

GLoucester City Council Meeting

Tuesday, August 17, 2010

7:00 p.m.

Kyrouz Auditorium – City Hall

Council Meeting 2010-19

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

Absent: Councilor Tobey

Also Present: Linda T. Lowe; Jim Duggan; Kenny Costa; Police Chief Michael Lane; Sarah Garcia; Gregg Cademartori; Steven Winslow; Tom Markham; Dean Murray; Daniel Morris

The meeting was called to order at 7:02 p.m.

Flag Salute and Moment of Silence

Oral Communications:

Marina Evans, 81 Western Avenue, spoke regarding surveillance cameras installed in and around Gloucester's harbor expressing her surprise and nervousness to read in the Gloucester Daily Times of their positions ("four or five near my house") and installation feeling "violated" a bit by them. She believed the citizens of the community were not made aware that they were being installed until that article was published; although she noted the initiative was begun in 2007. She found many people felt the same as she - a feeling of violation; that they were not able to take a walk on the Boulevard without feeling like they're being watched all the times. She was heartened by an article that day in which Mayor Kirk said she would set up a review process on the purchase and installation of these cameras. She believed she spoke on behalf of others, that they should put the issue to a public referendum to allow the citizenry to voice their concern and to vote on the matter to decide it. She believed they do have a right to their privacy even in a public space. She expressed her awareness that this was a controversial idea; and those she spoke with didn't necessarily share that particular view; but that the best way for the citizenry to agree or decide that it is in their best interest to be "surveilled everywhere" is to bring the matter to a public referendum.

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

Councilor McGeary asked the Council to suspend the Council Rules of Procedure in order to take the Committee Report from the Special Budget & Finance Meeting held just prior this evening's City Council meeting as their first order of business of the Council. By unanimous consent the Rules were suspended.

Special Budget & Finance Meeting – August 17, 2010:

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (2011-SBT-3) of funds of \$150,000.00 from DPW Snow/Ice Removal, Salt/Sand Road, Unifund Account #101000.10.423.554.10.0000.00.000.00.054 to DPW Work Order Account, Unifund Account #101000.10.472.54307.4200.00.200.00.054 to pay for emergency school opening maintenance items as outlined in the Mayor's Memorandum dated August 6, 2010 with attachments in the amount of \$195,500.00.

Discussion:

Councilor Curcuru stated this was part of the emergency list of maintenance repairs forwarded by the Administration to satisfy the maintenance needs in order to open school August 31st. This was one of three motions that will satisfy the amount that the Administration was looking for.

Councilor McGeary observed that he asked for at the Special B&F meeting and had received assurances from the Administration that should they be certified with sufficient free cash that the first priority would be to repay the Snow & Ice account; with a second priority to build up the Stabilization Fund. He felt it was a wise decision to go to the Snow & Ice account and not "raid" the Stabilization Fund and applauded the Administration for doing that.

MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to transfer (2011-SBT-3) of funds of \$150,000.00 from DPW Snow/Ice Removal, Salt/Sand Road, Unifund Account #101000.10.423.554.10.0000.00.000.00.054 to DPW Work Order Account, Unifund Account #101000.10.472.54307.4200.00.200.00.054 to pay for emergency school opening maintenance items as outlined in the Mayor's Memorandum dated August 6, 2010 with attachments in the amount of \$195,500.00.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (2011-SBT-4) of funds of \$22,797.00 from Building Use Rental Account, Unifund Revolving Account #283007 to DPW Work Order Account, Unifund Account #101000.10.472.54307.4200.00.200.00.054 to pay for emergency school opening maintenance items as outlined in the Mayor's Memorandum dated August 6, 2010 with attachments in the amount of \$195,500.00.

Discussion:

Councilor Curcuru noted this was a continuance of the emergency repairs. This money came from the School Department. He thanked them for being a part of this process and helping to find the funds to do this emergency work.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to transfer (2011-SBT-4) of funds for \$22,797.00 from Building Use Rental Account, Unifund Revolving Account #283007 to DPW Work Order Account, Unifund Account #101000.10.472.54307.4200.00.200.00.054 to pay for emergency school opening maintenance items as outlined in the Mayor's Memorandum dated August 6, 2010 with attachments in the amount of \$195,500.00.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the transfer (2011-SBT-5) of funds for \$20,000.00 from School Department MO Contingency, Unifund Account #101000.21.370.53800.2305.00.052 to DPW Work Order Account, Unifund Account #101000.10.472.54307.4200.00.200.00.054 for the specific purpose of providing funds for the School Department School Food Service Point of Service System software (reference the School Committee 08/12/10 vote).

Discussion:

Councilor Curcuru explained that this was to pay for the Food Service Point of Service software, and the School Department is going to be transferring the money so it can be paid for.

Councilor Hardy stated the \$20,000.00 from the School Department is paying for the Point of Service system for Food Services, and it was not coming from Snow & Ice account on the City side.

Councilor Curcuru confirmed that to be the case.

Councilor Ciolino stated he would support this and would like the School Department or their Food Services Department to report back to the City Council after it was installed in a month or so to let them know how it was working and whether it was on budget.

MOTION: On motion by Councilor Curcuru, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to transfer (2011-SBT-5) of funds for \$20,000.00 from School Department MO Contingency, Unifund Account #101000.21.370.53800.2305.00.052 to DPW Work Order Account, Unifund Account #101000.10.472.54307.4200.00.200.00.054 for the specific purpose of providing funds for the School Department School Food Service Point of Service System software (reference the School Committee 08/12/10 vote).

Presentations:

1 of 2: Update of Community Development by Sarah Garcia, Community Development Director

Sarah Garcia, Community Development Director reviewed for the City Council the activities of her department, thanking the Councilors for their support and asked for their input. She noted the two-page outline of her department's activities that was in the Mayor's packet. She noted they organized their priorities around the Mayor's priorities of economic development; aging infrastructure; and fiscal responsibility. Economic development was noted as a priority specifically around the harbor. Last year they got the 2009 Harbor Plan approved and this week the draft Economic Development Plan was up on the City website which she noted as a "wonderful milestone". Mt. Auburn Associates, Carl Seidman, Vine Associates collaborated to produce a document about what they all know about the harbor and most importantly, what should be done with the steps to make it happen. She noted some of the points in the document were not radically different; support for the visitor-based economy and the emerging maritime industry. What were different were the steps to accomplish them. They are looking forward to the Seaport Advisory Council with their economic development money to have someone manage half time the implementation of this plan so it doesn't go on a shelf. "It was not a paperweight" with more information coming forward. Ms. Garcia harkened back to her start with the City at the time that the Phase 1 expansion of Blackburn Industrial Park was taking place; the road was built and the funds were secured and yet it took a long time to sell the lots of the industrial park; and concern was expressed that who would want to come to Gloucester and that the park would never fill. She was impressed by the Phase 3 build out of the industrial park. They're down to the last few lots "which is a huge success for the City of Gloucester". Having their focus turn to the downtown was not inappropriate now because it, in the meantime, was languishing. She believed there was good reason why people will want to invest on the City's waterfront. The Harbor Economic Plan lays that out. The Harbor Walk idea is to make this a place people want to invest; having been told by businesses if there was a harbor walk they wanted to be there. She noted the economic development list, with the purchase of I4-C2 central to that list. She felt even not yet redeveloped, I4-C2 has been an asset; just by taking down the fences and clearing the lot, more people are commenting on how the downtown just looks different. They have new site plan review which facilitated the release of the Doyon's Appliance building on the waterfront, long vacant; will now be the new home of the Cape Ann Brewery. The Harbor Plan is having the effect they'd hope for with supporting activities like the Maritime Development Fund which they established with CDBG money. They are trying to help property owners if they need someone to fit out their building, as long as they're creating a job, they can lend them small amounts of money, \$35,000 to \$50,000. They will make the funds available for the harbor area to help make it easier for people to be located there. Gregg

Cademartori, Planning Director; the Planning Board, and her department have been working through the proposal for the Birdseye Mixed Use Overlay District rezoning; evaluating it; and holding public meetings. Since their update from the Mayor's packet, they did receive \$400,000.00 in new loan funds for the Brownfields program. Their Grants Administrator, Sharon Dubois, hired one year ago, brought those funds into the City. The fund had been down to its last \$100,000.00 which meant that the \$800,000.00 they had before has been moving. \$350,000.00 is supporting the Paint Factory redevelopment. Under aging infrastructure she noted their completion of the Facilities Capital Management Plan which contains the square footage of the City's structures, their condition and incorporated the Police and Fire Department's facilities survey from the management audits. They look forward to citizen's proposals which help to give them guidance with values expressed in meetings. The Open Space and Recreation Plan will be presented tonight, the first in a long time. They don't always have the capacity and staff to manage these many wonderful open spaces. They need new strategies and clear rules to manage them. There is the Mass in Motion Action Plan on the website which encompasses physical activity and nutrition in the community and Steve Winslow will discuss that as to how the neighborhoods can get out and around and moving and how to initiate better nutrition for the community (mostly the nutrition piece is focused on the schools). Fiscal responsibility equates with how to make do with less money and be positioned to do that. That was why they're looking at the wind turbine proposal which has been a focus for two years. The \$50,000.00 grant for the feasibility study will be done in the fall; and they'll look for design funds by the end of the year; and coming to the Council as to how to structure the ownership/management of the turbine. They also run good housing programs to help people to be able to afford to live in Gloucester. She pointed to their housing rehab program, a first-time homebuyer's fund. They continue to run those programs with CDBG funds. The Affordable Housing Trust continues to meet being local and caring and have supported several applications which have come before it and were a great resource. The plans that have come out of Community Development she felt would position the City for the future when there is an economic turnaround and State funding flows more freely it will set them up to be ready when the monies become available. They have the draft economic plan; the Open Space and Recreation Plan; the Facilities Capital Management Plan; the HUD Five-Year Consolidated Plan is required for CDBG and home funding which was put together by the CDBG group. It is before HUD now for approval. They've had new hires from grant funding like Steve Winslow stating that was why the Open Space and Recreation plan was produced by City staff, along with the Open Space and Recreation Committee. She noted an in-house study of a section of the harbor from St. Peter's Square to Harbor Loop to look at the different connections they could make in order to identify each section in order to estimate the cost of the Harbor Walk. She pointed out normally you'd go out and hire consultants to do this for about \$30,000.00 to \$50,000.00. She felt it moves them forward faster. The Mass in Motion Action Plan was done with 18 partners, a mix of organizations and people, shepherded by Mr. Winslow. She mentioned Mr. Cademartori, Ms. DuBois, Susan St. Pierre and Matt Lustig; and the roles they have played in many of her department's successes and that of the City. She applauded their efforts and that of the Council.

Councilor Hardy asked for an update on the status of the municipal campus and where the Administration and Community Development are in making a determination as to where they are in that process.

Ms. Garcia stated they received community values from the public meetings. They have a draft list of community values statement. The next step will be for the Administration to advance proposals consistent with these values. The role of the committee was to develop the status of the buildings; to look into the kinds of options; and now will be looking at what kinds of proposals are out there that are consistent with the values. Several people have approached the Administration in that regard, and she was letting that work its way out to see whether there are viable options before bringing it back to the committee. She noted what a good committee they had which met throughout the year and expected to reconvene the committee to craft the draft values to final ones.

Councilor Hardy asked had the Administration made any steadfast rules as to the location of the municipal campus in the future.

Ms. Garcia stated no. She knew the Mayor feels she heard strong sentiment to keep the campus downtown. What they heard from the values was that they had to look at fiscal responsibility, long-term maintenance, city ownership of the assets and their fitness for use, which are all real concerns. There were no hard and fast decisions yet.

Councilor Hardy asked at what point in time it would come to the Council.

Ms. Garcia stated that no decision on City leases, purchases get made without Council involvement.

Councilor Hardy asked when the Council would make their own outreach via public hearings, or round table discussions of their own.

Ms. Garcia stated when the Administration advanced any sort of a proposal or the committee itself but ultimately any proposal would come from the Administration.

Councilor Hardy replied that the Council was anxious to move forward on the issue.

Councilor Verga hoped they do something sooner than that based on Ms. Garcia's statement of the Mayor hearing sentiment of a downtown municipal campus. He noted his recent letter to the editor of the Gloucester Daily Times, that at the neighborhood meetings it was 23 out of 30,000 who spoke in favor of a downtown campus. He told the Council he had more than that number, three or four times as many, tell him quite the opposite. He hoped that doesn't mean, "let's go work on a proposal based on those two dozen people; then comes to the Council because it's "tens of millions of dollars". He expressed he would not vote for something not accountable for how they got to that point. He hoped the Council "picks up the ball" and doesn't wait for something that's a predetermined conclusion.

Councilor Hardy stated she would be pleased to work with Councilor Verga on the matter to determine when they can get it before the Council and involve the public as well.

Ms. Garcia stated they used the example of the Fuller School versus the City Hall campus as they seemed to be the most logical choices. Their goal through the City listening posts was to gain the values to guide them not to let the public make the decision. It wasn't going out for public referendum. There was a clear role for the Council in any deliberation for a real proposal but that they want to be consistent with public values.

Councilor Verga agreed; however, he felt public values as presented by 23 people wasn't enough information yet. Regardless of whether it was a decision of Fuller versus City Hall by those 23 people, or these are the values by those 23 people, they aren't there yet, "and they need to get there".

Councilor Whynott agreed with Councilor Verga, feeling the same way asking that they look at the practicality of the issue and not just sentiment.

Councilor Ciolino stated that the 30,000 other people had their opportunity to come forward to express their views on the subject, and they didn't come. He didn't feel that could be used as a gauge as to whether something was good or not.

Councilor Mulcahey stated the meetings she had been to that many were there to keep this building (City Hall) and maybe to go partly over to Fuller School, but ultimately seemed torn. On the particular meeting she attended she felt no one wanted anything downtown. She felt elderly folks wanted the convenience of paying their bills where they'd always had, downtown; and the majority wanted the Fuller School location.

2. of 2: Open Space and Recreation Plan by Steve Winslow, Senior Project Manager and Gregg Cademartori, Planning Director

Gregg Cademartori, Planning Director and **Steve Winslow, Senior Project Manager** reviewed for the City Council the extensive draft document of the Open Space and Recreation Plan for their review (Power Point presentation submitted prior to the City Council Meeting and on file). The Open Space and Recreation Committee is chaired by Daniel Morris, which includes Noel Mann, Charles Crowley, Susan Hedman, John McElhenny, Kathryn Leahy (now resigned and noted the recent vacancy), and Dean Murray; Patty Amaral has also been in attendance (who was a member on the now defunct Clean City Commission), to many of their meetings and hoped she would possibly become a member at some point. He opened his Power Point presentation to the Council by reviewing the history/timeline of how they

came to the draft Open Space and Recreation Plan and the planning process to meet the needs and wants of the community, as well as upcoming grants with provisional approval coming forward from the Department of Conservation Services. The Draft Open Space and Recreation Plan is posted on the City's web site for community review and comment on broken down into various pieces, and was a very large document. He noted the contribution of Dan Morris, Chair of the Committee and their representative to the CPA Committee. Sarah Garcia was a collaborative contributor to the plan. Steve Winslow was the master "drafter", incorporating all the comments from all the directions they came from and importantly being cognizant of what was required to be in the plan. David Sargent, Shellfish Warden was also an important contributor, working for the City but also as a citizen. Mr. Cademartori noted this plan was 12 years in the making. There were lost opportunities because a plan was not in place as it has been tied to how the State looks at the community for other grant opportunities, not necessarily dealing with open space grants. They now have a comprehensive list of open space and recreation lands and facilities. They have all this information encapsulated in the City's GIS mapping system so they can not only answer questions but use it as a planning tool for analysis and project development. They have provisional status at this point. One of the requirements of the plan is that they have an ADA Assessment of all the facilities. Additionally, they need research in defining the protected status of some of the open spaces which will take some deed research and assistance in "chasing down" owner unknown properties; there are over 13,000 parcels. He noted the attendance at their meetings and thanked the Council for their enactment of the ordinance for the Open Space and Recreation Committee.

Daniel Morris, 363 Essex Avenue, Chair of the Open Space and Recreation Committee, echoed praise of the Community Development staff, lauding their leadership, expertise and efforts in helping the Committee and the community come to this point. He reviewed how members of the Committee became members due to their family and personal experiences from interaction in the community, their needs and interests. While they all came to the Committee with their specific interests, they needed to know where their interests fit into the needs of the community and how they could help to improve these spaces. He enumerated questions they looked to have answers for (see Power Point presentation). He noted there was a long "to do" list from his Committee and hoped to advise the Community Development Department as a start of a conversation and what the priorities are and should be.

Steve Winslow, Project Manager stated he enjoyed his participation with the Community Development Department to learn more about Gloucester. He realized that Gloucester is rich in resources like the ones enumerated in their draft plan. It is hard to understand all the facets of the City's open spaces because of their vast array. They tried to have a geographical diversity also in the representation on the Committee. He spoke of the five main goals, the first of which was to improve stewardship which meant completing inventories, making a plan for responsible management and who is responsible for them and rules to run them. He noted the non-profits who own large tracts of land in Gloucester like the Audubon Society, the Essex Greenbelt Association and working with them and others to develop stewardship partnerships. He spoke of the complexity of the inventory process. Knowing who manages these properties was also important. Not all are in the City ordinances which focus more on fields rather than places like Dogtown. They've asked for National Park Service assistance in stewardship issues. Improving existing recreational facilities and to create new areas as needed; they're now eligible for PARCs grants to fund improvements, e.g. Burnham's Field, support Newell Stadium improvements and partner with other organizations to improve existing fields. They'll look for partners to help meet matches in grants. He spoke of improvement of gateways to open spaces; and to answer the question, is there public ownership of these access points. Access by emergency services is also key in these areas. They looked at interconnecting open spaces like Magnolia to Stage Fort Park, as an example. Strategic preservation was also touched upon. In the next five to seven years there may be opportunities for these kinds of interests in development activities focusing on acquisitions to enhance existing open spaces and to work with funding partners, on projects such as the Harbor Walk. They want to move forward with actions to maintain open space in face of climate change also. In reviewing the GIS map of land, he noted there was over 16,000 acres of open space in Gloucester; 5,500 acres are officially dedicated open space, about 35%.

Ms. Garcia closed by noting the ambitious nature of these goals. But having a Committee there to take this on was a step forward for the City. Anything of substance will come forward to the Council e.g. easements, acquisitions, funding and ordinances. Comments from the public on the draft plan are invited until September 30th then the Committee will respond to comments from the State and submit the final draft plan to be in compliance. She asked the Council to look for anything they may have missed that has been brought up by their constituents, particularly for long-term thinking for the Committee to consider.

Councilor Hardy asked how the public may deed their property over to a charitable organization in order to preserve it as open space. She knew there were citizens who had come forward over the last couple of years who have done just that.

Ms. Garcia stated there are many different methods, ways to take tax deductions for giving charitable donations; easements for access where you don't give up your land by giving a right of way to people who have always used it and never have bothered them and think it's important they continue to access there or if you actually want to give the land outright to the City.

Mr. Cademartori noted there were a number of ways that donation could be done; if someone had the idea of wanting to give it directly to the City with care and custody to the Conservation Commission is one avenue. They are in an area that has very active non-profit organizations like Green Belt and Trustees of the Reservation. They are often approached before someone comes to the City because sometimes it involves lot line changes or defining easements on a plan. They can come to their department to gain a sense of what they're looking for. Very often if it is in proximity to other lands owned by non-profits might be the best custodian or steward to annex a larger conglomeration of parcels together or open space purposes.

Councilor Hardy stated if someone was interested in doing this, they could go to Pond Road to the Community Development Department office for assistance and they'll guide them through it.

Mr. Cademartori responded they would.

Councilor Hardy pointed to the actual draft plan in the hands of Councilor Ciolino at the dais stating the amount of work that had gone into the document was "phenomenal". For some it may be difficult to read the document on the web site and that there were paper copies available for review.

Ms. Garcia noted that the library and her office had copies of the draft Open Space and Recreation Plan.

Councilor Hardy also made note a copy would soon be at the City Clerk's office for reference.

Councilor Ciolino noted that his Committee wished to wait until after this presentation to the Council before taking up the matter. It will be on the agenda where P&D can ask their questions. The matter was continued. He noted that to get standards for their draft plan, they used the National Parks and Recreation Association Standards (See page 83 of the draft plan) which points to what they need for the future. It was a short list that states these standards against which Gloucester falls below. He asked for the five areas to be enumerated and the plan to move forward.

Mr. Winslow responded that they looked at and counted up the facilities, and out of that it came down to five. One was a shortage of Little League fields, which was Dean Murray's motivation to become involved with the Committee. It's hard to find practice fields, and felt they were 25% short. The Little League has come up with some suggestions to help remedy this situation. They technically have a shortage of soccer practice fields because there are so many competition fields at Magnolia Woods, which can be used as practice fields when not in use for games; and also noted a slight shortage of basketball courts. A community of this size normally has a dog park, and there is a petition for one now. Community gardens are not a part of the current Gloucester fabric, and will look to see if that can't be added. They do have school yard gardens and will talk with that group to see if there is an interest to expand them beyond that. This analysis was made against the national standards to come up with this list.

Councilor Ciolino thought by using the National Parks Recreation Standards to see how Gloucester measures up with other communities believed it was a valuable asset. He had been asking for the Committee to regain vibrancy and felt the Mayor and the people on the Committee were doing a terrific job. There is a lot of information in the draft plan and felt sure going forward it would be used as a "bible" for the City going forward.

Consent Agenda:

- **MAYOR'S REPORT**
- 1. Special Budgetary Transfer Request (#2011-SBT-3) from the Legal Department Refer B&F
- 2. Special Budgetary Transfer Request (#2011-SBT-4) from the Treasurer's Department Refer B&F
- 3. Special Budgetary Transfer Request (#2011-SBT-5) from the Personnel Department Refer B&F
- 4. Memorandum from the Fire Chief re: permission to spend \$35,935.40 from Fire Stations-Design & Repair Accounts for repairs Refer B&F
- 5. Memorandum from Police Chief re: approval to pay EMT expenses incurred during FY2010 with FY2011 funds Refer B&F
- 6. Report from City Auditor re: accounts having expenditures which exceed their authorizations Refer B&F
- 7. Appointments to Capital Improvement Advisory Board:
 - Joel Favazza TTE 02/14/2013 Refer O&A
 - Kersten Lanes TTE 02/14/2013 Refer O&A
- 8. Assessor's Department Quarterly Report Info Only
 - **APPROVAL OF MINUTES**
 - 1. City Council Meeting Minutes: 08/03/10 Approval/File
 - 2. Special City Council Meeting Minutes: 08/10/10 Approval/File
 - 3. Standing Committee Meetings: O&A 08/09/10, B&F 08/10/10 (under separate cover), P&D 08/11/10, B&F 08/17/10 (under separate cover) Approval/File
 - **APPLICATIONS/PETITIONS**
 - 1. SCP2010-010: 15 Middle Street, GZO Sec. 2.3.1.7, Sec. 1.10.1, Sec. 3.1.6, Sec. 3.2.2.a Refer P&D
 - **ORDERS**
 - 1. CC2010-058 (Ciolino) Amend Gloucester Code of Ordinances §9-1 and §9-2(A) Refer O&A
 - 2. CC2010-059 (Theken) Amend GCO Sec. 22-287 "Disabled veteran, handicapped parking" re: 2 Harvard St. 1 handicapped space Refer O&A
 - 3. CC2010-060 (Mulcahey) Amend GCO Sec. 22-287 "Disabled veteran, handicapped parking" re: Ciaramitaro/Gemellaro Playground Refer O&A

Items to be Added/Removed from the Consent Agenda:

By unanimous consent the City Council accepted the Consent Agenda as presented.

For Council Vote:**1. Warrant for State Primary Election – September 14, 2010**

The City Council voted by unanimous consent to approve the Commonwealth of Massachusetts Warrant for State Primary of September 14, 2010.

The Council then signed the warrant.

Scheduled Public Hearings:**1. PH2010-060: Amend Chapter 17 "Police" Article II re: the non-civil service process of selecting the Police Chief (Continued to 08/31/10)**

Councilor Hardy opened the public hearing and stated the matter would be continued to the August 31, 2010 meeting of the City Council so that the Personnel Director, currently on vacation, can be present at that meeting to answer Council questions.

2. PH2010-061: Amend Gloucester Zoning Map and Zoning Ordinance re: 33 & 47 Commercial Street (Birdseye Mixed Use Overlay District) (Continued to 10/26/10)

Councilor Hardy opened the public hearing and stated the matter as agreed to by the applicant's attorney, Lisa Mead, was to be continued to the October 26, 2010 meeting of the City Council. However, after agreeing to the October 26th date, Attorney Mead's client asked that the matter be brought back for public on September 28, 2010, and the request of Attorney Mead's client was received in writing. Therefore the matter was continued to the September 28, 2010 City Council meeting.

3. PH2010-062: CC2010-016(A) (Verga) Reinitiated Order to amend Gloucester Zoning Map and Zoning Ordinance re: Rezone 71 Concord Street from Extensive Business to General Industrial and R-20 Medium Density Residential

This public hearing is opened.

Those speaking in favor:

Kathy Hurlburt, 6 Causeway Street stated a few years prior the neighbors were told there would be a rezoning of the properties in question and were against that. Then there was a Memorandum of Agreement that if DeMoulas didn't build there, it would change back to the original zoning. She brought it to former Councilor Devlin when DeMoulas opened up in September 2009 their Market Basket Supermarket in their new location and asked him to start the rezoning process the previous year after the Market Basket opened. She was told DeMoulas' hadn't withdrawn their application at that point. She then reinitiated the effort to revert the parcels, all three – the small house, the open meadow and the residential buffer which is the woodland; all one parcel. That way they could block the rezoning to go back in April of 2009. She asked Councilor Verga to reinitiate the reversion of the lots to their original zoning stating the neighbors would like to have it back to where it was originally, that they were promised. She didn't know what the Council felt about DeMoulas trying to block the process to revert the zoning but reiterated that the neighbors want it changed back.

Those speaking in opposition:

Communications: None.

Questions: None.

This public hearing is closed.

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 for the lot on the corner of Concord Street and Rt. 128 to be rezoned back to Residential 2 (R2) [current designation R20] and General Industrial (GI) agreed upon in the Memorandum of Agreement between DeMoulas Supermarket and the City of Gloucester dated January 3, 2007; and therefore to amend the Gloucester zoning map and corresponding districts in the Gloucester Zoning Ordinance by rezoning the 12.95 acre parcel of land located at 71 Concord Street, Map 234, Lot 38 from Extensive Business (EB) to 7.9 acres, formerly shown as Assessors Map 234 lot 42, General Industrial (GI) district and approximately 5 acres formerly shown as Map 234, Lot 38 and 39 Low Medium Residential (R-20) respectively.

Discussion:

Councilor Ciolino explained the Council back in 2007 made a promise to the neighborhood that if the project didn't come to pass that the zoning would go back to where it existed before the project came forward. It was the feeling of P&D that this City Council should honor the promise made by a former City Council and why they unanimously agreed that it should go back to its previous zoning; an honorable thing to do and urged his fellow Councilors to vote in the affirmative.

Councilor Whynott stated it wasn't that just the Council had promised the neighborhood; DeMoulas' stood before them and stated they would also revert the zoning and had no reason not to revert it back to its original rezoning. He felt it was a "double promise" and should be fulfilled that evening.

Councilor Verga agreed with Councilors Ciolino and Whynott. He felt one of the big things people needed to keep in mind was that citizens brought forward a petition which educated him on the matter as it was before his time on the Council. It was straightforward that DeMoulas had made this promise. They made a few attempts to get DeMoulas to come to their meetings or to respond to them and that they didn't respond to their outreach efforts. Since they weren't fighting it, their Committee didn't have much of a conflict in voting to endorse this and urged his fellow Councilors to do so that evening.

Councilor Theken asked about the turning of the lots from three to one, and was it legally appropriate. **Councilor Verga** stated he was not an expert on the matter but believed that there were 3 different distinct zonings parcels that DeMoulas owned or eventually owned; believing they bought the house. Councilor Theken asked if P&D went through to see what is legal or not legal.

Councilor Ciolino noted the motion brought forward from P&D was written by Suzanne Egan, Legal Counsel.

Mr. Cademartori responded in his capacity as Planning Director for the City and related that the report of the Planning Board and their recommendation that one of the items being brought up now was a fine point. DeMoulas did come forward to the Planning Board in April, 2009; and the property that they owned was 3 lots; one small residential lot on the street as well as the two larger parcels - the former drive in use and the wetland to the north of the property and wanted to combine them into one. The effect of that combing of the lots is it preserves the zoning in effect at the time for three years from the endorsement of that plan. The Council could vote to rezone or revert to the older zoning. But for a period of time from that endorsement, about 21 months, anyone who owns that property can continue to file for a permit under the EB designation or what you proposed to rezone it to this evening. It was brought up at the Planning Board's public hearing that it was not contemplated in the agreement they put forward. The course of action of the initiation of the rezoning by the citizen petition didn't also follow the sequence of the agreement. DeMoulas is not taking any particular stance should the City pursue a rezoning was coincident that if an ANR had progressed that they were denied by the City Council for obtaining the Special Council Permit for the shopping center and didn't prevail on appeal, that was the condition they said if a year from that time the City moves forward with rezoning; the Planning Board moves forward with a rezoning or the applicant would potentially move to rezone the parcel back to the General Industrial. He believed they were in a position where the course of action did not "follow to a T" the agreement laid out but at the same time it did not contemplate the idea they would combine the lots and preserve the EB district for a period of time by an ANR freeze. There's nothing in the agreement, should the City chose to rezone the property less than a year, and they'd have the ability to do that as well. The language that is in that agreement is reiterates the process they are going through now by having a rezoning proposal, referring it to public hearing, and then taking action on it. There is nothing in that the agreement that could have prohibited the exact same scenario they have in front of them.

Councilor Theken stated if this passes, they or any purchaser of the property still have 21 months to go by the current zoning.

Mr. Cademartori stated yes; they could file a Special Council Permit application for certain uses with the City Council or act under as "of rights" in the EB district. The protection of the EB district will sunset with that three year period (when the "freeze" ends).

Councilor Ciolino noted after the 21 months if someone wants to develop that property, the neighbors would again have the opportunity to work with that zoning and go through that process again. He felt it was such a congested area that the neighbors should have an opportunity to provide their input.

Council President Hardy stated that she was among the Councilors that approved the initial rezoning of these parcels with the understanding that the Memorandum of Agreement would come into play if the development did not go forward as represented. She said that she could see Atty. McKenna standing right there (at the microphone) agreeing that DeMoulas/Market Basket would not stand in the way or appeal the reversion of the rezoning of the property if the development of the Demoulas/Market Basket grocery store did not go forward. She quoted from page 3, paragraph 4 of the Memorandum of Understanding:

..... Demoulas will not oppose or appeal the Reversion and if such Reversion is not instituted by Gloucester, the Planning Board, Board of Appeals, the Regional Planning Agency or by petition of ten registered voters of the City of Gloucester, within one (1) year of the date of the occurrence of the completion of the events described above... then Demoulas shall file a petition to accomplish the Reversion.

For these reasons she stated, she would support this petition; but wanted to make sure that the lead proponent, Ms. Hurlburt, was clear on a couple of points. Ms. Hurlburt was asked if she understood clearly what she was asking for and is this what she really wanted - did the proponent(s) understand that they were giving up one set of zoning use protections for another set of zoning use protections and that they understand the ramifications of that. Councilor Hardy stated that she believed the Planning Board asked those questions also, but she wanted to ask herself so that she would feel comfortable with her vote. **Ms. Hurlburt** felt until they knew who was going to develop the property there was nothing to understand and that there had been no protection before. She noted the rock crushing entity which was "illegal" and that a car dealership which was already in the neighborhood and parking on that property. They would once again have a buffer along Causeway Street with the reversion to the previous zoning. **Councilor Hardy** stated that it was her understanding that in April of 2009 the property owner (Demoulas) was before the Planning Board for an ANR and that it was granted - and that the current zoning stays in place (also known as "freezes") for three years from that date; therefore, even if the Council approves the rezoning tonight that it would not become effective until 3 years from the date the ANR was granted; which would put the date the property to be rezoned back to GI and R-20 to April of 2012 which is approximately 20 months from now. She stated that she was not an attorney, but questioned whether or not an "implied waiver" of the ANR freeze was in play here, because if there is an implied waiver, the effective date of a positive vote this evening would mean that the rezoning was not frozen and was effective after the appeal period runs on this vote - and she reminded all that according to the MOU the DeMoulas promise it would not stand in the way of the rezoning. **Councilor McGeary** asked if the City solicitor would look into the matter for further clarification which as to the rezoning, whether the 2007 rezoning is "frozen" until April 2012 due to the 2009 ANR or did DeMoulas "waive" the freeze impliedly.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed for the lot on the corner of Concord Street and Rt. 128 to be rezoned back to Residential 2 (R2) [current designation R20] and General Industrial (GI) agreed upon in the Memorandum of Agreement between DeMoulas Supermarket and the City of Gloucester dated January 3, 2007; and therefore to amend the Gloucester zoning map and corresponding districts in the Gloucester Zoning Ordinance by rezoning the 12.95 acre parcel of land located at 71 Concord Street, Map 234, Lot 38 from Extensive Business (EB) to 7.9 acres, formerly shown as Assessors Map 234 lot 42, General Industrial (GI) district and approximately 5 acres formerly shown as Map 234 Lot 38 and 39 Low Medium Residential (R-20) respectively.

Committee Reports:

Ordinances & Administration: 08/09/2010

There were no matters to be brought forward for action by the City Council. She wished to take the reorganization off but is going forward with the advertisement of the position but not the reorganization plan at this time. The plan will not yet be advertised for public hearing.

MOTION: On motion by Councilor Theken, seconded by Councilor Mulcahey, the City Council voted 8 in favor, 0 opposed to advertise for public hearing for the position of Facilities Manager.

Councilor Hardy stated they'd try for a public hearing on the "Facilities Manager" on August 31st.

Special Budget & Finance Committee: 08/10/2010

Councilor Curcuro noted there was no matter bring forward for action by the Council from this meeting.

Planning & Development: 08/11/10

Councilor Ciolino added a disclaimer prior to the voting below from Planning & Development making clear he represents Santa Claus for the Downtown Christmas Parade, which was to be one of the beneficiaries of the Celebrate Gloucester Concert.

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 endorse the Van Ness Group, Inc. production of the event known as the "Celebrate Gloucester" Concert to take place on Sunday, September 5, 2010 at 65 Rogers Street (also known as I4-C2) between the hours of 3 p.m. to 10 p.m., with net proceeds to benefit the Gloucester Fund which satisfies the requirement for public benefit.

Discussion:

Councilor Ciolino explained in addition to the endorsement of the Planning & Development Committee, the Mayor had submitted a memorandum also expressing the Administration's support of the event. The public benefit exists as people can vote on the Downtown revitalization project they want to receive the funds from the proceeds; and the Gloucester Fund will distribute it for the top three vote getters. He believed this was a good event and hoped it would be successful. Councilor Hardy reiterated that the fishermen have the right to their parking there and it was to be kept open and available to them during the event; and assured that those rights will always be protected.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Theken, the City Council voted 8 in favor, 0 opposed to endorse the Van Ness Group, Inc. production of the event known as the "Celebrate Gloucester" Concert to take place on Sunday, September 5, 2010 at 65 Rogers Street (also known as I4-C2) between the hours of 3 p.m. to 10 p.m., with net proceeds to benefit the Gloucester Fund which satisfies the requirement for public benefit.

Councilors' Requests Other than to the Mayor:

Councilor McGeary noted the GFAA 7 Mile. Run on the 22nd of August a brand new event. They hope it will be one of three "Cape" road races, the Falmouth Road Race, the Cape Elizabeth, ME Road Race, and the Gloucester Road Race. It's for the GFAA, and encouraged everyone to come out and support the event.

Councilor Ciolino stated Planning & Development Committee will be taking up the double pole issue and have decision-makers coming in to help solve the problem, which is to be held as a workshop. He reminded that downtown on Saturday night is another Block Party.

Councilor Mulcahey reminded the community to attend the Kevin Riley fundraising baseball game. The proceeds will be going to Kevin Riley Cancer fund. It will take place Thursday evening, 6 p.m. Stage Fort Park at Boudreau Field. She will be playing in the game along with Councilor Hardy and Councilor Theken will be the umpire.

Councilor Theken noted the Kevin Riley fundraising baseball game was a good cause and will be a lot of fun. She noted she's never umpired before! She also noted that the Ordinances & Administration Committee will be this coming Monday at 6:30 p.m. at City Hall. There will be many traffic issues taken up in that meeting. She encouraged interested parties who have items pending to check with the Traffic Commission, view the agenda on the City's website or call their Ward Councilors with any questions they may have on any of their pending matters and expressed her regret that due to the volume of traffic requests some matters were taking longer than usual.

Councilor Whynott asked the Council President to place on the next joint School Committee meeting agenda as to how vandalism is handled by the schools, as they were told on their recent tour of the schools to view maintenance issues, that it was an internal matter.

Councilor Hardy noted that she had recently spoken with Chairwoman Gilman who informed her that the School Committee would soon be reviewing their policies related to this matter and that the subject would be on the next joint meeting agenda.

Councilor Verga added that he, too, will be playing in the Kevin Riley baseball game. He also asked that the citizens voice their opinions one way or the other on the Fuller versus Downtown campus and the values to call the Mayor, or your Ward Councilor and let their voice be added to the other 23 people.

Councilor Curcuru thanked the people who showed up on the Washington Street corridor Joint Ward Meeting and asked if there are any further issues or ideas to please to contact him or Councilor Mulcahey or their respective Ward Councilor, and they will be glad to help them out.

Councilor Hardy requested a site visit noting inquiries she'd had since that meeting, and added she thought it was a well run meeting. The site visit would allow Community Development can mark where the 'nubbins' are going to be. She felt people were confused as to whether or not it's going to be a marking on the ground for a bump out or whether it will be an elevated pavement with a sidewalk coming out.

Councilor Curcuru understood the preliminary design was just that. All those discussions on the actual design will take place after they put forward the "go ahead" to do that part of the project. He didn't think there was anything "cut in stone" at the moment.

Councilor Hardy felt so they could get to that 25% degree, there would be more consensuses if they could view it in person to see where those nubbins are and hoped a site visit could be arranged soon.

A motion was made, seconded, and voted unanimously to adjourn the meeting at 8:52 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTATION/ITEMS SUBMITTED DURING MEETING: None.