

**GLOUCESTER CITY COUNCIL MEETING**

Tuesday, July 11 2017 – 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: Joanne Senos; Jim Destino; Kenny Costa; Chip Payson; John Dunn; Chris Sicuranza**

**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.**

**Oral Communications: None.**

**Presentations/Commendations: None.**

**Consent Agenda:**

- **CONFIRMATION OF NEW APPOINTMENTS**
  - **MAYOR’S REPORT**
1. New Appointment: Zoning Board of Appeals, alternate to full member (TTE 02/14/20) H. Sage Walcott (Refer O&A)
  2. New Appointment: Capital Improvement Advisory Board (TTE 02/14/20) Jason Hakes (Refer O&A)
  3. Memorandum from Harbormaster re: Acceptance of Clean Vessel Act Grant in the amount of \$11, 000 (Refer B&F)
  4. Memorandum, Grant Application & Checklist from Senior Planner re: Acceptance of FY18 Green Communities Competitive Grant in the amount of \$207,433 (Refer B&F)
  5. Memorandum from General Counsel re: Amendments to GCO Article IV, Sec. ’s 21-80 thru 21-86 Repair of Private Ways (Refer B&F)
  6. Event Flyer re: Gloucester HarborWalk Summer Cinema 2017 (Info Only)
    - **COMMUNICATIONS/INVITATIONS**
1. Proposed City Council Resolution re: Natural Gas Leaks and the Consumer (FCV 7/25/17)
  2. Letter from the Gloucester Rotary Club re: City Council acceptance of children’s wooden truck, climbing post & Pagoda Bells At Stage Fort Park (Refer B&F)
    - **APPLICATIONS/PETITIONS**
1. Petition for road repairs in accordance with GCO Art. IV “Repair of Private Ways” Sec. 21-80 et seq. re: Brooks Road (Refer Mayor, DPW, B&F)
    - **COUNCILORS ORDERS**
1. CC2017-021 (O’Hara) Amend GCO Ch. 4 “Animals” Art. I “In General” by ADDING Sec. 4-3 re: prohibition of giving living creatures as prizes at events without prior city approval (Refer O&A)
    - **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
  1. City Council Meeting: 06/27/17 (Approve/File)
  3. Standing Committee Meetings: B&F 07/06/17 (under separate cover), Special B&F 7/11/2017 (under separate cover) O&A 07/03/17 (no meeting), P&D 07/05/17 (no meeting) (Approve/File)

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

**Councilor Gilman** asked to remove Item #1 under Communications, Proposed City Council Resolution re: Natural Gas Leaks and the Consumer. She noted that Ellen Lehman and Marsha Hall brought forward the concept and worked with her to create a resolution about natural gas leaks and the consumer mirroring Senate Bill Docket #113-1845 as supported by Sen. Bruce Tarr. She said the bill was filed with the state on January 19, 2017. She advised that locally the bill is supported by the Clean Energy Commission and the Public Works Department. She advised that the resolution was developed in concert with General Counsel and the City Clerk. She then asked that the resolution be approved on this week’s consent agenda so that it can come forward to the Council for a vote at its July 25, 2017 meeting. **By a unanimous vote of the Council the Proposed City Council Resolution re: Natural Gas Leaks and the Consumer will be taken up under “For Council Vote” at the July 25, 2017 City Council meeting.**

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

**Committee Reports:**

**Budget & Finance: July 6**

**Councilor Memhard** advised the following three Special Budgetary Transfers were related to the Talbot Rink Enterprise Fund and moving funds for temporary service use of the rink.

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 Special Budgetary Transfer 2017-SBT-26 in the amount of \$8,000 from Account #690052-520000, Talbot Rink Enterprise Fund, Purchase of Services, to Account #690051-512000, Talbot Rink Enterprise Fund, Salaries & Wages Temporary, for the purpose of an increase in temporary service use for FY17 Talbot Rink activities.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2017-SBT-26 in the amount of \$8,000 from Account #690052-520000, Talbot Rink Enterprise Fund, Purchase of Services, to Account #690051-512000, Talbot Rink Enterprise Fund, Salaries & Wages Temporary, for the purpose of an increase in temporary service use for FY17 Talbot Rink activities.**

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 Special Budgetary Transfer 2017-SBT-27 in the amount of \$1,200 from Account #690052-540000, Talbot Rink Enterprise Fund, Supplies, to Account #690051-512000, Talbot Rink Enterprise Fund, Salaries & Wages Temporary, for the purpose of an increase in temporary service use for FY17 Talbot Rink activities.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2017-SBT-27 in the amount of \$1,200 from Account #690052-540000, Talbot Rink Enterprise Fund, Supplies, to Account #690051-512000, Talbot Rink Enterprise Fund, Salaries & Wages Temporary, for the purpose of an increase in temporary service use for FY17 Talbot Rink activities.**

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 Special Budgetary Transfer 2017-SBT-28 in the amount of \$261.97 from Account #690052-540000, Talbot Rink Enterprise Fund, Supplies, to Account #690051-512000, Talbot Rink Enterprise Fund, Salaries & Wages Temporary, for the purpose of an increase in temporary service use for FY17 Talbot Rink activities.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2017-SBT-28 in the amount of \$261.97 from Account #690052-540000, Talbot Rink Enterprise Fund, Supplies, to Account #690051-512000, Talbot Rink Enterprise Fund, Salaries & Wages Temporary, for the purpose of an increase in temporary service use for FY17 Talbot Rink activities.**

**Councilor Memhard** explained that the city budget is published in May; voted in early June; debt is issued in that same month, and during the course of the year. This results in unbudgeted debt service which is largely offset by bond premium which is redistributed to capital accounts. Bond premium comes in and flows down to Free Cash during the year. These Supplemental Appropriations are for debt service that was issued last June after the budget was approved and last August. Free cash is now being used to solve the deficit in these accounts. One of these Appropriations, 2017-SA-44 is in the Water Enterprise Fund and 2017-SA-45 and 2017-SA-46 are both within the General Fund.

COMMITTEE RECOMMENDATION: On motion by Councilor Orlando, seconded by Councilor Ciolino, the Budget & Finance Committee voted in 3 favor, 0 opposed, to recommend that the City Council approve Supplemental Appropriation 2017-SA-44 in the amount of \$111,000 (One Hundred Eleven Thousand Dollars) from

the Water Enterprise Fund, Undesignated Fund Balance – Retained Earnings (“Free Cash”), Account #6000-359000 to the Water Enterprise Fund, Debt Service - Principal on Long-term Debt, Account #600059-591000 for the purpose of funding shortfalls in the Water Enterprise Fund debt service accounts.

**DISCUSSION: None.**

**MOTION: On motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted by ROLL CALL 9 favor, 0 opposed, to approve Supplemental Appropriation 2017-SA-44 in the amount of \$111,000 (One Hundred Eleven Thousand Dollars) from the Water Enterprise Fund, Undesignated Fund Balance – Retained Earnings (“Free Cash”), Account #6000-359000 to the Water Enterprise Fund, Debt Service - Principal on Long-term Debt, Account #600059-591000 for the purpose of funding shortfalls in the Water Enterprise Fund debt service accounts.**

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-45 in the amount of \$214,046 (Two Hundred Fourteen Thousand and Forty Six Dollars) from the General Stabilization Fund, Transfers to General Fund, Account #75005-596001 to the General Fund, Debt Service, Principal on Long-term Debt, Account #0170059-591000 for the purpose of funding shortfalls in the General Fund debt service accounts.

**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-45 in the amount of \$214,046 (Two Hundred Fourteen Thousand and Forty Six Dollars) from the General Stabilization Fund, Transfers to General Fund, Account #75005-596001 to the General Fund, Debt Service, Principal on Long-term Debt, Account #0170059-591000 for the purpose of funding shortfalls in the General Fund debt service accounts.**

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-46 in the amount of \$214,046 (Two Hundred Fourteen Thousand and Forty Six Dollars) from the General Stabilization Fund, Transfers to General Fund, Account #75005-596001 to the General Fund, Debt Service, Interest on Long-term Debt, Account #0170059-591500 for the purpose of funding shortfall in the General Fund debt service accounts.

**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-46 in the amount of \$214,046 (Two Hundred Fourteen Thousand and Forty Six Dollars) from the General Stabilization Fund, Transfers to General Fund, Account #75005-596001 to the General Fund, Debt Service, Interest on Long-term Debt, Account #0170059-591500 for the purpose of funding shortfall in the General Fund debt service accounts.**

#### **July 11 - Special Meeting:**

**Councilor Memhard** explained that the following three Special Budgetary Transfers all represent making whole accounts in deficit for FY17 to close out the fiscal year.

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 approve the following Special Budgetary Transfer (2017-SBT-37) for the purpose of funding and making whole account deficits for Fiscal Year 2017 for a total of \$383,800 in the following accounts:

From Account: 0115552 524033	MIS, Software Maintenance	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	39,900.00
From Account: 0116352 542001	Registration, Printing & Stationary	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	8,000.00
From Account: 0118152 520000	Comm. Dev., Purchase of Services	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	25,000.00
From Account: 0122058 585010	Fire, Office Equipment	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	5,000.00
From Account: 0129152 558010	Emerg. Management, Inspect. Sup.	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	6,000.00
From Account: 0141152 520000	Engineering, Purchase of Services	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	8,500.00
From Account: 0147052 520000	DPW Public Svc, Purchase of Svc.	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	8,400.00
From Account: 0147252 540000	DPW Facilities, Supplies	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	45,000.00
From Account: 0149952 548001	DPW Central, Motor Gas & Oil	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	75,000.00
From Account: 0182052 565004	State Assessment, School Choice	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	141,000.00
From Account: 0194252 569001	Vocational School, Assessment	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	22,000.00

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to approve the following Special Budgetary Transfer (2017-SBT-37) for the purpose of funding and making whole account deficits for Fiscal Year 2017 for a total of \$383,800 in the following accounts:**

2017-SBT-37

From Account: 0115552 524033	MIS, Software Maintenance	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	39,900.00
From Account: 0116352 542001	Registration, Printing & Stationary	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	8,000.00
From Account: 0118152 520000	Comm. Dev., Purchase of Services	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	25,000.00
From Account: 0122058 585010	Fire, Office Equipment	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	5,000.00
From Account: 0129152 558010	Emerg. Management, Inspect. Sup.	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	6,000.00
From Account: 0141152 520000	Engineering, Purchase of Services	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	8,500.00
From Account: 0147052 520000	DPW Public Svc, Purchase of Svc.	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	8,400.00
From Account: 0147252 540000	DPW Facilities, Supplies	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	45,000.00
From Account: 0149952 548001	DPW Central, Motor Gas & Oil	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	75,000.00
From Account: 0182052 565004	State Assessment, School Choice	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	141,000.00
From Account: 0194252 569001	Vocational School, Assessment	To Account: 0142352 529014	DPW-S&I Snow Plowing & Salt \$	22,000.00
				TOTAL: \$ 383,800.00

**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 approve the following Special Budgetary Transfer (2017-SBT-38) for the purpose of funding and making whole account deficits for Fiscal Year 2017 for a total of \$98,000.00 in the following accounts:**

2017-SBT-38

From Account: 0113551 511000	Auditor's Office, Salaries	To Account: 0112151 511000	Mayor's Office, Salaries	\$ 5,500.00
From Account: 0113551 511000	Auditor's Office, Salaries	To Account: 0113851 511000	Purchasing, Salaries	\$ 2,600.00
From Account: 0151051 511000	Board of Health Salaries	To Account: 0114151 511000	Assessor's, Salaries	\$ 7,000.00
From Account: 0151051 511000	Board of Health, Salaries	To Account: 0115151 511000	Legal, Salaries	\$ 4,000.00
From Account: 0116151 511000	City Clerk, Salaries	To Account: 0115551 511000	MIS, Salaries	\$ 4,000.00
From Account: 0118151 511000	Community Development, Salaries	To Account: 0117151 511000	Con. Comm., Salaries	\$ 2,400.00
From Account: 0121151 511000	Police Uniform, Salaries	To Account: 0121051 511000	Police Admin. Salaries	\$ 28,000.00
From Account: 0121151 511000	Police Uniform, Salaries	To Account: 0121251 511000	Police CID, Salaries	\$ 6,000.00
From Account: 0121151 511000	Police Uniform, Salaries	To Account: 0121651 513000	Police Harbor, Overtime	\$ 4,000.00
From Account: 0129252 520000	Animal Control, Purchase of Svc.	To Account: 0129251 511000	Animal Control, Salaries	\$ 2,000.00
From Account: 0151051 511000	Board of Health, Salaries	To Account: 0129651 511000	Shellfish, Salaries	\$ 1,500.00
From Account: 0147051 513002	DPW Public Service, OT-Labor	To Account: 0142151 511000	DPW Admin., Salaries	\$ 1,500.00
From Account: 0147051 511000	DPW Public Service, Salaries	To Account: 0142351 513002	DPW S&I, OT-Labor	\$ 6,100.00
From Account: 0147051 512000	DPW Public Service, S&W Temp.	To Account: 0147251 511000	DPW Facilities, Salaries	\$ 19,000.00
From Account: 0161051 511000	Library Admin., Salaries	To Account: 0154351 511000	Veterans, Salaries	\$ 2,400.00
From Account: 0156342 534007	Tourism, Telephone - Usage	To Account: 0156351 511000	Tourism, Salaries	\$ 2,000.00
				TOTAL: \$ 98,000.00

**DISCUSSION: None.**

**MOTION: On a motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to approve the following Special Budgetary Transfer (2017-SBT-38) for the purpose of funding and making whole account deficits for Fiscal Year 2017 for a total of \$98,000.00 in the following accounts:**

2017-SBT-38

From Account: 0113551 511000	Auditor's Office, Salaries	To Account: 0112151 511000	Mayor's Office, Salaries	\$ 5,500.00
From Account: 0113551 511000	Auditor's Office, Salaries	To Account: 0113851 511000	Purchasing, Salaries	\$ 2,600.00

From Account: 0151051 511000	Board of Health Salaries	To Account: 0114151 511000	Assessor's, Salaries	\$ 7,000.00
From Account: 0151051 511000	Board of Health, Salaries	To Account: 0115151 511000	Legal, Salaries	\$ 4,000.00
From Account: 0116151 511000	City Clerk, Salaries	To Account: 0115551 511000	MIS, Salaries	\$ 4,000.00
From Account: 0118151 511000	Community Development, Salaries	To Account: 0117151 511000	Con. Comm., Salaries	\$ 2,400.00
From Account: 0121151 511000	Police Uniform, Salaries	To Account: 0121051 511000	Police Admin. Salaries	\$ 28,000.00
From Account: 0121151 511000	Police Uniform, Salaries	To Account: 0121251 511000	Police CID, Salaries	\$ 6,000.00
From Account: 0121151 511000	Police Uniform, Salaries	To Account: 0121651 513000	Police Harbor, Overtime	\$ 4,000.00
From Account: 0129252 520000	Animal Control, Purchase of Svc.	To Account: 0129251 511000	Animal Control, Salaries	\$ 2,000.00
From Account: 0151051 511000	Board of Health, Salaries	To Account: 0129651 511000	Shellfish, Salaries	\$ 1,500.00
From Account: 0147051 513002	DPW Public Service, OT-Labor	To Account: 0142151 511000	DPW Admin., Salaries	\$ 1,500.00
From Account: 0147051 511000	DPW Public Service, Salaries	To Account: 0142351 513002	DPW S&I, OT-Labor	\$ 6,100.00
From Account: 0147051 512000	DPW Public Service, S&W Temp.	To Account: 0147251 511000	DPW Facilities, Salaries	\$ 19,000.00
From Account: 0161051 511000	Library Admin., Salaries	To Account: 0154351 511000	Veterans, Salaries	\$ 2,400.00
From Account: 0156342 534007	Tourism, Telephone - Usage	To Account: 0156351 511000	Tourism, Salaries	\$ 2,000.00
			<b>TOTAL:</b>	<b>\$ 98,000.00</b>

**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 Special Budgetary Transfer 2017-SBT-39 in the amount of \$27,725.00 from Account #0190151-517003, Health Insurance-Expenses, to Account #0001-328000, General Fund Balance-Reserved for Special Purposes, for the purpose of reserving Fiscal Year 2017 retroactive pay for Police Superiors' contract settlement as of June 30, 2017.

**DISCUSSION:** None.

**MOTION:** On motion by Councilor Memhard, seconded by Councilor Orlando, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2017-SBT-39 in the amount of \$27,725.00 from Account #0190151-517003, Health Insurance-Expenses, to Account #0001-328000, General Fund Balance-Reserved for Special Purposes, for the purpose of reserving Fiscal Year 2017 retroactive pay for Police Superiors' contract settlement as of June 30, 2017.

**Council President Ciolino** acknowledged the hard work of City Auditor, Kenny Costa and John Dunn, CFO, and the Administration for what was just accomplished with the city's finances. This year the city changed from one financial software program to another and the Treasurer's Office, the City Auditor's Office and the IT Department had to juggle the changeover and close out the fiscal year while balancing both systems. He lauded their efforts which he said was done with great patience.

**Planning & Development: July 8 – No meeting**  
**Ordinances & Administration: July 3 – No Meeting**

**Scheduled Public Hearings:**

1. PH2017-032: SCP2017-008: Sleepy Hollow Road #28, Map 257, Lot 35, GZO Sec. 1.9; Sec. 1.10.1(a)1, Sec. 2.4.4(a), and 3.1.6(n) for a non-conforming residence on a non-conforming lot and a building height in excess of 35 feet (Note: the Council's 6/27/17 agenda reflects PH2017-023 in error)

**This public hearing is opened at 7:15 p.m.**

**Council President Ciolino** announced that this matter with the assent of the applicant is continued to July 25, 2017.

**This public hearing is continued at 7:15 p.m.**

2. PH2017-033: Amend GZO by ADDING Sec. 1.5.4.1 "Zoning Administrator" and AMEND Sections 1.8.1, 1.8.2, 1.8.8, 2.2.1 and 2.3.1 accordingly and AMEND Sec. V to add a new Sec. 5.29 "Certain Pre-Existing Multi-Family Use"

**This public hearing is opened at 7:16 p.m.**

**Council President Ciolino** opened and continued this matter to the July 25, 2017 City Council Meeting.

**This public hearing is continued at 7:16 p.m.**

**3. PH2017-023: SCP2017-004: Commercial Street #33, Map 1, Lot 22, GZO Sec. 2.3.6(1) for parking of motor vehicles to service a use permitted in the MI District & GCO Ch. 22, Sec. 22-153 "Privately owned open-air parking spaces" (Cont'd from 06/27/17)**

**This public hearing is opened at 7:16 p.m. at the point of Councilor Questions:**

**Council President Ciolino** observed that new information has come forward in the past two weeks, noting that he had worked with Councilor Orlando and General Counsel on the matter and asked Councilor Orlando for a report.

**Councilor Orlando** noted prior to Councilor Cox calling for a Charter initiative to stop the public hearing under Section 2-11(c), he said that he had posed a question about the Marine Industrial (MI) district specifically about the Special Permit Granting Authority (SPGA) and the responsibility of the SPGA within that district. He said that he understood when an applicant seeks a Special Council Permit in the MI District it could trigger a site plan review. He asked if a site plan review was triggered and if not, should it be considered. **Chip Payson**, General Counsel said this could trigger a site plan review. He advised that he reviewed the Zoning Ordinance which says that Sec. 1.8.3 standards apply, as well as standards in the MI District under Sec. 5.8 and that he reviewed the law from Bobrowski's Handbook of Massachusetts Land Use and Planning Law. He cited GZO Sec. 5.8.2 under Special Regulations, "Applicability," "The following types of activities and uses require site plan review by the Planning Board which he said there are two ways, in his opinion, within subsection B) "In the MI district and new industrial or commercial projects or additions, change of use, or project requiring a special permit or variance." He pointed out that this property is in the MI District and requires a Special Council Permit. He said it may be that this could also be deemed a change of use. He reiterated that the fact is that (33 Commercial Street) is in the MI District and is a project requiring a Special Council Permit which will trigger a site plan review. **Councilor Orlando** asked if the Council has that here. **Mr. Payson** said, "In my opinion we do." **Councilor Orlando** inquired if a site plan review is required. **Mr. Payson** said, "Yes" and added that under GZO Sec. 5.8.7 "Review Guidelines and Approval" that there are some benefits to having a site plan review before the Council considers an issue such as this. He advised there are many examples within that section and listed some such as: "D) All areas designated for the vehicular use shall paved with a minimum of either a three (3") inch bituminous asphalt concrete... E) All parking spaces shall be arranged and clearly marked in accordance with the design and layout standards contained in Section 4.14 of the Zoning Ordinance." G) a subsection dealing with surface runoff; I) a subsection dealing with, "pedestrian safety and vehicular safety to and from the site shall be maximized provided it does not interfere with the proposed use; and L) Promote orderly and reasonable internal circulation within the site so as to protect public safety and not unreasonably interfere with access to a public way or circulation of pedestrian or vehicular traffic on a public way." He reiterated there are some benefits to have an analysis before the Council prior to making a decision on an issue such as this. **Councilor Orlando** asked if Mr. Payson had any understanding as to why a site plan review wasn't undertaken in this instance. **Mr. Payson** said, "No."

**Councilor Lundberg** said that at #44 Commercial Street (a recent Special Council Permitting for an Open Air Parking Lot), and at #33 Commercial Street there are existing parking lots. He said this Special Council Permit application isn't changing the use but the terms (of the use) as to who uses the lot(s) when. He said that the use is the same and asked why the Council needs to have a site plan review undertaken if these two facilities already have been properly permitted. **Mr. Payson** pointed out that it is the interpretation of GZO Sec. 5.8.2 B) and read again, "In the MI district and new industrial or commercial projects or additions, change of use, or project requiring a special permit or variance." He reiterated that this property is in the MI District and it is a project requiring a Special Permit. **Councilor Lundberg** said General Counsel isn't saying that the Council is changing use, because they aren't, but that the property is in the MI District and it requires a Special Permit. **Mr. Payson** said those are the stronger criteria (for a site plan review), and that there is an argument for both sides about change of use, but two criteria are met.

**Councilor Cox**, pointing out that #44 Commercial Street was already permitted (as an open air parking lot), she asked what then happens. **Mr. Payson** said that the Council has made the determination on that permitting and he would have to look into that. He said he will advise the Council upon his further research.

**Councilor Orlando** said there has been threatened litigation from the applicant and those in opposition to the permitting, and that the Council needs to proceed carefully. He said that because under the Zoning Ordinance a site plan review appears to be required, he then moved to forward SCP2017-004: Commercial Street #33 to the Planning Board for the purpose of a Site Plan Review under GZO Sec. 5.8. **Councilor Gilman** seconded.

DISCUSSION ON THE MOTION: To Forward SCP2017-004: Commercial Street #33 to the Planning Board for the purpose of a Site Plan Review under GZO Sec. 5.8

**Councilor Cox** expressed concern that this application has been before the Council for some time and yet this is the first time a site plan review has been mentioned. She said she agreed with Councilor Orlando that not only has litigation in this matter been threatened but that the site plan review is the right thing to do. She added that she is in favor of sending the Special Council Permit to the Planning Board. She said the Council needs to follow its rules.

**Councilor Lundberg** said given what General Counsel outlined, the Council should do this correctly, and then move forward. He asked that when the Council receives the Planning Board recommendation that the Council suspends its Rules of Procedure and reopen the public hearing to allow all parties to speak.

**Council President Ciolino** said that new information was presented, but somewhere during the process the Zoning Ordinance requirement of a site plan review didn't come forward and should have. He said the Council must do its due diligence -- General Counsel has advised this matter should go to the Planning Board and that it is the right course of action.

**Councilor Gilman** expressed her appreciation for the thoughtful approach. She said when this matter comes back that the majority of the conversation will be in open session. She suggested that the Council should put on its agenda at that time as a placeholder the possibility of going into Executive Session to get feedback that may be had from General Counsel on possible litigation. She reiterated that the majority of the conversation can be in open session. She recounted that the previous information she brought forward from the state's Open Meeting Law did cover the Council to receive expert opinion in Executive Session. Council President Ciolino discussed the matter of Executive session briefly and said that in his opinion that it would not be valid in this matter. **Councilor Gilman** asked that the Open Meeting Law on Executive Session be considered carefully in order to ensure the Council takes the time to understand what is in front of them.

**Council President Ciolino** said when this matter does come back before the Council that he would ask the Council to suspend its Rules of Procedure in order allow the applicant and those opposed to the Special Council Permit to speak on the matter.

**MOTION: On a motion by Councilor Orlando, seconded by Councilor Gilman, the City Council voted 9 in favor, 0 opposed, to forward SCP2017-004: Commercial Street #33 to the Planning Board for the purpose of a Site Plan Review under GZO Sec. 5.8.**

**This public hearing is continued by the Council until receipt of a Site Plan Review recommendation from the Planning Board. The intent of the Council through the Council President is to reopen the Public Hearing and call for the suspension of the Council's Rules of Procedure in order to hear again from those "In Favor" and those "Opposed."**

**4. PH2017-034: SCP2017-009: River Road #36, Map 118, Lot 55, GZO Sec. 1.8 re: Use Table Special Permit for an Art Gallery**

**This public hearing is opened at 7:32 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition:**

**Janet McAweeney**, 32 River Road, who said she has resided at that address for 37 years. **Ms. McAweeney** indicated that her property directly abuts 36 River Rd. owned by Anthony Pagnotti. That property is directly across the street from the Market Restaurant (33 River Rd.). She voiced her opposition to Mr. Pagnotti being granted a Special Council Permit for the purpose of opening an art gallery on his property. She noted that the applicant wants to locate the gallery on the first floor of a building that is attached to the home there by the second floor, which she indicated was a shed some time ago when a passageway was built from the second floor of the residence to this shed. She highlighted that she had earlier that day provided letters and emails of neighbors who are in opposition to the granting of this Special Council Permit. She noted that in the application on Item 2 (under GZO Sec. 1.8.3) it is written that the gallery would have negligible effect on the traffic and safety of River Road. She contended that wasn't the case at all. She said (the gallery) would be detrimental to the flow of traffic and safety of people using River Road. She submitted for the record six color 8 ½ x 11 inch photographs taken from her home during the week of July 3 showing traffic congestion and unsafe pedestrian conditions created by trucks double parked to let off passengers at the marina but she said more importantly deliveries to the restaurant. She highlighted a picture in which her husband is trying to back out of their driveway with two trucks and a bicycle impeding his progress and

described several other pictures that showed impediments to residents' vehicular movement as well as pedestrians. She said these pictures don't depict unusual circumstances in the summer on River Road. She said one picture shows the applicant helping his alleged "beauty parlor customer" back out of his driveway impeded by a truck. She alleged that Mr. Pagnotti doesn't seem to feel an obligation to abide by conditions demanded by public authorities such as the Zoning Board of Appeals. She further alleged that at least twice he has ignored such conditions -- once when he was told to plant shrubberies on her property as a condition for obtaining a Special Permit to build a three-story house on a small lot. She then alleged that a second incident was when Mr. Pagnotti's lawyer told the ZBA he would not open a beauty parlor or an art gallery in the renovated back building. She conveyed that the ZBA granted Mr. Pagnotti the permit based on the fact that he uses the second floor as a studio, which she said he does, and the first floor for storage of his art supplies which she said he doesn't do. She alleged that Mr. Pagnotti uses the first floor of the shed which he had indicated was used currently for storage as a "beauty parlor," to cut customers' hair. She indicated on June 21 at the P&D Committee meeting Councilor Cox asked Mr. Pagnotti what he uses the building for and recounted that he said that the studio is on the second floor and that he used the first floor as storage. She said, "That's not true." She concluded her remarks by saying that based on Mr. Pagnotti's past actions she would urge the Council to refuse Mr. Pagnotti's Special Permit application.

**Communications:** **Bud Ris**, 44 River Road; **Kathleen Schad**, 16 Arlington St.; **Martha Bentley**, 6a Union Court; **Sarah Ann Hackett**, 31 Leonard Street; **Helene P. French**, 21 Leonard Street; **Constance S. Mason**, 25 Leonard Street; **Stephen Harris**, 96 Leonard Street; **Deborah Dillon Pearce**, 722 Washington Street; and **Lynn Fenollosa**, 720 Washington Street all of whom wrote either emails or letters in opposition to the Special Council Permit application and highlighted concerns for increases in traffic congestion, an already existing lack of on-street parking in the immediate area, and concerns for public safety as to why the Special Permit in question should not be granted.

**Councilor Questions: None.**

**This public hearing is closed at 7:39 p.m.**

**COMMITTEE RECOMMENDATION:** On motion by Councilor Cox, seconded by Councilor Nolan, the Planning & Development Committee voted 0 in favor, 3 opposed, to recommend that the City Council grant a Special Council Permit (SPC2017-009) under the Gloucester Zoning Ordinance, Section 1.8, and 2.3.6(4), Other Principal Uses, for Arts, crafts and sale of art or crafts if made on premises, for 36 River Road, Assessors Map 118, Lot 55, Zoned R-20, to the owner and applicant, Anthony Pagnotti, to operate a gallery for the sale of art objects, which is found to be in harmony and purpose of GZO Sec. 1.8.3 with the following conditions:

- 1) The art gallery is to be located on the residential premises of 36 River Road where the applicant resides and within the structures currently in existence;
- 2) The art to be offered for sale at the gallery shall be limited to the artwork created by Anthony Pagnotti;
- 3) The parking for gallery visitors shall be entirely off-street as shown on plans submitted to and approved by the City Council;
- 4) The granting of this permit is restricted to the applicant and current owner Anthony Pagnotti and shall expire when the applicant ceases to operate this gallery as approved.

#### **DISCUSSION:**

**Councilor Lundberg** explained the applicant appeared before the P&D Committee and made his case for an art gallery. He said the Committee questioned the applicant on two items, one in which he said he would be selling art other than his own which the ordinance doesn't provide for. He said of greater importance was that in the application it said that the effect on traffic was negligible. He mentioned a recent request for a Special Permit off of Holly Street for an art gallery highlighting the same issue of an art gallery in a home in a neighborhood with a narrow arterial street which already had tremendous traffic congestion. He noted Councilor Gilman spent considerable time this spring putting some "No Parking" signs further up River Road because there were areas where fire trucks couldn't get through because the road is so narrow. He pointed out it was for these reasons the P&D Committee voted 0 in favor, 3 opposed to the granting of this Special Council Permit.

**Councilor Gilman** commented she had missed the meeting when this application came forward (on June 21). She noted that upon reading the minutes of that meeting carefully that she appreciated the questioning about a second artist's artwork proposed to be exhibited by the applicant. She said she was very familiar with the traffic issues on River Road and witnesses it frequently. She noted that the pictures submitted by Ms. McAweeney depicted typical traffic congestion on the road. She explained that she had called Mr. Pagnotti the previous day to speak with him as his Ward Councilor and said she told him that she felt that the traffic was a great issue. She said she also



mentioned that the Zoning Ordinance for a Special Permit was designated for those who want to showcase their own artwork not someone else's. She conveyed that Mr. Pagnotti said he was coming (to the public hearing) and she expressed surprise that he wasn't here. Nine letters in opposition will justify her no vote, she said.

**Council President Ciolino** said that this was an application for only art produced by the resident and not others. This isn't like Rocky Neck that has permitted art galleries with residences immediately nearby. There is more gallery space available elsewhere in the city, he said, and the Council should send a message that they've maxed out on commercial activity in this particular area. He said he wouldn't support this application.

**MOTION: On motion by Councilor Lundberg, seconded by Councilor Cox, the City Council voted by ROLL CALL 0 in favor, 9 opposed, to grant a Special Council Permit (SPC2017-009) under the Gloucester Zoning Ordinance, Section 1.8, and 2.3.6(4), Other Principal Uses, for Arts, crafts and sale of art or crafts if made on premises, for 36 River Road, Assessors Map 118, Lot 55, Zoned R-20, to the owner and applicant, Anthony Pagnotti, to operate a gallery for the sale of art objects, which is found to be in harmony and purpose of GZO Sec. 1.8.3 with the following conditions:**

- 1) The art gallery is to be located on the residential premises of 36 River Road where the applicant resides and within the structures currently in existence;
- 2) The art to be offered for sale at the gallery shall be limited to the artwork created by Anthony Pagnotti;
- 3) The parking for gallery visitors shall be entirely off-street as shown on plans submitted to and approved by the City Council;
- 4) The granting of this permit is restricted to the applicant and current owner Anthony Pagnotti and shall expire when the applicant ceases to operate this gallery as approved.
5. PH2017-035: Amend Sec. GCO 22-288 "Off-street parking areas" the Town Landing parking lot (St. Peter's Square by DELETING "118 parking spaces as shown on Drawing No. 30003, dated August 27, 1957" and ADDING "73 parking spaces as shown on Drawing No. 30003 revised and dated January 15, 1979

**This public hearing is opened at 7:45 p.m.**

**Those speaking in favor: None.**

**Those speaking in opposition: None.**

**Communications: None.**

**Councilor Questions: None.**

**This public hearing is closed at 7:45 p.m.**

**COMMITTEE RECOMMENDATION:** On a motion by Councilor Nolan, seconded by Councilor Gilman, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend that the City Council Amend GCO Ch. 22, Sec. 22-288 "Off-street parking areas" by DELETING "118 parking spaces as shown on Drawing No. 30003, dated August 27, 1957 and ADDING "73 parking spaces as shown on Drawing No. 30003 revised and dated January 15, 1979.

#### **DISCUSSION:**

**Councilor Cox** said this is a "late" update. She explained that the Council was adding a handicapped space in the Town Landing Parking Lot which brought to light that the ordinance was out of date as to the correct number of parking spaces with the appropriate updated map. This is simply a housekeeping matter, she said.

**MOTION: On a motion by Councilor LeBlanc seconded by Councilor Nolan, voted 9 in favor, 0 opposed, to Amend GCO Ch. 22, Sec. 22-288 "Off-street parking areas" by DELETING "118 parking spaces as shown on Drawing No. 30003, dated August 27, 1957 and ADDING "73 parking spaces as shown on Drawing No. 30003 revised and dated January 15, 1979.**

**For Council Vote: None.**

**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.** conveyed the following information:**

The Commission is in recess until September when at that time they will have an ambitious agenda to take up. With a late start they are trying to take up big ticket items for the next tourism season with beach traffic and directional signage for businesses at the fore. The Commission will meet once a month and seek opinions of other boards and commissions of the city and other tourism groups in the private sector on how to resolve some city issues related to tourism. He encouraged anyone with interest in these matters to attend these public meetings.

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

**Councilor Gilman** explained that she was requesting that the Council President through the Mayor ask that the Recreational Marijuana Task Force provide their recommendation as to what action should be taken by the Council in response to the legalization of recreational sales of marijuana and that it be placed on the City Council Consent Agenda for referral to the full Council at its July 25, 2017 City Council meeting. She said she will then put the order in as a City Council representative to the Task Force. She said that this would be taken up at the Council's August 8 when the matter appears for a second time on its agenda. She advised if the Council feels this matter's timetable is proceeding too fast that it could be pushed out to the Council's August 22 meeting. She said they want to have outreach meetings with their ward constituents, and advised that the Task Force will develop a template for Ward Councilors so that they might conduct a productive educational session with their constituents. There will be a meeting at 11:15 a.m. on Friday at City Hall with city staff involved in the Task Force to develop the template for the Ward Councilors, she said. She added that this is about moving forward with a timetable to meet the deadline if the Council decides to put forward question to the voters of the city regarding Recreational Marijuana. **Council President Ciolino** asked the City Clerk to set this matter in motion.

**Councilor Gilman** asked the City Clerk to describe a Council process improvement in the works. **Joanne Senos**, City Clerk, explained that they are trying to get constituents to come to Council meetings and Councilor Gilman had suggested legal ads for public hearings be placed prominently on the city's website. She advised that they are in the process of developing a module on the city's website home page that will show what public hearings will be coming forward at upcoming Council meetings by uploading legal ads. She advised they are working with the IT Department at this time to ensure that the information is on the home page "front and center." **Councilor Orlando** asked if any thoughts were given to using social media. **Council President Ciolino** said it comes down to who will post this information and maintain it. He said the City Clerk's office is at capacity and it seems as though whenever there is a new initiative for information it falls upon the City Clerk's office to be undertaken. He said it is a good idea, and they can talk to the Mayor about it; but the mechanism to make it happen, whose responsibility this will be and pay for it remains to be seen. **Ms. Senos** added that when her staff posts items to the website it is because they have permission to do so, and that any posting such as this would be a city employee liaison as it is an issue of security. She said they are in the beginning stages and this has to go through the Mayor's office in order to go on the website's home page. **Councilor Orlando** said he would Request that the Mayor look into the concept of having a City Council Facebook Page in the same manner as done for the Harbormaster's and Public Works Departments. **Council President Ciolino** said that the liaison can't be the City Clerk's office. **Councilor Gilman** said this is not a lot of extra administration. This is taking the exact ad in the newspaper and put it on a continuous list of upcoming hearings because they're sensitive to the amount of work happening and the city charter requires that the ads be in a newspaper but more and more people aren't reading newspapers. By being on line it is more available -- when anything is posted on a web page that goes on a facebook page it can be linked to Councilor's own pages to push the information out and social media is the way to go. She thanked the City Clerk for her assistance in this matter.

**Councilor O'Hara** extended thanks to Susan Kelly of Generous Gardeners for the recent Garden Tour with over 600 visitors this past weekend. This coming Saturday and Sunday, July 15 and 16 is an art show at the Magnolia Library and he encouraged people to support up-and-coming artists of the community. Monday, July 24 at the Magnolia Library there will be a Red Cross blood drive and he encouraged the public to call the Red Cross to make an appointment to donate blood. He said the blood drive takes place from 2:00 p.m. to 7:00 p.m.

**Councilor LeBlanc** requested that the DPW trim the trees on the median strip from the Tavern to the Cut Bridge to open things up for people to see the view. He said he's received a lot of phone calls on this matter. The trees have grown quite a bit. He told Councilor Gilman she is doing a great job on the Recreational Marijuana Task Force and for keeping the Council up to date as well as Councilor Orlando for his work with the Tourism Commission.

**Councilor Nolan** encouraged attendance at the Magnolia Library art show and highlighted an unveiling for the new plans for Stage Fort Park and the Gentile Bandstand plans soon and suggested people watch for that date to be posted. He expressed his thanks for Stephen Winslow, Senior Project Manager with the Community Development Department for his hard work and the Stage Fort Park Advisory Committee.

**Councilor Orlando** thanked members of the Council, as well as mentioning Councilors Nolan and Gilman for their condolences on the passing of his grandmother. He said he's still looking for volunteers for the fall Clark Cemetery clean-up encouraging everyone to come forward, landscapers included. He asked for an update on the removal of debris still piled at the cemetery from a clean-up there last year.

**Councilor Lundberg** said the Council was missing this evening the annual fundraising cruise on the Beauport Princess put on by the Addison Gilbert Hospital Society. He advised that the Society holds other fundraising events throughout the year as well, and that any funds raised by the Society stays at the hospital to benefit the hospital directly.

**Council President Ciolino** said this Saturday night is the first Block Party with vendors, restaurants having outdoor seating and music and encouraged everyone to attend. He mentioned that Sunday nights there are the Stage Fort Park band concerts highlighting that the previous Sunday saw one of the largest crowds in attendance ever. He also reminded that there is the Movie Night on Wednesdays at 65 Rogers Street and the Harbor Loop Summer Concert Series on Thursdays.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 8:10 p.m.**

**Respectfully submitted,**

*Dana C. Jorgensson*  
Clerk of Committees

**DOCUMENTS/ITEMS SUBMITTED AT MEETING:**

- Six color 8 ½ x 11 inch photographs taken from 32 River Road on dates in July 2017 depicting traffic congestion and unsafe pedestrian conditions on or about 32 to 36 River Road submitted by Janet McAweeney, 32 River Road