

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, December 13, 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:**

**Also Present:** Mayor Sefatia Theken; Joanne Senos; Kenny Costa; Jim Destino; Chip Payson; John Dunn; Interim Police Chief John McCarthy; Gregg Cademartori; Harbormaster T. J. Ciarametaro; Donna Compton; Stephen Winslow; Kathy Clancy

**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.** Council President Ciolino dedicated the Moment of Silence to Sen. John Glenn, NASA astronaut, who recently passed away.

**Oral Communications:**

**Albert dos Santos**, 46 Rocky Neck Avenue, recounted having seen a coyote at 9:30 a.m. in front of his home in the middle of the street. He conveyed his concern to the Council for the safety of the public but especially for his young 17 month old daughter playing outside and his wife, also noting he has seen groups of coyotes wandering parts of nearby areas of East Gloucester as well. **Council President Ciolino** conveyed that there is a new Animal Advisory Committee that will be addressing this situation and expressed his understanding, also being an East Gloucester resident.

**Presentations/Commendations:**

1 of 2: Recognition of AJ Orlando, Compass Rose Landscaping re: Clark Cemetery

This matter was continued to a nearby Council meeting as Mr. Orlando was unable to attend the meeting.

2 of 2: Superintendent/Director William Lupini; Melissa Teixeira, Chairwoman & Gloucester Representative; & Marie Znamerowski, Essex North Shore Business Manager re: update on the North Shore Technical High School a/k/a Essex Technical High School

**William Lupini**, Superintendent/Director North Shore Technical High School explained that this is a return meeting from last spring. He reviewed the following:

- 1,300 students now attending the North Shore Technical High School (“school”), a school that was designed to house 1,450 students -- the school will be at capacity in the next school year. It is the only school of its type with member districts (17) and because of the merger with Essex “Aggie” a certain number of seats in eight agricultural programs are open to any student in the Commonwealth and are billed at the tuition rate set by the state. The school district from which those students come from pays that tuition. Lynn, a non-district member has 65 students although have their own vocational school and are only eligible for the agricultural programs. The balance of non-member students for the agricultural programs and ensuring member district student access to those agricultural programs was touched on, with a student number of 300 mentioned (or 75 students per class). There are students from 53 cities and towns represented at the school and about 310 are from non-member districts.
- Gloucester’s student tuition bill assessment is based on student enrollment as of Oct. 1 from the previous year. Last year there were 89 Gloucester students and the city was assessed tuition accordingly. As of Oct. 1, 2016 Gloucester’s student population was 98 which represents almost 10% of the student body.
- Student applications for the 2016/2017 school year are running ahead of last year’s applications (1,000 applicants for 366 seats). The school has moved to offer an on-line application process which is easier from an administrative viewpoint and more accessible for students and their families.
- Last year Mr. Lupini had conveyed a \$1.6 million assessment to the city and over the months that followed his last visit to the Council that assessment was reduced by almost \$75,000 through other reductions made, increases to Chapter 70 funds.

- There was some reorganization of the school's administration which reduced administrative staff costs by cutting five staff positions at a savings of \$375,000 and more changes to reduce the school's overhead are anticipated.

**COUNCILOR QUESTIONS:**

**Councilor Gilman** recognized Melissa Teixeira, Gloucester's representative to the school's Board, and member of the Gloucester School Committee as a recipient of All-State Division 1 School Committee Award, and offered her congratulations. **Ms. Teixeira** advised it is a team effort of the 20 Essex North Shore School Committee members, pointing out that there are 10 new members helping to, "make what was wrong right."

**Councilor Gilman** said having served on the Gloucester School Committee and supporting the city's entry as a district member she expressed her concern hearing that parents say they are interested in sending their student athlete to the school because of their ability to save on athletic fees. She said as strong proponents of the 20 extra fields of study with only four duplicate areas to the city's vocational programs offered at the high school this was concerning. She noted that Gloucester's school budget requires the city to subsidize athletic fees but parents still have to pay \$200 and for a sliding scale based on financial need. She advised she conveyed this concern to Chairperson Teixeira and was told this was the first vocational school to start asking for some type of help with student athletic fees. She expressed her appreciation for the start of that process. She said Gloucester is a feeder district that wants their students to attend for the academic program offerings not a cheaper way to enter into high school athletics. **Mr. Lupini** said they are the only vocational school in the state that now charges an athletic fee although small, and a partner fee, confirming that no other tech schools have that. He advised they are paying close attention to the athletic rates. He said he doesn't like these types of fees at all but they are necessary in the budget times they live in and that he will continue to review them. He said he's interested to bring money to operating budget through adult education offerings in hopes that it will generate equipment replacement funding through such a program. He also suggested that there may be other ways in which to increase that sort of funding to offset fees. He said as a vocational educator first, he believed in the central purpose of their school -- quality vocational education programs. Clubs and activities are important, he added but added that he didn't want to lose sight that it is the quality of their programs that is foremost.

**Councilor LeBlanc** said as a local contractor working on the North Shore he knew that many of his clients have children attending the school and has heard nothing but good things about it. **Mr. Lupini** highlighted a goal to increase co-op students which has about doubled, and doing outside projects for member districts. He advised that program is moving forward and their roster of projects for this school year is full seeing students doing real work.

**Councilor Nolan** offered that the superintendent has done a great job and communicated well, and that he has had no complaints in the past year.

**Councilor Orlando** asked about non-member students, outside of the 17 cities and town member districts and how their tuition is paid for. **Mr. Lupini** said it is through their cities and towns. The tuition used to come straight off of the Cherry Sheet, but now tuition is billed by the school to the school district or city or town. The state sets the tuition rate which is \$16,464 per student. They also pay a transportation rate (by law students have to be transported outside of 20 miles) on average \$1,800 but is more expensive the further the distance. **Councilor Orlando** noted as a member of the Council's Budget & Finance Committee they hear of projects that the school's students could be doing to help the city. **Mr. Lupini** asked that they convey that need to him.

**Councilor Cox** said she heard wonderful things about the programs, teachers, parents and students. **Mr. Lupini** mentioned opening up summer programs, after-school programs to give more students who may not qualify for full time educational opportunities at the school the quality vocational experiences they offer, and advised that the school is a finalist for a large grant for health-related careers programming.

**Councilor Gilman** said in viewing the school's website she found a great deal of information about the school's budget giving transparency, and offering additional presentations to member communities. As they develop their budget she asked Mr. Lupini for updates on when hearings take place so that it can be conveyed to the residents of Gloucester. Anything he can do to encourage fiscal responsibility will be appreciated she said, pointing out all member communities have financial stressors. The city is paying a lot more to send a student to the school than educating them through the city's own school system. She pointed out that although the 20 programs are valuable, anything that can be done to tighten the budget of the school will be viewed as helpful. **Mr. Lupini** said that they have met with Mayors about their school budget and conveying it in meetings such as this. All information is on the school's website and will be continued to be post.

**Councilor Lundberg** commended Mr. Lupini for his energy on this important educational opportunity so critical for those students not college bound, giving students valuable and marketable skills.



4. Grant Application for the American Legion Hall from Historical Committee (Refer B&F)
5. Memorandum from Fire Chief Smith re: Federal Grant Application to replace portable radios at Fire Department (Refer B&F)
6. Letter from Co-Chair of Gloucester Archives Committee re: acceptance of donation for the Archives Vault Construction Capital Outlay account (Refer B&F)
7. Memorandum from CFO re: Loan Order to fund improvements to various municipal buildings (Refer B&F)
8. Memorandum from CFO re: settlement of GMAA contract for the period of 07/01/16 through 06/30/19 (Refer B&F)
9. An article by Steven A. Rosenberg, Globe Staff regarding City beaches (Info Only)
  - **COMMUNICATIONS/INVITATIONS**
  - 1. City Council Civility Resolution (FCV 01/10/17)
    - **APPLICATIONS/PETITIONS**
    - 1. PP2016-011: Request from Comcast to install new underground conduit to 30 Atlantic Road (Refer P&D)
    - 2. Memorandum from Planning Board re: proposed amendment to GZO Sec. 5.27 “Medical Marijuana Treatment Centers (MMTC) & Medical Marijuana Cultivation Facilities (MMCF) to Sec. 5.27.5 “Separation” (Refer P&D)
    - 3. Application for Ward 5-2 Wastewater District Map amendment pursuant to GCO Sec. 23-42(H)(2) re: 650R Essex Avenue (Map 238, Lot 6) (Refer to P&D, PB, CIAB, ConCom, BOH, Shellfish Advisory Commission)
    - 4. SCP2016-006: Warner Street #9, Map 29, Lot 22, GZO Sec. 1.8.3 & Sec. 2.3.1(7) for conversion to multi-family four units (Refer P&D)
      - **COUNCILORS ORDERS**
      - 1. CC2016-052 (O’Hara) Whether the Code of Ordinances Sec. 4-16a “Dogs allowed on public beaches at certain times” should be Amended to expand areas to Cressy Beach from October 1 to April 30 (Refer O&A)
        - **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
        - 1. City Council Meeting: 11/29/16 (Approve/File)
        - 2. Special City Council Meeting: 11/29/16 (Approve/File)
        - 3. Standing Committee Meetings: B&F 12/08/16 (under separate cover), O&A 12/05/16, 12/12/16, P&D 12/07/16 (Approve/File)

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

**Councilor Lundberg** asked to remove Item #2 under “Applications/Petitions” Memorandum from Planning Board re: proposed amendment to GZO Sec. 5.27 “Medical Marijuana Treatment Centers (MMTC) & Medical Marijuana Cultivation Facilities (MMCF) to Sec. 5.27.5 “Separation,” in order to waive notice to abutters. He said that, “Given that notice to all abutters in the city in this situation is impracticable, therefore I moved that the City Council waive the notice to abutters under GZO Sec. 1.11.4(b) pursuant to the Memorandum from the Planning Board re: proposed Amendment to GZO Sec. 5.27 “Medical Marijuana Treatment Centers (MMTC) & Medical Marijuana Cultivation Facilities (MMCF) to Sec. 5.27.5 “Separation; that the Council is asked to amend the Zoning Ordinance accordingly; and to set the public hearing for that matter as January 24, 2017; and to refer the matter to the Planning & Development Committee and the Planning Board.” **Councilor Cox** seconded the motion.

**Councilor Lundberg** said that this matter is a recommendation of the Planning Board to eliminate the 1,500 foot separation between any two Medical Marijuana facilities. As this Zoning Ordinance amendment impacts the whole city, notifying the entire city is impracticable.

**MOTION: On a motion by Councilor Lundberg, seconded by Councilor Cox, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to waive the NOTICE TO ABUTTERS under GZO Sec. 1.11.4(b) pursuant to Memorandum from Planning Board re: proposed amendment to GZO Sec. 5.27 Medical Marijuana Treatment Centers (MMTC) & Medical Marijuana Cultivation Facilities (MMCF) to Sec. 5.27.5 “Separation that the Council is asking to amend the Zoning Ordinance accordingly and to set the public hearing for that matter as JANUARY 24, 2017; and to refer the matter to the Planning & Development Committee and the Planning Board.**

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

### **Committee Reports:**

#### **Budget & Finance: December 8, 2016**

COMMITTEE RECOMMENDATION: On a motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept under MGL c. 44, §53A a federal grant from the National Park Service’s Federal Land & Water Conservation Fund (Reimbursable) Grant Assistance through the state Executive Office of Energy and Environmental Affairs for \$250,000 for the purpose of funding the Stage Fort Park Beautification Project. All grant monies must be expended by September 30, 2018. A match of \$250,000 is required which is to be funded from a separate source other than General Fund monies.

**DISCUSSION:**

**Councilor Memhard** explained that the state and the National Park Service have selected Gloucester to receive a \$250,000 grant for the beautification of Stage Fort Park. The grant will be primarily used to create a gateway to Founder's Rock and improve the area around the bandstand; to create an events terrace; to create a trail connection towards Ravenswood and to add kayak storage. Project funds must be expended before September 30, 2018. A grant request has already been submitted to the Community Preservation Committee to provide a match commitment of \$150,000 and the rest is proposed to be funded from the use of \$100,000 in CDBG funds in the next round in a move to fund the construction of various ADA pathways contemplated by the project and brings the total match to \$250,000 or 100 percent. If all goes well, construction may start next fall. These improvements will go far towards getting this jewel of the city ready for our 400<sup>th</sup> anniversary.

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to accept under MGL c. 44, §53A a federal grant from the National Park Service's Federal Land & Water Conservation Fund (Reimbursable) Grant Assistance through the state Executive Office of Energy and Environmental Affairs for \$250,000 for the purpose of funding the Stage Fort Park Beautification Project. All grant monies must be expended by September 30, 2018. A match of \$250,000 is required which is to be funded from a separate source other than General Fund monies.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council accept a Resolution to Apply and Accept Grant Funds to Improve Stage Fort Park as follows:

“A RESOLUTION TO ACCEPT A LAND AND WATER CONSERVATION FUND GRANT FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS AND THE NATIONAL PARK SERVICE FOR THE IMPROVEMENTS TO STAGE FORT PARK IN THE CITY OF GLOUCESTER, MASSACHUSETTS:

- Whereas: Stage Fort Park on Hough Avenue in Gloucester provides both open space and recreational opportunities for city residents and visitors;
- Whereas: the improvements to this facility are a City priority as evidenced in the most recent Open Space and Recreation Plan;
- Whereas: These improvements will support activities anticipated to occur at Stage Fort Park as part of Gloucester's 400<sup>th</sup> Anniversary Commemoration in 2023;
- Whereas: The City acquired Stage Fort Park (Assessor's Map 216, Lot 140; Essex South Registry of Deeds Book 1543, Page 141) through a taking by the City of Gloucester Board of Park Commissioners on March 15, 1898 as authorized by Chapter 459 of the Acts of 1897;
- Whereas: The Stage Fort Park Beautification Project will install new accessible paths, an events terrace, a recreational trail and kayak storage;
- Whereas: The National Park Service and the Executive Office of Energy and Environmental Affairs (EOEEA) have agreed to provide a reimbursable \$250,000 federal Land and Water Conservation Fund grant to the city to fund a portion of the cost to implement that Project;
- Whereas: Survey, design, site preparation and installation of the improvements will cost a total of \$600,000 (Six Hundred Thousand Dollars) and the City has allocated \$250,000 in Community Preservation Act Funds and \$100,000 (One Hundred Thousand Dollars) in Community Development Block Grant Funds for the improvements; and
- Whereas: The Budget & Finance Committee of the City Council has reviewed and approved this Resolution as required by City Ordinance.

NOW, THEREFORE BE IT THAT

1. The City Council hereby agrees to accept the \$250,000 federal grant and to dedicate \$250,000 in Community Preservation Act Funds and \$100,000 in Community Development Block Grant funds to serve as a grant match; and
2. The Mayor is hereby authorized to take such other actions as are necessary to carry out the terms, purposes, and conditions of this grant to be administered by the Community Development Department;
3. The city hereby permanently dedicates 54.8 acres as shown in in Attachment A to park and recreation purposes under MGL Chapter 45, Section 3 and Article XCVII of the Massachusetts Constitution; and
4. This resolution shall take effect upon passage.

**DISCUSSION:**

**Councilor Orlando** said it is important to ensure that the city's tourism industry is strong and anything that improves such a wonderful asset is important. **Councilor Nolan** thanked Stephen Winslow of Community Development for putting this grant together. **Council President Ciolino** thanked the Mayor's office and the Community Development Department for working so hard on this grant, noting there is funding out there.

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to accept a Resolution to Apply and Accept Grant Funds to Improve Stage Fort Park as follows:**

**“A RESOLUTION TO ACCEPT A LAND AND WATER CONSERVATION FUND GRANT FROM THE COMMONWEALTH OF MASSACHUSETTS, EXECUTIVE OFFICE OF ENERGY AND ENVIRONMENTAL AFFAIRS AND THE NATIONAL PARK SERVICE FOR THE IMPROVEMENTS TO STAGE FORT PARK IN THE CITY OF GLOUCESTER, MASSACHUSETTS:**

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- Whereas: the improvements to this facility are a City priority as evidenced in the most recent Open Space and Recreation Plan;**
- Whereas: These improvements will support activities anticipated to occur at Stage Fort Park as part of Gloucester's 400<sup>th</sup> Anniversary Commemoration in 2023;**
- Whereas: The City acquired Stage Fort Park (Assessor's Map 216, Lot 140; Essex South Registry of Deeds Book 1543, Page 141) through a taking by the City of Gloucester Board of Park Commissioners on March 15, 1898 as authorized by Chapter 459 of the Acts of 1897;**
- Whereas: The Stage Fort Park Beautification Project will install new accessible paths, an events terrace, a recreational trail and kayak storage;**
- Whereas: The National Park Service and the Executive Office of Energy and Environmental Affairs (EOEEA) have agreed to provide a reimbursable \$250,000 federal Land and Water Conservation Fund grant to the city to fund a portion of the cost to implement that Project;**
- Whereas: Survey, design, site preparation and installation of the improvements will cost a total of \$600,000 (Six Hundred Thousand Dollars) and the City has allocated \$250,000 in Community Preservation Act Funds and \$100,000 (One Hundred Thousand Dollars) in Community Development Block Grant Funds for the improvements; and**
- Whereas: The Budget & Finance Committee of the City Council has reviewed and approved this Resolution as required by City Ordinance.**

**NOW, THEREFORE BE IT THAT**

1. The City Council hereby agrees to accept the \$250,000 federal grant and to dedicate \$250,000 in Community Preservation Act Funds and \$100,000 in Community Development Block Grant funds to serve as a grant match; and
2. The Mayor is hereby authorized to take such other actions as are necessary to carry out the terms, purposes, and conditions of this grant to be administered by the Community Development Department;

3. **The city hereby permanently dedicates 54.8 acres as shown in in Attachment A to park and recreation purposes under MGL Chapter 45, Section 3 and Article XCVII of the Massachusetts Constitution; and**
4. **This resolution shall take effect upon passage.**

**Councilor Memhard** prefaced the next four Supplemental Appropriations as being put forward by the Harbormaster from the Waterways Enterprise Fund Retained Earnings ("Free Cash") due to his department needing four crucial items necessary to cold weather patrolling and to improve a department asset of the main patrol boat, a 23 ft. Parker. The equipment being replaced is outdated, in poor condition or is past its life expectancy. They are: \$6,514 for a new GPS/radio for the main patrol boat -- there is no need for outside training as personnel are very familiar with the radar system; \$1,000 for new cold weather foul weather gear; \$1,000 for a new windshield and doors for the main patrol boat, and \$200 for a new VHF radio on the main patrol boat. The Harbormaster had advised the B&F Committee in some detail that he and his staff do a lot of towing with the 23 foot Parker, of boats, floats and other heavy items that adds many patrolling hours on the department's main asset.

COMMITTEE RECOMMENDATION: On motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2017-SA-11 in the amount of \$1,000.00 (One Thousand Dollars) from the Enterprise Fund-Waterways, Undesignated Fund Balance-Retained Earnings ("Free Cash"), Account #7000-359000 to the Enterprise Fund-Waterways, Uniforms, Account #700052-558006 for the purpose of purchasing cold weather clothing and rain boots for Harbormaster Department personnel.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve Supplemental Appropriation 2017-SA-11 in the amount of \$1,000.00 (One Thousand Dollars) from the Enterprise Fund-Waterways, Undesignated Fund Balance-Retained Earnings ("Free Cash"), Account #7000-359000 to the Enterprise Fund-Waterways, Uniforms, Account #700052-558006 for the purpose of purchasing cold weather clothing and rain boots for Harbormaster Department personnel.**

COMMITTEE RECOMMENDATION: On motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2017-SA-12 in the amount of \$200.00 (Two Hundred Dollars) from the Enterprise Fund-Waterways, Undesignated Fund Balance-Retained Earnings ("Free Cash"), Account #7000-359000 to the Enterprise Fund-Waterways, R&M-Boat & Marine Maintenance, Account #700052-524037 for the purpose of purchasing a new VHF Marine radio for the Harbormaster's Department main patrol boat.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Memhard, seconded by Councilor Cox, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve Supplemental Appropriation 2017-SA-12 in the amount of \$200.00 (Two Hundred Dollars) from the Enterprise Fund-Waterways, Undesignated Fund Balance-Retained Earnings ("Free Cash"), Account #7000-359000 to the Enterprise Fund-Waterways, R&M-Boat & Marine Maintenance, Account #700052-524037 for the purpose of purchasing a new VHF Marine radio for the Harbormaster's Department main patrol boat.**

COMMITTEE RECOMMENDATION: On motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2017-SA-13 in the amount of \$1,000.00 (One Thousand Dollars) from the Enterprise Fund-Waterways, Undesignated Fund Balance-Retained Earnings ("Free Cash"), Account #7000-359000 to the Enterprise Fund-Waterways, R&M-Boat & Marine Maintenance, Account #700052-524037 for the purpose of purchasing a new windshield and doors for the Harbormaster's Department main patrol boat.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve Supplemental Appropriation 2017-SA-13 in the amount of \$1,000.00 (One Thousand Dollars) from the Enterprise Fund-Waterways, Undesignated Fund Balance-Retained Earnings (“Free Cash”), Account #7000-359000 to the Enterprise Fund-Waterways, R&M-Boat & Marine Maintenance, Account #700052-524037 for the purpose of purchasing a new windshield and doors for the Harbormaster’s Department main patrol boat.**

COMMITTEE RECOMMENDATION: On motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2017-SA-14 in the amount of \$6,514.00 (Six Thousand Five Hundred Fourteen Dollars) from the Enterprise Fund-Waterways, Undesignated Fund Balance-Retained Earnings (“Free Cash”), Account #7000-359000 to the Enterprise Fund-Waterways, R&M-Boat & Marine Maintenance, Account #700052-524037 for the purpose of purchasing and installation of a new GPS/Radar system for the Harbormaster’s Department main patrol boat.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to approve Supplemental Appropriation 2017-SA-14 in the amount of \$6,514.00 (Six Thousand Five Hundred Fourteen Dollars) from the Enterprise Fund-Waterways, Undesignated Fund Balance-Retained Earnings (“Free Cash”), Account #7000-359000 to the Enterprise Fund-Waterways, R&M-Boat & Marine Maintenance, Account #700052-524037 for the purpose of purchasing and installation of a new GPS/Radar system for the Harbormaster’s Department main patrol boat.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend that the City Council authorize the Directors of the Gloucester Lyceum and Sawyer Free Library, Inc., and the City of Gloucester through the office of the Mayor to apply for, accept, and expend any state funds which might be available to defray all or part of the cost of the design, construction and equipping of the library project.

**DISCUSSION:**

**Councilor Memhard** explained that the motion before the Council authorizes the Directors of the Gloucester Lyceum and Sawyer Free Library, Inc. and the City of Gloucester through the office of the Mayor to apply for, accept, and expend any state funds which might be available to defray all or part of the cost of the design, construction and equipping of the library project. This added motion beyond the Council’s acceptance of the Library schematics of its building project at the November 22 Council meeting is made necessary because while there is no requirement in city ordinance to approve the application for a grant from the Mass. Board of Library Commissioners, the commission itself does require formal approval of both the City Council and the Mayor as part of the application for the construction grant. Since the application to the MBLC is due in January, this necessary step had to be brought forward now.

**Councilor Memhard** then acknowledged that he is a member of the Sawyer Free Library’s Board of Directors and a past president and said this does not pose any conflict of interest under MGL c. 268A. **Council President Ciolino** acknowledged he is an incorporator of the Library and likewise, this action poses no conflict of interest under MGL c. 268A. **Councilor Cox** indicated that under the same MGL she, too, is an incorporator of the Library and it does not affect her vote.

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to authorize the Directors of the Gloucester Lyceum and Sawyer Free Library, Inc., and the City of Gloucester through the office of the Mayor to apply for, accept, and expend any state funds which might be available to defray all or part of the cost of the design, construction and equipping of the library project.**

**Ordinances & Administration: December 5, 2016, December 12, 2016**

O&A Committee Chair, **Councilor LeBlanc**, advised there are no matters for Council action under this heading.

**Planning & Development: December 7, 2016**

COMMITTEE RECOMMENDATION: On a motion by Councilor Cox, seconded by Councilor Gilman, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve a Conservation Restriction from David B. Arnold, III as Trustee of the Musterfield Realty Trust and as Trustee of House of Commons Realty Trust for properties known as 952R Washington Street, Assessors Map 139, Lot 21; 966 Washington Street, Map 139, Lot 32; 966R Washington Street, Map 139, Lot 16; and 8 Sanderson Court, Map 139, Lot 12, to the Essex County Greenbelt Association, Inc., for the purpose of the preservation of a natural resource of the City of Gloucester and being in the public interest pursuant to M.G.L. c. 184, §31-33.

**DISCUSSION:**

**Councilor Lundberg** conveyed that this conservation restriction has been developed to plan for the long-term preservation of landscape and coastal resources at 952R, 966 and 966R Washington Street and 8 Sanderson Court (in Bay View across from Hodgkins Cove). This would protect three of the five acres of the properties that currently has four domiciles on it, and there would be a provision for an additional house on what is now a tennis court. This conservation restriction will protect the coastal bank, forested and vegetative areas and extinguishes two additional house lots. This is a donation from the land owner with a proposed closing in January. The plan and proposed conservation restriction was reviewed and recommended by a vote and Municipal Certification of the Gloucester Conservation Commission (ConCom) at its Oct. 19 meeting that such a proposal is in the public interest.

**MOTION: On a motion by Councilor Lundberg, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed, to approve a Conservation Restriction from David B. Arnold, III as Trustee of the Musterfield Realty Trust and as Trustee of House of Commons Realty Trust for properties known as 952R Washington Street, Assessors Map 139, Lot 21; 966 Washington Street, Map 139, Lot 32; 966R Washington Street, Map 139, Lot 16; and 8 Sanderson Court, Map 139, Lot 12, to the Essex County Greenbelt Association, Inc., for the purpose of the preservation of a natural resource of the City of Gloucester and being in the public interest pursuant to M.G.L. c. 184, §31-33.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Gilman, seconded by Councilor Cox, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve RFP #17070, Disposition by Lease of City-owned land for property located at 8 Washington Street, Gloucester, Mass., as put forward by the City of Gloucester Administration with the terms and conditions as presented and as incorporated in this approval.

**DISCUSSION:**

**Councilor Lundberg** briefly explained that this is the lease of the Legion Hall to veterans groups. He said that the P&D Committee has no objection to the Request for Proposal being issued as written. New to the lease is allowance for the creation of a small satellite "welcome center" to be located in the building during the high season. This is a try on and the city will work with the lessor to see if this works for all concerned. The advantage to the city is that it will open up badly needed public restrooms in the downtown area while the satellite welcome center is open.

**Councilor Cox** confirmed this is the Request for Proposal and not the award after the recitation of the P&D Chair's narrative. **Council President Ciolino** said the lease doesn't return to the Council, the Mayor has the final word. **Chip Payson**, General Counsel confirmed that was the case.

**MOTION: On a motion by Councilor Lundberg, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed, to approve RFP #17070, Disposition by Lease of City-owned land for property located at 8 Washington Street, Gloucester, Mass., as put forward by the City of Gloucester Administration with the terms and conditions as presented and as incorporated in this approval.**

**Scheduled Public Hearings:****1. PH2016-062: Amend GCO c. 4, Sec. 4-21 “Dog fouling” by DELETING Sec. 4-21 in its entirety and ADDING a new Section 4-21**

**This public hearing is opened at 7:55 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 7:56 p.m.**

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 Amend GCO Sec. 4-21 “Dog fouling” by DELETING Section 4-21 in its entirety and ADDING new as follows for the same section of Ordinance:

“Sec. 4-21. – Dog fouling

(a) Duty to dispose. It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any fecal matter deposited by the dog on any sidewalk, gutter, park, beach when permitted, street or other public area or on any private property neither owned nor occupied by said person.

(b) Duty to possess means of removal. No person, who owns, possesses or controls such dog shall appear with such dog on any sidewalk, gutter, park, beach when permitted, street or other public area without the means of removal of any fecal matter left by such dog. Furthermore, no person who owns, possesses or controls such dog, shall appear on any private property neither owned nor occupied by said person without the means of removal of any fecal matter left by said dog.

(c) Method of removal and disposal. For the purposes of this subsection, the means of removal shall be any plastic bag or mutt mitt, tool, implement, or other device carried for the purpose of picking up and containing such fecal matter, unexposed to said person and unexposed to the public. Disposal shall be accomplished by transporting such fecal matter to a place or receptacle suitable and regularly reserved for the disposal of fecal matter, otherwise designated and certified as appropriate by the Board of Health. Fecal matter placed in a plastic bag and securely tied and knotted may be disposed of in public trash containers approved for collection by the City of Gloucester. When trash receptacles are not available, a carry in/carry out trash approach applies.

(d) Fines for violation. Violation of this regulation shall be punished by a fine of \$100.00 per day for each offense and dog(s) may have off leash beach privileges revoked by animal control. Owners must have in their possession an adequate number of “poop” bags or other appropriate device for removal of their dog(s) fecal matter.

(e) Enforcement. Violations of this section shall be enforced in accordance with all other applicable laws governing municipal ordinances; however, at the option of the enforcing person, violation may be enforced noncriminally pursuant to M.G.L. c. 40, §21D and as provided in Section 1-15, rather than by a criminal complaint in district court. Authorized enforcement personnel: City of Gloucester Police Department and Animal Control Officers.

(f) Exemption. This regulation shall not apply to a person who employs a “service dog” as defined by the Americans with Disabilities Act (ADA) or regulations promulgated thereunder.

(g) Severability. The provisions in this section are severable; and, if any of the provisions of this section shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

(h) Notification. Upon licensing of a dog, the owner shall be given subsections (a) through (h) of this section by the dog officer, city clerk or persons issuing the license.”

**DISCUSSION:**

**Councilor Gilman** explained that she was the Councilor who brought the ordinance forward for amendment as it was outdated because it didn't allow dog fecal matter to be disposed of in barrels set out by the city. She said best practices research she conducted showed this was appropriate. There was a Board of Health endorsement letter (on file) in favor of this ordinance amendment. The DPW Director brought to her attention the policy was outdated. She thanked the O&A Committee's work on the matter.

**Councilor Cox** asked about the statement "adequate" bags. **Councilor LeBlanc** said it is the discretion of the Interim Police Chief and that having one bag being carried by a dog owner just isn't enough and suggested it was necessary to have more than one. **Councilor Gilman** added that she reviewed this language with the Interim Police Chief and one of the dog officers and said they were comfortable with this section's language, and that a fine initially placed in the amendment for lack of adequate disposal bags was removed because it was subjective. She added it is a matter of doing the right thing in appropriately removing dog fecal matter.

**Councilor LeBlanc** noted that he also spoke to Interim Chief McCarthy who expressed to him that he had no objection to the ordinance amendment as placed before the Council.

City Clerk, **Joanne M. Senos**, at the request of Councilor Gilman read the Board of Health letter signed by its Chair, Dr. Richard Sagall.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed, to recommend that the City Council Amend GCO Sec. 4-21 "Dog fouling" by DELETING Section 4-21 in its entirety and ADDING new as follows for the same section of Ordinance:**

**"Sec. 4-21. – Dog fouling**

**(a) Duty to dispose.** It shall be the duty of each person who owns, possesses or controls a dog to remove and dispose of any fecal matter deposited by the dog on any sidewalk, gutter, park, beach when permitted, street or other public area or on any private property neither owned nor occupied by said person.

**(b) Duty to possess means of removal.** No person, who owns, possesses or controls such dog shall appear with such dog on any sidewalk, gutter, park, beach when permitted, street or other public area without the means of removal of any fecal matter left by such dog. Furthermore, no person who owns, possesses or controls such dog, shall appear on any private property neither owned nor occupied by said person without the means of removal of any fecal matter left by said dog.

**(c) Method of removal and disposal.** For the purposes of this subsection, the means of removal shall be any plastic bag or mutt mitt, tool, implement, or other device carried for the purpose of picking up and containing such fecal matter, unexposed to said person and unexposed to the public. Disposal shall be accomplished by transporting such fecal matter to a place or receptacle suitable and regularly reserved for the disposal of fecal matter, otherwise designated and certified as appropriate by the Board of Health. Fecal matter placed in a plastic bag and securely tied and knotted may be disposed of in public trash containers approved for collection by the City of Gloucester. When trash receptacles are not available, a carry in/carry out trash approach applies.

**(d) Fines for violation.** Violation of this regulation shall be punished by a fine of \$100.00 per day for each offense and dog(s) may have off leash beach privileges revoked by animal control. Owners must have in their possession an adequate number of "poop" bags or other appropriate device for removal of their dog(s) fecal matter.

**(e) Enforcement.** Violations of this section shall be enforced in accordance with all other applicable laws governing municipal ordinances; however, at the option of the enforcing person, violation may be enforced noncriminally pursuant to M.G.L. c. 40, §21D and as provided in Section 1-15, rather than by a criminal complaint in district court. Authorized enforcement personnel: City of Gloucester Police Department and Animal Control Officers.

**(f) Exemption.** This regulation shall not apply to a person who employs a "service dog" as defined by the Americans with Disabilities Act (ADA) or regulations promulgated thereunder.

(g) **Severability.** The provisions in this section are severable; and, if any of the provisions of this section shall be held unconstitutional or otherwise invalid by any court of competent jurisdiction, the decision of such court shall not affect or impair any of the remaining provisions.

(h) **Notification.** Upon licensing of a dog, the owner shall be given subsections (a) through (h) of this section by the dog officer, city clerk or persons issuing the license.”

2. **PH2016-063: Amend GCO Sec. 1-15 “Penalty for violation of certain specified sections of code” by DELETING Chapter 4, Sec. 4-21 “Dog fouling” in its entirety and ADDING a new Section 4-21 “Dog fouling”**

**This public hearing is opened at 8:05 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 8:06 p.m.**

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 Amend GCO Sec. 1-15 “Penalty for violation of certain specified sections of code by deleting Chapter 4, section 4-21, dog fouling.” in its entirety and add new as follows:

“Chapter 4. section 4-21, dog fouling.

Penalty:

\$100.00 per day for each offense and dog(s) may have off leash beach privileges revoked by animal control.

Authorized enforcement personnel: City of Gloucester Police Department, Animal Control Officers.

**DISCUSSION: None.**

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed, to Amend GCO Sec. 1-15 “Penalty for violation of certain specified sections of code by deleting Chapter 4, section 4-21, dog fouling.” in its entirety and add new as follows:**

“Chapter 4. section 4-21, dog fouling.

Penalty:

\$100.00 per day for each offense and dog(s) may have off leash beach privileges revoked by animal control.

Authorized enforcement personnel: City of Gloucester Police Department, Animal Control Officers.

3. **PH2016-064: Amend c. 4, Sec. 4-16a “Dogs allowed on public beaches at certain times” by DELETING subsections (12) through (16) in their entirety and ADDING new subsections (12) through (14)**

**This public hearing is opened at 8:07 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 8:07 p.m.**

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 Amend GCO Sec, 4-16a "Dogs allowed on public beaches at certain times" by DELETING subsections (12) through (16) in their entirety and ADDING new as follows:

- "(12) Owners must fill in any holes dug by their dog(s).
- (13) Any violations of conditions (1) – (12) above shall be subject to a fine of \$50.00 for each offense.
- (14) Unless renewed or made permanent by the city council and signed by the mayor, the provisions of this section shall expire on December 31, 2017."

**DISCUSSION:**

**Councilor Gilman** explained this amendment was deleting something duplicated in the dog fouling section and another section -- a simple ordinance housekeeping matter.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the City Council voted 9 in favor, 0 opposed, to Amend GCO Sec, 4-16a "Dogs allowed on public beaches at certain times" by DELETING subsections (12) through (16) in their entirety and ADDING new as follows:**

- "(12) Owners must fill in any holes dug by their dog(s).**
- (13) Any violations of conditions (1) – (12) above shall be subject to a fine of \$50.00 for each offense.**
- (14) Unless renewed or made permanent by the city council and signed by the mayor, the provisions of this section shall expire on December 31, 2017."**

**4. PH2016-053: SCP2016-004: Great Republic Drive #38, Map 263, Lot 64, GZO Sec. 1.5.3 (c), Sec. 5.7 "Major Project" & Sec. 5.27 "Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities"(Cont'd from 11/22/16)**

**Council President Ciolino** recounted the Council's Rule of Procedure, Rule #4 governing the Council's Public Hearing procedures.

**Councilor Orlando** declared under M.G.L c. 268A that there may be a perception of a conflict of interest as Attorney Joel Favazza, representing the applicant for SCP2016-004, Happy Valley Ventures MA, Inc., was his attorney for a recent home refinancing but said it will not affect his vote. **Councilor LeBlanc** indicated that under the same M.G.L. he has done work in his capacity as a contractor for Attorney Favazza but that it will not affect his vote. **Councilor Gilman** said that Mr. Favazza represents her and her husband in a pending real estate transaction and that it will not affect her vote.

**This public hearing is opened at 8:09 p.m.****Those speaking in favor:**

**Attorney Joel Favazza**, Seaside Legal Solutions, 111 Main Street, advised he was representing the applicant, Happy Valley Ventures MA, Inc. (HVV) for a Special Council Permit under GZO Sec. 1.5.3(c), Sec. 5.7 "Major Project" & Sec. 5.27 "Medical Marijuana Treatment Centers & Medical Marijuana Cultivation Facilities" for a site located at #38 Great Republic Drive.

**NOTE:** A group presentation follows utilizing a Power Point presentation, placed on file.

**CORPORATE OVERVIEW:**

Happy Valley Ventures MA, Inc. is seeking to be permitted for a Registered Medical Marijuana Dispensary (RMD) at 38 Great Republic Drive and Cultivation Facility. Introduced to the Council was **Michael Reardon**, Chair and founding partner of Happy Valley Ventures MA, Inc. (HVV) which is the corporate entity under which HVV has applied for Medical Marijuana licenses with the Department of Public Health (DPH) in Mass. **Mr. Reardon** pointed out he is also present separately as the managing partner of HVV Gloucester, LLC, formed in 2016 to purchase 38 Great Republic Drive – HVV Gloucester LLC is a for-profit entity that will maintain the development

added to the city's tax base, unlike Happy Valley Ventures MA, Inc., which is a not-for-profit entity. HVV is composed of a Board of Directors, of which he is Chair, and his corporate Co-Chair is Eddie Lauth, who started the one of the first spring water companies in the U.S. in the 1980's, grew the business and was bought out by the French company that brands Evian and then moved into the real estate business. He advised they leverage their real estate background in all that they do and invest. He said they are committed to the HVV project specifically custom designed, comprised of a 7,500 square foot dispensary to have contained in that building a small cultivation facility that will produce the medicine HVV will sell to patients. He noted it will be a limited "grow" due to the size.

**Mr. Reardon** conveyed that future growth as the market enlarges in Mass. will move forward the development of another building on the property dedicated to cultivation, production and processing. HVV is making a huge investment in the millions of dollars in Massachusetts, he pointed out. He said a friend, a Gloucester native, suggested the city to him and to Attorney Mr. Favazza and a suitable property was suggested. He assured the Council that everywhere they go they commit for the long term; and are committing to a local preference for hiring employees and hiring contractors. He said they've been successful to date with their application process with the DPH, having been awarded provisional certificates of registration for three dispensary locations: Gloucester, Amherst, and Boston. Also in process is a central cultivation facility in Fitchburg, their main cultivation facility in Mass., and have pending a Special Permit with the town of Fitchburg, he advised.

He noted in order to get to this point, a team was put together for the cannabis operations they were embarking on consisting of: 4Front Ventures, specializing in guiding HVV through the application process, and then setting HVV up with protocols, procedures and training their dispensary employees to remain in compliance -- protecting their investment, the licensure, and ensuring that patients are getting their medicine safely and securely. MJARDIN is a company that is expert in cultivation of medical marijuana out of Colorado and will oversee all of HVV's cultivation and the facility in Gloucester. Agoge Compliance has been hired, a group consisting of all enforcement personnel, who will set up standard operating procedures in training their security staff; and American Alarm will install their security systems.

**Mr. Favazza** then reviewed as follows:

**HVV HISTORY WITH GLOUCESTER:**

- Feb. 2016 -- HVV met with the city's CAO, Community Development Director, Planning Director and former Chief of Police.
- March 2016 -- Present to Planning Board; hire and host experts from 4Front Ventures; in depth review of state regulatory process was touched upon noting that the applicant has to go through a rigorous state process before getting to the local permitting process. This now allows for a business to come and provide service to the community. It was touched upon that 4Front experts were made available to the Planning Board to suggest revisions to the Zoning Ordinance to bring the city in line with industry standards.
- April 2016 -- Host Community open house at The Tavern to explain details and benefits of RMD's to interested residents attended by about 40 people.
- May 2016 and June 2016 -- The HVV team met again with Jim Destino, CAO negotiating a Host Community Agreement; and a Letter of Non-Opposition was needed from the Administration and in listening to concerns of the city staff, a Host Community Agreement (HCA) was then negotiated and both the HCA and the Letter of Non-Opposition were signed. It was noted that the HCA allows for the city participating in a growth revenue sharing plan receiving five percent gross revenue by year three of a minimum of \$100,000 a year in addition to any assessed real estate taxes, etc. The Council then formerly enacted GZO Sec. 5.27 as edited by the Planning Board in the previous months.
- Over the summer the HVV team met with the Interim Police Chief and the Fire Chief, City Engineering, and the Planning Director, presenting plans for review and revised them based on city departmental input.
- September 2016 -- The Special Council Permit application was filed with the City Clerk; multi-department review continued; the Planning Board process was begun, and there was a brief presentation to the Planning & Development Committee as well, as talks with city staff continued.
- October 2016 -- There was a Planning Board Site Visit; a neighborhood meeting on site, and the Planning Board unanimously recommend the HVV application.
- December 7, 2016 -- A positive recommendation was received from the Planning & Development Committee.

**BENEFITS TO THE CITY:**

HVV will endeavor to do the following:

- Develop a vacant parcel of ground that will remain fully taxable including equipment and fixtures. It was posed that Mr. Reardon's preference is to use local contractors whenever possible during construction and to hire locally when the facility is operational.
- Work closely with the Police, Building and Planning Departments on protocols, code compliance and public safety.
- To be an active corporate member supporting local Gloucester charities and community organizations.
- The facility when completed is anticipated to hire 50-60 full-time employees when at full capacity, and it was reiterated that the company will do its best to hire local people subject to DPH approval.
- To assist patients in the community by providing medicine at low costs to those patients who have limited financial means.

#### BUILD OUT:

- The design is a "purpose built" RMD insuring a high quality experience for patients in a state-of-the-art safe and secure facility. The design was said to be "rare" among the RMD's having a garage in both buildings which are locked for the secure and discrete delivery of product and subsequent pick-up of cash. There is sufficient floor space where caregivers can meet privately with clients. The site has been designed to have excellent access, ample parking, room for shuttle service and handicap parking.

#### ECONOMIC BENEFITS FOR GLOUCESTER:

- Under the Community Benefit Agreement by year three, HVV must contribute five percent of gross sales on a quarterly basis to the city with a \$100,000 minimum.
- Real Estate Development & Construction Investment:
  - Dispensary with limited cultivation = \$1.5 million
  - Cultivation/Processing Facility = \$2.0 million

TOTAL INVESTMENT: \$3.5 million

It is projected that revenues have gross potential retail revenue of about \$4.6 million annually.

#### 38 GREAT REPUBLIC DRIVE – EXISTING SITE:

The site was shown in current conditions from the northern side and was described as a dirt lot. Topographical plans (on file) were noted; the Site Plan was shown for the easterly side of site which is where the first building is proposed consisting of 7,500 square feet split 55 percent cultivation/45 percent processing dispensary. The westerly half of the site will house the second building in Phase 2 which will be strictly a commercial/industrial building, with some processing, manufacturing and/or cultivation.

An alternative site plan was reviewed highlighting the southeast portion of the site, and it was noted that the only difference on the lower portion (southern corner) of the parking lot is a second access for emergency vehicles and emergency personnel only as was stressed by Interim Chief McCarthy and Fire Chief Smith who wanted a singular emergency access. **Mr. Favazza** advised that the second entrance will be gated for emergency access only. No patients, visitors, or employees will be able to use that gate.

Renderings of the site with both buildings were shown after construction is completed for both building #1 and #2 (cultivation facility) and briefly described. The dispensary building is the client facing building and the majority of people will interact with that. Architectural slides were shown briefly (on file).

**Kris Krane**, President, 4Front Ventures, Boston, MA, a firm retained by HVV to help with operations protocols reviewed that his company is a leading firm with expertise in operations and "best-in-class" RMD's adhering to the highest operational standards. He touted the company's development of a comprehensive set of operating policies and procedures available in the Medical Marijuana industry currently. He described that these solutions were developed from the principals followed by some of the country's most successful retail chains and cater to the medical cannabis industry. 4Front Ventures has developed the operations and training protocols for companies such as Einstein Bros. Bagels, Panera Bread, Dean & DeLuca, Disney Stores, and others and then take these successful models, tailoring it to the cannabis industry.

He reviewed that for the HVV Medical Marijuana facility, the process starts with a doctor making a prescriptive recommendation for the patient which has to be approved and a certificate issued by the DPH; and only the patient or a certified caregiver is allowed to obtain the Medical Marijuana. He noted a slide in the Power Point Presentation that listed some of the health conditions such as cancer, Lou Gehrig's Disease (ALS), Epilepsy, chronic pain, etc., that medical marijuana helps to ease.

He conveyed that 4Front will help with employee practices which include an annual "agent" registration for all employees with the DPH, including managers and volunteers. 4Front will verify that employees have a clean criminal history; verify employees understand DPH regulations regarding transportation and sale of medical marijuana; and has an understanding of DPH protocols. He reviewed the training process highlighting a five-day management training program modelled on corporate franchise training, and on the requirements of the DPH in

terms of operations of such a facility. His company will also assist in creating employee handbooks, operations manuals, tools for each department, medicine mixture optimization and patient service programs. 4Front, he related, will work with service providers in the area to encourage access to services from other healers on Cape Ann. He showed a proposed floor plan and reviewed briefly the security protocols that are in compliance with DPH regulations. Access points were noted to be singular to each function. **Mr. Krane** highlighted MJARDIN, the HVV cultivation consultants and touched on the work they do nationally with a proven track record of zero violations. That firm will manage the cultivation and harvest at the facility. Agoge Compliance Management, he advised, is a premiere security design services firm, founded by members who have been in medical marijuana security and compliance management industry since 2011; Agoge will train HVV's security staff.

**David Hunt**, American Alarm and Communications of Arlington, MA, said the company has been in business for 41 years, designing over a dozen of these facilities' alarm systems statewide. He said he has 34 years in specialized design and installation of security systems for medical marijuana facilities. He described briefly a four-pronged approach to the state-of-the-art security systems, saying there are very rigid state requirements that are very detailed. American Alarm, he conveyed, will work with local law enforcement from the onset to ensure they are comfortable with the HVV security plans; and before going live with the alarm system, American Alarm will review all plans with them. He mentioned that all monitoring is done through Arlington.

#### REVIEW OF OTHER CITY JURISDICTIONAL PERMITTING

**Mr. Favazza** touched upon the necessary Conservation Commission (ConCom) review, communicating that it is required before a building permit can be issued as 38 Great Republic Drive, even with a Special Council Permit in hand as the property is in a buffer zone to a wetland resource area as to entering into the ConCom review process. He advised that at the Planning & Development Committee meeting of Dec. 7, there was a question of timing of pursuing the ConCom review after a Special Council Permit issuance. He pointed out that state law governing ConCom filings recommends that all other permits, variances, etc., be obtained before applying for an Order of Conditions, and further requires that the applicant at least has applied for every permit that might be needed before an applicant is allowed to file with ConCom. He said the choice was made to pursue this particular permitting route because a very detailed engineering plan is beyond that which is required for a Special Council Permit and very costly to produce. He added that the Notice of Intent filing will require extremely detailed engineering plans which is a level of detail well beyond that which is required under the Zoning Ordinance for a Major Project. He noted that 38 Republic Drive is on an existing improved upland, and the applicant will not be adding significant fill or pushing the boundaries of the uplands towards the resource area. He suggested there would be mitigation plantings required towards the wetland resource area. He mentioned the on-site stormwater installation that will be made. He added that this is not unique, in that a stream runs through the Blackburn Industrial Park which has not inhibited the development of other properties there. He indicated that ConCom will intently review the application as to waste water disposal. The state considers water use for processing and cultivation of medical marijuana as industrial waste, he pointed out, and the system to mitigate the waste water into the city's sewer system has yet to be developed for the pre-treatment/on-site treatment. He cited that the applicant hasn't informed the Council of the manner in which they will sprinkle the building nor how it will be wired or plumbed, pointing out these are very detailed items which would be premature at this level. He said that they can't get anywhere without sign offs from the DPW on the waste water issue. He suggested that it is appropriate to come to the Council now for a Special Council Permit and that the Council can be assured that city inspectors, state and local regulations have to be complied with. By permitting the Special Council Permit, he said, it shows that the city is committing to the city as HVV as HVV is committing to the city.

#### LEGAL STANDARDS UNDER GZO Section 5.27:

**Mr. Favazza** conveyed that: Section **5.27.3** Requires Special Council Permit for use and triggers: **Sec. 5.7** Major Project review and **Sec. 5.8** Site Plan Review. **Sec. 5.27.4** discusses criminal background checks, all taken care of at DPH level; **5.27.5** Separation of facilities: currently 1,500 feet from schools, churches, playgrounds and other RMD's, etc. and that this proposed facility complies with that and the 500 feet separation from residentially zoned property. **Sec. 5.27.7** says that signage must comply with the sign ordinance; **Sec. 5.27.8** Medical Marijuana says that infused production must be attached to a cultivation or treatment facility which the site is designed to meet; and **Sec. 5.27.9** says that an annual report must be sent to the city. The state goes through everything annually, and the city wanted the same level of reporting which he said the applicant is prepared to do.

#### LEGAL STANDARDS UNDER GZO Sec. 1.8.3:

1. Social, economic and community needs: HVV will provide a needed medical service to the community, provide construction jobs for local contractors and ongoing employment opportunities for residents.

2. Traffic Flow and Safety: The site is specifically designed as an RMD. The site is connected to a well-maintained, large road via purpose built access point(s). It was noted that the DPW Director sees no issues with this aspect.

3. Adequacy of utilities and other public services: The site is located in the Blackburn Industrial Park among other manufacturing facilities, and all needed utilities are waiting in the road for the development of this dirt lot.

4. Neighborhood character and social structure: The Industrial Park is a mix of commercial and industrial facilities and is the only zoning district in the city which RMD's are currently allowed.

5. Qualities of the Natural Environment: Currently the site is a dirt lot with some scrub vegetation and no drainage. There will be no notable expansion on the existing fill. There will be the addition of significant green space and plantings with no discernable expansion of fill; and a comprehensive stormwater drainage system to handle on-site demands will be installed. The wall of the upland drops off precipitously, and no make any significant changes to the upland part is anticipated.

6. Potential fiscal impact: A minimum \$100,000 a year to the city via the HCA; and site and buildings remain fully taxable and HVV is investing \$3.5 million into the site which assumes will bring up the property's assessed value.

LEGAL STANDARDS UNDER GZO Sec. 5.75 Major Project review was noted to not be geared towards what HVV is doing but that several standards do apply:

1. Access form arterial or collector street which Great Republic Drive qualifies as a collector street pursuant to subdivision rules and regulations.

2. Site Plan requirements: screened parking areas; lighting avoids glare; cars not backing onto public ways avoided and major topographical changes avoided. At the southern portion of the site the last few spaces are relatively close to the road but otherwise the rest of the parking for staff and patients and delivery trucks is screened by plantings and buildings. Lighting fixtures are facing downwards with no glare to adjacent properties. Buildings are sparse and less likely refracting light on adjacent properties.

**Adam Fine**, representing Mayflower Medicinals, advised his client has no problem with the HVV application and was in favor of both that dispensary and theirs going forward.

**Those speaking in opposition: None.**

**Communications:**

**Ms. Senos** advised that the Council received communications (on file) in advance of the public hearing, and recounted as follows:

**Joseph Orlando**, as citizen and member of Planning Board in support of Happy Valley Venture's (HVV) application submitted by email;

**Laurel Feder**, Gloucester Chiropractor in favor of HVV application, by email;

**Gwendolyn Ryan**, Gloucester resident, cancer victim who has DPH certificate and must travel to Salem for her Medical Marijuana, in favor of HVV application, by email;

**Lin Chandler**, 222 Eastern Avenue, in favor of HVV application, by email;

**C.J. Townsend**, Townsend Insurance, Prides Crossing, in favor of HVV application, by email;

**Virginia Bergmann**, 1 Twin Lights Circle, Rockport, former long-term member of Zoning Board of Appeals, against any Medical Marijuana dispensary permitting, submitted by U.S. Mail.

**Council President Ciolino** asked show of hands of those present in the audience at that juncture to raise their hands if they were in favor. A majority of those present indicated by raising their hands they were in favor of the HVV application for Special Council Permit and three members of the audience raised their hands to indicate their opposition to the HVV application.

**Councilor Questions:**

**Councilor LeBlanc** said that it was noted there would be a 7,500 square foot RMD with some medical marijuana processing in that building. He asked for the size of the second proposed building. **Mr. Favazza** advised that the second building is proposed at 9,000 square feet. The original design was for 15,000 square feet, but with concern expressed by the Fire Chief to maneuver emergency vehicles on the property the facility was reduced.

**Councilor Orlando** noted the different types of illnesses that would be assisted by medical marijuana, and noted ALS, and several others. **Mr. Krane** said ALS is one of the specified conditions when the law was passed, and that there was a broader list that medical marijuana can help. He conveyed there is a provision that allows for doctors to make recommendations for other patient conditions that aren't specifically listed other than those listed in the law. **Councilor Orlando** asked if any other conditions related to opioid addiction are assisted by medical marijuana. **Mr. Krane** said there is some evidence of medical marijuana being used for weaning patients off of opioids, and other states do offer substance abuse counselling on site, but that is not allowed in Massachusetts. He briefly touched upon a California study related to this issue. **Councilor Orlando** noted Mr. Reardon spoke about

local hiring and asked about any metric HVV might put in place for hiring. **Mr. Reardon** said they are working with a human resources group that will develop job descriptions and that there will be hiring preference for the area. Potential hires have to go through DPH approval, from salaried positions to hourly wage employees. **Councilor Orlando** asked if there is any estimate for assessed property value after the completion of the project and as to potential tax revenue. **Mr. Favazza** said as these facilities are relatively new, there is not much of a comparables pool to pull from, but reiterated that HVV's investment is going to be \$3.5 million to the property. He suggested that the second building may be easier to assess as it is purely commercial/industrial, but would be assessed at a higher rate than a vacant dirt lot.

**Councilor Gilman** noted that Mr. Favazza said ConCom review is required before a building permit can be issued. At P&D they talked vigorously about conditions for this particular application, she advised and asked if Mr. Favazza recommends that the Special Council Permit be conditioned related to an Order of Conditions being issued, or was it enough on his say so. **Mr. Favazza** said if the Council is more comfortable in placing such a condition it would be okay. **Councilor Gilman** asked how the recent state vote legalizing recreational marijuana is expected to impact the sustainability of medicinal marijuana. **Mr. Favazza** said other areas of the country where medicinal use of marijuana has been followed by adult recreational use, there are implications as to the type of products and as to the tax consequences whether one is a medical marijuana patient receiving medicine and whether one is a recreational adult user. **Mr. Krane** said in Colorado, it took about three years of legal adult recreational marijuana use for it to eclipse medical marijuana. He said they anticipate no matter what happens that there will still be a robust market for medical marijuana for adult use. He mentioned the full taxes that will be paid to the state for recreational adult use of marijuana.

**Councilor O'Hara** asked for the breakdown of the money to be collected by the city, mentioning the five percent of gross sales or \$100,000 minimum per agreement between the city and HVV. **Mr. Favazza** confirmed that will be the case. It is two percent in the first year; three percent in the second year and then five percent in the third year and thereafter. He advised that the details are in the Community Host Agreement. After the first three years, if the company hits their targets, it could be \$235,000 to the city. **Councilor O'Hara** said in assuming the best situation that permits are granted, when did HVV anticipate opening their facility. **Mr. Favazza** suggested that construction would begin as soon as the first appeal period runs out, and it depends on how the Fitchburg permitting for the cultivation facility moves forward. If Gloucester is up and running, it would take four months for the first medical marijuana harvest to come in, he said. **Mr. Reardon** expanded that based on the process with a Major Project and with further permitting, it would likely be about March/April of 2017, but suggested that could be an aggressive timeline. There is considerable site work to be done, he advised, suggesting it would take 60 days to get the site prepared. Based on the design and cultivation, it would be the spring when they could open the doors – nine to 12 month build-out. **Councilor O'Hara** reconfirmed HVV would be hiring local contractors putting local people to work. He then asked if the Interim Police Chief was pleased with the security system that would be implemented. **Interim Police Chief John McCarthy** said the department has been involved in the pre-permitting meetings and that the facility would be up to the standard of any city building such as a bank.

**Councilor Gilman** asked about HVV's marketing strategy to local physicians, that this facility will be available to area patients. **Mr. Krane** said there are strict restrictions per the DPH. HVV's services can't be advertised on TV or billboards. Most advertising, he advised, will be done through newspapers, weekly papers as well as on line. There are some websites where patients can find where to find dispensaries, he noted. Medical marijuana treatment centers are prohibited by state law to list pricing unless the patient comes into the dispensary. He advised his company encourages everyone they work with to do outreach to the area physicians to discuss how medical cannabis can be helpful to their patients, and pointed out unlike pharmaceutical companies, the RMD's can't financially incentivize the doctors.

**Councilor LeBlanc** asked about security and checkpoints and other features that will be in place on site, noting a facial recognition system mentioned during the P&D meeting. **Mr. Hunt** reviewed that most of what they do is guided by 105 CMR and the DPH which is very rigid. Their systems they employ can use all analytics and is built in. As they get further into the process they will consult with the Interim Police Chief, he noted. He imparted that a lot of these facilities phase into their security as their facility grows, and that IT video is advancing rapidly. He said the entry to the facility is by mantrap and anyone entering must have their state issued certificate. There is a security window where the certificate is checked, and is also checked by video. There are set ups in each of the facilities where you can't get through but only one door at a time.

**This public hearing is closed at 9:11 p.m.**

COMMITTEE RECOMMENDATION: On a motion by Councilor Cox, seconded by Councilor Gilman, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council issue a Major

Project Special Council Permit (SCP2016-004) for a Medical Marijuana Cultivation Facility and Treatment Center to Happy Valley Ventures MA, Inc. (applicant), Map 263, Lot 64 at Great Republic Drive #38 pursuant to Sec. 1.5.3(c), Sec. 5.7 "Major Project" & Sec. 5.27 "Medical Marijuana Treatment Centers & Medical Marijuana Cultivation Facilities" and 1.8.3 of the Zoning Ordinance.

#### **DISCUSSION:**

**Councilor Lundberg** then immediately proposed the following amendment to the main motion by inserting language as follows after "1.8.3 of the Zoning Ordinance" "in reference to Existing Conditions Plan Sheets 1 through 4 and 5 of 5 by Gateway Consultants Inc., as signed by John P. Judd, PE, dated 9/1/16 with the following conditions:

1. The work described herein requires the approval of a site plan by the Gloucester Planning Board pursuant to [Section 5.8](#) of the Gloucester Zoning Ordinance. Any conditions imposed in such site plan approval shall be incorporated herein by reference."
2. The work described herein requires the approval and issuance of an Order of Conditions from the Gloucester Conservation Commission pursuant to 310 CMR 10.00, or any superseding order of the Department of Environmental Protection (DEP), if applicable, and an Order of Conditions issued under the Gloucester Wetlands Ordinance, Code of Ordinances Chapter 12 Marshlands. Any conditions imposed in such approvals shall be incorporated herein by reference. If there is any inconsistency between the Record Plans, and the plans as may be approved by the Conservation Commission or the DEP, the Applicant shall submit an amended plan to City Council, and the Planning Board for review, and to the Conservation Commission and to DEP (if applicable) for approval in order that all approvals are consistent with one another.
3. Following construction of the Project, the Applicant shall provide an "as-built" site plan to the City Council, the Planning Board, the Engineering Department, and the Building Department prior to the issuance of the final certificate of occupancy for buildings in the Project in accordance with applicable regulations. Partial Certificates of Occupancy may be issued upon completion of various phases of the Project. The Applicant shall provide a separate as-built plan depicting grading, drainage structures, water and sewer services and facilities to the Engineering Department demonstrating compliance with the Record Plans and installation specifications. These plans shall also be submitted in electronic format.
4. In addition to any other requirement of this Special Council Permit or any requirement of the Massachusetts State Building Code, the Gloucester Building Department shall not grant a Building Permit for the Medical Marijuana Cultivation Facility proposed for 38 Great Republic Drive without the applicant first securing a sewerage connection and discharge permit for the facility issued by the city's Director of Public Works subject to, but not necessarily limited to, full compliance with the city's Sewer Ordinance found at Code of City Ordinances Part II – Chapter 23 including in particular Sections 23-35 through 23-38 inclusive; any requirements of the Director of Public Works promulgated under the aforementioned ordinance including but not limited to Industrial Pre-treatment (IPP); and further evidence of compliance with any regulations promulgated by or enforced by the Massachusetts Department of Environmental Protection (MA DEP) with respect to wastewater discharges from Medical Marijuana Cultivation Facilities in the Commonwealth. The Director shall provide a copy of any signed wastewater discharge permit to the Building Inspector once all of the above-cited conditions have been met by the applicant.

The Amendment was seconded by **Councilor Gilman**.

#### **DISCUSSION ON THE AMENDMENT:**

**Councilor Cox** said there is so much language they should have the opportunity to review these language laden amendments, but seemed to her to be redundant, she was not in favor of adding these amendments.

**Councilor Orlando** said the conditions are required by operation of law and some were addressed by Mr. Favazza. He said that it is all contained in local or state law which would make such an amendment moot.

**Council President Ciolino** said this language reiterates that in order to obtain a building permit, the applicant will have to get the DPW Director sign off. He pointed out that with Special City Council Permit, the Council is

passing through and that they have to have things in writing. It is not out of the ordinary to do such conditions, he advised, and this creates a paper trail.

**Councilor Orlando** rejoined that the Council would be putting in writing what is already in statute and ordinance and that these conditions are reaching beyond the scope and authority of the Council. **Council President Ciolino** said the Council's authority falls under GZO Sec. 1.8.3, Condition #3, Adequacy of Utilities. Every time this Council gives approves a Special Council Permit, he pointed out, such items must be addressed. He reiterated things have to be written down and have to have criteria met.

**Councilor Cox** reiterated the contention that the conditions as offered in the amendment to the main motion are a part of state and local regulations. She said Special Council Permits conditions are about additional parking and those types of matters. The Beauport Hotel conditions were not such as these, she pointed out. She asked through the Chair if Attorney Favazza had any issues with these conditions. **Mr. Favazza** said the conditions are highlighting the expectations of the Council, and if it assures the Council there is no issue on the applicant's part he is amenable, but it doesn't change the applicant's path.

**Councilor Lundberg** commented this was why he offered this amendment. It is up to the Council, he said, but that in some cases they make a declaration of what the applicant has to do through such conditions and is up to the Councilors and their comfort level.

**Councilor LeBlanc** expressed that he agreed that the conditions are essentially moot, but if Mr. Favazza doesn't have any issues with them he would accept the amendment.

**Councilor Orlando** expressed his appreciation for Mr. Favazza's acquiescing to the Council's request for conditions, but said he recognizes that these conditions are redundant, moot or already codified. He pointed out the Council has a certain amount of authority to grant a Special Permit and not do the job of the Building Department, the Public Works Department or ConCom's job. The Council needs to do their job which he reiterated was to grant the Special Permit, and so therefore would not support the amendment.

**BY ROLL CALL THE CITY COUNCIL VOTED 3 (Lundberg, Ciolino, Memhard) IN FAVOR, 6 OPPOSED TO AMEND THE MAIN MOTION.**

#### **AMENDMENT FAILS.**

**Councilor LeBlanc** stated his support of the application. Mentioning the recent Council conversation and vote on setting the FY17 Tax Classification rate centered on tax revenue, such new enterprises in the city will help ease the residential tax burden. This will be great for local contractors for some time, in building and maintaining the facility. This will be a good fit for the city, and will be the most secure site in the city and said he was not concerned for criminal activity.

**Councilor Orlando** noted a joint Council and School Committee meeting, where they talked about a debt exclusion for a new school. If they're going to be serious about infrastructure, then the city needs new tax revenue, he noted. Five percent of gross sales at a minimum at three years of \$100,000 combined with a great increase in the tax assessment on the property will make a difference, he pointed out. He said this means jobs and those employees spending their money in the city. He added that if the Council is going to be serious about solving issues, and an applicant is willing to make such an investment in the city, he would support the application.

**Councilor Memhard** thanked the applicants for their thoroughness. He expressed his excitement that the city can be a part of this new frontier. There is a brewery in the city, a distillery in the industrial park, and now a medical marijuana facility is a wonderful addition to the city's industrial/commercial tax base and for all the reasons previously noted, he said, and expressed he was strongly in favor of HVV's application.

**Councilor Gilman** said that six months ago she would have likely opposed this application but has since spoken with folks who utilize medical marijuana who really need it and drive to Salem to get it. When you are sick having to make that drive is difficult, she said. She mentioned Section 1.8.3 of the Zoning Ordinance, that there is social impact, economic impact as previously noted, community needs being met in hiring local contractors and employees; and said that the application has been well vetted. The minutes are reflective of a rigorous process, she noted, from the P&D meeting and that she, also supports the HVV application.

**Councilor O'Hara** thanked the Administration for bringing this forward. He said this is a legitimate business with jobs, and taxes. He mentioned Mr. Hunt being from Gloucester, about bringing money into the city being so important and expressed his support.

**Councilor Nolan** expressed his support for the application and thanked HVV for investing in the community.

**Councilor Cox** said HVV has satisfied the qualifications of a Special Council Permit. The applicants went beyond by being the leaders in such a business and appreciated the guidance from their years of experience since the onset. She said the Councilors look forward to working with HVV.

**Councilor LeBlanc** added that the issue of using the medical marijuana product on site was brought up at P&D and that usage on the property is forbidden.

**Councilor Lundberg** said that as Chair of P&D, this is the first time the Council has acted under GZO 5.27, so the Council was breaking new ground. He noted that the applicant did a great job of stepping up and complying with the spirit of the ordinance and strongly recommended that the Council vote to approve this Special Council Permit.

**Council President Ciolino** thanked the Planning Board and Planning Director Gregg Cademartori for their work. This process has been thorough, he advised, and will be something that the city will benefit from and said he supported the HVV application.

**MOTION: On a motion by Councilor Lundberg, seconded by Councilor Cox, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to issue a Major Project Special Council Permit (SCP2016-004) for a Medical Marijuana Cultivation Facility and Treatment Center to Happy Valley Ventures MA, Inc. (applicant), Map 263, Lot 64 at Great Republic Drive #38 pursuant to Sec. 1.5.3(c), Sec. 5.7 “Major Project” & Sec. 5.27 “Medical Marijuana Treatment Centers & Medical Marijuana Cultivation Facilities and Sec. 1.8.3 of the Zoning Ordinance.”**

**The Council recessed at 9:37 p.m. and reconvened at 9:47 p.m.**

**For Council Vote:**

**1. Open Meeting Law Complaint from Loren French re: Budget & Finance Committee Meeting on 10/20/16 & City Council Meeting on November 7, 2016**

**Chip Payson**, General Counsel, reviewed for the Council as follows:

On November 18, 2016, Mr. Loren French filed an Open Meeting Law Complaint against the Budget and Finance Committee and the City Council with the City Clerk.

The substance of Mr. French’s complaint is that, “The City of Gloucester held a Budget and Finance meeting on October 20, 2016 that involved approval of tax financing for National Fish, a company that was and is currently posing a health and safety issue for its surrounding neighbors. The Ward Councilor who also is a voting member of that committee was not aware of the neighborhood complaints and concerns until after he placed his vote. The meeting was not advertised in time to allow time for a collective response by the public to voice an opinion to the committee members. The B&F committee voted unanimously to approve the tax financing for National Fish which moved the decision on to the city council. On Monday November 7, 2016, the City Council convened and largely ignored the concerns of many residents present (with a petition) and voted to approve the tax financing based upon the unanimous decision of the B&F committee. The Ward Councilor, Scott Memhard, after hearing the concerns of his constituents then voted as a City Councilor against the motion to approve the tax financing even though his previous vote as B&F chairman voted in favor. It is the opinion of the neighborhood that the initial vote at the B&F meeting for the tax financing misled the City Council in its subsequent vote that the B&F [Committee] was in favor of the action when in reality two weeks later the B&F committee chairman and East Gloucester Ward Councilor voted against the same plan. We believe the vote taken by B&F on October 20, 2016 created a false result due to insufficient information resulting in a flawed opinion to the City Council for a subsequent approval of the tax financing program.”

Mr. French requests that the City Council take the following action in response to his complaint, “That the tax financing approval from the City Council be nullified and the request be sent back to the Budget & Finance Committee for another proper vote.”

**Mr. Payson** then addressed a procedural matter by saying that as the Council heard, this complaint addresses actions taken by the Budget and Finance Committee and the full City Council. He recounted that on December 1, 2016, he spoke to an attorney in the Division of Open Government in the Attorney General’s Office and asked whether this complaint needs to be addressed first at Budget and Finance or can it go directly to the full Council. He said he was informed that since the members of the Budget and Finance Committee also sit on the full City Council, it was sufficient and proper to send this directly to the full City Council for action.

With regard to Mr. French's claims, he pointed out that first he alleges that the October 20, 2016 Budget and Finance meeting was not advertised in time to allow a collective response by the public to voice an opinion to the Committee members. The Budget & Finance agenda was advertised on October 13, 2016 at 8:51 a.m. in the morning for the October 20, 2016 meeting at 5:30 pm. This is a full seven calendar days' notice which is more than legally sufficient. Further, agenda item 1(b) was a "Memorandum from the Economic Development Director re: National Fish & Seafood LTD Tax Increment Financing recommendation" which provides legally sufficient information as to the topic that is to be discussed.

Second, Mr. French alleges that the ward councilor, Scott Memhard was not aware of neighborhood complaints and concerns when he placed his vote. **Mr. Payson** noted that the minutes from the Budget and Finance meeting on October 20, 2016, however, show that Councilor Memhard spoke about concerns of the neighborhood regarding noise and odors. Specifically, he asked the owner of the company to listen to the neighborhood concerns. The owner indicated that the company has recently installed an air purifier to assist with concerns. Councilor Orlando, Ciolino and O'Hara also stated that they were aware of concerns of the neighborhood.

**Mr. Payson** said that third, and lastly, Mr. French claims that on November 7, 2016, the City Council "largely ignored the concerns of many residents" and relied on a misleading vote by the Budget and Finance committee. He said that the minutes from the City Council hearing, however, state, "[t]here have been concerns expressed about National Fish and their being a good neighbor - some of those concerns were addressed at B & F." Furthermore, Mr. French and four other residents testified at the City Council hearing about concerns of the neighborhood. Several city councilors acknowledged those concerns.

He concluded his remarks by saying that accordingly, the Legal Department requests that the City Council vote to authorize the Legal Department to respond to the Division of Open Government in the Attorney General's office with a letter consistent with the position that he had just laid out noting that a response is due on December 16, 2016.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to permit General Counsel respond to the Attorney General on behalf of the City Council pursuant to an Open Meeting Law Complaint from Loren French re: Budget & Finance Committee Meeting on 10/20/16 and City Council Meeting on November 7, 2016.**

## **2. Open Meeting Law Complaint from Rev. Richard Emmanuel re: City Council Meeting of November 7, 2016**

**Mr. Payson** reviewed for the Council that: On November 10, 2016 Rev. Richard Emmanuel filed an Open Meeting Law Complaint against the City Council with the City Clerk. The substance of the Rev. Emmanuel's complaint is that, "The City Council projects a general dismissiveness when the public questions the process by which corporate proponents are given all due respect and citizen's complaints are treated with the illusion of due diligence. As an example: The attached letter was submitted at the City Council meeting (11/07/16) challenging the validity of the agreement between the City of Gloucester and National Fish & Seafood, Inc. Substantial neighborhood complaints were submitted including a petition. The hearing was ended and the Council without deliberation of the submitted material and letters of opposition voted to grant the [TIF] agreement. The citizens were dismissed, holding the distinct impression that the process was a rubber stamp deal for the [TIF] request to be referred to the next stage of state grants. If the violation of the public trust becomes systemic the democratic process fails. This complaint is filed to give notice that the political process is failing the citizens of Gloucester. The constant admonition from the Council President that citizens have but three minutes to state their case is both intimidating and silencing of the Open Meeting process.

He said that Rev. Emmanuel requests that the City Council take the following action in response to his complaint, "The Gloucester City Council notifies the state agency in charge of granting [TIF] requests that there exists substantial East Gloucester neighborhood opposition to the state granting nonies that further degrade the quality of the East Gloucester environment. The Gloucester City Council reforms its attitude of dismissiveness against citizen's requesting in-depth investigation. The process for clarity and government transparency be re-established."

He reported that the Legal Department has looked into this complaint and offers the following response: Rev. Emmanuel claims that on November 7, 2016, the City Council was "dismissive" of his comments and submissions and limited comments by citizens to three minutes in violation of Open Meeting Law. Rev. Emmanuel asks that the City Council notify the state agency in charge of granting TIF requests that there exists substantial

opposition to the state granting monies that further degrade the quality of the East Gloucester environment and that the City Council, “reform its attitude of dismissiveness against citizen’s requesting in-depth investigation.”

**Mr. Payson** advised that a review of the draft City Council minutes from November 7, 2016, however, indicates that the public hearing on the Tax Increment Financing Agreement by and between the City of Gloucester and National Fish & Seafood, Inc. lasted 1 hour and 15 minutes. The City Council meeting was recorded by audio and video. Rev. Emmanuel spoke at the meeting and submitted documentation. Four other residents also spoke in opposition to the TIF. Councilors Gilman and Ciolino asked the representative from National Fish & Seafood about the neighborhood’s issues. Councilor O’Hara also acknowledged the neighbors’ concerns and asked that National Fish and Seafood address them. Councilor Memhard suggested that National Fish and Seafood meet with the neighborhood.

He said that given these facts, it is the Legal Department’s position that there is no evidence that citizen’s comments were “dismissed” as alleged by Rev. Emmanuel. Accordingly, the Legal Department request that the City Council vote to authorize it to respond to the Division of Open Government in the Attorney General’s office with a letter consistent with the position as he laid out, he said. A response is due on December 16, 2016, he advised.

**Councilor Orlando** noted that each speaker was asked for three minutes and that when the gentleman finished his comments it went well over three minutes. The Council heard his entire comments, he said.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to permit General Counsel to respond to the Attorney General on behalf of the City Council pursuant to an Open Meeting Law Complaint from Rev. Richard Emmaneul re: City Council Meeting of November 7, 2016.**

### **3. City Council Vote of October 13, 2015 regarding GCO Article 2 “Dogs” Sections 4-15, 4-16, 4-19 and 4-20**

Members in the audience were asked by the Council President to raise their hands in favor of making permanent Art. 2, “Dogs” Sections 4-15, 4-16, 4-19 and 4-20, and seven remaining audience members indicated they were in favor of making the dog ordinances permanent.

**MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed, to make permanent GCO Article 2 “Dogs” Sections 4-15, 4-16, 4-19 and 4-20.**

**Unfinished Business: None.**

#### **Individual Councilor’s Discussion including Reports by Appointed Councilors to Committees:**

##### **Update of the Tourism Commission by City Council Representative, Joseph M. Orlando, Jr.:**

**Councilor Orlando** briefly highlighted that: Carla O’Connor was just confirmed this evening by the Council as a new member of the Tourism Commission. On the O&A Committee’s next agenda are two more new Tourism Commission appointees, Doug Silva and Elizabeth Favazza, both talented individuals involved in the tourism industry. Another applicant is on the possible horizon involved in the fishing charter and maritime industry. He reported having spoken with two folks previously members of the Tourism Commission, and he indicated that if these two members return to the Commission will help to provide continuity and a connection to the DMO. If all of the individuals whom he mentioned are appointed/reappointed to the Commission, it will bring the Commission to nearly its full roster. He suggested that with new names, new faces and new ideas it will reinvigorate the Commission, and expressed his hope that the Commission will finally meet in January 2017 to start working closely with the DMO, Administration and the Council to lend a helping hand to the city’s tourism industry.

**Council President Ciolino** lauded the work of Councilor Orlando in resurrecting the Tourism Commission.

#### **Councilors’ Requests to the Mayor:**

**Councilor Memhard** announced to the Council that Susanne Altenberger is inviting the Council to attend a Traditional Small Craft Association meeting Wednesday, Dec. 14 at 7:30 p.m. at Maritime Gloucester to hear about how a first Gloucester produced 39 foot boat in over 30 years was built and worked out.

**Councilor Gilman** noted that there have been three fires in Ward 4 in the last six months, all major. She pointed out in the second fire an issue arose in speaking to the owners didn’t understand the building/permitting process of reconstruction. She made the public aware that there is a document on the city’s website updated from June 2016. She advised she sent this document forward to the homeowners who just experienced a fire. She also forwarded it to Fire Chief Smith who advised the document had been updated. She thanked Chief Smith and

Building Inspector Bill Sanborn for updating documentation to be given to residents when a fire occurs with a guideline in moving forward to rebuilding as soon as changes were identified. She highlighted her receipt of a thank you note from the folks who had the unfortunate fire this past weekend for the document she forwarded for their information. Document can be found at: <http://gloucester-ma.gov/DocumentCenter/View/268>

She also noted during the holidays, she thinks of Councilor Jackie Hardy especially for her Christmas sweaters and her fine work for Ward 4 and the city.

**Councilor Orlando** wished everyone a Merry Christmas and a Happy New Year.

**Councilor Cox** wished everyone a Merry Christmas and Happy New Year, and urged the Councilors to attend former Councilor Bob Whynott's annual Caroling Party on Sunday, Dec. 18 at noon. She advised that it's not the quality of the singing but the spirit of the season that counts.

**Councilor Lundberg** extended his thanks to the Administration, the Planning Board, Planning Director and General Counsel for their helping the Council through the process of the first Medical Marijuana Special Permit. They were all a great help, he said.

**Councilor LeBlanc** commended his fellow Councilors for their due diligence with regard to the Special Council Permit approved this evening and for their good questions and thoughtful comments.

**Council President Ciolino** noted the Council is celebrating its first year together with five new Councilors. He said he is proud of how well they've come along being a part of the Council and leading it. This is a talented group, he noted. He reminded all that Thursday night, Dec. 15 is Men's Night downtown and wished the citizens of Gloucester a Merry Christmas and a Happy New Year.

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

**Respectfully submitted,**

*Dana C. Jorgenson*

**Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- **Photograph of coyote taken 12-12-2016 at 9:27 a.m. from 2<sup>nd</sup> story deck at 46 Rocky Neck Avenue, submitted by Albert dos Santos of same address**
- **Happy Valley Ventures MA, Inc. Power Point presentation, submitted by Attorney Joel Favazza during meeting via email**