

GLoucester City Council Meeting

Tuesday, September 28, 2010

7:00 p.m.

Kyrouz Auditorium – City Hall

Council Meeting 2010-21

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

Absent: None.

Also Present: Linda T. Lowe; Jim Duggan; Kenny Costa; Jeff Towne; Jack Vondras; Max Schenk; Rufus Collinson; Janet Rice; Kersten Lanes; Maggie Rosa; Charles Olsen; Nicole Bogin; Attorney Robert J. Coakley; Thomas Hauck; Larry Ingersoll; Peter Jenner; Henry Ferrini

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

Flag Salute and Moment of Silence.

Oral Communications:

Maggie Rosa, 26 Fort Hill Avenue announced a significant improvement in the City Hall building: a newly restored bell cradle and clock. Time was now “right” on all four sides of the building thanks to a generous donation from the Dusky Foundation and individual donors as well.

Sherry Gallagher, 8 Columbia Street presented a petition signed by 41 neighbors to the City Council and stated they have an abandoned, condemned building in their neighborhood (submitted and on file) and have sought the attention of City departments to alleviate the matter and asked for help in expediting a solution. Eight other people from the neighborhood were present at the meeting. She stated she has also provided this petition to the Mayor. Councilor Hardy advised her that she will receive a reply from the Mayor’s office in two weeks.

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

Confirmation of Appointments:

Councilor Theken stated questions were asked of all appointees regarding Open Meeting Laws, the State Ethics Commission test., and were interviewed as to their background and how it relates to their particular Council or Board to the O&A Committee’s satisfaction which could recommend the four appointees below to the Council.

Thomas Hauck

Gloucester Cultural Council

TTE 02/14/2013

MOTION: On motion by Councilor Verga, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Thomas Hauck to the Gloucester Cultural Council, TTE 02/14/2013.

Discussion:

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to appoint Thomas Hauck to the Gloucester Cultural Council, TTE 02/14/2013.

Martin Ray

Gloucester Cultural Council

TTE 02/14/2013

MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Martin Ray to the Gloucester Cultural Council, TTE 02/14/2013.

Discussion:

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to appoint Martin Ray to the Gloucester Cultural Council, TTE 02/14/2013.

Kersten Lanes Capital Improvement Advisory Board (CIAB) TTE 02/14/2013

MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Kersten Lanes to the Capital Improvement Advisory Board (CIAB), TTE 02/14/2013.

Discussion:

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to appoint Kersten Lanes to the Capital Improvement Advisory Board (CIAB), TTE 02/14/2013

Janet Rice

Capital Improvement Advisory Board (CIAB)

TTE 02/14/2013

MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Janet Rice to the Capital Improvement Advisory Board (CIAB), TTE 02/14/2013.

Discussion:

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to appoint Janet Rice to the Capital Improvement Advisory Board (CIAB), TTE 02/14/2013.

By the Council's unanimous consent the Administration made the following introduction:

Jim Duggan, CAO introduced Paul Keane, new City Engineer, to the City Council who began his employment with the City the previous week.

Mr. Keane introduced himself as a 15 year public sector employee and an experienced engineer of 30 years, who had also worked as a DPW director in two other Massachusetts communities, his last public appointment having been with the City of Dedham.

Councilor Theken asked Mr. Keane has he been around the City

Mr. Keane stated he is working on the large projects already ongoing within the City. He's seen quite a bit of the City and is involved in all the infrastructure work. He understood there were many challenges and great opportunities ahead for him in this new position.

Presentations:

1 of 1: Max Schenk – Board of Health – Title V Septic System Regulations

Max Schenk, Health Department Manager of Environmental Health stated they are aware of the Columbia Street issues referenced to in Oral Communications, and that the Building Inspector has been in communication with them; and that folks in the audience may see some action soon. He reviewed for the Council the Title V regulations, how they have changed over time, as well statistics on Gloucester septic systems: Out of the approximately 11,000 properties in Gloucester, 2,934 have septic systems. Out of those, 2,114 have advanced pre-treatment systems and 61 have a “tight tank”. He went into the background on Title V and the Gloucester Board of Health’s septic system regulations for them. Lastly, he described resources for residents who need to replace their failed septic system (copy of Mr. Schenk’s documentation on file and further information available at the Gloucester Health Department and at the City’s website: gloucester-ma.gov).

Councilor Tobey stated he had asked for this presentation. He wanted more detail regarding the DEP requirement that the Board issue letters to homeowners who had failed septic systems with two years to upgrade those systems; and that for certain areas in West Gloucester those two years were nearly up. He asked how many of those letters the department issued.

Mr. Schenk stated 80-plus which included 91 failed systems in the City.

Councilor Tobey asked how he foresaw this evolving over time.

Mr. Schenk explained all folks are asked to do, is for them to do what was to be done when their system failed. Everyone gets two years to remedy the situation, stating economy drives much of this. The number of Title V inspections done are driven by time of transfer of real estate. They expect around 20 to 30 septic systems per year now in the waning real estate market as opposed to much more during the real estate boom years. It is also based on new home construction; it, too, has fallen off in the last year. This problem will not go away; there are a lot of old systems in the community.

Councilor Tobey asked if there was a limit a household could borrow under the septic loan program.

Mr. Schenk stated there is no limit; but there is a household income limit (\$150,000) to apply.

Councilor Tobey asked when they think they’ll cease to be so responsive with this financial program.

Mr. Schenk stated that has to do with the DEP and their funding. It is a long-standing program with a zero interest loan and didn’t see it going away anytime soon.

Councilor Tobey asked about 61 homes on “tight tanks” and asked if they can sell their homes, will the DEP allow for this going forward.

Mr. Schenk stated this is based on DEP criteria. They are approving them as they go through. Even they see that there’s no other option for these folks regarding waste water. He explained that tight tanks are strictly holding tanks for household wastewater. Where most septic systems have a pipe coming from the house into a settling tank, and then another pipe goes out to either a leaching field or leach pit, when a tight tank is used, there is no treatment of the effluent; only a pipe that goes from a house into a tank. Then that tank must be pumped out by a septic hauling company on a regular basis.

Councilor Tobey asked so the Council can understand which of their neighbors have these kinds of problems.

Mr. Schenk replied it was the peripheral areas of the City, like West Gloucester. Those folks on Essex Avenue are pretty much sewer. For instance you have a septic system functioning just fine but there is a sewer system near you, there’s no requirement you hook up to the system if your system is approved as functioning. He noted other areas like Wingsheek Beach area where folks are upgrading.

Councilor Tobey stated there was good news; that the community is so well served by the Board of Health and are handling the regulatory burden so well; the DEP is exercising a little forbearance with regards to this matter in Gloucester.

Councilor Mulcahey stated when the sewer went through Rt. 133 there were a lot of roads that were bypassed. However, after that, new houses went up and were able to hook up to the sewer. Why were the other houses not connected?

Mr. Schenk stated those decisions were made by the Engineering Department and is also a function of whether the homeowner is willing to pay for building a connection to the Essex Avenue sewers. There is

the capability to do private sewer extensions; but that this a process that goes through the Engineering Department based on their regulations. They encourage neighbors to band together to do this, but it is not an easy process; and there are out-of-pocket expenses that can be a burden to some homeowners.

Councilor Ciolino noted 91 septic failures and wanted to know if the area of Page Street and Way Road was included in that number.

Mr. Schenk stated he didn't believe there were many properties included from that area the Councilor mentioned. They are in communication with the Building Department so that they can check who is or is not on sewer.

Councilor Ciolino asked when a tank is pumped out, the company that did the pumping writes a report and submit it; did that still occur.

Mr. Schenk stated they are supposed to and should. The property owner, the Health Department and the pumping company are supposed to have a copy of the report.

Councilor Ciolino asked how the step systems were doing.

Mr. Schenk stated he couldn't answer that question, that it would be managed by the DPW and the Engineering Department and the outside contractor, Woodward & Curran.

Councilor Ciolino then asked if they don't hear from a property that their tank has been emptied, how long does it take for the Health Department to get notification to the homeowner

Mr. Schenk stated that under Board of Health regulations they're supposed to do it every three and one half years at the outside. When they were not so inundated, they would check monthly; but now with the workload and staff cutbacks they get to it only every six months to a year. The burden is on the homeowner. Generally they look through function check forms. If they see an issue they'll pull it out.

Councilor Theken thanked Mr. Schenk and the Health Department for their hard work. She spoke of some West Gloucester streets several years ago that were promised they would have City sewer who were experiencing problems during flooding conditions. Their septic systems were failed and were given a special dispensation.

Mr. Schenk stated those homes were notified or should have been, and that they have two years to upgrade. In terms of where does sewer go, in some regards it is a decision by the Council, the Administration, and the Engineering Department. Once those decisions are made, the Health Department then enforces the regulations.

Councilor Theken asked about West Parish School

Mr. Schenk stated that system is working fine. They are on City sewer and the septic system has been decommissioned.

Councilor Theken asked if the neighbors could hook in.

Mr. Schenk stated certain properties that people had stubs put out and can connect if they want to; but he wasn't sure how far back those properties were that could connect to it.

Councilor Theken asked if from the Fire Station down Concord Street toward Rt. 128 have they talked to the families there.

Mr. Schenk stated that would be the DPW.

Councilor Theken asked if they have been educated on the loan program.

Mr. Schenk stated many more households than one would think meet the financial requirement. When a septic system fails, they send them a packet for all the information they need.

Councilor Curcuro thanked Mr. Schenk and spoke of tight tanks. There is an added cost as it is pumped regularly.

Mr. Schenk stated they encourage those homeowners to use water saving devices and fixtures', agreeing it was an expensive but necessary solution.

Councilor Curcuro stated Mr. Schenk indicated there are some houses in the inner city that are on septic tanks. If there is no issue in a neighborhood they don't know about it at the Health Department.

Mr. Schenk stated there are other observable issues like ponding. Staff can go out and note the odor and the state of the ground in the yard to find the failure. If they go out on a complaint, they do a thorough look. If they can't see anything obvious, they can't require a property owner to spend the money to hire a backhoe operator to dig a 10 ft. hole for testing.

Councilor Curcuru stated then in a possible failing system the Health Department can't do anything about it?

Mr. Schenk stated if it is not obvious then they can something about it. They can go forward legally to require the property owner to do a Title V inspection with a deep hole inspection also.

Councilor Curcuru asked about the cost of a new system versus tying into the sewer system.

Mr. Schenk stated it depends on where the home is. If there is ledge, and much of Cape Ann has that issue, and blasting is required to put a line through, the costs are much higher (\$30,000 to \$50,000).

Councilor Curcuru asked if the system is failing do they still get two years.

Mr. Schenk stated there are exceptions but generally two years.

Councilor Verga also thanked Mr. Schenk for this presentation and for coming to his ward meeting in March. If a homeowner has a system that meets Title V, they don't have to tie in to the sewer system. The loan program helped him to decommission his cesspool. A neighbor wasn't so lucky, but the program helped people with these costs. He hoped for some kind of program for people who get "zapped" with huge septic bills and are near wetlands. He wondered what happens if people say they won't do anything.

Mr. Schenk stated that hasn't happened yet during his tenure with the City, although he knew it had happened in the past. They can pull them into court if it gets to that point. This ties to a person's home value and affects the sale of a home. They explain it is in the homeowner's short- and long-term interest [to correct the situation].

Councilor Verga agreed it can help with values. But in Lanesville with the sewer betterment bills they received, and with septic systems that cost up to \$90,000 it can be daunting.

Mr. Schenk stated that's why they try to approach each situation individually; but they are required by DEP and local regulations that public health and safety is maintained.

Councilor Verga didn't think anyone didn't want to protect the environment. He appreciated the work Mr. Schenk and the Health Department has done and continues to do.

Councilor Whynott noted in the 1970's at the DPW there was a valve that could be opened up to pump out there. He wondered if this was still done and if any businesses were allowed to have tight tanks.

Mr. Schenk stated no, this was not done. There are other issues that would dictate why.

Councilor McGeary also thanked Mr. Schenk. He asked out of the 2,934 septic systems in the City, how many are on streets with sewer lines.

Mr. Schenk stated he believed only a very few. They are now reviewing that statistic in the City.

Councilor McGeary asked if there is a list of priorities if the ARRA federal funding program comes along to have a shovel ready list of streets they would like to see sewer on.

Mr. Schenk stated that would come down to priority drainage areas where watersheds drain into shellfish beds, the Walker Creek area, Bay View beaches as an example as was established by the Daylor Report.

Councilor Hardy asked regarding folks who are on septic and hire private companies to inspect and pump their systems. Some of those people get notices every six months from private inspection companies that it's time to pump. But legally how frequently does the City require them to pump.

Mr. Schenk stated by local regulations the B.O.H requires inspections every 3-1/2 years; this is not a Title V inspection. This is a basic inspection which takes place at the time of the pumping, making sure there's no ponding, that the tank is in good condition, etc.; once every three and one half years which is a bare minimum, recognizing that a family of five's needs would vary from those from, say, an elderly couple.

Consent Agenda:

- **MAYOR'S REPORT**

1. Proclamation designating the late poets, Vincent Ferrini & Charles Olsen as Honorary Poets Laureate of the City of Gloucester (Presentation)
2. Memorandum from CFO relative to Loan authorization for Capital Item for FY11 (Refer B&F)
3. Memorandum from Community Development Director requesting acceptance of remaining \$250,000 Seaport Bond Funds (Refer B&F)

4. Memorandum from Fire Chief re: addition of new fees & increasing current fees (Refer B&F)
5. Memorandum from Fire Chief re: acceptance of a donation in the amount of \$500.00 (Refer B&F)
6. Memorandum from Harbormaster re: permission to pay FY10 invoices with FY11 funds (Refer B&F)
7. Memorandum from Health Director re: acceptance of a grant amendment award in the amount of \$20,000 (Opiate Prevention) (Refer B&F)
8. Appointments: Open Space and Recreation Committee TTE 02/14/2012 Patty Amaral
Zoning Board of Appeals TTE 02/14/2011 Michel Nimon (Refer O&A)
9. Response to Oral Communication of August 17, 2010 City Council Meeting to Ms. Marina Evans (Info Only)
10. Memorandum from Community Development Director re: APA National Conference (Info Only)
11. Memorandum from Community Development Director re: submitted Green Communities Designation Applicat. (Info Only)
 - **APPLICATIONS/PETITIONS**
 1. PP2010-005: Installation of J.O. Guy Stub Pole #3-84 and Anchor and Guy re: Tufts Lane (Refer P&D)
 2. PP2010-006: Installation of approximately 17 feet of Underground Conduit re: School Street (Refer P&D)
 3. PP2010-007: Installation of approximately 16 feet of Underground Conduit re: Middle Street (Refer P&D)
 4. SCP2010-012: Kondelin Road #16, GZO Sec. 5.13 PWSF (Refer P&D)
 5. SCP2010-013: Rogers Street #127, GZO Sec. 5.13 PWSF (Refer P&D)
 6. SCP2010-014: Cherry Street #32 (O'Maley Middle School), GZO Sec. 5.22 Wind Turbine (Refer P&D)
 - **APPROVAL OF MINUTES**
 1. City Council Meeting: 08/31/10 (Approve/File)
 2. Special City Council Meeting: 09/21/10 (Approve/File)
 3. Standing Committee Meetings: O&A 09/07/10, P&D 09/08/10, B&F 09/09/10, O&A 09/20/10, Special B&F 09/21/10, P&D 09/22/10, B&F 09/23/10 (under separate cover) (Approve/File)
 - **COMMUNICATIONS**
 1. Thank you for Hearing our Presentation Letter re: Dog Park (File)
 2. Letter from Senator Tarr & State Representative Ferrante to Governor Patrick re: Gloucester Community Arts Charter (File)
 3. Letter from Senator Brown to City Clerk re: American Jobs and Closing Tax Loopholes Act of 2010 (File)
 4. Letter from Lt. Governor Murray re: MassWorks Infrastructure Program (Info Only)
 5. Letter from Patricia Pierce re: Radiation Monitoring of Air and Water in City of Gloucester (Refer P&D)
 6. Letter from National Grid re: Cherry Street and Reservoir Road (Refer P&D)
 7. Correspondence from Shirley Lake re: Green Street Playground (Refer O&A)
 - **ORDERS**
 1. CC2010-066 (Curcuru) Amend GCO Sec. 22-270 "Parking prohibited at all times" and Sec. 22-291 "Tow Away Zones re: Centennial Avenue #20 TO Leslie O. Johnson Road (Refer TC & O&A)
 2. CC2010-067 (Curcuru) Amend GCO Sec. 22-270 "Parking prohibited at all times" re: intersection of Summer Street and Granite Street from in front of Summer Street #21 (Refer TC & O&A)
 3. CC2010-068 (Hardy) Review parking situation and traffic flow from its intersection with Washington St. to its intersection with Norwood Heights (Refer TC & O&A)

Items to be added/deleted from the Consent Agenda:

Councilor Tobey asked to remove Item #2 under the Mayor's Report: Memorandum from CFO relative to a Loan Authorizations for Capital Items for FY11. He asked that this be with B&F and meeting jointly with the CIAB to learn how this would line up with the overall policy of capital improvements.

By unanimous consent the matter was referred to the B&F Committee.

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

Councilor McGeary invited Henry Ferrini, nephew of the poet Vincent Ferrini and Charles Olsen, son of the poet, Charles Olsen, to come forward and noted the history of great writers nurtured in Gloucester. He also acknowledged the presence of Gloucester's current poet laureate, Rufus Collinson. He recounted to those present the contribution of the poet Charles Olsen on his centenary anniversary as well as those of Vincent Ferrini. He then read the Proclamation designating the late poets, Vincent Ferrini and Charles Olson, as Honorary Poets Laureate of the City of Gloucester.

Henry Ferrini, by unanimous consent read to the Council a poem by his uncle, Vincent entitled Prologue.

Charles Olsen thanked the Council and felt his father would have appreciated this honor.

Councilor Hardy added that the proclamation that was read and done by the Administration was at the behest of Councilor McGeary.

Councilor Hardy noted the Olsen Centenary celebration events through October 10th.

Rufus Collinson, Poet Laureate recalled the friendship between the now honorary Poets Laureate, Olsen and Ferrini, exceptional men who extolled the beauty of Gloucester and honored the two "poets of life".

For Council Vote:

MOTION: On motion by Councilor McGeary, seconded by Councilor Theken, the City Council voted 9 in favor, 0 opposed to adopt Council Order #CC2010-065 (Hardy) to send a letter to State Representative Ann-Margaret Ferrante and State Senator Bruce Tarr requesting they secure state money to study the feasibility of a bypass road either linking Nugent Stretch in Rockport to Blackburn Circle in Gloucester or exploring the possibility of another route to establish the link. Further that the Gloucester City Council invite the Rockport Selectpersons and other interested stakeholders including but not limited to the EDIC and representatives of environmental interests and Gloucester's state delegation to a joint meeting to engage in a comprehensive discussion about a possible joint venture related to the issues involved with the proposed linkage. This order is put forth with the condition that protection to Gloucester's natural resources, including, but not limited to, its watershed and reservoirs are of the highest priority and with the understanding that there will be no compromise related to the protection of same.

Public Hearings:

1. PH2010-008: SCP 2010-001: 79-99 Essex Avenue, Sec. 2.3.1(12), Sec. 5.7.3 Major Project, Sec. 3.1.6(b) height excess 35 ft., lowlands Sec. 5.50 lot area per two guest special permit 3.2.6 (Continued from 04/13/10)

This public hearing is opened and continued to November 23, 2010 at the request of the applicants in a letter received by the Council from Attorney Ralph Pino (letter on file) and that a letter with the date certain of the continuation be sent to the attorney by the City Clerk.

2. PH2010-061: Amend Gloucester Zoning Map and Zoning Ordinance re: 33 & 47 Commercial Street (Birdseye Mixed Use Overlay District) (Continued from 08/17/10)

This public hearing is opened and continued to October 26, 2010 at the request of Lisa Mead, the attorney for the applicant (written request on file).

3. PH2001-069: SCP2010-011 – Hesperus Avenue #82, GZO Sec. 3.1.6(b) Building Height in excess of 35'

This public hearing is opened and continued to October 12, 2010 at the request of the applicants in a letter received from their attorney, J. Michael Faherty (letter on file).

4. PH2010-070: Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: Lexington Avenue

This public hearing is opened.

Those speaking in favor:

Katherine Martel, 89 Lexington Avenue spoke of her daughter with MS since she was four years old. Her daughter was in the ground floor apartment which was no longer suitable for her as her condition deteriorated. Her daughter swapped apartments with her mother and father. Because of that change, they have asked that the handicapped parking space be moved to the vicinity of her new apartment walkway so she can move directly from the vehicle to the sidewalk to the door of the home. There is a special ramp that she has to use. Any great distance is very difficult for her. The first parking sign was moved but it wasn't moved far enough. She provided pictures to the Council (received and on file).

Larry Ingersoll, Co-Chair of the Traffic Commission stated they approved this order at their August 26th meeting. Even though the DPW has moved the sign, the sign is not in the correct place.

Councilor Hardy noted there had been an emergency order and was done legally at a special City Council meeting. This is to clarify the positioning of the sign.

Those speaking in opposition: None.

Communications: None.

Questions:

Councilor Mulcahey stated this handicapped parking spot is open to anyone with a handicapped placard and wondered what would happen if Ms. Martell found the space occupied.

Mrs. Martell responded that it has never occurred. She was aware that it is a public space to anyone with a placard. She didn't know what they would do in that case.

Councilor Hardy believed the intent of the question was to be sure that the applicant understood the nature of a handicapped parking space.

This public hearing is closed.

MOTION: On motion by Councilor McGeary, seconded by Councilor Curcuru the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Code of Ordinances Sec. 22-287 (Disabled veteran, handicapped parking) by DELETING Lexington Avenue westerly side, beginning at a point one hundred forty-four (144) feet from its intersection with Shore Road for a distance of twenty-two (22) feet in a northerly direction and further by ADDING Lexington Avenue westerly side beginning at a point one hundred seventy (170) feet perpendicular to the wall at 89 Lexington Avenue from its intersection with Shore Road for a distance of approximately twenty-two (22) feet more or less, in a northerly direction.

Discussion:

Councilor Verga thanked for the Council support on the emergency order previously. When the site visit took place he believed the curb cut was probably interpreted as the driveway. He hoped for the Council support on this order.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino the City Council voted **BY ROLL CALL 9** in favor, 0 opposed to amend the Gloucester Code of Ordinances Sec. 22-287 (Disabled veteran, handicapped parking) by DELETING Lexington Avenue westerly side, beginning at a point one hundred forty-four (144) feet from its intersection with Shore Road for a distance of twenty-two (22) feet in a northerly direction and further by ADDING Lexington Avenue westerly side beginning at a point one hundred seventy (170) feet perpendicular to the wall at 89 Lexington Avenue from its intersection with Shore Road for a distance of approximately twenty-two (22) feet more or less, in a northerly direction.

5. PH2010-071: Amend GCO Sec. 22-270 "No Parking at all Times" and Sec. 22-291 "Tow Away

Zones” re: Wells Street

**This public hearing is opened.
Those speaking in favor:**

Larry Ingersoll, Co-Chair, Traffic Commission stated that at their July 29, 2010 meeting they approved the order and that there be no parking on both sides with of Wells Street with “NO PARKING EITHER SIDE” signs be used and placed where appropriate. This is for safety reasons to prohibit parking on both sides especially with trash trucks trying to get there. All the neighbors were in favor of the order as well.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor McGeary, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Code of Ordinances Sec. 22-270 (Parking Prohibited at all Times) by ADDING No parking on BOTH SIDES of Wells Street with “NO PARKING EITHER SIDE” signs, where appropriate, for both sides of the street.

Discussion: None.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to amend the Gloucester Code of Ordinances Sec. 22-270 (Parking Prohibited at all Times) by ADDING No parking on BOTH SIDES of Wells Street with “NO PARKING EITHER SIDE” signs, where appropriate, for both sides of the street.

MOTION: On motion by Councilor McGeary, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Code of Ordinances Sec. 22-291 (Tow Away Zone) by ADDING from #5 Wells Street to its intersection with Beacon Street on both sides.

Discussion:

Councilor Theken noted that Councilor Curcuru brought this forward for safety reasons and was in support of this order.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed the City Council to amend the Gloucester Code of Ordinances Sec. 22-291 (Tow Away Zone) by ADDING from #5 Wells Street to its intersection with Beacon Street on both sides.

6. PH2010-072: Amend GCO Sec. 22-288 “Off Street Parking Areas”, Sec. 22-289 “Parking Meter Zones on Streets” and Sec. 22-287 “Disabled veteran, handicapped parking” re: Manuel F. Lewis Street

This public hearing is opened.

A) Code of Ordinances, Sec. 22-288 “Off Street Parking Areas”:

This public hearing is opened.

Linda T. Lowe related that the new Gloucester City Engineer, Paul Keane, (see letter dated 9/28/2010 on file) who is working on O&A's request to update the 1991 official off-street parking lot for the Rose Baker Senior Center at Manuel F. Lewis Street. He will present a revised/surveyed plan which provides the correct/current number of spaces as required as per a vote by O&A on 9/20/2010.

This public hearing is continued to November 9, 2010.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed, to AMEND all Code of Ordinance references to Manuel F. Lewis Road to Manuel F. Lewis Street when the Code of Ordinances is next updated by Muni-Code.

By unanimous consent the matter of PH2010-072: Amend GCO Sec. 22-288 "Off Street Parking Areas", was referred back to the O&A Committee awaiting the updated mapping by the City Engineer.

B) Code of Ordinances Sec. 22-289 "Parking Meter Zones on Streets – Manuel F. Lewis Street"

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Theken, the Ordinances & Administration Committee voted 2 in favor, 0 opposed 1 (Tobey) absent to recommend to the City Council to amend GCO Sec. 22-289 by adding: "Manuel F. Lewis Street meters, six (6) are free to vehicles with current City of Gloucester Senior Resident Beach Parking Stickers effective Monday through Friday on a first-come/first-served basis. No signs are required."

Discussion:

Councilor Theken explained that the Committee felt it appropriate that the senior citizens of Gloucester be allowed to park on Manuel F. Lewis Street during the hours the Rose Baker Senior Center is open without having to feed the meters. They worked hard for their status as senior citizens, and it is the least the City can do for them. There will be no signage on the street; each vehicle owned by a senior citizen will have to have a current City of Gloucester Senior Resident Beach Parking Sticker affixed to their car in order to use the six spaces on Manuel F. Lewis Street on a first come/first served basis. It will be available Monday through Friday only. They don't need signs and that the Police Department and Parking Enforcement personnel will know not to ticket those seniors who have current Senior Resident Beach Parking Stickers.

Councilor Ciolino, who had originated the order, stated that seniors were parking in the Walgreen's parking lot and that had to be discontinued; that area is tight for parking. It can be expensive to feed the meters for the seniors and to have them worry about being ticketed. He felt they owe it to the City's senior citizens to assist them when their income is limited and to take care of them. He urged his fellow Councilors to vote for this order.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed, to amend GCO Sec. 22-289 by adding: "Manuel F.

Lewis Street meters, six (6) are free to vehicles with current City of Gloucester Senior Resident Beach Parking Stickers effective Monday through Friday on a first-come/first-served basis. No signs are required.”

Councilor Theken, the City Council liaison to the Senior Center, noted the presence of Peter Jenner, who works closely with the Senior Center who has worked hard to see the passage of these changes.

C) Code of Ordinances, Sec. 22-287 “Disabled veteran, handicapped parking in Manuel F. Lewis Off-Street Parking Lot:

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Theken, the Ordinances & Administration Committee voted 2 in favor, 0 opposed to amend GCO Sec. 22-287 “Disabled Veterans/Handicapped Parking” to create an additional handicapped parking space in the Manuel F. Lewis Off-Street Parking Lot to be created nearest a rear entrance to the Rose Baker Senior Center and to further amend Sec. 22-287 by adding five (5) total spaces currently signed/designated to Sec. 22-287 for a total of six (6) spaces located at the front and rear entrances.

Discussion:

Councilor Theken explained that this was to make sure there were enough handicapped parking spaces around the Rose Baker Senior Center to make it completely accessible to all of Gloucester’s seniors by adding a sixth designated handicapped parking space and by referencing the existing spaces in the Code of Ordinances.

Councilor Ciolino was in support of this motion and asked the Council to support it also.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, City Council voted **BY ROLL CALL 9** in favor, **0** opposed to amend GCO Sec. 22-287 “Disabled Veterans/Handicapped Parking” to create an additional handicapped parking space to be created nearest a rear entrance to the Rose Baker Senior Center and to add five (5) total spaces currently signed/designated to Sec. 22-287 for a total of six (6) spaces located at the front and rear entrances.

7. PH2010-073: Loan Order #10-07: Loan Authorization in the amount of \$36,000

This public hearing is opened.

Those speaking in favor:

Jeff Towne, CFO stated that the \$36, 000 loan order will repair the five doors on the bays at the Fire Department and the Plymovent system for the air quality in the station. This originally wasn’t going to be done but since they are going to be at Central Station a while; this is an energy savings issue, and health issue (loss of heat through the five bay doors and air quality through the Plymovent system in the building). This was going to use the last portion of fire station repair funds, which the Council had voted to epoxy the floors. The Chief would rather use the funds for this purpose and that there is a vote that

needs to be taken since a loan had not been taken out and then a vote will come before the Council to rescind the previous vote.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor Hardy, seconded by Councilor Curcuru, the Budget & Finance Committee voted 2 in favor, 0 opposed to recommend to the City Council that \$36,000.00 is appropriated for fire station repairs; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow \$36,000.00 under G.L. c.44, §7(3A) or any other enabling legislation; that the Mayor is authorized to contract for and expend any federal or state aid available for the project; and that the Mayor is authorized to take any other action necessary to carry out this project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

Discussion:

Councilor Hardy stated for the record in order to avoid any appearance of impropriety (M.G.L. 268A) her brother is a proud Gloucester firefighter; but since this matter does not have anything to do with salary issues; she did not have a conflict of interest and would be voting on the matter.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted **BY ROLL CALL 9** in favor, 0 opposed that \$36,000.00 is appropriated for fire station repairs; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow \$36,000.00 under G.L. c.44, §7(3A) or any other enabling legislation; that the Mayor is authorized to contract for and expend any federal or state aid available for the project; and that the Mayor is authorized to take any other action necessary to carry out this project; and that the Treasurer is authorized to file an application with the Municipal Finance Oversight Board to qualify under Chapter 44A of the General Laws any or all of the bonds authorized by this order and to provide such information and execute such documents as the Municipal Finance Oversight Board may require for these purposes.

8. PH2010-074: SCP2010-010 – Middle Street #15, GZO Sec. 2.3.1.7 conversion to or new multi-family dwelling four to six units, Sec. 3.1.6 for a building height over 35' and Sec. 3.2.2a for decrease in minimum lot area per dwelling unit.

This public hearing is opened.

Those speaking in favor:

Attorney Robert J. Coakley, representing the applicant and owner of 15 Middle Street, Michael E. Lee explained that this property was purchased several years ago. The application is a request for a conversion of a three unit dwelling to a four unit dwelling which was intended to be owner occupied under 2.3.1(7). The building has a gabled roof existing at 34 feet and to expand to a mansard style roof, like that adjacent to his property. Further, they are asking for a height exception, to 39 feet under Sec. 3.1.6(b), as well as a decrease in the minimum lot area per dwelling unit from 10,000 feet to 7,890 feet, decreasing the area by 2,110 feet. There was no proof positive how it became a three family dwelling. There was a certificate of usage but that does not legally establish how it became a three family dwelling. Mr. Lee wished to improve the property physically since he bought the property and wishes to make the fourth dwelling on the top floor, owner occupied, which is essentially a slight height increase. They went before the Zoning Board. They granted all the necessary underlying dimensional relief. They have the

appropriate open space area, a 7,500 square foot area, over the 5,000 feet required. The plans are the same as were put before the Zoning Board. There is ample parking on site, without counting the spaces in the garage. Mr. Lee wishes to save the garage and fix it up. With the usage and ownership on site, he can control that. It can be blocked by allocating spaces and to any one of the four parties on site. They're asking for two forms of relief, one is the SCP authorizing the conversion as a multi-family of four units and for the ability to go up to 39 feet, counting a widow's walk, which is common to the neighborhood, measured to the top of the rail. The existing height is 34 feet. This would be five feet above the existing height. They went with a set of plans rendered by Mr. Lee's architect to the Zoning Board which were approved. Mr. Sanborn suggested that Mr. Lee go back to the Board and show the minor changes that are on the plans that the Council has and the Board approved the minor changes, windows from the driveway side changing to a Juliet balcony which allows the doors to open more for show and safety purposes; they are not wide enough for chairs. Another change was on the rear where the roof line was made into a flat roof with a small deck on it. The plans that were approved by the Board are the same submitted to the Council in the application. Visually instead of another gabled roof, it is a more simplistic design. The Zoning Board felt it was a minimal change and voted to authorize it and those plans have been filed with the Building Inspector. The other form of relief they're asking for is that for a multi-family they need 2,500 sq. ft. per unit. They're under it by about 500 ft. per unit. They're asking for a 'lot area' which was not a variance, but a special, special permit, like the height variance that the City Council is empowered to grant. He felt one of the advantages of this change was that the required means of egress for this property are all internal. There will not be a "hodgepodge of stairways" crisscrossing on the outside of the building. The design for the top floor is a mansard design. There is one of similar design next door to 15 Middle Street, also with a widow's walk, and also across the street. Mr. Lee has upgraded the electrical systems on the property. The house was kept within an extended family for 40 years. The house was tired. Mr. Lee has done a lot of physical upgrades, the electrical being the most conspicuous and most safety oriented. There is a staircase coming down the back of the building which is a required egress which is in deteriorated condition; that would come off and be replaced by internal staircases. There is a home of mansard design with a widow's walk to one side of the property and one across the street. The section of the Middle Street is replete with many multi-family dwellings. He pointed out Angle Street and that portion of Washington Street nearby as having dwellings that have mazes of external staircases, which would not be the case with Mr. Lee's property. Some are as tall as or taller than the proposal of Mr. Lee, as well as have more units. He felt the application to be straightforward; that will be a better looking building. They have more than the required parking plan. There is room for cars to turn around on site and drive out facing into Middle Street. Attorney Coakley is submitting photos from his presentation to the Council the following day which he described to them (all photos are on file in the SCP file). He noted the condition added to the permit that no canopy be put on the widow's walk. Mr. Coakley noted the six criteria of Sec. 1.8.3 that this structure was meeting the socio-economic needs, more than adequate parking; it is a sewerred property and the electrical has been upgraded; the proposed 4 family is consistent with the area; the design is characteristic with those in the area; it will be owner occupied upon completion. There is no blockage of view because the house is on a downhill slope. The fiscal impact will add another unit to the tax rolls and for Mr. Lee to continue to upgrade the property.

Those speaking in opposition: None.

Communications: None.

Questions:

Councilor Theken asked about the parking and who was the previous owner.

Mr. Coakley stated they have six spaces plus the garage, and he was unsure of the previous owners. The issue came up before P&D and he submitted 11 all-inclusive packages.

Councilor Theken wanted to know if the building was going from two units to four units.

Attorney Coakley stated it is a three unit domicile going to four units. The Building Inspector had records dating April 17, 2008 by the Assistant Building Inspector certifying it as a three family home in use for 20 years that way.

Councilor Theken was satisfied.

This public hearing is closed.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed on 15 Middle Street, Assessors Map #2, Lot #39 (R-5), to grant the Special Council Permits (SCP2010-010) for conversion of an existing three (3) unit dwelling to a four(4) unit dwelling by adding one (1) unit under Zoning Ordinance Sec. 2.3.1(7); and for a height exception of nine (9) feet under Sec. 3.1.6(b) for a total height not to exceed thirty-nine (39) feet; and under Sec. 3.2.2.a for a decrease in the minimum lot area per dwelling unit (4 units) from a total of 10,000 feet to a total of 7,890 feet with a decrease of 2,110 feet; and further, the Committee finds that the proposed use in this application for these special permits meets the six (6) factors of Sec. 1.8.3 and under Sec. 1.10.2 the proposed conversion is in harmony with the purpose of the zoning ordinance and will not adversely affect the neighborhood with the following condition:

1. No canopy or permanent roof is to be built over the widow's walk.

Discussion:

Councilor Ciolino stated the applicant has met the six requirements of Sec. 1.8.3; that the social, economic or community needs are met with the upgrading of the existing building and the construction of an additional dwelling to the existing three family which is a use consistent with the surrounding neighborhood; traffic flow and safety by formalizing the existing parking on the site; there are adequate utilities to serve the site, that the additional fourth proposed unit doesn't place an additional strain on public services; the neighborhood character and social structure is maintained as the proposed four-family dwelling is consistent with the uses in the surrounding neighborhood; qualities of the natural environment will be maintained, as the applicant shows no impact with the conversion and finally, the potential fiscal impact by the addition of one unit, to be owner occupied will provide additional tax revenue to the City. He would vote in favor of this application as it is a wonderful addition to the street and is consistent with the neighborhood. It is a good plan and worth the expansion. There are a lot of existing three families not on the City records. When one of these buildings get sold that is when the issue comes up. He urged his fellow Councilors to vote for it.

Councilor Whynott went to see the property on his own; and two people who lived across the street were there and spoke to them. They thought it was fine. He would support it.

Councilor Verga would support it and thought this was an excellent plan. He had no problems making this a legal four family. They will be four safe units, unlike some others in the City.

Councilor Theken noted so many homes are three family unit homes that are not necessarily legal and safe; she liked the plan and appreciated the condition placed on the permit.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted **BY ROLL CALL 9** in favor, **0** opposed on 15 Middle Street, Assessors Map #2, Lot #39 (R-5), to grant the Special Council Permit(s) (SCP2010-010) for conversion of an existing three (3) unit dwelling to a four(4) unit dwelling by adding one (1) unit under Zoning Ordinance Sec. 2.3.1(7); and for a height exception of nine (9) feet under Sec. 3.1.6(b) for a total height not to exceed thirty-nine (39) feet; and under Sec. 3.2.2.a for a decrease in the minimum lot area per dwelling unit (4 units) from a total of 10,000 feet to a total of 7,890 feet with a decrease of 2,110 feet; and further, the Committee finds that the proposed use in this application for these special permits meets the six (6) factors of Sec. 1.8.3 and under Sec. 1.10.2 the proposed conversion is in harmony with the purpose of the zoning ordinance and will not adversely affect the neighborhood with the following condition:

1. No canopy or permanent roof is to be built over the widow's walk.

Councilor Hardy noted the plans had been duly signed and entered into the record of this hearing.

9. PH2010-060: Amend Chapter 17 "Police" Article II re: the non-civil service process of selecting the Police Chief

This public hearing is opened.

Those speaking in favor:

Jim Duggan, CAO expressed the Administration's support in front of the Council and at the Special Meeting of the O&A Committee; and thanked them for their amendments and work on the ordinance.

Those in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

Councilor Theken asked to waive the reading of the motion and was agreed to by the Council by unanimous consent and stated that at a special meeting of the O&A Committee on September 7, 2010, the language of the ordinance as of the August 31, 2010 City Council Meeting was reviewed by the Committee and amended by a vote taken at that meeting and is presented to the Council at this time (see below with amendments from the September 7, 2010 O&A special meeting in boldface type).

The Ordinances & Administration Committee voted unanimously to recommend to the City Council to AMEND the Gloucester Code of Ordinances Chapter 17 POLICE, Article II POLICE DEPARTMENT in its entirety as follows:

Chapter 17 POLICE

ARTICLE II. POLICE DEPARTMENT

17-16 Police Chief

- a) The Mayor shall appoint the Police Chief who shall hold the office for a term of three years. The appointment of the Police Chief shall be subject to confirmation by the City Council; as provided in Section 2-10 of the Charter. The Police Chief is exempt from the Provisions of Chapter 31 of the General Laws.
- b) Within thirty days of the position of the Chief of Police being declared vacant, the Mayor shall appoint a temporary Police Chief who shall serve until a permanent chief is selected in accordance with the provision hereof.

17-17 Selection of Police Chief; qualifications.

The Chief of Police shall be selected by the Mayor and shall have the following minimum qualifications, in addition to those developed by the assessment process provided in Section 17-18(b):

- (a) The Chief of Police shall be a law enforcement professional with minimum of 15 years experience in federal, state, county, municipal or military policing, no less than five of which shall be in a progressively responsible law enforcement management position;
- (b) The Chief of Police shall have a master's degree **in Police Science or related fields;**
- (c) Preference shall be given to candidates who have experience with the following:

- i) possess a minimum rank of lieutenant or higher for a minimum of three years in a policing environment;
- ii) a nationally recognized police leadership program(s), such as the Senior Management Institute for Police, and the FBI National Academy;
- iii) financial management, innovations in police operations, and information technology as it pertains to law enforcement;
- iv) labor relations, community relations, mediation and facilitation skills; and including staff development, training, community policing and use of crime data for deployment and decision-making.

(d) Preference may also be given to candidates who have experience with the following:

- i) in a multi-lingual and multi-cultural urban law enforcement environment from municipalities with a population of 30,000 or more residents; possess managerial experience, as defined in paragraph (a), in the command structure of the Gloucester Police Department;**
- ii) bilingual, with the second language reflecting the linguistic diversity of the City of Gloucester.**

17-18 Selection of Police Chief; manner of appointment.

(a) The candidates for Chief of Police shall be reviewed by a Selection Committee consisting of the following individuals:

- (1) The Personnel Director, who shall serve as the Chair of the Selection Committee;
- (2) One member of the City Council to be appointed by the President of the City Council;
- (3) Two members of the general public to be appointed by the President of the City Council, with at least one of said members being a representative of the City's socio-economic and racial and ethnic segments; and,
- (4) Two members of the general public to be appointed by the Mayor, with at least one of said members being a representative of the City's socio-economic and racial and ethnic segments; and,
- (5) Two sworn officers of the Gloucester Police Department, one of whom shall be a member of the union representing patrol officers, elected by that body; and one of whom shall be a member of the union representing superior officers, elected by that body;
- (6) A public safety official appointed by the Mayor, who shall be the Emergency Management Director, if such position shall exist at that time.**

The Mayor may appoint appropriate support personnel to facilitate operations of the Selection Committee.

(b) In consultation with the Selection Committee and the Purchasing Agent, the Mayor **shall** select a qualified recruitment and assessment consultant to analyze candidates for Chief of Police. After

consultation with members of the public at community meetings, the consultant shall develop selection criteria; recruit qualified candidates; **select the most qualified candidates which shall be no more than seven or less than three who shall be considered finalists** and administer the selection process **to these candidates**. The process shall consist of, without limitation, a written examination, a **professional** assessment center and a psychological evaluation.

(c) The Selection Committee shall hold public interviews of the finalists. The Committee shall vote a list of no more than five and no less than three unranked qualified candidates for Chief of Police and shall submit such list to the Mayor. All votes taken by the Selection Committee shall be by majority vote of those present. If the Selection Committee determines that there are fewer than three candidates for Chief of Police, the Selection Committee shall nonetheless send the names of the candidate(s) to the Mayor. The Mayor may choose to commence a new selection process if the Selection Committee submits a list of fewer than three candidates or for any other reason designated in writing.

(d) The Mayor shall appoint a candidate from the list, subject to confirmation of the City Council. Prior to confirmation, the City Council shall be provided with a copy of the contract negotiated with the candidate selected by the **Mayor**. The contract may not be subsequently amended without the approval of the City Council. **The term of the contract shall be three (3) years. The Mayor may reappoint said Chief for subsequent contractual terms of three (3) years subject to City Council confirmation.**

(e) Upon such time as the Mayor shall become aware of a vacancy in the office of Chief of Police, the Mayor shall within a reasonable period of time notify the City Council that a vacancy has occurred. The Mayor shall thereafter commence the process to fill the vacancy, in the manner prescribed herein.

17-19 Powers and duties of Police Chief

The Police Chief shall manage the Police Department. He/she shall be responsible for the discipline and efficiency of the department. The Police Chief shall act as the City Marshal. He/she shall have control of the department, its officers and members, the care of the police station, the care and custody of all the property of the department and shall keep a record of its business.

17-20 Appointment and removal of Officers

The Mayor shall have the power to appoint all police officers and patrolmen who shall hold their office at the discretion of the Mayor subject to the laws pertaining to civil service and to the collective bargaining agreement. The Chief of Police is exempt from civil laws and the terms of the collective bargaining agreement. All police officers are required to be citizens of the United States and within nine months of his/her appointment, to reside within 15 miles of the limits of the City of Gloucester as required by Chapter 41, Section 99A of the General Laws.

17-21 Composition

The Police Department shall consist of the Police Chief, and as many lieutenants, sergeants and patrolmen as may be deemed necessary. The department shall also include supporting administrative staff.

Consecutively renumber the remainder of Article II Police Department as follows:

17-22 Unlawful use of insignia, etc.

17-23 Firefighters appointed as police officers

17-24 Chief of Police to act as dog constable

17-25 Chief to receive complains and prosecute

- 17-26 Records of persons arrested and disposal of cases
- 17-27 Powers and duties of police officers
- 17-28 Acceptance of gifts, etc., by officers
- 17-29 Officers acting as bail or surety
- 17-30 Return of City property when member leaves office
- 17-31 Suspension of police officers
- 17-32 Mutual aid program

Discussion:

Councilor Whynott offered an amendment to Sec. 17-18(a). He felt that the Council was going down a “slippery slope” to the separation of the branches of government and that the Executive and Legislative branches of government needed clear separation. “The Mayor proposes; the Council disposes.” This is a hiring ordinance. The City will have a committee for the selection process but the Council should not be involved until the confirmation process. He would strike #2, and #3 would say: Four members of the general public to be appointed by the Mayor, with at least 2 of said members being representatives of the City’s socio-economic, and racial and ethnic segments; delete #4, renumber old #5 as new #4.

Councilor Verga would support Councilor Whynott’s amendment and believed also in the separation of the branches.

Councilor Tobey stated having worked for or been part of every mayoral administration under this charter and said that in the early 1980’s Mayor Alper included the Council on the selection committee as did all other Mayors since then. He believed the weight of history was in support of the ordinance as approved by O&A on 9/7/2010; and this would enhance transparency between the branches enhancing their operations. It has been quite successful. More is better than less.

Councilor McGeary opposed the proposed amendment by Councilor Whynott and believed that when the voters made this change they lost some protections and thought this was important to retain; that the Mayor makes the final selection to go to the Council. This change of ordinance accomplishes that.

Councilor Ciolino noted in the business world that when someone says we’ve always done it this way, doesn’t work. He believed they needed to be true to what the charter is and need a separation agreeing with Councilor Whynott. He urged the Council to think outside of the box and “think new and fresh” and that this new ordinance with the amendment is a fresh start and not be stymied by what happened in the past.

Councilor Hardy expressed she was not stymied at all. She believed a lot of work went into this ordinance as presented and needs some additional transparency and would support to keep the ordinance as it was as it came out of O&A on September 7, 2010.

Councilor Tobey stated he’s been in corporate America for 13 years and selection of senior management is open, transparency is dominant. For that reason, and the history of transparency it is important [to leave the language intact].

Councilor Ciolino posed that if it was such a success, why do what they’re doing tonight.

Councilor Hardy reminded that this was the will of the voters.

Councilor Whynott stated it hasn’t always been the purest situation [referring to the selection process for a Chief] in the past, and “this wasn’t corporate America”.

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the City Council voted by ROLL CALL 3 (Whynott, Ciolino, Verga) in favor, 6 opposed to amend the language of the proposed GCO Chapter 17 POLICE, Article II POLICE DEPARTMENT (as resulted from the September 7, 2010 Ordinances & Administration Committee meeting).

MOTION FAILED.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 1 (Whynott) opposed AMEND the Gloucester Code of Ordinances Chapter 17 POLICE, Article II POLICE DEPARTMENT in its entirety as follows:

**Chapter 17 POLICE
ARTICLE II. POLICE DEPARTMENT**

17-16 Police Chief

- a) **The Mayor shall appoint the Police Chief who shall hold the office for a term of three years. The appointment of the Police Chief shall be subject to confirmation by the City Council; as provided in Section 2-10 of the Charter. The Police Chief is exempt from the Provisions of Chapter 31 of the General Laws.**
- b) **Within thirty days of the position of the Chief of Police being declared vacant, the Mayor shall appoint a temporary Police Chief who shall serve until a permanent chief is selected in accordance with the provision hereof.**

17-17 Selection of Police Chief; qualifications.

The Chief of Police shall be selected by the Mayor and shall have the following minimum qualifications, in addition to those developed by the assessment process provided in Section 17-18(b):

- (a) **The Chief of Police shall be a law enforcement professional with minimum of 15 years experience in federal, state, county, municipal or military policing, no less than five of which shall be in a progressively responsible law enforcement management position;**
- (b) **The Chief of Police shall have a master's degree in Police Science or related fields;**
- (c) **Preference shall be given to candidates who have experience with the following:**
- i) **possess a minimum rank of lieutenant or higher for a minimum of three years in a policing environment;**
 - ii) **a nationally recognized police leadership program(s), such as the Senior Management Institute for Police, and the FBI National Academy;**
 - iii) **financial management, innovations in police operations, and information technology as it pertains to law enforcement;**
 - iv) **labor relations, community relations, mediation and facilitation skills; and including staff development, training, community policing and use of crime data for deployment and decision-making.**
- (d) **Preference may also be given to candidates who have experience with the following:**
- i) **in a multi-lingual and multi-cultural urban law enforcement environment from municipalities with a population of 30,000 or more residents; possess managerial experience, as defined in paragraph (a), in the command structure of the Gloucester**

Police Department;

- ii) **bilingual, with the second language reflecting the linguistic diversity of the City of Gloucester.**

17-18 Selection of Police Chief; manner of appointment.

(a) The candidates for Chief of Police shall be reviewed by a Selection Committee consisting of the following individuals:

- (1) The Personnel Director, who shall serve as the Chair of the Selection Committee;**
- (2) One member of the City Council to be appointed by the President of the City Council;**
- (3) Two members of the general public to be appointed by the President of the City Council, with at least one of said members being a representative of the City's socio-economic and racial and ethnic segments; and,**
- (4) Two members of the general public to be appointed by the Mayor, with at least one of said members being a representative of the City's socio-economic and racial and ethnic segments; and,**
- (5) Two sworn officers of the Gloucester Police Department, one of whom shall be a member of the union representing patrol officers, elected by that body; and one of whom shall be a member of the union representing superior officers, elected by that body;**
- (6) A public safety official appointed by the Mayor, who shall be the Emergency Management Director, if such position shall exist at that time.**

The Mayor may appoint appropriate support personnel to facilitate operations of the Selection Committee.

(b) In consultation with the Selection Committee and the Purchasing Agent, the Mayor shall select a qualified recruitment and assessment consultant to analyze candidates for Chief of Police. After consultation with members of the public at community meetings, the consultant shall develop selection criteria; recruit qualified candidates; select the most qualified candidates which shall be no more than seven or less than three who shall be considered finalists and administer the selection process to these candidates. The process shall consist of, without limitation, a written examination, a professional assessment center and a psychological evaluation.

(c) The Selection Committee shall hold public interviews of the finalists. The Committee shall vote a list of no more than five and no less than three unranked qualified candidates for Chief of Police and shall submit such list to the Mayor. All votes taken by the Selection Committee shall be by majority vote of those present. If the Selection Committee determines that there are fewer than three candidates for Chief of Police, the Selection Committee shall nonetheless send the names of the candidate(s) to the Mayor. The Mayor may choose to commence a new selection process if the Selection Committee submits a list of fewer than three candidates or for any other reason designated in writing.

(d) The Mayor shall appoint a candidate from the list, subject to confirmation of the City Council. Prior to confirmation, the City Council shall be provided with a copy of the contract negotiated with the candidate selected by the Mayor. The contract may not be subsequently amended without the approval of the City Council. The term of the contract shall be three (3) years. The Mayor may

reappoint said Chief for subsequent contractual terms of three (3) years subject to City Council confirmation.

(e) Upon such time as the Mayor shall become aware of a vacancy in the office of Chief of Police, the Mayor shall within a reasonable period of time notify the City Council that a vacancy has occurred. The Mayor shall thereafter commence the process to fill the vacancy, in the manner prescribed herein.

17-19 Powers and duties of Police Chief

The Police Chief shall manage the Police Department. He/she shall be responsible for the discipline and efficiency of the department. The Police Chief shall act as the City Marshal. He/she shall have control of the department, its officers and members, the care of the police station, the care and custody of all the property of the department and shall keep a record of its business.

17-20 Appointment and removal of Officers

The Mayor shall have the power to appoint all police officers and patrolmen who shall hold their office at the discretion of the Mayor subject to the laws pertaining to civil service and to the collective bargaining agreement. The Chief of Police is exempt from civil laws and the terms of the collective bargaining agreement. All police officers are required to be citizens of the United States and within nine months of his/her appointment, to reside within 15 miles of the limits of the City of Gloucester as required by Chapter 41, Section 99A of the General Laws.

17-21 Composition

The Police Department shall consist of the Police Chief, and as many lieutenants, sergeants and patrolmen as may be deemed necessary. The department shall also include supporting administrative staff.

Consecutively renumber the remainder of Article II Police Department as follows:

- 17-22 Unlawful use of insignia, etc.**
- 17-23 Firefighters appointed as police officers**
- 17-24 Chief of Police to act as dog constable**
- 17-25 Chief to receive complains and prosecute**
- 17-26 Records of persons arrested and disposal of cases**
- 17-27 Powers and duties of police officers**
- 17-28 Acceptance of gifts, etc., by officers**
- 17-29 Officers acting as bail or surety**
- 17-30 Return of City property when member leaves office**
- 17-31 Suspension of police officers**
- 17-32 Mutual aid program**

Committee Reports:

Ordinances & Administration: 09/07/2010

All action items for this meeting were taken up under PH2010-060: Amend "Police" Article II re: the non-civil service process of selecting the Police Chief

Ordinances & Administration: 09/20/2010

There were no action items from this meeting to be taken up by the Council at this time.

Planning & Development: 09/08/2010

There were no action items from this meeting to be taken up by the Council at this time.

Planning & Development: 09/22/2010

There were no action items from this meeting to be taken up by the Council at this time.

Budget & Finance: 09/09/10

MOTION: On motion by Councilor Hardy, seconded by Councilor Curcuru, the Budget & Finance Committee voted 2 in favor, 0 opposed to recommend to the City Council the acceptance of the Massachusetts E911 Salaries Grant for a total of \$61,795.00.

Discussion:

Councilor Curcuru stated the City has been awarded from the State the E911 Salaries grant of \$61,795.00 and the E911 Training Grant of \$10,987.00. The training grant which also has seen a slight increase this year is used to pay for training of officers who routinely dispatch and for training of new officers who must attend the E911 training for the first time. Last year six full-time dispatchers received a 40-hour course given by the State in handling all types of E911 calls with the assistance of this grant. There is no cash or in-kind match required for the E911 grants.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to accept the Massachusetts E911 Salaries Grant for a total of \$61,795.00.

MOTION: On motion by Councilor Hardy, seconded by Councilor Curcuru, the Budget & Finance Committee voted 2 in favor, 0 opposed to recommend to the City Council the acceptance of the Massachusetts E911 Training Grant for a total of \$10,987.00.

Discussion: None.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to accept the Massachusetts E911 Training Grant for a total of \$10,987.00.

MOTION: On motion by Councilor Hardy, seconded by Councilor Curcuru, the Budget & Finance Committee voted 2 in favor, 0 opposed to recommend to the City Council to allow Community Development to apply for a HUD Sustainable Communities Challenge Grant in the amount of \$1.5 million.

Discussion:

Councilor Curcuru explained Community Development submitted their application on August 23rd for the HUD Sustainable Communities Challenge Grant. This grant looked at the transportation aspects and green path networks. The planning money would integrate with the harbor plans for a harbor walk and

how to connect the neighborhoods to the waterfront. They are applying for \$1.5 million in funding. They've asked for this sum at the suggestion of their grant writer. This would be a matching grant which they would be able to provide through in-kind services and other grant sources so there would be no requested obligation from the General Fund.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to allow Community Development to apply for a HUD Sustainable Communities Challenge Grant in the amount of \$1.5 million.

Budget & Finance: 09/21/2010

There were no action items from this meeting to be taken up by the Council at this time.

Budget & Finance: 09/23/2010

There were no action items from this meeting to be taken up by the Council at this time.

Councilors' Requests Other than to the Mayor:

Councilor Verga stated October 21st 6:00 p.m. will be a Ward 5 meeting at the GHS lecture hall.

Councilor Curcuru stated the Cyclo-cross will be at Stage Fort Park this weekend for the 11th year.

Councilor Tobey highlighted the event Operation Commitment to our Troops by the United Veterans Council of Gloucester at the High School Field House, thanks to Attorney Mark Nestor. This will have a variety of information for our veterans. He encouraged all veterans who have needs to take full advantage of the event taking place Saturday October 2nd, 10 a.m. – 4:00 p.m.

Councilor McGeary noted a workshop the following evening by Lisa Press, Conservation Agent for those in beach areas and how to build and upgrade septic systems in the Wingaersheek and Long Beach areas.

Councilor Mulcahey thanked the Tourism Committee for welcoming the cruise ships into the City. 6,000 folks have visited in three trips.

Councilor Theken recognized all the Senior Center Volunteers showing the Council that the total of dollars, if a dollar amount was attached to each hour of volunteering for the center would be \$593,596 in one year which amounted to 42,381 in volunteer Hours from 243 volunteers which keeps the Senior Center going. She thanked all the volunteers and that there was no way to repay a senior or a volunteer for that matter; that it truly counts.

Councilor Tobey noted the glue at the Rose Baker Senior Center is a caring staff led by Lucy Sheehan and should be acknowledged.

Councilor Theken stated 20,000 seniors received letters saying that Harvard Pilgrim, a private insurer, is going to be leaving Massachusetts as an HMO. She has over 600 seniors that have to be changed. She asked that they not come now. She can't do anything until open enrollment from November 15th to the end of the year. Seniors will have no HMO's offered and need to get Medi-gap. Seniors on fixed income pay \$110 already; and now will have to add Medi-gap which is at an additional cost and much higher. "There is nothing out there." This is their universal healthcare. They went to the State with the City's legislative representatives to seek relief. November 2, 2010 at 10 a.m. the director of SHINE will be at the Rose Baker Senior Center to explain the process. She urged seniors to be enrolled in other programs before they take care of this issue. She explained she will need help to accomplish this in 45 days to switch these people. She urged all seniors to open up their mail. She will try to get to everyone. You can call 800-AGE-INFO. Push #2 for an application. #1 is for elder affairs for more help and explanations.

A motion was made, seconded and voted unanimously to adjourn the meeting at 9:53 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTATION/ITEMS SUBMITTED DURING THE MEETING:

- Petition from Neighbors at Columbia Street regarding 10-12 Columbia Street
- Two photographs submitted by Attorney Coakley re: 15 Middle Street (with others to follow 09/29/2010 as part of the Special Council Permit SCP2010-010 file)