

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, April 12, 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.**

**Absent: None.**

**Also Present: Mayor Sefatia Theken; Linda T. Lowe; Kenny Costa; Jim Destino; Chip Payson; John Dunn; Mike Hale; Bill Sanborn; Debbie Laurie; Catherine Schlichte; William Dugan; David Rhineland**

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

**Flag Salute & Moment of Silence. Councilor LeBlanc** dedicated the Moment of Silence to his recently deceased grandmother, Barbara Latons whom he said was a life-long Gloucester resident, a wonderful lady and free spirit who will be missed.

**Oral Communications:**

**Dale Halchak**, 284 Atlantic Road, spoke to issues with the public road on which he lives saying that there are issues with ongoing potholes in the roadway. He said he had spoken to the City Engineer to determine the plan of the recorded statement of a 50 foot right of way of the public road. He said neighbors have put rocks into the public way creating issues with plowing and passage of emergency vehicles. He showed the Council a collection of photographs and maps from the city's Engineering Department which he submitted for the record. He said he was seeking the assistance of the city in resolving the public roadway issues in and around his property.

**Presentations/Commendations:**

1 of 1: Public Works Director, Mike Hale re: Repair of City Roads:

**Mike Hale**, Public Works Director conveyed the following information regarding potholes and various other repair issues on public ways:

- There are four classifications of roadways in the city: 22+/- miles of state highway (Routes 127, 133 and 128); 20+/- miles of strictly private ways; 95+/- miles of public or accepted roads; and 30+/- miles of unaccepted ways.
- How the DPW funds road repairs: In the FY16 budget \$30,000 was allotted from the General Fund, or 0.03 percent of the total General Fund revenue for the city; \$50,000 from road opening fees generated from mostly utility work is transferred into the road repair account; some Community Development Block Grant (CDBG) funding for sidewalk improvements, most recently as seen on Maplewood Avenue. The largest proportion of the city's road repair funds come from the state's Chapter 90 money that is managed by MassDOT, which is about \$670,000 annually to be used only for public roads -- those funds can also be used to buy equipment relative to the maintenance of public roads and sidewalks. Chapter 90 money can't be used to maintain or improve private roads. There has only been one loan order on the General Fund since 1999 which was a repurposing of former loan funds from completed projects for road repairs.
- Differences between public and private roads: Public roads are created in three ways -- laid out by the Council; accepted through prescription or accepted by dedication prior to 1846. It was noted the city has many roads that predate 1846 and is how some of them have become public. There are a number of different private roads unique to Massachusetts: statutory private ways -- ways laid out by the City Council for benefit of a private party open to the public but are not repaired or maintained by the public (the city of Gloucester); dedicated private ways -- ways in which the rights have been abandoned or perceived to be abandoned and permanently abandoned over time; and more traditional private ways, those that may be part of an association and subdivision.
- Difference in the responsibility to maintain a public or private way: In Massachusetts Public Works only has the responsibility to maintain public ways and has no responsibility to maintain private ways.
- What can be done by the city on private ways: As to snowplowing, in 1943 the City Council adopted MGL c.40, §6 that allows public expenditure of public dollars on certain private ways that are truly opened to the public. MGL c. 40, §6N allows temporary repairs to private ways which requires the city to have its own

ordinance, which the city does: GCO Sec. 21-80 references definitions of private ways; and GCO Sec. 21-80 (d) says that, "None of the ways described in this section are the type of way which the city has an existing duty for maintenance or repair for which the city is liable for damages or defects. Abutters to these private ways are responsible for the maintenance of such ways..." which is taken from state law.

- Acceptance of private ways: There is a provision in MGL c. 82, §21-24 that describe how to undertake the process of the acceptance of private ways which delineates notice, filing with the City Clerk's office, and the like. Within local ordinance, GCO Sec. 21-1 there is a provision that states that, "no way shall be accepted as public unless the order for acceptance is accompanied by a statement in writing, signed by the director of public works, the mayor and the city auditor, stating that sufficient funds are on hand and will be allocated for placing such way in safe condition for travel."

**Mr. Hale** said that with less than 1 percent of the city budget dedicated to the existing public ways, it is a difficult task to say the city has enough money to accept more ways and keep them in good condition. He pointed out it is an annual struggle to maintain his department's existing responsibility to the public roads in the city of Gloucester, and is a matter of budget. He made note of the fact that what was the DPW's Highway Department has dwindled and been assimilated into the Public Service Division which is 30 percent lighter in staff from when he took the directorship in 2008. **Mr. Hale** suggested there needed to be a uniform voice from the Council and the Administration on what they can do to help people. The DPW can do temporary repairs on private ways to fill potholes, but he explained that there comes a time when pothole repair is no longer enough. The Code of Ordinances does speak to that issue as to what happens -- a neighborhood could petition the City Council to see if there is funding available to pave it through a city process or they can pave it on their own which many neighborhoods in the city still undertake -- it is a different process and different method of finance, he indicated.

**Mr. Hale** said he believed the city should be exploring options as to how some private ways could be accepted by the city. He gave the example of ways that are either statutory private ways or public ways that have never gone through the process of being accepted by the city and so the city receives no Chapter 91 credit for them, Dogtown Road and Dr. Osman Babson Road as just two such examples of the many same types of ways that the DPW brought to the Council a year ago. He said it was a good use of the Council's power to accept the roads as public ways. He expressed there was a need to be cautious of some road acceptances, particularly those that are laid out as subdivisions.

Pothole season is here, **Mr. Hale** announced, and the DPW crew is out two to three days a week on the city's roadways making repairs. He urged residents to use the "See Click Fix" feature found on the left side of the city's website homepage to report problems such as needing potholes filled on their roads. It is a direct way that citizens can track their requests and see how they are fulfilled.

#### COUNCILOR QUESTIONS:

**Councilor Gilman** asked how much the city gets from the state in Chapter 90 funds and how long repaired and repaved public roads are expected to last versus the lead time for fixing public roads. **Mr. Hale** explained as follows: the city will get approximately \$670,000 for this year from the state which is about enough to do two miles of roadway and about one mile of sidewalk. In 2013 the DPW did a pavement management plan that had a backlog of a public obligation of \$17 million in paving projects for the city. With the number of existing roadway miles, the city roads are on a 40+ year paving cycle given that roads have a 20 year life cycle. He reiterated an earlier statement that it is a difficult task to keep up with the road repairs with the funds available, pointing out that the \$17 million backlog has only gone up. **Councilor Gilman** said if they have a particular constituent who is in a private development and has a major repair to their road pending, it is prudent to ensure they understand that it is not a minor repair and their first order of business is to meet with their neighbors to see if they can self-fund their own paving project. **Mr. Hale** said it is determined by his department on a case-by-case basis depending on the roadway's condition and other factors. He advised that if the road isn't open to the public, MGL c. 46 kicks in and then he can't make temporary repairs to that roadway. The longer the big projects wait the bigger and more complicated they become, he pointed out. He encouraged Councilors have open and honest dialogs with their constituents in order that in turn such requestors inform the neighbors, and that the city providing guidance when possible.

**Councilor Memhard** mentioned a meeting with Mr. Hale where he was shown the Map GEO planning function on the city's website which he termed as a powerful real estate planning tool available to the public, as well as accessing the Essex County Registry of Deeds on line. He recalled recent advice by Mr. Hale to a group who lived on a private road in need of repair which helped them to determine that it would be in their best interest to self-fund their private road's repair. He mentioned that Starknought Heights, now awaiting private/public betterment for the repair of that private way, may petition the city upon that road's repair, to take the private road public. He asked about that road being taken by the city once repaired as a public way. **Mr. Hale** said the process is proscribed

in state law and supporting local legislation. He said foremost there has to be a plan and enumerated the criteria from MGL c. 82, § 21-24 which first gives the Council authority to lay out a way and has notice requirements and other related processes. He suggested that many private ways have encroachments into the way, and there are number of roads that are private that have landscaping as much as 15 feet encroaching into the roadway which makes them poor candidates for the city to take as public ways.

Responding to an inquiry about pothole repairs on-going in the city by **Councilor O'Hara**, **Mr. Hale** said it is not straightforward to estimate what it costs to send out a "pothole crew" two to three days a week. He said he sends out a three person crew, which costs several hundred dollars daily for salary, the vehicle and the asphalt mix so it is difficult to assign a daily number. He suggested \$1,000+ per day. Pothole repair is not meant to be permanent, he added, pointing out that there is a cost of not having that same crew doing something else. He reminded the Councilor that there are only 16 personnel in the Public Service Division of the DPW to take care traditional public works matters such as maintaining ball fields, city beaches, etc., and has to share those individuals throughout the entire city. He said summer help is important to help get things done but that is a short season. He said he can give pricing on individual roads to the Councilor and assign a level of condition to them if he wanted that information. **Councilor O'Hara** asked how private roads and public road are delineated in protecting the public in the event of an emergent situation when emergency access is critical. **Mr. Hale** said under state law he has an obligation to maintain public roads free of defects and that he doesn't have that obligation to private roads; and therefore his priority is public roads. He said the abutter of private road has an obligation to maintain their private way just as he has to maintain a public way. If on a private road there is a large pothole and an abutter contends an emergency vehicle can't get down that private road, it is the abutter's responsibility to correct that situation, he pointed out. He said the DPW tries to address such matters when they can.

**Councilor Nolan** said he met with Mr. Hale the previous day to discuss many of these same issues and had no questions.

**Councilor Orlando** asked what were some of the deciding factors to prioritize which private roads be accepted as public, such as a preference for high volume of residents per roadway, and was it more beneficial to accept private way of high volume or low volume. **Mr. Hale** said typically abutters of private ways solicit the city to take the road public. He explained some of the parameters he uses when reviewing a private way to be potentially converted to a public lay -- the city looks at roads that meet the subdivision standards that the City Council said are the standards by which a road should be built. He said he looks for traditional drainage, width, streetlights, and sidewalks all in place and in good condition. He gave the example that he wouldn't look to take a private way under the subdivision standard that had no sidewalks and/or no streetlights because once a roadway is accepted, it is the city's responsibility to fund those pieces of the infrastructure on that roadway and to maintain it. He said he looks for roadways that most closely resemble city standards, whether the roads are big or small.

**Councilors Cox, Lundberg and LeBlanc** thanked Mr. Hale for his time in educating the Council and had no questions for him at this time.

**Councilor Memhard** noted that there are certain state fire code standards for access and turning for emergency vehicles on roadways, and he asked at what point as someone trying to bring their road to subdivision standard in building a house do such state fire codes make an impact and does a resident assume some of the obligation to bring their road to those standard. **Mr. Hale** said the fire code regulations the Councilor referenced are impactful if someone is looking to develop land now, they are obligated to meet those standards. This code was intended to help fire departments to get a large, expensive apparatus into a neighborhood and be able to get them out. There are different triggers to the fire code, but it may be in conjunction with paving in terms of a development -- but a neighborhood paving project doesn't constitute a changing of a road's layout in most cases.

**Council President Ciolino** asked if the hot box truck is operational. **Mr. Hale** confirmed it was and used three days a week. **Council President Ciolino** and **Mr. Hale** discussed the poor quality of repairs made by public utilities' when maintaining or installing new equipment in the public way and the poorly filled trenches which result in over time in deeply rutted areas throughout the city. **Mr. Hale** said that there is an ordinance the Council passed in 2006 that prohibits excavations in newly paved streets for the first five years. He said where private streets are concerned that is a more complicated issue as to what he may or may not be able to permit. The quality of utility company road repair, particularly by National Grid, has a standard operating procedure for trench repair which is proscribed by the Department of Public Utilities, and they don't follow it. He advised he will be travelling to Boston at month's end to participate in a panel discussion on this matter which is a national and Commonwealth issue. He said there are subpar excavations that lead to a shorter life expectancy of a roadway that accelerate road decay. He gave the example of Leonard Street, paved about five years ago with notice to National Grid. He recounted that the only penetrations in Leonard Street other than one water main break are from National Grid who want to open the road again, which he's holding their road opening permit back until he can talk to someone at

National Grid, to be able to say all the patches they do are awful, never last and will yet again push for them to follow their "SOP" (Standard Operating Procedure) for which he said he gets pushback on not only from the utility but from the residents and businesses who are paying for this work. He said it is a daily battle.

**Council President Ciolino** thanked Mr. Hale and mentioned a Council workshop on private/public road paving and repair of roads anticipated for several weeks from now, which he announced would be expanded to members of the Planning Board and Zoning Board of Appeals.

**New Appointments:**

Clean City Commission

Eric Magers

TTE 02/14/19

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Eric Magers to the Clean City Commission, TTE 02/14/19.

**DISCUSSION:**

**Mr. Magers** is a teacher at Manchester/Essex and was the founder and staff adviser to the student Green Team there. He said he wants to keep the city clean he has lived in for the last 12 years, and to educate the public, especially the youngsters about keeping the city clean. **Councilor LeBlanc** invited Mr. Magers to join the O&A Committee at its next meeting when the Committee will consider a ban on polystyrene food service containers, and at a subsequent meeting a suggested ban on plastic check-out bags.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed, to appoint Eric Magers to the Clean City Commission, TTE 02/14/19.**

Fisheries Commission

William S. Muniz

TTE 02/14/19

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint William S. Muniz to the Fisheries Commission, TTE 02/14/19.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed, to appoint William S. Muniz to the Fisheries Commission, TTE 02/14/19.**

Magnolia Woods Oversight & Advisory Committee

Jack Palazola

TTE 02/14/19

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Jack Palazola to the Magnolia Woods Oversight & Advisory Committee, TTE 02/14/19.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to appoint Jack Palazola to the Magnolia Woods Oversight & Advisory Committee, TTE 02/14/19.**

Planting Committee

Carolyn Benson

TTE 02/14/19

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Carolyn Benson to the Planting Committee, TTE 02/14/19.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed, to appoint Carolyn Benson to the Planting Committee, TTE 02/14/19.**

### Consent Agenda

#### • CONFIRMATION OF REAPPOINTMENTS

- |                              |                                  |                  |              |
|------------------------------|----------------------------------|------------------|--------------|
| 1. Management Reappointment: | Veteran's Agent                  | Adam Curcuru     | TTE 02/14/18 |
| 2. Reappointments:           | City Hall Restoration Commission | Janis Bell       | TTE 02/14/19 |
|                              | Downtown Development Commission  | Robert Whitmarsh | TTE 02/14/19 |
|                              | Fisheries Commission             | Scott O. Swicker | TTE 02/14/19 |

#### • MAYOR'S REPORT

1. Memo & relevant information from Administration regarding the proposed reorganization of the Gloucester Harbormaster's Office Sec. 7.2 City Charter) (Refer O&A)
2. Memo & supporting information from CFO re: proposed increase to beach parking fees at Good Harbor & Wingersheek Beaches (Refer B&F)
3. Special Budgetary Transfer Request 2016-SBT-13 from DPW Dept. (Refer B&F)
4. Special Budgetary Transfer Request 2016-SBT-14 from DPW Dept. (Refer B&F)
5. Special Budgetary Transfer Request 2016-SBT-15 from DPW Dept. (Refer B&F)
6. Special Budgetary Transfer Request 2016-SBT-16 from Mayor's Office (Refer B&F)
7. Special Budgetary Transfer Request 2016-SBT-17 from DPW Dept. (Refer B&F)
8. Supplemental Appropriation-Budgetary Request 2016-SA-24 from DPW Dept. (Refer B&F)
9. Memo & Supplemental Appropriation-Budgetary Request 2016-SA-25 from Harbormaster (Refer B&F)
10. Memo from Community Development Director re: request from Cape Ann Museum to CPC to amend awarded 2015 CPA grant for installation of vertical lift (Refer B&F)
11. Memo from CFO & Loan Order request in the amount of \$2.2 million for water main rehabilitation work on various city streets (Refer B&F)
12. Memo from GPS Director of Finance & Operations re: request permission to pay previous year's expenses with FY16 funds (Refer B&F)
13. Memo from Gloucester Clean Energy Commission re: recommendation to consider a municipal aggregation of electricity purchase (Refer P&D)
14. Memo & pertinent information from General Counsel re: Blynman Canal License Agreement (Refer P&D)
15. Memo & relevant information from General Counsel re: Access & Utility Easement & Supplemental Agreement for In Motion Wireless & the Metro Boston Transit Authority (MBTA) (Refer P&D)
16. New Appointments:
 

Historic District Commission	TTE 02/14/19	Prudence Fish (Alternate)
Trust Fund Commission	TTE 02/14/19	Barry Weiner, Rick Ciolino
Community Preservation Committee	TTE 02/14/19	Heidi Wakeman (Open Space & Rec. Com. Rep.)
Historical Commission	TTE 02/14/19	Holly Clay Smith
17. Letter from Mayor Romeo Theken to City Council President Joseph Ciolino & City Council (Info Only)

#### • APPLICATIONS/PETITIONS

1. PP2016-006: Request from National Grid to install 1 SO Pole re: Centennial Ave. & centerline of intersection of Western Ave. for service for the new Blynman Canal Bridge House (Refer P&D)
2. PP2016-007: Request from National Grid to install underground conduits, new pole & new handholes re: Centennial Ave. & centerline of intersection of Western Ave. for service for the new Blynman Canal Bridge House (Refer P&D)
3. Special Events Application: Request to hold Magnolia's Farmers Market June 1-Sept. 30, 2016 (Refer P&D)

#### • COUNCILORS ORDERS

1. CC2016-015 (Cox) Request O&A review & recommend the matter of prohibiting the use of polystyrene food & beverage containers or serving items for food service establishments if the packaging takes place on the premises of food service establishments & recommend whether an ordinance on polystyrene food & beverage containers be adopted (Refer O&A)
2. CC2016-016 (Memhard) Request Traffic Commission perform a speed study on Rockport Rd. from the intersection of Thatcher Rd. northeasterly to its intersection with Beachland Ave. to determine whether there should be a speed limit of 20 mph & whether the City Council should petition MassDOT to approve said speed limit (Refer O&A)
3. CC2016-017 (Memhard) Amend GCO c. 22, Sec. 22-270 "Parking prohibited at all times," Sec. 22-291 "Tow away zones," and Sec. 22-265 "Turning movements-Generally" re: 354 Main Street (Refer O&A)
4. CC2016-018 (Memhard) Amend GCO c. 22, Sec. 22-270 "Parking prohibited at all times" and Sec. 22-291 "Tow-away zones" Re: Mt. Pleasant Avenue (Refer O&A)
5. CC2016-019 (Memhard) Request that O&A consider the placement of a crosswalk on Eastern Avenue (Route 127) in the vicinity of Pond Road and the adjacent shopping center area north of Pond Road & Request the Traffic Commission study the placement of a crosswalk at this location & recommend as to whether this request should be forwarded to MassDOT approval (Refer O&A)

#### • APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS

1. City Council Meeting: March 22, 2016 (Approve/File)
2. Special Joint City Council/School Committee Meeting: March 24, 2016 (Approve/File)
3. Standing Committee Meetings: B&F 04/07/16 (under separate cover), O&A 04/04/16, P&D 04/06/16 (Approve/File)

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

**Councilor LeBlanc** asked to remove Items #2 under Approval of Minutes, Special Joint City Council/School Committee Meeting of March 22, 2016. He advised that those minutes are not yet available from the School Committee who must first approve their draft, and asked that the matter be removed from the Consent Agenda and to be placed back

on the April 26 Council agenda for approval and filing. By unanimous consent of the Council the matter was removed from the 4/12 Council Consent Agenda to be placed on the April 26 Council Consent Agenda.

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

**Committee Reports:**

**Budget & Finance: April 7, 2016**

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2016-SA-23 in the amount of \$120,000 from Account #860000.10.995.59600.0000.00.000.00.059 Building Maintenance Stabilization Fund to Account #860002.10.472.58425.0000.00.000.00.058 Capital Projects Stabilization – Gloucester Police Department/District Courthouse Building Improvements for the purpose of the replacement of approximately 5,100 square feet of roof for the Gloucester Police Department/District Courthouse building.

**DISCUSSION:**

**Councilor Memhard** said that the DPW is requesting \$120,000 of capital funds from the city's Building Maintenance Stabilization Fund be transferred in order for the city to replace an approximately 5,100 square foot section of the roof on the police station/District Courthouse building. He said that the entire roof of this facility is well past its useful life expectancy and is in need of replacement. He advised that the Assistant DPW Director told B&F that the roof of the Police Station has been on a capital plan since 2012/2013. Leaks are going directly into the courthouse, and he said the Committee was advised that this reroofing will solve the water leaking into the courthouse, he added. The rest of the roof will be addressed at a later time, since it remains sound, he said. Work is anticipated to begin in late June or July this year, he noted.

**Councilor Cox** asked if the District Attorney has responded to the city's request for a \$10,000 reimbursement related to the roof repair, to which **Jim Destino**, CAO said he had not.

**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-23 in the amount of \$120,000 from Account #860000.10.995.59600.0000.00.000.00.059 Building Maintenance Stabilization Fund to Account #860002.10.472.58425.0000.00.000.00.058 Capital Projects Stabilization – Gloucester Police Department/District Courthouse Building Improvements for the purpose of the replacement of approximately 5,100 square feet of roof for the Gloucester Police Department/District Courthouse building.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council under MGL c. 44, §53A accept a state grant from the Massachusetts Department of Public Health, Bureau of Substance Abuse Services grant award of \$100,000. The state grant authorization period is from February 8, 2016 ending June 30, 2016. The purpose of this grant funding is to support of the Gloucester Angel Program Initiative.

**DISCUSSION:**

**Councilor Memhard** explained that the Police Department has been awarded a FY16 Substance Abuse Legislative Earmarks through the Mass. Dept. of Public Health with a maximum obligation of \$100,000 to be accepted by the city for the purpose of funding the Gloucester Angel Program Initiative. He said this grant award funding period is from Feb. 8 to June 30, 2016. Out of this \$100,000, \$25,000 will be allocated to the city of Arlington and \$25,000 will be allocated to the city of Worcester through the city of Gloucester so these communities can initiate their own Angel Program, he added. He advised that the city is acting as a fiduciary agent for these two communities only and has no liability otherwise.

**Councilor Cox** asked if the city is using all of the drug seizure money for the support of the city's Angel Program Initiative as previously seizure funds were used to purchase new police vehicles and needed equipment. **Mr. Destino** said this grant is in addition to those seizure funds, noting that the state legislature has been appropriating a lot of funds towards programs like Gloucester's Angel Initiative. He said this was a participation

grant, and mentioned the other two communities participating in it, with Gloucester being the largest recipient at \$50,000. The seizure money has not been totally expended, he noted. He advised there is some money in the upcoming budget for police vehicles and said that this grant is over and above monies that have been spent which is to be used to expand the Angel Program not to supplement any other funding.

**Councilor Cox** asked through the Council President that Mr. Destino arrange for an update to the Council on the city's Angel Program initiative from Chief Campanello at a future date.

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, under MGL c. 44, §53A to accept a state grant from the Massachusetts Department of Public Health, Bureau of Substance Abuse Services grant award of \$100,000. The state grant authorization period is from February 8, 2016 ending June 30, 2016. The purpose of this grant funding is to support of the Gloucester Angel Program Initiative.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Special Budgetary Transfer 2016-SBT-12 in the amount of \$2,700 from Account #101000.10.151.57620.0000.00.000.00.057, City Legal Department, Settlement-Out of Court, to Account #101000.10.151.51250.0000.00.000.00.051 City Legal Department, Salary/Wage-Part Time Position, for the purpose of alleviating a funding deficit in the Legal Department's Salary/Wage Part Time account.

#### DISCUSSION:

**Councilor Memhard** said that his small transfer is funding a deficit in the salary/wage part time account to cover the salary of the Assistant General Counsel due to a miscalculation. He said there are excess funds in the settlement account which covers that deficit.

**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-12 in the amount of \$2,700 from Account #101000.10.151.57620.0000.00.000.00.057, City Legal Department, Settlement-Out of Court, to Account #101000.10.151.51250.0000.00.000.00.051 City Legal Department, Salary/Wage-Part Time Position, for the purpose of alleviating a funding deficit in the Legal Department's Salary/Wage Part Time account.**

#### Ordinances & Administration: April 4, 2016

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council permit the withdrawal of CC2016-013 (O'Hara) Request O&A Committee to consider whether GCO Sec. 22-284(b) "Service or Loading Zones" should be amended to allow additional overnight parking from 7:00 p.m. until 6:00 a.m. without prejudice.

#### DISCUSSION:

**Councilor LeBlanc** explained that this particular section of the Code of Ordinances had been amended several years through a Council Order by Councilor Cox earlier to allow parking by any vehicle from 6:00 p.m. to 6:00 a.m. and therefore this was only a matter in the downtown area of assuring proper signage through the DPW to indicate those hours by a Councilor Request to the Mayor. Therefore, the Committee recommended withdrawal of the Council Order, he said.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, City Council voted 9 in favor, 0 opposed, to permit the withdrawal of CC2016-013 (O'Hara) Request O&A Committee to consider whether GCO Sec. 22-284(b) "Service or Loading Zones" should be amended to allow additional overnight parking from 7:00 p.m. until 6:00 a.m. without prejudice.**

**Councilor LeBlanc** noted that City Clerk, Linda Lowe, had announced at the April 4 meeting of the O&A Committee that she will not be seeking re-election as City Clerk, but will be retiring after 26 years in service to the City of Gloucester, first as General Counsel for 19 years and then a further 7½ years as City Clerk. At the meeting

Ms. Lowe had asked that Joanne Senos be reappointed as Assistant City Clerk, and then proposed the following matter for Council action:

**COMMITTEE RECOMMENDATION:** On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council, pursuant to the City of Gloucester City Charter Sec. 2-7(a) concerning the reappointment of the Assistant City Clerk, that the City Council reappoint Joanne Senos as the Assistant City Clerk for a term of April 2016 to April 2018.

**DISCUSSION:**

**Councilor LeBlanc** said he would vote in favor of Ms. Senos' reappointment saying that she has a firm grasp of ordinances and office procedures and that she is a great asset to the department and the Council. He thanked Ms. Senos for her service.

**Council President Ciolino** thanked Linda T. Lowe, City Clerk, for her 26 years of dedicated service to the city. He said she has had an amazing career. Ms. Lowe received a standing ovation from the Council and those assembled in Kyrouz Auditorium.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed, pursuant to the City of Gloucester City Charter Sec. 2-7(a) concerning the reappointment of the Assistant City Clerk, that the City Council reappoints Joanne Senos as the Assistant City Clerk for a term of April 2016 to April 2018.**

**Councilor LeBlanc** also reviewed for the Council's information that the O&A Committee has appointed two Ad Hoc Committees, an Ad Hoc Committee to review the dog ordinance with an eye to opening small areas of each ward for off-leash dogs but outside of residential neighborhoods, and not on city streets. He said dogs running loose on city streets are endangered and can be dangerous to pedestrians and drivers. Those appointed members are: Steve Ludwick; Cindy Dunn; Valerie Nelson; Linda Brayton; Jennifer Holmgren and Sheryl Reed as the Ad Hoc Dog Committee alternate. He advised that residents appointed to the Ad Hoc Beach Traffic Committee that will study and recommend possible ways to help alleviate beach traffic. Those appointed members are: Naomi R. Stonberg; John Burke; Rick Doucette and Jeff Worthley, he noted. He said both Ad Hoc Committees are chaired by Councilor O'Hara and will be reporting their findings to the O&A Committee.

**Planning & Development: April 6, 2016**

There were no matters for Council action under this heading, **Councilor Lundberg** reported.

**Scheduled Public Hearings:**

**1. PH2016-011: Amend GZO Sec. 1.3.1 "Enforcement of Zoning Ordinance; Appeals of Zoning Decisions"**

**This public hearing is opened at 7:59 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 8:00 p.m.**

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Nolan, seconded by Councilor Gilman, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend the Zoning Ordinance, Sec. 1.3.1 "Enforcement of Zoning Ordinance; Appeals of Zoning Decisions" as follows:

by DELETING subsection (c) in its entirety and ADDING a new subsection (c):

"(c) The Inspector of Buildings shall issue the following penalties for violations of the provisions of this ordinance:

- (i) First offense: a written warning;
- (ii) Second offense: a fine of \$100.00;
- (iii) Third offense: a fine of \$200.00;
- (iv) Fourth offense and each offense thereafter: a fine of \$300.00.

Each day that such violation continues shall constitute a separate offense.

The Inspector of Buildings may institute, in the name of the city, the appropriate civil or criminal action, to prevent, correct, restrain, abate or punish violations of this offense.”

#### **DISCUSSION:**

**Chip Payson**, General Counsel, briefly reviewed the stated changes to GZO Sec. 1.3.1, Sec. (c) as provided in the B&F Committee recommendation. The Council voiced their agreement with Mr. Payson’s assessment.

**Councilor Cox** read from the proposed amendment that, “Each day that such violation continues shall constitute a separate offense.” She pointed out that each day the violation isn’t remedied the fine goes higher and higher and asked if there was a 10 day period between the written warning and the next offense. She said it does take time to fix violations. **Bill Sanborn**, Building Inspector explained that the ordinance currently allows for \$300 per day fine which in order for the city to collect they must go to court. The Building Department has a process by which provides for a first letter that is a warning giving 10 to 20 days to remedy a violation depending on what it is. Then if not remedied in the specified timeframe, a second letter is sent, and if not remedied again, then a third letter is sent that says the city will go to court on the matter. He assured that with this proposed amendment there will still be a warning with so many days to correct, and that the second letter will be a fine if the matter is not corrected, and in that second letter the violator will be given so many days to correct the situation. He advised when they get to the fourth level, and then they will start charging every day if the department hasn’t gotten their attention by then.

**Councilor Cox** asked if the process Mr. Sanborn outlined should it be spelled out in the ordinance and would General Counsel recommend such language be added to the Zoning amendment. **Mr. Payson** said, “No.” He said it could be inserted into the Zoning Ordinance but that in his opinion it should be left to the discretion of the Building Inspector pointing out that the Building Inspector has a past practice and a pattern he has followed that is being forgiving with folks because he has said at the P&D Committee meeting and here that this is about getting the problem corrected. **Councilor Cox** expressed her concern about the statement she had quoted earlier from the ordinance amendment. **Mr. Payson** reiterated that if they can get the problem corrected, there are ways the city can waive some of that to reach a positive conclusion, and added that in some of the harder cases, it is important to have that tool available for the Building Inspector. **Mr. Sanborn** expressed his agreement with Mr. Payson’s assessment, and said that they want to continue to work as they are doing now with helping people to correct these issues. He said it is his hope they don’t have to employ this section of the Zoning Ordinance that much, but it is becoming more difficult to get the attention of the property owners in violation and that to go to court is a difficult process.

**Councilor Orlando** expressed that Mr. Sanborn’s office is fair to deal with, but expressed concern that when someone who is not as fair as Mr. Sanborn is in the role of Building Inspector there may be a different interpretation of this process. He asked what the process is to appeal a decision of the Building Inspector pursuant to a violation. **Mr. Sanborn** said that there is a process in the Zoning Ordinance to appeal the decision of the Building Inspector. If a resident isn’t happy with how he decided a matter, the resident has 30 days to apply to the Zoning Board of Appeals (ZBA) and then that Board will hear both sides of the issue and make a ruling of whether or not the violation was warranted. **Councilor Orlando** said then that the Council is removing the mechanism for the Building Department to have to go through either the administrative or court system but the resident does have to go through that administrative or legal process in order to get recourse. He expressed his concern it appeared to be an inequity on the part of the Building Inspector or in the proposed ordinance amendment. **Mr. Payson** said they’re not taking away anything, but rather are fleshing out and giving the Building Inspector the laying out of four offenses which gives the Building Inspector a bit more flexibility and leaving (c) as it is currently written there for the most part, he suggested. He said they’re trying to give the Building Inspector more flexibility to get people to comply with the Zoning Ordinance and regulations under his purview. Where it was a mandatory \$300 fine per day for each continuing offense, they built a new tier system in hopes of getting people’s attention to remedy matters and avoid going to court, he pointed out. **Councilor Orlando** suggested perhaps the Council should make it a bit more flexible for the resident erecting a building to also have a more cost effective way to challenge an issue raised by the Building Department. He related his personal experience when building a home recently with the Building

Department and reiterated there could be a more flexible way for those who are building a domicile who may have an issue and have a mechanism for addressing their grievances in a more cost effective way.

**Councilor Orlando** then moved to amend GZO Sec. 1.3.1(c) to allow for a meeting between the Building Department prior to filing for relief from a Building Inspector's decision with the ZBA, seconded by **Councilor LeBlanc**.

DISCUSSION ON THE AMENDMENT:

**Councilor Cox** asked what the fee is to appeal the Building Inspector's decision in order to go before the ZBA. **Mr. Sanborn** said the application fee is \$250. **Councilor Cox** expressed her concern that if the resident and the Building Inspector have an issue which can't be resolved after a sit down, they're telling the resident in order to get somewhere to appeal it, it will cost \$250 to have the appeal heard which she said was unfair and expensive.

**Mr. Sanborn** responding to an inquiry by **Councilor Lundberg** said there is a fee and an application that has to be filled out. He explained that and that notification of abutters must be made by the city of the ZBA application by certified mail, and that legal advertisement on the appeal must be placed in a local newspaper two weeks in a row prior to the hearing of the matter on a ZBA agenda which is costly and dictated by current process. **Councilor Cox** suggested that there may need to be another section of the Zoning Ordinance that will need amendment. She said she found it is an expensive process to appeal decisions, and while the city has expenses associated with the ZBA appeal process, she expressed her opinion that a \$250 ZBA application fee for an appeal is excessive.

**Councilor Orlando** withdrew his amendment to the main motion. He said there are inequities in the system, and the burden is on the resident to challenge the Building Inspector's decision.

**MOTION: On a motion by Councilor Lundberg, seconded by Councilor Gilman, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to Amend the Zoning Ordinance, Sec. 1.3.1 "Enforcement of Zoning Ordinance; Appeals of Zoning Decisions" as follows:**

**by DELETING subsection (c) in its entirety and ADDING a new subsection (c):**

**“(c) The Inspector of Buildings shall issue the following penalties for violations of the provisions of this ordinance:**

- (i) First offense: a written warning;**
- (ii) Second offense: a fine of \$100.00;**
- (iii) Third offense: a fine of \$200.00;**
- (iv) Fourth offense and each offense thereafter: a fine of \$300.00.**

**Each day that such violation continues shall constitute a separate offense.**

**The Inspector of Buildings may institute, in the name of the city, the appropriate civil or criminal action, to prevent, correct, restrain, abate or punish violations of this offense.”**

- 2. PH2016-012: Recommendation of the Community Preservation Committee re: Off-cycle recommendation for Save Our Shores Gloucester (SOSG) in the amount of \$50,000**

**This public hearing is opened at 8:16 p.m.**

**Those speaking in favor:**

**Debbie Laurie**, Community Development Department Project Manager, and Project Manager for the Community Preservation Committee (CPC) explained that the CPC was in receipt of an off-cycle application by Save Our Shores Gloucester (SOSG) in partnership with the Land Conservation Advocacy Trust (LCAT) and conveyed to the Council through a memo to the Mayor, for the acquisition and preservation of four parcels of land located at 166-178 Atlantic Road. At the time the application was submitted, SOSG had raised about \$30,000. At a special meeting of the CPC, on March 23, the CPC voted to accept the off-cycle application and recommended an award of up to \$50,000. The CPC reconvened on March 24 to add the condition of the withdrawal of the pending lawsuit filed by the property owner against the city.

**Ms. Laurie** then recounted, at the prior request of Councilor Gilman, the land acquisitions assisted by CPA fund grant awards as:

- Essex County Greenbelt Association (ECGA) Thomson Street property with a total cost of \$241,250, funded with \$120,000 CPA funds equating to 50 percent of the purchase price.

- ECGA Norcross property with a total cost of \$225,000, funded with \$60,000 CPA funds equating to 26 percent of the total cost.
- ECGA & Gloucester Conservation Commission Annisquam Woods with a total cost of \$825,000, funded with \$100,000 CPA funds equating to 12% of the total cost.
- Minor Open Space Projects funded with CPA monies: North Gloucester Woods Presentation Planning with a total cost of \$30,000, funded with \$30,000 CPA funds equating to 100 percent; North Gloucester Woods Land Parcel Appraisals with a total cost of \$15,000, funded with \$15,000 equating to 100 percent of the total cost, but this application after award was withdrawn.

**Ms. Laurie** explained that pursuant to the off-cycle CPC recommendation for up to \$50,000 for the SOSG/LCAT partnership for the purchase of four Atlantic Road waterside parcels that conditions of the award are:

- The current landowner is to drop the pending lawsuit against the City of Gloucester;
- The CPA funding is contingent on a Conservation Restriction which will be “owned” by the city.

**Ms. Laurie** highlighted that all projects financed with CPA funds:

- Projects must comply will all applicable state and municipal requirements.
- Funds are administered and disbursed by the City of Gloucester. Project oversight, monitoring and financial control are the responsibility of the Community Preservation Committee or its designee.
- The CPC will require quarterly project status updates from the CPA fund recipients. Recipients shall also provide an interim report at the fifty percent completion stage along with budget documentation.
- All projects will be required to state that, “This project received funding assistance from the citizens of Gloucester through the Community Preservation Act,” in their promotional material, and where appropriate, on exterior signage.

**Martin DeVecchio**, 11 Tragabigzanda Road, speaking for Save Our Shores Gloucester (SOSG) and Land Conservancy and Advocacy Trust (LCAT) expressed his thanks to Debbie Laurie, the CPC members, the Council and the Mayor’s office who have stepped forward to assist SOSG in the short time frame they have been faced with. He mentioned that now 450 people have stepped forward to donate towards the purchase of the four Atlantic Road parcels. He said they close next week on the parcels and assured that the land will be protected forever. The conservation restriction is a requirement of CPA funding, and is a requirement of SOSG whose intent and goal was not only to stop development and to protect the four parcels in question forever, but to also protect the rest of the Back Shore and the city’s undeveloped shoreline, he said.

**J. Michael Faherty**, 83 Mt. Pleasant Avenue, said he speaks in favor of the CPA award and expressed he was pleased to hear the recommendation for language stating, “up to \$50,000.” He added that he would caution that a conservation restriction will protect the land but the purchase is being made on behalf of the city through this grant. He indicated that in the past there has been resistance to parking being created on the Back Shore. He said for people other than those who live there to take full advantage of this open space grant under the CPA funding, that there should be a renewed effort for providing some places for parking for short periods of time to enhance the grant and its purpose. If the conservation restriction goes into place the city could find itself in a position that they can’t do anything to create the parking and that it needs more work to ensure protections are put in place. He said he hears from people that they enjoy the Back Shore but they express regrets that they can’t stop for a few minutes to take pictures and walk over the rocks to enjoy the views. He said that should be included in the language of the conservation restriction.

**Catherine Schlichte** Co-Chair of the CPC explained about the Conservation Restriction, a recommendation has to be approved by the Office of Environmental Affairs and by the city’s General Counsel and will be negotiated, and the funds will be used for the purchase of the conservation restriction.

**Martha Bowen**, 8 Pine Street spoke in favor of the SOSG funding and their push to protect and preserve the Back Shore. As to parking she said she has no solutions but suggested a possible shuttle. She said she heard the \$50,000 being withheld until a lawsuit be dropped against the city and expressed concern that the funds will be kept back to prevent SOSG from moving forward with their plans.

**Those speaking in opposition:**

**Stephan Goldin**, 14 Hodgkins Street, expressed his concern as to whether this particular CPA funding is legal. He said according to state law before land can be bought by a public body there has to be an appraisal and be fair market value determined. He reminded the Council that the city’s Assessors’ list the four parcels at \$20,000 each and as unbuildable. He noted the purchase price being touted as \$75,000. He said the appraisal is based on comparable properties, and the closest one is this actual property. He added that according to the Gloucester Times, Ms. Soones paid \$5 for the property and expressed his concern for the purchase price. He said the money is not needed given SOSG has raised approximately \$84,000 with money in hand and with pledges. If the city moves the

CPA funding forward, he suggested that those donors who had pledged funds to SOSG would pull back their pledges. He asserted that the funding is not necessary. He urged that the Council consult with the Planning Board as that Board rejected a subdivision plan of the same property for a variety of legal reasons. He suggested that the Council also consult with the city's Conservation Agent and Conservation Commission. He noted this property is no longer under threat because all parties who came forward to possibly develop it have pulled out. He said this is setting a precedent to fund the purchase of property of a speculator, he said. He suggested there may be benefit to Ms. Soones dropping her lawsuit to her as it would no longer be in her interest in light of her getting the \$75,000 from the purchase of the property. He also suggested that the Back Shore Overlay District would stand and is not spot zoning and was on firm ground. He mentioned that CPA funds are precious and that there is land around Dogtown and West Gloucester around Ravenswood that is under real threat and developable that should be looked at for acquisition in order to be protected. He said SOSG worked in good faith but that the Back Shore is not truly threatened.

**Rebuttal:**

**Mr. DelVecchio** said with regard to parking, said the long term goal for the Back Shore is for public access which means less if there is no place to park cars. He said SOSG will be working towards that goal for complete public access for the entire Back Shore and have embarked on a long-term project to assure that. He said that in the 20 years he's lived in the city, this is one issue that has united the entire city, and that this property was truly under threat. So much time was spent fighting against the development of the four parcels, he pointed out. SOSG did hire a land use lawyer to prepare for the Planning Board meeting and that their lawyer told them they have to purchase the property, and it was how they would approach this matter -- to not sit back but to act when the opportunity arose. He said SOSG has been overwhelmed with public support, in that people are appalled that there is a possibility the Back Shore water side could be developed. This funding will make sure this property will be protected within a week.

**Rebuttal of the rebuttal:**

**Mr. Goldin** said one can see on the Back Shore people are fishing under Chapter 91 rights and birdwatching, and that walking along the shoreline is a right under Chapter 91 as well. He suggested that the city could take some of the land. There is public access now and no purpose for the purchase of the Atlantic Road parcels, he asserted.

**Communications: None.**

**Councilor Questions:**

**Councilor Orlando** said that at the time of the B&F meeting, SOSG had approximately \$84,000 in donations showing on the GoFundMe website. He asked what that total was now and is the price still the same for purchasing the property at \$100,000. **Mr. DelVecchio** said that the purchase price is \$75,000 and the project budget is \$100,000. The GoFundMe campaign includes GoFundMe donations, donations they've collected through the Gloucester Fund which are posted as off-line donations and pledges through the Gloucester Fund, he explained, and said that those total now \$102,000. Councilor Orlando asked how much of the \$102,000 are in hand. **Mr. DelVecchio** responded that almost all of it. In the next two days they are in the process of transferring all the funds to LCAT to do the closing in the next few days after that. **Councilor Orlando** said his understanding is the CPA funding is just four lots (166-178 Atlantic Road) under the CPA application for \$50,000 which **Mr. DelVecchio** confirmed. The other areas noted to be protected on the Back Shore. **Mr. DelVecchio** confirmed it is for only the four lots. Councilor Orlando noted that a few moments ago Mr. DelVecchio referred to other areas on the Back Shore SOSG intends to do likewise for other waterside properties. **Mr. DelVecchio** said that CPA funds can only be used to purchase land and that the funds will be used for the purchase of the four lots and for the conservation restriction for these four lots only.

**Mr. Payson**, in response to further questions by **Councilor Orlando**, said that CPA funds can only be used to purchase in interest in land as stated in the state statute which would include an easement or a conservation restriction. He said the conservation restriction is required in MGL c. 44B which is the applicable statute that deals with Community Preservation Act funds. He said it is required that when the CPA funds are expended that the restriction runs with the land. He said with these funds the city is authorizing the expenditure of CPA money and conditioned with that under the statute that a restriction be attached. **Councilor Orlando** asked that the purchase by SOSG whom he commended for their actions to save the Back Shore, where does the \$100,000 they have had donated be used towards and where does the \$50,000 in CPA funds the Council is authorizing get used. **Mr. Payson** explained that if there is a purchase price of \$75,000; \$100,000 has been raised; \$50,000 in CPA funds, the \$50,000 is conditioned for only being conditioned to only be expended just on this property. Money is, "fungible," he advised. If they only have up to \$50,000 to use on this property the CPA funds can't be put in the pool and be used to apply to another purchase of a separate property or for any other purpose, he said. **Mr. DelVecchio** added that CPA funds are not fungible and will only be used to purchase the conservation restriction. Any other donated

funds not used for the purchase will go to SOSG to their goal of purchasing other Back Shore properties, he pointed out. He noted that CPA funds can only be used for the specific purpose which they have looked closely with Ms. Laurie and the CPC to know what the funding parameters are. He assured that SOSG will meet all the legal requirements and remain above board as to how the funds are used. This is a long-term commitment, he assured.

**Councilor Orlando** asked if the group has enough to purchase the property and for associated costs. **Mr. DelVecchio** said they do but that the unknown is the conservation restriction costs, and right at this time they don't know who will hold that restriction. An LLC has been created by LCAT will hold the land short term, he advised and that long term the property will be held by perhaps the ECGA or another conservation entity. The budget of \$100,000 for the entire project but they don't know the final dollar amount, he said.

**Councilor Cox** noted that the GoFundMe website has a cost associated and that it takes 8 percent of all funds donated. Mr. DelVecchio said that all funds displayed on GoFundMe were donated there, she pointed out, and that some money were donated through the Gloucester Fund which is tax deductible.

**Councilor LeBlanc** said they know there are enough funds to purchase the property and the CPA funds are up to \$50,000. He asked if SOSG is asking for the full amount because that there is a lot of land that CPA money can go towards for preservation of Open Space. He said he is in favor of this funding, but wanted to learn if the \$50,000 was needed entirely. **Mr. DelVecchio** said they are asking for reimbursement for the cost of the conservation restriction. This is not a question of their trying to get funds out of the Council, he said, rather, this is to purchase and execute the conservation restriction and purchase it which is what the CPA funds will be used for. He mentioned again the SOSG long term plan to preserve and protect shoreline properties, and that it may not necessarily be by purchasing waterside properties all along the Back Shore but to employ other strategies to protect them. **Councilor LeBlanc** said that the past Council had approved some parking on Atlantic Road last year very near the property up for purchase. He expressed his appreciation to SOSG for their efforts.

**Councilor O'Hara** said that CPA funds are paid by all taxpayers and many entities over the years have sought funding and expressed concern that all proper procedures be followed. He also expressed concern that there is no dollar amount known for the cost of the conservation restriction. **Mr. DelVecchio** reiterated SOSG's budget is \$100,000 with \$75,000 for the purchased price, legal fees, insurance. He said he didn't know what it will cost in the end for the conservation restriction. A member of SOSG who has experience with a conservation restriction had informed him that there is usually is an endowment that coincides with the purchase of the conservation restriction and described a situation where the LLC sells the property and the person who then buys it wants to develop it, the holder of the conservation restriction has to defend it. **Mr. Payson** said that this process is governed by MGL c. 44B, §12A, "a real property interest that is acquired with monies from the Community Preservation Fund shall be bound by a permanent restriction recorded as a separate instrument limiting the use of the interest to the purpose to which it was required. The permanent restriction shall run with the land and shall be enforceable by the city or town or the Commonwealth." He said that if the city purchases an interest in the land, the land will not be sold without the city signing off on it because the CPA funds bought an interest in it no matter the percentage and will follow the statute that a restriction be attached. He said he can't see how the property would be sold because the city would step in to protect its interest and the restriction would be recorded at the Registry of Deeds so that anybody looking at this would obviously see the restriction based on statute. Councilor O'Hara said part of the process is a lawsuit against the city. He expressed concern about this matter and asked if there will be a caveat that this lawsuit is taken off the table. **Mr. Payson** advised that the city filed an answer to the complaint made against it and there's been no discussion from the property owner's counsel about withdrawing the lawsuit. He said if the city is going to authorize the expenditure of CPA funds at the same time the city is defending a lawsuit by the property owner, it doesn't make good economic sense in his opinion, to which **Councilor O'Hara** added his agreement. **Council President Ciolino** confirmed that the \$50,000 CPA funding is conditioned in the motion that the lawsuit must be dropped against the city for the funds to be released.

**Councilor Nolan** asked if the property was purchased and gifted back to the city would there still be a need for a conservation restriction and fees for it. **Councilor Cox** said that from her experience with CPA fundings, the city can't own the land and hold the conservation restriction at the same time. The land has to go to another entity like the Essex County Greenbelt Association, she said, in order to keep the two things separate. **Mr. DelVecchio** confirmed this information had been conveyed to SOSG through the CPC application process by Ms. Schlichte.

**Council President Ciolino** asked about the process of distribution funds in that should the Council change the language of the main motion to state; "up to \$50,000" would there be a difference in the distribution of funds. **Ms. Laurie** said she was unsure but assumed that the Council would vote the whole amount and funding is based on need and reimbursement. There is a city agreement that stipulates all the conditions and then when there is a Purchase & Sale Agreement presented to the city, the city would write a check to LCAT.

**Kenny Costa**, City Auditor, added that the Council can vote up to an amount or not. There will be a reimbursement to pay, and any remaining funds would go back to the Open Space CPA reserves and return to the pot of money for the next round of CPA funding. **Council President Ciolino** said the city sees a receipt and then pays the funds out. He reiterated there is a contract that has to be followed for the distribution. The way the motion stands it is essentially the same, he said. **Mr. Costa** said the terms and conditions are contained in the contract and that the term of the contract is a generally a year or two years and he confirms that the funds are available and that the funds had receipts for reimbursements. They don't just cut a check for \$50,000, **Mr. Costa** assured. The warrant for the funds is signed by him, the Mayor's office and the Treasurer's Office and everything has been verified.

**Councilor Gilman** said the CPC minutes clearly stated the language of "up to \$50,000."

**Councilor Cox** noted that the Council should say they are buying the conservation restriction in reality. This is actually helping the city to help preserve a piece of land, reduce legal fees and is a byproduct of what the CPA grant process is for. She pointed out that with every Open Space CPA category purchase that has been funded, a conservation restriction is placed on the purchase, and that the \$50,000 is a perfect amount of money for this off-cycle funding. She said it is a good thing and is like every other purchase made with CPA money through the years.

**Councilor Gilman** said she wanted to look at what was given for all the other Open Space category fundings and noted that the biggest percentage funded was 50 percent, and others were for lesser percentages. She suggested that they didn't want to give more than 50 percent and that \$37,500 is fifty percent of the purchase price, but Mr. DelVecchio had reminded her, she said, that any extra funds collected from donations will be rolled over to protect other areas of the Back Shore which she termed as "noble." She said that she has never seen such community support for a project in her 30 years in the city.

**This public hearing is closed at 9:16 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council appropriate \$50,000 (Fifty Thousand Dollars) from the Community Preservation Act Funds as recommended by the Community Preservation Committee, for the purpose of the Save Our Shores Gloucester (SOSG) and Land Conservation and Advocacy Trust (LCAT) purchase and preservation of four (4) parcels of land located at 166-178 Atlantic Road, Gloucester, Massachusetts as Open Space. The appropriation will be allocated to the Open Space category and funded from the Open Space Reserves in Fund 270100. This project will be tracked in the Community Preservation Fund – Open Space Projects Fund #271007. This CPA funding is conditioned upon the lawsuit brought against the city, Cheryl D. Soones v. City of Gloucester et. al. is withdrawn by Ms. Soones or her designated representative.

#### **DISCUSSION:**

**Councilor Gilman** offered an amendment to the main motion to add the language that says, "...up to" \$50,000 which was seconded by **Councilor Orlando**.

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

**Councilor Gilman** said this language was used in the CPC recommendation and added it was the responsible thing to add into the motion.

**Councilor Orlando** expressed his support of the amendment as the CPA funds are from the taxpayers and has to be used in important ways but expressed his concern of setting precedent by not knowing what the conservation restriction will cost. He said putting aside \$50,000 in total is not necessarily the way to go. He lauded the work of SOSG but said that he would support this only because there will be a conservation restriction protecting the city.

**By a vote of 9 in favor, 0 opposed, the amendment to add the words, "...up to..." was passed.**

**Councilor Memhard** commented as the Ward Councilor for the Back Shore, that he lauded the thoroughness and clarity that SOSG demonstrated and named the following people: Mark Polan and his wife; Barbara Silberman, Ronn Gary, Martin DelVecchio who stepped up to stop the lots from being developed. He said they succeeded in engaging the community. He mentioned that the Council stepped up as did the Planning Board and Conservation Commission as did city staff. He noted the comments of Joseph Orlando, Sr. at the Planning Board that the investment being made on the Back Shore today is the equivalent of this generation's Stacy Boulevard. This is a good step for the city, he said.

**Council President Ciolino** stated that this is good work by SOSG but that the work isn't done yet, that there are other properties not only on the Back Shore but around the city needing protection and put into a public trust. The city can support saving precious vistas, he said, adding that they all have the responsibility to turn the city over to future generations in better shape than they inherited it as it will be their legacy. He said this is a public/private partnership where the Council was here to help. He expressed he would vote in favor of the CPA funding.

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Lundberg, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to appropriate up to \$50,000 (Fifty Thousand Dollars) from the Community Preservation Act Funds as recommended by the Community Preservation Committee, for the purpose of the Save Our Shores Gloucester (SOSG) and Land Conservation and Advocacy Trust (LCAT) purchase and preservation of four (4) parcels of land located at 166-178 Atlantic Road, Gloucester, Massachusetts as Open Space. The appropriation will be allocated to the Open Space category and funded from the Open Space Reserves in Fund 270100. This project will be tracked in the Community Preservation Fund – Open Space Projects Fund #271007. This CPA funding is conditioned upon the lawsuit brought against the city, Cheryl D. Soones v. City of Gloucester et. al. is withdrawn by Ms. Soones or her designated representative.**

**For Council Vote:**

**1. Resolution to Express the City of Gloucester’s Opposition to Offshore Drilling in the Atlantic (Cont’d from 03/08/16)**

**Councilor LeBlanc** reported that this matter had been referred back to the O&A Committee when it had been taken up at the March 8 City Council meeting for possible language amendment at the request of Councilor Orlando. He said subsequent to that referral back to Committee, President Obama announced that he was withdrawing plans for oil and gas drilling in the Atlantic Ocean. As a result, the O&A Committee took no action to amend the Resolution language and closed the matter.

**Councilor LeBlanc** moved that the Council withdraw the Resolution to Express the City of Gloucester’s Opposition to Offshore Drilling in the Atlantic without prejudice, seconded by **Councilor Nolan**.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed to permit the withdrawal of the Resolution to Express the City of Gloucester’s Opposition to Offshore Drilling in the Atlantic without prejudice.**

**Unfinished Business: None.**

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

**Councilors’ Requests to the Mayor:**

**Councilor Cox** reminded that Pride Stride is Sunday, April 24, which kicks off at noon at Stage Fort Park. She suggested people come at 11:00 a.m. for the entertainment and speeches. She advised that the city’s Relay for Life fund raising is in jeopardy of not moving forward. Relay for Life needs volunteers to keep the event on Cape Ann, she said, and urged anyone who may be interested to join her on May 9 at the First Baptist Church for a meeting.

**Councilor Gilman** noting she is the Council on Aging Council liaison and announced that there is a North Shore Volunteer Fair on Thursday, April 14, from 10:00 a.m. to 1:00 p.m. Cruiseport where interested people can meet with representatives from local non-profits to learn about volunteer opportunities. She briefly recounted her volunteer experience with Meals on Wheels

**Councilor Nolan** announced that he and **Councilor O’Hara** would be holding a Ward 5 meeting at the Magnolia Library the following evening.

**Councilor O’Hara** thanked those who stepped forward for the O&A Ad Hoc Committees. He encouraged people to attend Council meetings and the meetings of various boards, committees and commission meetings. He lauded the work of soon departing CAO, Jim Destino.

**Councilor Lundberg** noted the Empty Bowl fund raiser is coming in May, and that bowls decorated by the Council and Mayor is auctioned off along with many others. He reminded his fellow Councilors that that they can go to the Senior Center to decorate their bowl.

**Council President Ciolino** noted the Councilors have been appointed liaison to various city boards, committees and commissions and that starting at the next Council meeting he’d ask one Councilor to give an update about their appointed committee, board or commission’s activities. He also asked that when Councilors receive information from Councilors’ Requests to the Mayor that the Councilors share it with the entire Council. The Clerk of Committees offered to put that into the memorandum sent to the Mayor weekly with the Councilors’ Requests.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 9:35 p.m.**

**Respectfully submitted,**

*Dana C. Jorgensson*  
Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- **Two roadway maps from the City Engineering Department, and color photographs of the area in and around #284 Atlantic Road submitted by Dale Halchak**
- **Written statement of Debbie Laurie to the Council for Public Hearing #2, CPC recommendation for an off-cycle funding for \$50,000**