

GLOUCESTER CITY COUNCIL MEETING
Tuesday, October 26, 2010 – 7:00 p.m.
Kyrouz Auditorium – City Hall
Council Meeting 2010-23

-- MINUTES --

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

Absent: None.

Also Present: Linda T. Lowe; Jim Duggan; Kenny Costa; Jeff Towne; Fire Chief Phil Dench; Edward Brice; Russell Hobbs; Roselyn Frontiero; Gail Darrell; Marianne Wenniger; Mace Wenniger; Mike Hale; Mark Cole; J.D. MacEachern; Joseph Grace; Candace Wheeler; Damon Cummings; Sunny Robinson; and approximately 50 citizens.

The meeting was called to order at 7:02 p.m. Items were taken out of order (see public hearings).

Flag Salute and Moment of Silence.

Oral Communications:

James O'Hara, 55 Lexington Avenue expressed his thanks to Councilor Verga for his work with the residents regarding their concern for the condition of the Magnolia Pier used by many people throughout Gloucester which is a wood frame pier with a questionable structural integrity which they feel is destined for failure if the right storm should pass through at any time. He has sought the help of the Harbormaster and attended a Waterways Board meeting. He understood there are funds that could be made available for the repair of the pier. There is a group of volunteers in Magnolia who are ready to assist the City if funds are found for the pier's repair. He hoped the Council would help them in moving the repair along to make the pier structurally sound. He felt the small cost of the repair of the pier now was of importance and offered in comparison if they lose the pier now or in the near future, their fear is it will not be replaced.

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 related that the Committee questioned the two potential appointees to their respective Commissions as to their background and qualifications, desire to serve the community as well as their familiarity with the Open Meeting Laws. They were also asked if they had taken their State Ethics exam, and filed appropriately with the City Clerk's office.

Gloucester Historical Commission TTE 02/14/2010 Jeff Crawford

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Jeff Crawford to the Gloucester Historical Commission, TTE 02/14/2012.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to appoint of Jeff Crawford to the Gloucester Historical Commission, TTE 02/14/2012.

Clean Energy Commission TTE 02/14/2010 Candace Wheeler

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Candace Wheeler to the Clean Energy Commission, TTE 02/14/2012.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted 9 in favor, 0 opposed to appoint Candace Wheeler to the Clean Energy Commission, TTE 02/14/2012.

Consent Agenda:

• **MAYOR'S REPORT**

1. Memorandum from Community Development Director re: acceptance of Seaport Bond Funds in the amount of \$500,000 (Refer B&F)
2. Memorandum from Principal Assessor re: Tax Classification (Refer B&F)
3. Memorandum from Assistant Treasurer re: permission to pay FY2010 invoice with FY2011 funds (Refer B&F)
4. Communication from Councilor Theken, Chair of O&A subcommittee re: Newell Stadium Committee appointments to Building Committee: Mark Cole, Bill Sanborn, Joe Guzzo, Dr. Bill Goodwin, J.D. MacEachern Mike Carrigan, Dick Wilson (Refer O&A)
5. Appointments - Board of Registrars (TTE 02/14/2013) Judith A. Peterson (Refer O&A)
Committee for the Arts (TTE 02/14/2013) Barbara Markell (Refer O&A)

• **APPROVAL OF MINUTES**

1. City Council Meeting 10/12/2010 (Approve/File)
2. Joint Special City Council and School Committee Meeting 10/19/10 (under separate cover) (Approve/File)
3. Standing Committee Meetings: O&A 10/18/10; P&D 10/20/10; B&F 01/21/10 (under separate cover) (Approve/File)

• **APPLICATIONS/PETITIONS**

1. Modification to Special Council Permit granted to Nino Ciaramitaro on December 14, 2004 re: 85-89 Bass Avenue (Refer P&D)
2. Modification to Special Council Permit granted to Cape Ann Brewing Company on July 20, 2010 re: 9-11 Rogers Street (Refer P&D)

• **COMMUNICATIONS**

1. Response to Oral Communication of September 28, 2010 City Council Meeting to Sherry Gallagher re: 10-12 Columbia Street (Info Only)
2. Veterans Day Invitation (Info Only)

• **ORDERS**

1. CC2010-076 (Mulcahey) Amend GCO Chapter 11 "Hawkers And Peddlers, and Transient Vendors" Article II, Sec. 11-5 Fixed Vending; site specific locations (6) to allow a 20% rebate to Disabled Veterans on fixed permit bid (Refer O&A & Purchasing Dept.)
2. CC2010-077 (Tobey) City terminates forthwith all business relationships with TD Bank North (Refer B&F)

Items to be added/deleted from the Consent Agenda:

Councilor Tobey wished to remove Order #2 for amendment; and stated under the order he has asked the Council to go on record as favoring the termination forthwith of all City business relationships with TD Bank North given "the sorry state of affairs" of how they handled the beach and recreation money. It is on the agenda for referral to B&F which he felt was a good idea; but he also asked that it be scheduled at their next regularly scheduled meeting for Council vote at which time they could get feedback from B&F on that precise piece of the larger issue of banking relationships generally and noted the "nice job" they were doing. He felt that just as each of us would probably change our bank quickly if our payroll check wasn't acknowledged as having been deposited when it had been; similarly on the City's behalf, the Council should object promptly, efficiently and completely when there is such substantial breach of a

bank's relationship with us. He asked the order be amended so it is referred to B&F and scheduled for Council vote at the Council's next meeting.

MOTION: On motion by Councilor Tobey, seconded by Councilor Theken, the City Council voted 9 in favor, 0 opposed to take the matter of "CC2010-077 (Tobey) City terminates forthwith all business relationships with TD Bank North" be referred to the Budget & Finance Committee and be scheduled for Council vote at the November 9, 2010 meeting of the City Council.

The City Council accepted the Consent Agenda as amended by unanimous consent.

Public Hearings:

[NOTE: Public hearings were taken out of order by unanimous consent of the Council.]

1. PH2010-061: Amend Gloucester Zoning Map and GZO re: 33 & 47 Commercial Street (Birds-eye Mixed use Overlay District

Councilor Hardy opened the public hearing and stated that the Council received a letter from the applicant's attorney, Lisa Mead requesting a continuance of the public hearing. She then continued the public hearing until November 9, 2010.

This public hearing is continued to November 9, 2010.

2. PH2010-094: SCP2010-014 Kondelin Road #16, Sec. 5.13 Personal Wireless Service Facilities (PWSF)

Councilor Hardy opened the public hearing and stated that the Council received a letter from the applicant of record agreeing to a continuance of the public hearing to November 9, 2010.

This public hearing is continued to November 9, 2010.

3. PH2010-095: SCP2010-015 Rogers Street #127, Sec. 5.13 Personal Wireless Service Facilities (PWSF)

Councilor Hardy opened the public hearing and stated that the Council received a letter from the applicant of record agreeing to a continuance of the public hearing to November 9, 2010.

This public hearing is continued to November 9, 2010.

4. PH2010-096: SCP2010-016: Cherry Street #32, GZO Sec. 5.22 Commercial Land Based Wind Energy Conversion Facilities

Councilor Hardy opened the public hearing and stated that the Council received a letter from the applicant of record agreeing to a continuance of the public hearing to November 9, 2010.

This public hearing is continued to November 9, 2010.

5. PH2010-065: SPC2010-009: Holly Street #70, GZO Sec. 2.3.6(4)

This public hearing is opened.

Those speaking in favor:

Marianne and Mace Wenniger, applicants stated that they are applying for a special permit to run a small home-based business. She and her husband are professional artists. Having previously owned art galleries in three locations, they'd like on a small scale to continue to run an art gallery in a designated space in their new home, 10 ft. x 10 ft. They feel it is unobtrusive, almost invisible activity. They're in Gloucester because of its artistic presence and that they'll contribute as a tasteful, harmonious, well-presented addition to the neighborhood and to the City. They feel they've already worked hard for a year to work out the details; having worked with the P&D Committee regarding the parking and signage; and with the help of everyone in the City. This special permit would only apply to their house while they're living there; which was made clear to them at P&D. They hope the Council will take the application seriously; and they want to give to the community and wish to continue what they've done as artists and gallery owners on a small scale and hoped the Council would honor their request.

Lorraine Bunker, 53 Friend Street has known the Wennigers for a number of years and found them to be an inspiration to her personally and was a patron of their art. . She saw their changed lives with the building of their home on Goose Cove; and the small space they've designated to display their art, which is a continuation of their life's work. "Art is not noisy or messy outside the home" and encouraged the Council to honor their request.

Joseph Grace, 75 Holly Street noted he was in favor of the application; however, at P&D, there were certain conditions placed on the Special Council permit which he read to the Council (see motion below). He spoke to condition #4 objecting to the sign being erected as it is sized in the condition; and felt that there should be no exterior signage whatsoever. All visitors, he noted, are supposed to be by appointment, which he felt backed his belief there should be no need for a sign. Also, in one of the P&D meetings, he noted Councilor Whynott stated backing out of driveways was illegal. He would like to see a sixth condition added that no one would be able to back out of the driveway.

Those speaking in opposition: None.

Communications: None.

Questions: None.

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 to recommend to the City Council to grant a Special Council Permit (SPC2010-009) under the Gloucester Zoning Ordinance, §2.3.6(4), Other Principal Uses, for 70 Holly Street to the owners and applicants, Mace and Marianne Wenniger, to operate a gallery for the sale of art made on the premises, subject to conditions as follows:

- 1) The art gallery is to be located on the residential premises of 70 Holly Street where the applicants reside 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 the two applicants;
- 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 signage for the gallery shall be limited to no more than 2 ft. x 2 ft. sign as approved by the Planning & Development Committee;
- 5) The grant of this permit is restricted to the applicants and current owners Mace & Marianne Wenniger and shall expire when these applicants cease to operate this gallery as approved.

The Planning & Development Committee finds that the art gallery as approved with conditions complies with the six (6) factors of §1.8.3(e) of the zoning ordinances and is in harmony with the purposes of the zoning ordinances.

Discussion:

Councilor Ciolino noted that if the Wennigers sell the house and no longer own it, the permit would be extinguished. He believed this to be fair; and it would not be a commercial concern, which the applicants expressed to the P&D Committee that they understood the conditions. He noted the signage for the gallery would ultimately it would be up to the Building Inspector who has to give them a permit for it. He noted the low impact nature of this gallery. There will be no major disruption to the neighborhood.

Councilor Whynott did note that a vehicle should not back out of a driveway if there was an accident, it would automatically be the fault of the vehicle backing out. But you can't put something on the conditions that no one can back out of their driveway. Regarding signage, "it's not a used car lot"; feeling it will be tasteful and saw no reason for them not to have a sign.

Councilor Verga supported this permit as well. He noted the original plan that came before P&D had some issues that were resolved; there were questions on the actual drawing and the parking spaces. What they brought to P&D the last time he was satisfied with and would support this permit.

Councilor Hardy asked regarding the maps and knew that there were a series of maps that went back and forth between the Building Department, Community Development and P&D and what was finally agreed to. For the record, the plan dated August 24, 2010; shown as the parking plan would be the plan they are approving.

Councilor Ciolino agreed and that it should also be signed off by the Building Inspector and confirmed it was the same plan he signed at P&D.

Councilor Hardy stated as the Ward Councilor for Ward 4 she was invited to the Wenniger's home some months ago. They had gone through a big transition trying to accomplish this task. She gave them credit for their "stick-to-itiveness" that they've had; resolving the water drainage issue they've have coming off Holly Street looks as though they are on the road to solving that problem and are doing a great job. She welcomed them to the neighborhood and was in support of the permit.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to grant a Special Council Permit (SPC2010-009) under the Gloucester Zoning Ordinance, §2.3.6(4), Other Principal Uses, for 70 Holly Street to the owners and applicants, Mace and Marianne Wenniger, to operate a gallery for the sale of art made on the premises; and further, the City Council finds that the art gallery as approved with conditions complies with the six (6) factors of §1.8.3(e) of the zoning ordinances and is in harmony with the purposes of the zoning ordinances; the conditions are as follows:

- 1) **The art gallery is to be located on the residential premises of 70 Holly Street where the applicants reside 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 the two applicants;**
 - 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 signage for the gallery shall be limited to no more than 2 ft. x 2 ft. sign as approved by the Planning & Development Committee;**
 - 5) **The grant of this permit is restricted to the applicants and current owners Mace & Marianne Wenniger and shall expire when these applicants cease to operate this gallery as approved.**
6. **PH2010-097: Loan Order #10-08: Loan Authorization in the amount of \$1,264,000 re: Capital Items for FY11**

This public hearing is opened.

Those speaking in favor:

Jeff Towne, CFO stated that the Loan Authorization before the Council is made up of a number of individual items from three different departments: Fire Department, Department of Public Works and the City Clerk's Office. The Fire Department equipment: Fire Pump Brush Truck which comes with

equipment; Rescue Pumper fully equipped, emergency generators, radio towers and repeaters, a fire inspector vehicle; the DPW has two six-wheeled dump trucks equipped for snow plow operations (with sanders) and a 4x2 pick-up truck; the City Clerk's office has 11 refurbished voting machines for authorization. It was Councilor Tobey's request that they bring these items to the Capital Improvements Advisory Board (CIAB) which they did last week and was their first meeting of the newly re-formed CIAB. He stated for the record that the CIAB appreciated the fact that the Council brought it before them; but it was thought that it was so far along in the process, that they would take action on what comes before them next rather than stop this in the middle of the process itself. They did appreciate that the Council has gotten them back into motion with the Mayor's three new appointments to the Board. They've estimated principal and interest on debt for all of these which would equate to about \$168,000.00 per year for some for 15 years, a portion for five years and one of them is only for three years. The maximum would be \$168,000.00. Some would fall off at five years, some at three years; and the rest will remain on for 15 years. The remaining borrowing capacity of the City after this loan authorization will be \$233 million that they're still authorized that would be under the debt limit. It is not a matter of being able to do it; it is a matter of affordability and the department equipment to be replaced. The short term interest to borrow funds for this is in the FY11 operating budget. Principal and interest will start in FY12. These were discussed at B&F; they didn't discuss the loan authorizations and some of the amounts have been slightly amended as they talked about at B&F. He would leave it up to the department managers to answer any specific questions should the Council have any, and he could answer questions regarding financing, and/or the timing of the borrowing.

Those speaking in opposition: None.

Communications: None.

Questions:

Councilor McGeary asked what pieces [of the loan authorization] fall off in three years, five years, and fifteen years.

Mr. Towne noted he'd borrow for the voting machines seeing as they are used for three years; the pick-up truck and Fire Inspector vehicle, even though it will last more than five years, it was his intention to borrow for it for five years; and all the rest will stay at 15 years.

Councilor Curcuru stated the loan authorization and equipment is part of the investment that was being made in this year's budget.

Mr. Towne affirmed the short-term interest was.

Councilor Curcuru stated reason they're buying and making the investment in the equipment especially the Fire Department is due to an audit the City Council requested through the City.

Mr. Towne also affirmed that.

Councilor Whynott asked the cost of the voting machines.

Mr. Towne responded the voting machines are in two parts. This year some are in the existing operating budget this year, \$17,000, and the amount they're going to borrow is \$40,000; which also includes a laptop and software to do the tallies of the votes so it is roughly around a \$48,000.00 purchase.

Councilor Whynott responded that this was a good deal.

Councilor Theken asked with all these loans, how was the City's bond rating.

Mr. Towne stated it remains stable this past vote. He believed with the fiscal condition that 2010 will end up in that the City would do well on their next bond rating including with this loan authorization..

This public hearing is closed.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the following order:

ORDERED: that up to \$1,264,000.00 (One Million, Two Hundred and Sixty-Four Thousand Dollars) be appropriated for a fire rescue pumper, a fire brush pump truck, emergency generators for the Fire Department, radio towers and repeaters, a fire inspector vehicle, two six-wheeled dump trucks equipped

for snow plow operations, a DPW utility truck and election voting machines; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow up to \$1,264,000.00 (One Million, Two Hundred and Sixty-Four Thousand Dollars) under G.L. c.44 §7(9) 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 with the approval of the City Council 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: None.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Theken, the City Council voted BY ROLL CALL 8 in favor, 0 opposed the following order:

ORDERED: that up to \$1,264,000.00 (One Million, Two Hundred and Sixty-Four Thousand Dollars) be appropriated for a fire rescue pumper, a fire brush pump truck, emergency generators for the Fire Department, radio towers and repeaters, a fire inspector vehicle, two six-wheeled dump trucks equipped for snow plow operations, a DPW utility truck and election voting machines; that to meet this appropriation the Treasurer with the approval of the Mayor is authorized to borrow up to \$1,264,000.00 (One Million, Two Hundred and Sixty-Four Thousand Dollars) under G.L. c.44 §7(9) 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 with the approval of the City Council 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.

7. PH2010-098: Amend GCO Chapter 23, Art. III entitled “Water” by adding new section 23-64 “Gloucester Public Water Systems”

This public hearing is open.

Those speaking in favor:

Jim Duggan, CAO stated they all know the water infrastructure is very important to all of us. As a result of last year’s boil water order it made many of us realize how precious a resource our water is. He expressed the Administration’s support for this ordinance for it to move forward.

Russell Hobbs, 1166 Washington Avenue, a member of “Who Decides” read a statement to the Council (complete statement received at meeting and on file) regarding the proposed amendment to the Gloucester Code of Ordinances Chapter 23, Art. III entitled “Water” by adding new section 23-64 “Gloucester Public Water Systems”. He reviewed the history of what led “Who Decides” a grassroots organization to form and put forward the amendment to the protection of the Gloucester Public Water Systems. He then also read for the Council the GCO Chapter 2, Administration, Article 1, General Sec. 2-3. “Disposition of Real Property” owned by the City to make his point that there has been a lack of protection of the water resources of the City (included in Mr. Hobbs’ statement to the Council and on file). He also read the GCO Chapter 2 Administration, Article V. Boards, Commissions, Councils and Committees, Division 8. Human Rights Commission, Sec. 2-496 Policy. He requested on behalf of “Who Decides” that the Council vote to pass the amended water ordinance; to make a commitment to draft language for a referendum on the 2011 ballot making it unlawful for the City’s public water systems and/or public water system infrastructure within the City to be owned by any entity other than the City; and further that the

Council support a Home Rule Petition that will change the City Charter so that no individual, Mayor or City Council will have the right to dispose of the City's water system without the vote of the people.

Joseph Orange, 16 Taylor Street former watershed constable spoke in support of the ordinance believing it would be catastrophic if the City gives up sovereignty, autonomy and control of the City's water; placing the entire community in jeopardy. "It would be madness to surrender our birthright." With the reservoir goes 25% of the land area of Gloucester. He urged Council to think of the City's future by immediate passage of the ordinance.

Joseph Grace, 75 Holly Street also expressed his support.

Bruce Maki, 14 Salt Island Road, member of "Who Decides" expressed the criticality in the timing of the passage of this ordinance noting people are working to "manipulate the system so they can swoop in and scoop up water supplies throughout the country." He thought it to be short-sighted and that it was with devastating effects throughout the world when water resources were privatized.

Gail Darrell, Barnstead, NH stated she had worked closely with the members of "Who Decides" as an organization and applauded their efforts to protect the water for the entire community.

Brenda Malloy, 43 Rocky Neck Avenue spoke in support of the ordinance amendment

Maria Valente, 103 East Main Street was in favor of the ordinance and asked will this ordinance fully protect the water supply given the Federal and State laws related to water quality and conservation. Is there any way that a State or Federal law could circumvent the local ordinance?

Marcia Hart, 2 Fremont Street read a statement from S&P Outlook that said investing in water resources is a contradiction and went on to describe how it will become scarce in years ahead. Global spending on water resources was in the \$43 billion from water utility services to bottled water. Most water utilities are municipally owned in the U.S. Veolia was noted to be the largest water company in the world. They're not trying to own water systems to fix and maintain them; it is to make a profit. Only 16% in the U.S. is owned by private corporations in the U.S. She was in favor of this ordinance.

Former City Councilor Caroline O'Connor stated 40 years ago as a City Councilor she worked on water. She felt they could all take pride that they have collectively avoided total disaster by being careful with the City's water. She was "vehemently opposed" to any attempt by any private corporation trying to buy our reservoirs, our fresh drinking water; or any of the infrastructures that go with that. She expressed her pleasure with the ordinance and encouraged the Council to do what it needed to vote unanimously in favor of the ordinance.

Councilor Hardy thanked Ms. O'Connor for her many years of service to the City in working to protect the water system.

Carmine Gorga, 87 Middle Street expressed his concern with the economic and cultural development of the community (complete statement received at meeting and on file). The Council's decision is for the benefit of the community. If you don't prevent the sale of the City's water to any private enterprise, harm will be done to our society in the form of higher water rates and poorer quality of service. He noted in order to avoid this harm, there will be a cost. He referred to an article in The Beacon (received at meeting and on file). In order to keep the City's water under its control, there is an obligation to look at ways to pay for the services that the City needs in the future. To raise adequate revenues, he contended they could either overburden the population with higher taxes, or they can foster economic development of the community. He believed the issues are intertwined. To protect the City's rights to the water, he felt was the same as protecting our rights to fish. It is rights versus regulations.

James O'Hara, 55 Lexington Avenue thanked "Who Decides" for bringing the matter forward and spoke in favor of the ordinance.

Pat McCabe, 16 Sayward Street asked the Council and the audience if they filtered their water that comes into their house today. With that show of hands, he pointed out this is a system currently managed by the City. The City contracts out who runs the water filtration plants. As a 15 year resident, he felt the water quality for the City was poor; he experiences brown water on a constant basis. Pipes have been replaced; and they have to put filters on their home to get drinking water. He was in favor of keeping control of the water; but at the same time, felt if there was a corporation that can work in unison to give

better quality; he would want to do that, although the rates are high and expected that rate to go up. He reiterated his frustration at the quality of the water in his home.

Roselyn Frontiero, 12 Beacon Street expressed appreciation for the support for the water ordinance. She explained how “Who Decides” formed, as a founder. It grew out of concern for what was happening. Through their discussions and shared research, they found that concern over the failing infrastructure issues, quality of water and water rates was not enough to affect change for the future. They want to participate in the prevention, conservation, maintenance and long-term planning. Their group is a cross-section of the local community; of varied experiences, socio-economic status and education levels. They care to make a difference for “our beloved” Gloucester. “To have a choice is as precious as water itself”. It is an international coalition through their network with their legal partners of the Community Environmental Legal Defense Fund. She declared as of October 26, 2010 “a partnership between the members of “Who Decides”, the City Of Gloucester and their interested friends and neighbors on Cape Ann community”; and that they were duty-bound to not only to protect their rights but to exercise their responsibilities. Half the battle in most communities is getting to be heard by a sub-committee, the City Council or Mayor. That’s not happening in our community. Our city employees and public officials are very receptive to citizens. They applauded the efforts of the civil process going forward. They also are grateful for the Mayor’s transparency. They saw the conditions at the Babson Water Treatment and West Gloucester Treatment plants and the outcome of 15 years of neglect which she contended when a subsidiary of Suez, United Water, was allowed to run down and neglect the system. They believe it is “nonsense” to privatize the water supply because we have brown water and old pipes. The City’s water is from a pristine source. They applauded Mike Hale, DPW Director, and a qualified professional who completed two years of work in six months. They have consulted with top experts in the country and around the world to find there is no company that will do a better job for the City’s water than the City. She showed the October 18th Newsweek issue with the cover banner of “Liquid Assets”, and inside an article entitled, “Water is the New Oil”; also a special issue of National Geographic on water, April 2010. She contended they are running out of water; and our water is valuable. To those who say we should regionalize, she noted that Councilor Tobey has seen the operations of some of the multinational corporations from the inside and has had years of experience; and they appreciated his support, wisdom and guidance to keep water in local control. Their group believes Gloucester must go forward as a united front. When they started to hold their discussions in the community they continued to invite everyone into the conversation because the corporations will keep coming back and “pounding” on the door and will be relentless.

Ed Dalhmer, 607 Essex Avenue noted his lifelong residency and employment at Varian and that he is an MBA candidate at Endicott College. He stated Gloucester was fortunate to have the Mayor reject the offer to privatize the water supply. His research was overwhelmingly in favor of not privatizing water supplies. Many authors write about water systems sold to private corporations who signed long-term contracts of up to 20 years give control of the water resources, United Water, Veolia and Aquarion. Water rates increased, and water quality decreased after taking control of the municipal water supplies. Local citizens need to be made aware of what could happen with privatization. Gloucester does not have the highest water and sewer rates in the nation; Gloucester is seventh in the country for sewer rates and 19th in water rates and 10th when they are combined. He urged that this ordinance amendment be passed.

Those speaking in opposition: None.

Communications:

The following citizens of Gloucester via email expressed their support of the ordinance:

David Hodgkins, 550 Essex Avenue; **Lawrence McNulty**, Manchester; **Timba Bell**, 33 Dolliver’s Neck; **Suzanne London**, 11 Beach Road; **Robert Viau**, 41 East Main Street; **Sheryl Brecker**, 11 Beach Road; **Marlene Hodgkins**, 550 Essex Avenue; **Matt Collins**, 8 Smith Street, Rockport on behalf of his parents who live on Wauketa Road, Gloucester; **Carole Yeager**, 8 Butman Avenue; **Sandy Sabo**, 24

Dodge Street; **Arthur Riaf**, 24 Dodge Street; and **Curtis Gollard**, 37 Beacon Street posed several questions to the City Council.

Questions:

Councilor Ciolino wondered if a State or as Federal mandate could supersede the proposed amendment. **Councilor Hardy** noted the City Solicitor was not in the audience and asked Councilor Tobey to speak to Councilor Ciolino's question.

Councilor Tobey stated "at the risk of practicing law as a Councilor which he tried not to do, "there is always the risk that a local ordinance can be superseded by State or Federal law, which is its nature of the federal system of governance within which we operate." He thought that to be the "cold direct" answer to the question as posed." "The non-legal tag-on becomes, it's not just enough to be vigilant at the local level, but the vigilance must continue upwards to the State and Federal levels through organizations such as these and through our own votes and voices"; and felt this is the most they can do here.

This public hearing is closed.

Councilor Theken waived her right to read the motion for the privilege and in honor of **Councilor Tobey's** support of the ordinance who then read the motion passed at the Ordinances & Administration Committee:

MOTION: On motion by Councilor Curcuro, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Code of Ordinances Chapter 23, Art. III Water, by ADDING new Section 23-64 as follows:

Section 1. Name. The name of this Ordinance shall be the "Gloucester Public Water Systems Ordinance".

Section 2. Preamble and Purpose. The People of the City of Gloucester declare that access to clean and affordable water is essential for life, liberty and the pursuit of happiness – both for the health of the people and for the ecological systems which support human and natural communities – and therefore, that it is a right belonging to the people of the City of Gloucester. We believe that our rights are threatened when public water systems which guarantee that access are controlled by a corporate few, rather than by our community. We believe that privatization of that infrastructure constitutes a usurpation of our democratic right to make decisions about that infrastructure, and therefore, that we are duty bound under the Massachusetts Constitution to prohibit such action.

Section 3. Statement of Law. Public water systems and the infrastructure necessary for distribution of public water supplies within the City of Gloucester shall be owned by the City of Gloucester or a municipal authority of the City, held as part of the public trust for the residents of the City of Gloucester and the ecosystems within the City of Gloucester.

Section 4. Statement of Law. It shall be unlawful for public water systems and/or public water system infrastructure within the City of Gloucester to be owned by any entity other than the City of Gloucester.

Section 5. Effect. This Ordinance shall be effective immediately upon its enactment.

Section 6. All inconsistent provisions of prior Ordinances related to water adopted by the City of Gloucester are superseded to the extent necessary to remedy the inconsistency.

Discussion:

Councilor Tobey stated that an emergency exists in the City and declared under City Charter 2-11(b) the following:

MOTION: On motion by Councilor Tobey, seconded by Councilor Theken, the City Council voted 9 in favor, 0 opposed, pursuant to Sec. 2-11(b) of the City Charter, the City Council declares that an emergency exists in as much as any immediate action taken to sell the water resources, distribution system ,or treatment works of the Gloucester Water System would be detrimental to the public welfare and public health of our citizenry.

Councilor Tobey reinstated the previously made Motion to Amend Code of Ordinances, Chapter 23, Art. III Water in support of the proposed ordinance.

Councilor Hardy stated the motion stands, seconded by Councilor Theken.

Councilor Tobey continued by thanking “a wonderful generation that he wished would last forever,” folks like Caroline O’Connor and Joe Orange as “saints” of the Gloucester water system in preserving our watershed; fighting for its maintenance and being voices for responsible reinvestment in our system for a long time. At the same time they are met by a new generation of activists who are remaining vigilant. In the western part of the country, their motto is “whiskey is for drinking, water is for fighting”. They don’t have the abundant, rich, free-flowing resources water the City has. “We have to stand and fight for it.” When you talk to the international “think tanks” about what conflict in the world in the future will be about water. Then there is the further point that the price of everything, and the value of nothing. He believed we have commoditized anything “in the name of making a quick buck.” It spoke, he felt, to Ed Dalhmer’s point, noting he also got a late in life MBA; and he, too, focused on water a lot. “We have to get past anything that we own can be a financial instrument; and believed this is a good place to make a stand”. Think about how a private water utility sets its rates; and how it makes its money. It invests capital in the water system (replaces pipes, builds treatment capacity; goes to the state public utilities commission, and asks for approval of that program for spending, with a 6%-8% markup; money plowed into the system, but instead it goes to the corporate profits and shareholder benefits. He didn’t think that is the best way to do business with a with an asset so critical to the City’s existence. He asked “what brings us together, ideology, partisanship?” It’s community; it’s the fundamental notion that we come together to do the things that we can’t do individually, collectively. He posed who are the shareholders of the corporation known, the community known as Gloucester? “We are”. If we’re not happy with the nature of our water system now, because the water is brown, he urged come to the Council meetings and advocate in support of the bond orders and the rate increases required to sustain them which have caused so much pain to so many Councilors and more than a few Mayors over the course of time. He emphasized, “It is tough stuff; but it is fundamentally important. We can be the shareholders; we don’t need Veolia or United and its shareholders to get the job done, we can do it here. By passing this ordinance, we can declare that and by folks staying engaged will do a better job in the future.” He will be proudly voting for it.

Councilor Whynott noting his involvement with the City since 1974 could not think of any City Council or Mayor who would have ever considered selling the water then nor now or in the future. He thought this was a good ordinance. He felt they should feel safe in the fact that none of them would ever do anything like the sale of the water resources. He will support this ordinance fully. A future Council can change this and that the City Solicitor should be asked to see what can be done to assure the ordinance cannot be changed and congratulated Councilor Tobey as well.

Councilor Verga thought of all the issues since he has been a Councilor, this was a “no-brainer”. They had someone with a briefcase of money, metaphorically speaking, came to town and tried to go for the water system. They were looking to make a profit. If someone is making a profit “someone is getting screwed and most likely it would be us”. He wholeheartedly supported the ordinance; and admired the three pronged approach; ordinance, referendum and home rule petition.

Councilor Theken thanked Councilor Tobey and expressed her condolences on the passing of his mother. She felt this was very important because it was the first time that they’ve all come together to

make a decision. In her generation, when people were buying bottled water, they laughed. In reading the magazines and hearing what's going on, it is billions of dollars, it's becoming the new oil. They're all working together and struggling together with water issues, and admitted it was frustrated. This is the first step, she felt; and they're all taking responsibility together. She expressed her concern of others controlling the water resources of the City. "Let's stand together and own something together." She applauded "Who Decides" for bringing the ordinance forward and their on-going educational efforts with the community. They Council came forward and worked this ordinance through. She believed they could get a referendum and a home petition rule. She would vote in support of the ordinance.

Councilor Mulcahey stated she felt privileged working together with "Who Decides" understanding their concerns and noted how hard they had worked for something they believed in and for the community and was further privileged to have been able to work to bring this matter forward. She would vote for the ordinance.

Councilor Ciolino would support the ordinance. He believed that "water is the soul of the community." Former City Councilor O'Connor reminded him that people sat here 20 years ago or more and invested the money of the City into the reservoir system there today. The City does some things right. At that time, they invested in reservoirs "so the capacity and quality of water would be the biggest asset we have." Maybe the distribution leaves a lot to be desired; but to put such a resource on the auction block would be the worst catastrophe." He agreed with Councilor Whyntott, probably no one would want to sell those water rights. Who know what may happen 20 years from now when someone dangles a big check. But at least tonight they have made clear "our soul, our water is not for sale." He thanked "Who Decides" for making them all aware of the problem.

Councilor McGeary expressed his thanks for all present for bringing the issue forward. He will be supporting the ordinance change as proposed. He has some concerns regarding the referendum part, but that was a discussion for another day. He thought what was important here was that they are recognizing that the government has duty and obligation, as we have duties and obligations to each other. Sometimes you can't make a profit discharging those obligations and duties. You can't make a profit running a Fire Department, a Police Department, a School Department, and a Water Department. "That is a public good." And as citizen of this community, we have as moral obligation to ourselves and generations unborn to make sure we protect those things that make us what we are." He would "wholeheartedly" support this ordinance change.

Councilor Curcuru would support this ordinance. He claimed this was the most important vote he has taken so far as a Councilor; and believed it shows that when citizens want to get something, they can. He felt "Who Decides" deserved a round of applause.

Councilor Hardy thanked Mayor Kirk for having the presence to say "no thank you" to the people who offered to purchase the City's water to selling our water. As City Council President, she was proud to sit there with her colleagues to be part of the vote, to vote this ordinance unanimously this evening. "We need to protect our natural resources. Our water is one of the most important assets in the City. She, too, would be supporting this ordinance. She also singled out Roselyn Frontiero and Russell Hobbs saluting their efforts, with whom she had been working very closely with on this issue.

[NOTE: *The reinstated motion to adopt the ordinance was then voted.*]

MOTION: On motion by Councilor Tobey, seconded by Councilor Theken, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to amend the Gloucester Code of Ordinances Chapter 23, Art. III Water, by ADDING new Section 23-64 as follows:

Section 1. Name. The name of this Ordinance shall be the "Gloucester Public Water Systems Ordinance".

Section 2. Preamble and Purpose. The People of the City of Gloucester declare that access to clean and affordable water is essential for life, liberty and the pursuit of happiness – both for the

health of the people and for the ecological systems which support human and natural communities – and therefore, that it is a right belonging to the people of the City of Gloucester. We believe that our rights are threatened when public water systems which guarantee that access are controlled by a corporate few, rather than by our community. We believe that privatization of that infrastructure constitutes a usurpation of our democratic right to make decisions about that infrastructure, and therefore, that we are duty bound under the Massachusetts Constitution to prohibit such action.

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Section 4. Statement of Law. It shall be unlawful for public water systems and/or public water system infrastructure within the City of Gloucester to be owned by any entity other than the City of Gloucester.

Section 5. Effect. This Ordinance shall be effective immediately upon its enactment.

Section 6. All inconsistent provisions of prior Ordinances related to water adopted by the City of Gloucester are superseded to the extent necessary to remedy the inconsistency.

The City Council recessed at 8:28 p.m.

The City Council reconvened at 8:40 p.m.

Councilor Tobey left the meeting at 8:45 p.m.

8. PH2010-085: Amend GCO Sec. 22-271 “Parking prohibited from May 1 to September 15- Generally” re: Lexington Avenue
9. PH2010-086: Amend GCO Sec. 22-291 “Tow Away Zone” re: Lexington Avenue
10. PH2010-099: Amend GCO Sec. 22-270.1 “Resident Sticker Parking Only” re: Lexington Ave.

Councilor Hardy opened PH2010-085, PH2010-086, and PH2010-099 simultaneously.

Those speaking in favor:

Kelly O’Brien, 27 Shore Road spoke in favor of the amendment because of the May to September period, this area is “inundated” with vehicles; cars, trucks, the occasional motor home. They park on both sides of the street, frequently for the entire day. This congestion makes it difficult for them to get in and out of their driveway and for their guests. It is almost always out-of-state vehicles. He recounted in speaking with people who come to visit are from neighboring towns. Doing resident sticker parking would enable Gloucester residents to have access; but that non-residents would have to go to the public areas. He would appreciate the Council’s support.

Brenda Fogerty, 27 Shore Road spoke of the neighborhood inundation of caravan of divers who flock to the area especially on Saturday or Sunday mornings, and the lack of restricted parking there as in other areas like Niles Beach, Folly Cove, and Bass Rocks. She urged the council to support the parking ordinance amendments.

Those speaking in opposition: None.

Communications: None.

Questions: None.

Councilor Ciolino asked if they were doing Sec. 22-270.1 “Resident Sticker Parking Only” as well.

Councilor Hardy confirmed all three public hearings had been opened simultaneously on Lexington Avenue.

Councilor Ciolino asked if it was the regular beach parking sticker they were referring to since the City didn't have any other policy which was confirmed.

Councilor Whynott noted the first public hearing stated: "Parking prohibited from May 1 to September 15-Generally" and asked if it would be overridden by "Resident Sticker Parking Only" or did that mean that nobody could park there during that time.

Councilor McGeary noted they'd had a similar situation with some traffic orders on Haskell Street and believed that you have to first prohibit parking entirely and then allow parking for specific qualifications, in this case, the beach sticker. First you prohibit entirely then you modify.

Councilor Theken stated that was not brought up in O&A. What they discussed, and changed some things, but the Traffic Commission did support this. They meant the parking to be resident parking with a beach sticker in order to park there.

Councilor Whynott didn't agree with the way it was written to do that. He felt it eliminates all the parking, and noted the City Clerk was in agreement.

Councilor Hardy asked what Councilor Verga, who brought the order, would want to do.

Councilor Verga thought it would be good if they could send the ordinance back related to the dates and handle the other two items here; since his original order was dated July 7th. Due to circumstances beyond everyone's control and the Traffic Commission's schedule, confusion on the advertisement, we're "behind the 8-ball here". He'd wanted to at least get at least two of the items addressed that evening and hopefully passed.

Councilor Mulcahey thought that there could be a sign stating "Resident Parking" included in it, saying "Resident Parking Only from May 1st to September 15th."

Councilor Hardy expressed she would favor whatever Councilor Verga wished as it was his ward and she would support whatever he wanted to do.

Councilor Verga reiterated he'd like to take up two at least; and also to find out if the sign could be as Councilor Mulcahey lay out.

Councilor Hardy clarified, "as advertised with that minor alteration."

Councilor Verga assented.

Councilor Hardy suggested continuing that public hearing until the next City Council meeting which will give them time on that particular ordinance to research and to see whether or not they can bring it forward.

By unanimous consent the City Council continued PH2010-085 to November 9, 2010.

Councilor Hardy directed the Council's attention to the remaining opened hearings, PH2010-086 and PH2010-099 for Lexington Avenue regarding the Tow Zone and Resident Parking Only.

Councilor Verga thought the statements from the public summed up the reasoning for the need for them and he would be in support.

Councilor Mulcahey added that she had seen signs that say "Resident Parking Only" with the time or date on them. She believed the two ordinances could be put together on one sign. She would vote for this but didn't see what the problem was.

Councilor McGeary stated as was explained to him at the Traffic Commission, in the case of Haskell Street, that even though the sign may say "Resident Sticker Parking Only"; if the underlying ordinance permits parking, "somebody could park their Winnebago" there and could fight the ticket

Councilor Hardy asked if these amendments to the ordinance were for one side or both sides of the street for the restriction for resident sticker parking only.

Councilor Verga clarified it was for both sides of the street.

Councilor Hardy asked if the Councilor was comfortable proceeding with this now.

Councilor Theken posed the question if they put a tow away zone on the street and they don't have resident sticker parking on it, and they put two parts of this away; by the time they come back with the third part, even the residents are going to be towed. She wondered if it was a good idea to put them through now and rather to continue them also.

Councilor Verga responded if it had the resident sticker it should supersede the tow away zone.

Councilor Theken made clear that they were doing two things there now: they would make it resident parking only and if you don't have resident parking sticker you will be towed.

Councilor Verga thought by virtue of what they just discussed it would go to the City Solicitor for clarification.

Councilor Hardy confirmed that would be the case.

Councilor Ciolino suggested that he thought waiting another two weeks would not be untoward to make sure that all questions are answered (regarding PH2010-085: Parking Prohibited from May 1 to September 15-Generally re: Lexington Avenue).

Councilor Theken brought up a similar situation on Rocky Neck where many residents complained that got parking tickets this summer; no signs were put up because it said "Resident Parking". When did that go in effect? She felt this was the same thing. They put something up and it's in the ordinance, they fought their tickets because they all got towed. She understood they were talking about Lexington Avenue, but she didn't want people to get towed as they did on Rocky Neck and on Haskell Street. By putting in these two amendments to the ordinance, and do resident sticker parking tonight, that will enact for them to park no matter what.

Councilor Verga stated yes and believed that this authorizes the police to tow the violators.

Councilor Ciolino understood they're trying to these done for next summer. He thought one more Council meeting to clarify all these questions would not be untoward. He thought it was very confusing. With the Councilor's permission, he thought it made sense to sort it all out.

Councilor Whynott didn't think there's much question about the last two; "resident sticker parking only" is what it is. Any illegal parking you can use Sec. 22-291 to tow. The only question he had was then if you put something on top of that, "parking prohibited from May 1 to September 15-Generally" does that include the residents too; that's the question that has to be answered. He would put PH2010-085 to the City Solicitor for clarification.

Councilor Mulcahey agreed with Councilor Whynott that it was redundant. She didn't feel it was needed. If you have residential parking and only residents can park there, then anyone else who parks there will be in violation. It is year 'around. It should be tow away and residential sticker parking only.

Councilor Theken added that the original Committee report used Sec. 22-271 from the October 4th O&A Minutes which at the October 4th meeting was corrected to be readvertised to show Sec. 22-270.1 "residential sticker parking only" (Seasonal-May 1 to September 15)... That was what was supposed to be advertised. She wondered if this would supersede the other one. Residential parking wasn't supposed to be for all year long; not in the motion that came out. She thought it should all go back to O&A to be sure of its correctness. She apologized to Ms. Fogerty and Mr. O'Brien who keep coming to meetings, but she wants to see it done correctly.

Councilor Curcuru agreed with Councilor Theken to send it back to Committee for clarification.

Councilor Verga inquired if anything has to be re-advertised that they cover their bases.

Councilor Hardy explained if the advertising is wrong they have to start from scratch.

Councilor Theken claimed that what came out of Committee was not what was advertised.

Councilor Hardy stated then they would have to be re-advertised so that the public was aware of exactly what they're looking for.

Councilor Whynott thought if it says something resident; sticker parking and isn't restricted to time, and you have something restricted to time; it could be done by amendment.

Councilor Hardy closed PH2010-086, PH2010-099 simultaneously and by unanimous consent PH2010-086 and PH2010-099 were continued to November 9, 2010.

Committee Reports:

Ordinances & Administration Committee: 10/18/2010

There were no action items for the Council as a result of this meeting.

Planning & Development Committee: 10/20/2010

There were no action items for the Council as a result of this meeting.

Budget & Finance Committee: 10/21/2010

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend to the City Council under M.G.L. Chapter 44, Sec. 53-1/2, to establish an enterprise account for the Talbot Rink Enterprise Fund effective Fiscal Year 2011.

Discussion:

Councilor Curcuru explained that since the City took over the maintenance of the school buildings which included the Talbot Rink. Now they are attempting to establish an Enterprise Fund to make it self sufficient.

Mike Hale, DPW Director stated on July 1st when they took over facilities management of school properties, Talbot Rink was included in that package. They put this into a budget format for an Enterprise Fund. They believe the rink generates enough revenue to be self-sufficient. How much additional money it could generate that would allow them to invest capital dollars into the rink was looked at and noted the budget before the Council which they set up as a regular departmental budget (on file). They have projected revenue and expenditure lines below it; noting personnel, ordinary, debt service or capital outlay items. Based on their projected revenue for FY11 of \$263,000 is supported by the number of ice hours they currently project to be sold for the season. There is a balance of about \$14,000.00 at the end of this fiscal year. He felt the projection for FY12 looks a bit better. They gave a modest increase from year to year; but there is some cost savings in personnel and management of the rink. With Mark Cole and J.D. MacEachern assistance, they have reached out to some of the existing programs and noted the revenue of these groups using the ice generate (schedule on file) according to last year's and FY11 projections. Cape Ann Youth Hockey was by far the largest user of the rink at \$75,000.00 per season. They're looking at those groups to see if they need more ice hours and reaching out to communities of Rockport and Beverly that may want more ice time. There are different ways to advertise the open ice time that becomes available through cancellations via web blasts (ex.: www.rinktime.com). If they can get open ice due to cancellations soon enough they may be able to get interested parties to book that now open ice time. It will be about managing open spots for ice time to be re-booked. As they fill those spots made open by cancellations, he believed the revenue would continue to grow.

Councilor Ciolino noted there was oil for the rink. He thought it was all electric.

Mr. Hale stated to understand the O'Maley complex utilities is "something of a skill". Currently, the rink uses its hot water for the Zamboni and to melt the ice. It comes off the main boilers at the O'Maley complex; and shares the cost of the hot water which is oil fed at O'Maley.

Councilor Ciolino thought that was a lot of money for defrosting the Zamboni.

Mr. Hale responded it was not just melting the snow. The Zamboni requires warm water to surface the ice which is surfaced between every session from September through May; it's a lot of hot water to use; and cold water can't be used. One of the capital improvements they're examining is a hot water system for the rink itself separated from O'Maley because there are competing interests. As the rink is drawing hot water, there is a void of hot water within the O'Maley complex. There was a dedicated hot water system for the rink but it was abandoned some time ago.

Councilor Ciolino asked about National Grid and Suez as shown on the budget.

Mr. Hale stated their electric is not always to one vendor; sometimes they pay National Grid, sometimes Suez. They pay a number of electric accounts, but both relate to electric.

Councilor Curcuru asked about the condition of the rink which is serviceable for the year; but he understood there is some work to be done.

Mr. Hale stated the rink has shortcomings. Similar to other facilities in the City, it has lacked investment. There hasn't been investment in the rink for a long time. The people at the rink try to do the best they can with what they have. The dehumidification system is poor creating fogging conditions in the building which isn't good for the ice or the health of the building. The boards and glass are old and have issues needing replacement despite the on-going efforts of the maintenance staff. There's no safety netting around the ice surface to protect people on the benches and in the bleachers. The locker rooms need investment. The building does need a new roof, but that is not unlike every school to date. There are other improvements that could be made such as having the hot water system being separate from the O'Maley complex. They will be metering the electric separately from the O'Maley school so that they can gain the true cost of the electric for the rink. He believed they could do a lot with it; a great building, a great "sheet of ice"; one of the best places to watch an ice event.

Councilor Curcuru stated there needs to be an investment in the rink which should serve two purposes. It could increase revenue by allowing them to sell more ice time and will keep the rink moving forward. He felt if they don't do these initial investments they would have problems running the rink and did Mr. Hale believe that to be the case.

Mr. Hale didn't think the rink could go on and wasn't sure they'd want to open up for another season if they didn't spend any money on it. It becomes dangerous. He cited the boards and glass noting Steve Cahill had done a great job of holding them together but that can go on for so long. The cap rails on the boards have dangerous pieces; and the glass is near failure. If they can't attract youth programs because it's dangerous, he pointed to Cape Ann Youth Hockey as the largest user at \$75,000.00. He contended if that went away, "there would be no sense in being there." He noted page 2 of the budget (on file) and looked at the school programs, Gloucester Varsity, JV and Middle School. Making clear he was not suggesting they charge the school for their ice time; he pointed out the expense to the school programs should the hockey teams be forced to go elsewhere to rent ice and pay those rates out of their budget. It would be \$45,000.00 for the season. If there wasn't local rink they'd be buying ice somewhere else; probably not at that rate either. They'd be forcing their school programs and youth hockey programs to buy ice elsewhere.

Councilor Curcuru posed the state of the revenue, the state of the expenditures; would that have enough money in the self-sustaining account to borrow.

Mr. Hale replied with the \$14,000.00 projected for this year, they haven't borrowed any money yet. By the time they "get that money out there", if they're able to authorize the loan, it wouldn't likely be until after the holidays. Depending on the timing, it may not have a loan payment until after the beginning of the next fiscal year. Timing-wise he believed they would be "OK". Short-term will be the first 12 to 24 months and then set the long-term. It will be challenging; and will put more responsibility on him and his managers in order to manage the facility well. He knew it was creating more work but thought it was a better system.

Councilor Curcuru stated for 13 years J.D. MacEachern had been the rink manager; and in that time that the schools have had control of the rink he wondered had there been any capital improvements, which seemed to him to be the crux of the matter,.

Mr. MacEachern noted not really. The need has intensified. When he was hired; the rink was a "physical education station" and was how it was built. It was a five month a year rink with tennis for the rest of the year. When he came aboard he was instructed to have the rink pay for itself. They expanded the season to create revenue and saw needs that weren't fulfilled because of expansion of ice time, like the dehumidification system. Counting the new Zamboni, it has been nine years since that purchase [and last capital expenditure on the rink].

Councilor Curcuru stated the revenue has dropped \$40,000 over the last two years.

Mr. MacEachern confirmed the revenue had dropped as has interest [in hockey and figure skating].

Councilor Curcuru asked about contracts and liability waivers; had the liability waivers been a part of this [the contract].

Mr. MacEachern responded liability waivers come from the organizations. They have not been contracts.

Councilor Curcuru asked as to the status of a contract [form] for the rink.

Mr. Hale stated they took one that the school side legal department put together a few years back which never made it into circulation. They passed to the City Solicitor for review and revision. He has it and needs to review it once more to make sure payment periods are as they think they should be, cancellation policies, etc. He noted Cape Ann Youth Hockey is looking forward to this contract. This isn't something that will burden these users but rather it will give clarity for their program so they know exactly when their ice time is and know what the policies and procedures are, etc.

Councilor Curcuru asked about the transportation company using the former pro shop as offices.

Mr. Hale stated they're working with the Administration and the School Department and believe they have a solution that the transportation coordinator has office space at the Fuller complex. The buses would be relocated to the Fuller complex and could be moved back to O'Maley for the weekend of big events there and then brought back to Fuller. He had hoped it would have happened by now; the process was a little slow but moving forward.

Councilor Mulcahey noted in 2010 the Coke machine was \$659.00 and Coca Cola products were a different number.

Mr. Hale stated the products are purchased and then you sell it, so one is the purchase of the product and one is the revenue from their sale.

Mr. MacEachern thought Coca Cola was combined with Food Services who did the P.O. in order to get a better price; and that might be where some of the confusion came from.

Councilor Ciolino asked about the dehumidifier. He thought two Councils ago they did a loan order for one.

Mr. MacEachern stated it never happened. It was put out to bid; there was a loan order. The bids that were sent out were more than they needed; and exceeded what the loan order was for; and that did not come to pass.

Mr. Towne added that loan order was re-appropriated for something else in 2007,. They took that financing, for \$257,000.00, and re-appropriated for modular classrooms, the one prior to the most recent for \$3.4 million.

Mr. MacEachern stated the dehumidifier in the rink was installed when the rink was built (35 years ago) and was for a five month rink. It was and remains very inadequate.

Councilor Verga expressed he was glad the bonding of the dehumidifier was brought up by the Councilor because he felt the line of questioning at the start of the conversation made it sound as if the School Department was completely ignoring these issues. They had risen to the level of capital improvements and bond requests. He noted the Administration issued a memo they're looking to find alternative housing for the School Department administration and pre-school, and wondered why they are looking to move more into Fuller School. He saw that as a disconnect; on one hand they're trying to clean it out and sell it and on the other hand "we're moving in", which he believed to be a good idea as well as moving the buses over to Fuller. He thought it was a mixed message from the Administration.

Councilor Curcuru thought this was originally to free up the pro shop to stop the "in and out" for the humidity.

Mr. Hale couldn't speak to Councilor Verga's question; but that the transportation unit is being run out of the rink with the doors opening and closing constantly which changes the atmosphere within the rink. He noted a rink isn't appropriate for an office with so much foot traffic. This constant in/out adds greatly to the dehumidification problem.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Theken, the City Council voted BY ROLL CALL 8 in favor, 0 opposed, under M.G.L. Chapter 44, Sec. 53-1/2, to establish an enterprise account for the Talbot Rink Enterprise Fund effective Fiscal Year 2011.

[NOTE: The following was taken at the end of the Committee Reports. Councilor Ciolino left the meeting at 9:58 p.m.; therefore, the vote of the Council below showing 7 in favor, 0 opposed, reflects that neither Councilors Tobey or Ciolino were present at the time of that particular vote.]

Kenny Costa, City Auditor proposed language for the Council to establish budget accounts as it related to the establishment of the Talbot Rink Enterprise Fund at the request of Councilor Hardy.

Councilor Hardy asked if this entailed the total budget for the Enterprise Fund they had just set up.

Mr. Costa stated that was correct.

Councilor Hardy noted this was a bit unorthodox but they needed to get the budget set so that they can get it out of deficit spending.

Councilor McGeary stated this motion was for expenses against revenue.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga the City Council voted BY ROLL CALL 7 in favor, 0 opposed to appropriate \$170,247.00 for Personal Services; \$78,500.00 for Ordinary Maintenance; \$14,253.00 for Capital Outlay; and \$263,000.00 for Rink User Charges.

MOTION: On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend to the City Council the acceptance of \$250,000.00 (Two Hundred and Fifty Thousand Dollars) grant from the Seaport Advisory Council under M.G.L. Chapter 44, Sec. 53A.

Discussion:

Councilor Curcuru stated that this was a \$400,000.00 grant received a couple of years ago from the Seaport Advisory Council for economic development. The Committee recommended to accept the first \$150,000.00 for the economic development plan work and held off approving for the second \$250,000.00 so they would be clear on the scope when it came back. It is a two year contract, \$125,000.00 each year. They will hire an implementation manager for the plan which is a half time position. It also is paying for the I4-C2 visioning.

Councilor Theken asked if it was a matching grant and was informed it was not.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed, to accept a \$250,000.00 (Two Hundred and Fifty Thousand Dollars) grant from the Seaport Advisory Council under M.G.L. Chapter 44, Sec. 53A.

MOTION: On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend to the City Council the transfer (#2011-SA-1) in the amount of \$50,000.00 (Fifty Thousand Dollars) from R/A Highway Force-OFS-Transfer Out, Unifund Account #294015310.991.59600.0000.00.000.00.059 to Public Services Paving, Unifund Account #101000.10.470.58415.0000.00.000.00.058 to fund autumn paving contract.

Discussion:

Councilor Curcuru noted this was for fall paving in the City.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to transfer (#2011-SA-1) in the amount of \$50,000.00 (Fifty Thousand Dollars) from R/A Highway Force-OFS-Transfer Out, Unifund Account #294015310.991.59600.0000.00.000.00.059 to Public Services Paving, Unifund Account #101000.10.470.58415.0000.00.000.00.058 to fund autumn paving contract.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend to the City Council to accept under M.G.L. Chapter 44, Sec. 53A, from the U.S. Department of Justice a “Secure Our Schools” grant, #210CKWX0707, ORI#MA00508 for \$38,888.00 (Thirty-Eight Thousand Eight Hundred and Eighty-Eight Dollars) with matching grant of \$38,888.00 to be supplied by the Gloucester School Department.

Discussion:

Mr. Duggan noted the discussion on the matter at B&F in terms of maintenance and replacement of the equipment and whose responsibility it would be because the Police Department applied on behalf of the schools. He notified Interim Superintendent Connolly by email that any replacement and/or maintenance of equipment to be installed as a result of this grant will be the responsibility of the School Department. Superintendent Connolly, by return email, in turn alerted the School CFO, Tom Markham of that. **Councilor Hardy** asked if that was agreed to by the Superintendent, and if a copy of that email was on file with the City Clerk’s office.

Mr. Duggan confirmed both that it was agreed upon by the Superintendent and a copy of the email was on file.

Councilor Theken noted they spoke of this matter at the Joint School Committee and City Council Meeting of October 19th; and asked about citizens coming forward regarding invasions of privacy what could happen regarding a possible law suit and then not being able to have any videos in the school system; what would happen to this [grant].

Mr. Duggan believed the cameras she was referring to were the ones strategically placed throughout the City under the Homeland Security grant.

Councilor Theken clarified if there was a lawsuit, and the cameras were disallowed, what would happen to this grant; would they have to return the money; how long do they have this grant and have they purchased the cameras.

Mr. Duggan responded he didn’t know if the surveillance system(s) had been purchased to date.

Councilor Curcuru added this equipment hasn’t been installed.

Councilor Theken expressed her concern, understanding that the School Department was putting up the matching grant. Whether the Schools put up the matching grant or the City does she wanted to be sure when it happens what is their responsibility on the City side and wanted to know if the equipment had been purchased.

Councilor Curcuru stated the equipment was not yet purchased and wasn’t expected to be installed until after the first of the year sometime. Also, it would be monitored by the schools.

Councilor Theken thought it was good for the protection of the children.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed to accept under M.G.L. Chapter 44, Sec. 53A, from the U.S. Department of Justice a “Secure Our Schools” grant, #210CKWX0707, ORI#MA00508 for \$38,888.00 (Thirty-Eight Thousand Eight Hundred and Eighty-Eight Dollars) with matching grant of \$38,888.00 to be supplied by the Gloucester School Department.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed, to recommend to the City Council to pay \$161.93 in expenses incurred in FY2010 with FY2011 funds for reimbursement to Carolin Catalano, former Volunteer Coordinator for the Gloucester Tourism Commission.

Discussion:

Councilor Curcuru explained this payment is for expenses incurred in FY2010 by Carolin Catalano, former Volunteer Coordinator for the Gloucester Tourism Commission.

Councilor Hardy stated these items were purchased just before the end of the last fiscal year and just got caught in a “catch 22” and didn’t get turned in, in time.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Theken, the City Council voted 8 in favor, 0 opposed, to pay \$161.93 in expenses incurred in FY2010 with FY2011 funds for reimbursement to Carolin Catalano, former Volunteer Coordinator for the Gloucester Tourism Commission.

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the acceptance of a tangible gift from the Carroll K. Steele Insurance Agency under M.G.L. Chapter 44, Section 53A-1/2 of 100 toilet seats for the Gloucester Public School buildings, with a cash equivalent of \$1,489.00 (One Thousand Four Hundred and Eighty-Nine Dollars).

Discussion:

Councilor Curcuru explained to the Council that when Public Works took over facilities management of the schools, one item pointed out in dire need was identified as toilet seats. Steve Dexter of the Carroll K. Steele Insurance Agency read it in the paper and decided he wanted to make a donation and purchased 100 toilet seats. He personally thanked Mr. Dexter for doing this. It shows his civic pride in doing his part for 100 toilet seats.

Councilor Ciolino asked that a letter of appreciation for the donation to Mr. Dexter of the Carroll K. Steel Insurance Agency.

Councilor Hardy asked the City Clerk’s office to send a letter of thanks to Mr. Dexter.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Theken, the City Council voted 8 in favor, 0 opposed to accept a tangible gift from the Carroll K. Steele Insurance Agency under M.G.L. Chapter 44, Section 53A-1/2 of 100 toilet seats for the Gloucester Public School buildings, with a cash equivalent of \$1,489.00 (One Thousand Four Hundred and Eighty-Nine Dollars).

MOTION: On motion by Councilor Hardy, seconded by Councilor McGeary, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council the acceptance of a general gift in the approximate amount of \$3,500.00 from the Gloucester Rotary Club under M.G.L. Chapter 44, Section 53A-1/2 for the maintenance for the Tony Gentile Memorial Bandstand.

Discussion:

Councilor Ciolino asked that a letter of thanks be sent to the Gloucester Rotary Club. He noted the work has been done to the bandstand, painted and wooden parts replaced and tidied up.

Councilor Theken thanked the Rotary Club for their work at Stage Fort Park and around the City.

Councilor Hardy asked the City Clerk’s office to send a letter of thanks to the Gloucester Rotary Club.

[NOTE: Councilor Ciolino left the meeting at 9:58 p.m.]

MOTION: On motion by Councilor Curcuru, seconded by Councilor Ciolino, the City Council voted 8 in favor, 0 opposed to accept a general gift in the approximate amount of \$3,500.00 from the Gloucester Rotary Club under M.G.L. Chapter 44, Section 53A-1/2 for the maintenance for the Tony Gentile Memorial Bandstand.

MOTION: On motion by Councilor McGeary, seconded by Councilor Hardy, the Budget & Finance Committee voted 3 in favor, 0 opposed to permit the Department of Public Works to apply for a Mass Department of Environmental Protection Capital Improvement Plan Grant Program for Medium and Large Public Water Systems in the amount of up to \$7,000.00.

Discussion:

Councilor McGeary stated this is a planning grant for water system improvements. He believed there was no match to this grant.

MOTION: On motion by Councilor McGeary, seconded by Councilor Theken, the City Council voted 7 in favor, 0 opposed to permit the Department of Public Works to apply for a Mass Department of Environmental Protection Capital Improvement Plan Grant Program for Medium and Large Public Water Systems in the amount of up to \$7,000.00.

Councilors' Requests Other than to the Mayor:

Councilor Whynott noted that Ted Costa, Sr. who had been quite ill and had brain surgery and was in Spaulding is now coming home this Saturday.

Councilor McGeary reminded all that Tuesday was Election Day in the State; and while he admitted this was not the forum to make any endorsements, he noted there were two ballot questions that have to do with sales tax and rolling it back. According to the MA Municipal Finance Agency, if both were to pass it would cost the City \$1 million in federal aid which he equated to 7 or 8 teachers, 3 or 4 firefighters and a policeman. He reiterated this was a point of information.

Councilor Mulcahey believed the Council made history that evening and was privileged to be part of it.

Councilor Theken reminded that she was having a meeting at the Rose Baker Senior Center on November 2nd 10 a.m. with 161 people confirmed. She urged anyone who is on Medicare and needs to switch during open enrollment should come to that meeting. Any senior who has received a letter or has yet to receive one and is on Harvard Pilgrim, not the GIC, not from the City, not from an employer retirement, but personal, private health insurance, need to come. She warned they are losing their insurance as you know it. She thanked the Rose Baker Senior Center that starting November 16th she would be there on Tuesdays only all day. And also, from November 15th to December 31st, she will be seeing seniors only by appointment.

A motion was made, seconded and voted unanimously to adjourn the meeting at 10:06 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTATION/ITEMS SUBMITTED DURING THE MEETING:

- Statement of Russell Hobbs, 1166 Washington Street on behalf of "Who Decides"
- Statement of Carmine Gorga, 87 Middle Street and newspaper article "Keep our water under our control, an opinion published in The Beacon, October 22, 2010
- Talbot Rink Enterprise Fund FY11 Budget Fund 620000-Dept. 475 by Kenny Costa, City Auditor