year for \$9,500.00. The money has to be used on the pumpout boat and to maintain the shed at the boat ramp. No match is required with this grant.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council by ROLL CALL voted 7 in favor, 0 opposed, to recommend to the City Council accept a grant from the Massachusetts Division of Marine Fisheries under the Clean Vessel Act Pumpout Program in the amount of \$9,500.00 for the Gloucester Harbormaster’s Department.

MOTION: On motion by Councilor Hardy, seconded by Councilor Curcuru, the Budget & Finance Committee voted 2 in favor, 0 opposed to recommend to the City Council to permit the Gloucester Police Department to apply for the “Secure Our Schools” grant from the U.S. Department of Justice for a project total of \$150,000.00, (\$75,000.00 from the grant with a 50% match to be covered by the School Department).

Discussion:

Councilor Curcuru related to the Council that in early June the Police Department received notification that the U.S. Dept. of Justice was offering a COPS grant entitled “Secure Our Schools”, a competitive grant which allows for the purchase of school safety hardware for improvement of school safety. This grant would help create a more secure situation for City’s children and school staff. Currently the City schools do not have installed security systems. If received, this grant would allow for the installation of physical hardware, such as metal detectors, surveillance cameras, etc., in schools.

Councilor Hardy stated the matching grant would be provided by the School Department. It was mentioned at the B&F meeting that this will have to come back to the Council again, if they are fortunate enough to get some of these grant monies, for acceptance of the monies. The Committee made clear to

Tom Markham, School Department CFO, who was present at that meeting, they would be looking for identification as to exactly which line items he'd be tapping to make this match. The School Department was fully aware they should be looking now for the monies for the match (of 50% of total awarded grant monies).

Councilor Curcuru replied that Mr. Markham was sure they had already identified about half of those funds needed for a match of the hoped for \$75,000.00 from the U.S. Department of Justice.

Councilor Whynott returned to the dais at 8:57 p.m.

MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to permit the Gloucester Police Department to apply for the "Secure Our Schools" grant from the U.S. Department of Justice for a project total of \$150,000.00, (\$75,000.00 from the grant with a 50% match to be covered by the School Department).

[The reading of other than the main portion of the motion was waived by the Council.]

MOTION: On motion by Councilor Hardy, seconded by Councilor Curcuru, the Budget & Finance Committee voted 2 in favor, 0 opposed to recommend to the City Council approval of payment from FY11 Fire Department budget from Safety Serv-Non Payroll Unifund Account #101000.10.220.53070.0000.00.000.00.052 to vendor, L.W. Bills Alarm Engineering for services received from said vendor during FY10, of the following invoices:

- invoice #4617 dated 01/27/10, for \$1,496.30
- invoice #4665 dated 02/11/10, for \$546.30
- invoice #4807 dated 03/25/10, for \$4,776.60
- invoice #4869 dated 04/08/10, for \$1,715.30
- invoice #4915 dated 04/15/10, for \$548.80
- invoice #5210 dated 06/29/10, for \$906.30

MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to approve payment from FY11 Fire Department budget from Safety Serv-Non Payroll Unifund Account #101000.10.220.53070.0000.00.000.00.052 to vendor, L.W. Bills Alarm Engineering for services received from said vendor during FY10, of the following invoices:

- **invoice #4617 dated 01/27/10, for \$1,496.30**
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- **invoice #4869 dated 04/08/10, for \$1,715.30**
- **invoice #4915 dated 04/15/10, for \$548.80**
- **invoice #5210 dated 06/29/10, for \$906.30**

Other Business:

Discussion with General Counsel re: Address and explain the Pro Bono Legal Counsel Service Agreement.

Councilor Hardy stated Suzanne Egan, General Counsel was before the Council to assist with any questions they may have as it relates to procedure, not to strategy. Any questions regarding strategy might force the Council to move into Executive Session, which was not the Councilor's intent.

Councilor Whynott asked if the Pro Bono services covered filing fees.

Ms. Egan responded it did.

Councilor Verga stated as of that day they are officially, the City of Gloucester, a plaintiff. He asked how it would work if they have questions for Nixon & Peabody (Pro Bono Counsel).

Ms. Egan explained to the Council that the City is a plaintiff in the lawsuit. The Scheduling Order states that there is a hearing on August 19th for the Preliminary Injunction and Motion to Dismiss. If the Council had any questions on the scheduling and merits of the case, she stated she was always available to answer their questions because she was in contact with Nixon & Peabody.

Councilor Verga stated "to be blunt, the Mayor has had a lukewarm reception" to the concept of the City being involved in the lawsuit. He, as one City Councilor, wanted to make clear if they want to know what is going on, he assumed they should go through their Chair; she would then ask Ms. Egan. The Mayor's office had a "hands off" approach to this.

Ms. Egan stated yes, but the Administrative Assistant, Jim Duggan, filed an affidavit in the lawsuit in support of it. The City is a party to the lawsuit; and the City will pursue that lawsuit to its fullest extent. She told the Councilors they should feel free to come to her office at any time to discuss the lawsuit with her.

Councilor Verga stated there was a direct link between individual members or the body of the Council to Nixon & Peabody via the City's General Counsel.

Ms. Egan confirmed the Councilor's statement.

Councilor Hardy stated as a point of clarification, Ms. Egan was the "clearing house" between the Council and Nixon & Peabody. The Mayor has no say as to whether or not they have permission to speak with their attorneys or not.

Ms. Egan replied that the Mayor does not have that authority with regard to any legal issue or litigation.

Councilor Theken stated the Mayor is not in the lawsuit but the Administrative Assistant is as he did an affidavit.

Ms. Egan responded that the Mayor was not a party. There is no individual that is a party. She clarified that Councilor Verga had said the Mayor was "lukewarm" and she was noting that the City Administration is working with Nixon & Peabody and has drafted an affidavit in support of the lawsuit. She wanted the Council to be assured they are pursuing the lawsuit. The Mayor has her own position; but the City itself and all the department heads are doing what they need to do to prevail on the lawsuit.

Councilor McGeary asked for clarification that the party who is a plaintiff is the corporate entity known as the City of Gloucester.

Ms. Egan stated yes.

Councilor Hardy asked if it was expected to have interrogatories filed.

Ms. Egan stated there will be no discovery. It is a request for a preliminary injunction and declaratory relief. It was an administrative process before the Department of Education, so there is no discovery.

Councilor Hardy expressed her main concern on previous lawsuits that the City Council, unfortunately, found out about the status of certain lawsuits in the newspaper. She would appreciate the courtesy of the City Council being informed as to the status as they go along.

Ms. Egan responded she tries to provide the City Council with court decisions as soon as they get them. She apologized if the City Council got the information the day after the Gloucester Daily Times got them.

Councilor Hardy took exception to Ms. Egan's response.

Ms. Egan stated it was not done intentionally.

Councilor Hardy wondered how the Gloucester Daily Times finds out before the Council does.

Ms. Egan replied if the Councilor was referring to a specific instance, she thought she might be able to help.

Councilor Hardy stated as long as she had assurances that they will be kept abreast of what is going on as it happens, in real time.

Ms. Egan assured the Councilor she would.

Councilor Hardy noted the next court date was August 19th. She hoped Ms. Egan did not take her comments personally because there have been times when the Council has found out they're being sued or lost a court case, in the Gloucester Daily Times.

Councilor Hardy asked if they're free to speak with members of the School Committee about the lawsuit or about what they know, where they stand; or should they not be conversing with them as relates to it. She expressed her confusion and thought others may be also.

Ms. Egan stated there was no reason why they would not be able to speak to the School Committee members about this. The School Committee is not a named party to the lawsuit. The School Committee has been involved in the discussions with the Department of Education. She was at the School Committee meeting that evening noting they were having a discussion regarding the Charter School's response to their proposal. So they are involved in a process of trying to resolve any issues between the Charter School and the City. Therefore, she didn't see any reason why the Councilors should not be able to speak with School Committee members

Councilor Hardy asked what Ms. Egan would suggest should the news media ask the Councilors to comment on anything. Do they continue to defer them to her.

Ms. Egan stated yes; she suggested that would be the appropriate thing to do.

Councilor's Request other than to the Mayor:

Councilor Whynott noted he was getting a lot of questions about the event upcoming on I4-C2. He wished to have more information on it. Some of the questions were: how are they using a public park and charging money; and is the City getting any money – questions of that nature, which he'd like to have answered.

Councilor Hardy asked if he would be amenable to having the matter referred to P&D so they can take it up at Committee and inform the rest of the Council, and to have the Clerk of Committees notify the Administration of that fact and to obtain the information of the dates, time(s), intent, and the charges.

Councilor Ciolino stated P&D would certainly gather all the information but pointed out that since this was public property under the management of the Department of Public Works, there would be no Council action.

Councilor Hardy believed there was a time this matter was before the Council previously; and they agreed on certain dates it would be used and what fees, if any, would be charged. She didn't believe that date was included. She wished to have the information so they could "cross the T's and dot the I's", and have answers for their constituents, that's all they'd be looking for.

Councilor Verga wished his wife, Kelly, a happy 24th wedding anniversary.

Councilor Curcuru reminded citizens on Wednesday, August 11th at 7:00 p.m. in the Kyrouz Auditorium there will be a joint Ward meeting of Wards 2 and 3, on the Washington Street corridor. There will be a slide show presentation by Sarah Garcia, Community Development Director, the DPW regarding the improvements to Washington Street; and members of the Downtown Development Commission will also be there. He encouraged all concerned to attend, even if they didn't live in either of the wards to come.

Councilor Theken reminded everyone enjoy the weekend with the block party and to support the Triathlon. She also reminded seniors that on Tuesday, August 17th, they will be having a SHINE director from Elder Affairs to the Gloucester Council on Aging at the Rose Baker Senior Center at 10 a.m. to talk about their stimulus package, any new changes, their extensions, the doughnut holes, etc., and encouraged seniors to come with their questions.

Councilor Mulcahey wished a good night to her constituents and all the citizens of Gloucester.

Councilor Ciolino reminded all of the big week of events downtown, starting this Thursday with the Farmer's Market on I4-C2. Thursday, Friday and Saturday are Sidewalk Days, formerly known as the

Sidewalk Bazaar; and on Sunday, a very big day for Gloucester, the GFAA Triathlon. Main Street will be closed all day. There will be one big Block Party all day long and into the evening. He invited everyone to come down and enjoy all the venues.

Councilor McGeary noted he's had his nephew up from New York City for the month of July and had, literally, been at Good Harbor Beach every day. He commended the staff at Good Harbor Beach for their excellent work; that it is run well, safe and comfortable even in the face of large crowds.

Councilor Hardy thanked Sam Cleaves, Chair of the Clean Energy Commission and participating in the public hearing this evening noting they don't always agree on everything. Sometimes the Councilors ask a lot of questions and it may appear they are being negative towards something; but they need to get the information out to people. She felt if they don't ask the questions, people think it is a foregone conclusion. She explained that the Councilors really do their homework; and thanked them for doing their due diligence and asking the important questions on the matter. They didn't agree this evening; it wasn't unanimous (referring to the vote on the Stretch Energy Code) but that the public got a better feeling as to what's going on. She drew the Councilor's attention to the Consent Agenda, a referral out to Planning & Development, the Open Space and Recreation Plan: Summary of Action Plan, noting there was only one physical copy as it was a very large and extensive. City's web site, which she commented was wonderful, has the document on line for anyone who would like to look at it. The Open Space and Recreation Advisory Committee did "a heck of a job on it". They only started in November and it has recently been filed. It is a draft, and will likely go through another or two. She extended her thanks for the wonderful document; it was a lot of really good work. She then passed it on to Councilor Ciolino for his Committee's review.

A motion was made, seconded and voted unanimously to adjourn the meeting at 9:15 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTATION/ITEMS SUBMITTED DURING MEETING:

Letter to the Council: from Jonathan Pope regarding St. John's Church trash situation.