

GLOUCESTER CITY COUNCIL MEETING

Tuesday, September 11, 2018 – 7:00 p.m.

Kyrouz Auditorium – City Hall

-MINUTES-

Present: Chair, Councilor Paul Lundberg; Vice Chair, Councilor Steven LeBlanc, Jr.; Councilor Melissa Cox; Councilor Valerie Gilman; Councilor Kenneth Hecht; Councilor Jennifer Holmgren; Councilor Scott Memhard; Councilor Sean Nolan; Councilor James O’Hara

Absent: None.

Also Present: Joanne M. Senos; Mayor Sefatia Theken, Jim Destino; Kenny Costa; Chip Payson; John Dunn; Gregg Cademartori; Jill Cahill; Interim Police Chief John McCarthy; Harbormaster T. J. Ciarametaro; Karin Carroll; Rick Noonan; Grace Poirier

The meeting was called to order at 7:02 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. Councilor O’Hara dedicated the Moment of Silence on the occasion of the 17th anniversary of 9/11 to all those who gave their lives. He also remembered Vincent Cafasso, a principal in the Gloucester School system recently passed away, leaving his wife of 60 years, Kathleen; children Cynthia, Carol Rose, Robert, Valerie and Marie.

Oral Communications:

Name: Louise Pallazola

Address: 57 Western Avenue

Subject: Vending on Stacy Boulevard during special events. The Council was to investigate vendors parking in front of a handicap sign and other related concerns to vending and parking on Stacy Boulevard during special events, and that the Code of Ordinances restrictions be enforced. Written statement with photographs submitted for the record.

Name: Richard Bennett

Address: 9 Rockholm Road

Subject: Concern for elected officials expressing personal opinions on various subjects that come before boards during meetings rather than that of their constituents.

All other Council Agenda items were taken out of order.

Presentations/Commendations:

Commendation for Will Bren

Councilor Melissa Cox, representing the City Council conveyed that she is friends with a family that has one of their children going through cancer treatments. This child, she highlighted, has been a “beacon of light” and inspiration to her and others in the city to the point where he has been recognized on many levels. Recently this young man held a T-shirt sale to raise money for the Jimmy Fund, even though he was going through cancer treatment. She advised that Will Bren with his family was dropping off the Council’s T-shirts they’d purchased to support his Jimmy Fund fundraising drive but didn’t know that the Council wanted to present him with a Commendation. Master Bren and his family were asked to join Councilor Cox at the podium who then read a commendation naming Master Bren as an honorary City Councilor which was presented to him.

Mayor Sefatia Theken, saying that it is not about Master Bren’s struggle but the strength he has shown others and bringing the community together, presented Master Bren with a mayoral pin and a BMW scooter with matching hat donated by the Lyon Waugh Auto Group. She wished Master Bren well through his treatments.

The Council recessed at 7:25 p.m. and reconvened at 7:29 p.m.

Presentation on City Charter Review Commission by Ruth Pino and Attorney Meredith Fine:

Ruth Pino, 82 Wheeler Street, highlighted she worked for the Charter Commission in 1972 and 1973; had worked for the Council as its first Clerk of Committees and was a recording secretary for the Gloucester School Committee. She expressed her and Ms. Fine's appreciation to the City Clerk, Joanne M. Senos whom she said has been very helpful. She asked for the Council's support of the Charter Commission process which she conveyed is a public process to update the City Charter. She highlighted that it isn't that she and Ms. Fine believe that anything is "broken," rather it is about beginning a public input process to learn what the city could do better. They are in the process of gathering a group of citizens to obtain the necessary signatures on a petition, about 3,200 signatures, or 15% of the voters who voted in the last state election, to get the question for a Charter Review on the 2019 municipal ballot, she advised.

Meredith Fine, 20 Eastern Avenue, gave the following summary:

- The City Charter is the constitution of the City of Gloucester, laying out the form of city government and is an important, fundamental document of city government.
- The City Charter was created in 1974 and at that time the city installed a "strong mayor form" of government, a complete overhaul of the City Charter. In 1985 there was another Charter Commission which made important changes such as terms of offices, a recall section, in all about 10 to 12 changes.
- Since 1985 the Council has had Decennial Charter Reviews, but it doesn't have the authority to make major changes to the structure of the government by itself; therefore, nothing major has been done for about 35 years to the document.

Ms. Fine highlighted that since the City Charter's initial acceptance, technology has changed, and there are opportunities to make Gloucester the best it can be, and one way is by improving the underlying documents.

- The Pre-Charter Commission Committee is comprised of: Ruth Pino, Meredith Fine, Brent Wilkes, Jonathan Pope, Tony Gross, Jack Clarke, Bob Gillis, John Christie, Chris Sicuranza and Sal Frontiero.
- The Charter Commission after obtaining the requisite number of signatures for a petition places a question on the next municipal ballot; they have one year to do so. If accepted by the voters, it moves on to the actual Charter Review process is to get it on the ballot and then do the actual Charter review.
- The Pre-Charter Commission Committee is only interested in getting this question on the 2019 ballot. It will be up to others to drive the Charter review.
- Concurrent but separate from the ballot question will be the election of a nine-member Charter Review Commission which the voters must vote on as well.
- The ballot question will read: "Shall a Commission be elected to review the Charter of the City of Gloucester."
- Should voters vote in favor of a Charter Commission review then a process of public hearings would begin; an expert consultant may be retained by the Charter Commission; there will be a review of the Charter and the Commission will produce a Preliminary Report.
- The Charter Commission Preliminary Report is submitted to the state Department of Housing and Community Development and to the Attorney General which is marked up by them and returned to the Charter Commission.
- The final Charter Commission Report is due September 2021 and a copy has to be mailed to every registered voter in Gloucester which will need to be translated into several different languages. In the election of November 2021 there would be a ballot question: "Shall the City of Gloucester approve the Charter Revisions recommended by the Charter Commission summarized below."

Ms. Fine extended her thanks to Joanne M. Senos, City Clerk; Council President Paul Lundberg and Mayor Theken for their assistance. She mentioned that this process was a good opportunity for citizens to learn how their city government works, and that they welcome the Council's input.

COUNCILOR QUESTIONS:

Councilor Cox asked about the elected Charter Commission that if there were more than nine candidates would there be a need for a primary. **Ms. Fine** nodded "No." She added that each Charter Commission candidate would need 50 signatures to be placed on the ballot.

Councilor LeBlanc asked if there were any other reasons prompting the call for a Charter Commission review of the City Charter such as concern for the form of government, terms of office; and what it would cost the city for

things like translation of the documentation into other languages and a possible contracting for a Charter consultant. He pointed out if it were simply adding terms like “she/her” to be included with “his/him” then things like that can be handled by a Decennial Charter Review. **Ms. Fine** advised what got her personally interested in forming a Charter Commission was having sat through hundreds of public meetings through participation and observation; going before boards, committees and commissions with clients in her professional capacity, and hearing people complain about “weird” quirks because of the way the underlying documents are written, with the Zoning Ordinance, the Wetlands Ordinance, and the Charter. She suggested that in 2018 it is difficult for the public to make it work. As to the cost, she offered that: 1) the pre-election cost is funded by the volunteers; 2) In the Charter Commission process there will be some expenses, such as a consultant and the city will have to pay for the (Final Charter Commission Report) mailing. She added in her opinion it wouldn’t be hugely expensive. **Ms. Pino** advised there would be some expense but she didn’t know what it would be. This isn’t about what she and Ms. Fine think should change or happen, she pointed out, saying that she would have an opportunity to give her opinions in front of the Charter Commission. She recounted that this is about getting signatures and getting the question on the ballot and to support any Charter Commission. **Councilor LeBlanc** expressed his understanding of the Charter review process and asked if the expense of the Charter consultant would fall on the city, especially in light of lean financial years, adding that he thought a Charter Commission is a good idea. **Ms. Pino** noted it is up to the elected Charter Commission as to what they believe they need, and they’ll have to come up with a budget.

Councilor Hecht asked if the process is dictated in the City Charter or state law. **Ms. Fine** advised it is state law.

Councilor O’Hara offered his thanks to Ms. Pino and Ms. Fine, saying that it was time to review the city’s governmental “bible” to find ways to improve it. **Ms. Fine** noted that for all the things they do for the city, this may be the most important thing they ever do as it will last for generations.

Confirmation of New Appointments: None.

Consent Agenda:

- **REAPPOINTMENTS**
- **MAYOR’S REPORT**

1. Appointments: Clean City Commission Sarah Steward TTE 02/14/21 (Refer O&A)
2. Memorandum from Auditor re: adopt Betterment Reserve Funds under MGL c. 44, §53J and adopt a Special Reserve Fund as part of the FY17 audit (Refer B&F)
3. Memorandum from Council on Aging Executive Director re: request approval of FY18 Title III Older Americans Provider Service Grant in the amount of \$8,190.30 (Refer B&F)
4. Memorandum from General Counsel re: request law firm Anderson Kreiger (A&K) of Boston be classified as a Special Municipal Employee (Refer O&A)
5. Memorandum and Supplemental Appropriation-Budgetary Request 2019-SA-4 from the CFO (Refer B&F)
 - **ADDENDUM TO MAYOR’S REPORT**
 - 1. Memorandum from CFO re: loan authorization request to provide funding for the repair of private ways for Nashua Avenue and Diamond Avenue in the amount of \$215,000 (Refer B&F)
 - **COMMUNICATIONS/INVITATIONS**
 - 1. Invitation from the Office of Veterans Services to the Private Joseph S. Mattos Jr. Flag Dedication Ceremony on October 5, 2018 (Info Only)
 - 2. Response from Mayor’s Office to Oral Communications of August 14, 2018 City Council meeting to Grant Clark (Info Only)
 - 3. Response from Mayor’s Office to Oral Communications of August 14, 2018 City Council meeting to Richard Cousins (Info Only)
 - 4. Response from Mayor’s Office to Oral Communications of August 14, 2018 City Council meeting to Alice Eastland (Info Only)
 - 5. Response from Mayor’s Office to Oral Communications of August 14, 2018 City Council meeting to Carrie Fryklund (Info Only)
 - 6. Response from Mayor’s Office to Oral Communications of August 14, 2018 City Council meeting to Debbie Holland (Info Only)
 - 7. Response from Mayor’s Office to Oral Communications of August 14, 2018 City Council meeting to Nicholas Holland (Info Only)
 - 8. Response from Mayor’s Office to Oral Communications of August 14, 2018 City Council meeting to Stephen Kasnet (Info Only)
 - 9. Response from Mayor’s Office to Oral Communications of August 14, 2018 City Council meeting to Dennis McGurk (Info Only)
 - 10. Response from Mayor’s Office to Oral Communications of August 14, 2018 City Council meeting to Jennifer McTiernan (Info Only)
 - 11. Response from Mayor’s Office to Oral Communications of August 14, 2018 City Council meeting to Peter Radochia (Info Only)
 - 12. Response from Mayor’s Office to Oral Communications of August 14, 2018 City Council meeting to John Rogers (Info Only)
 - **APPLICATIONS/PETITIONS**
 - **COUNCILORS ORDERS**
 - **APPROVAL OF MINUTES FROM PREVIOUS COUNCIL AND STANDING COMMITTEE MEETINGS**
 - 1. City Council Meeting: 08/28/2018 (Approve/File)
 - 2. Standing Committee Meetings: B&F 9/6/2018 (no meeting), Special B&F 09/11/18 (under separate cover), O&A 09/03/18 (no meeting) P&D 09/05/18 (Approve/File)

Unanimous Consent Calendar:

1. Memorandum from Fire Chief re: request acceptance of the FEMA AFG 2017 Grant for three (3) stretcher loading and security systems, in the amount of \$145,454.00 with a 10% match from the city in the amount of \$14,545.00 (Refer B&F)
2. Memorandum and Supplemental Appropriation-Budgetary Request 2019-SA-5 from the CFO (Refer B&F)

Items to be added/deleted from the Consent Agenda & Unanimous Consent Agenda:

By unanimous vote of the Council, the Consent Agenda and the Unanimous Consent Calendar was accepted as presented.

Committee Reports:**Budget & Finance: September 6-no meeting; September 11-Special**

COMMITTEE RECOMMENDATION: On a motion by Councilor , seconded by Councilor , the Budget & Finance Committee voted in favor, 0 opposed to recommend that the City Council approve Special Budgetary Transfer 2019-SBT-2 in the amount of \$24,000 from Account #0122052-558015, Fire Department, Ordinary Maintenance-Supplies for Men & Women to Account #0122058-585003, Fire Department, Capital Outlay-EMS Equipment, for the purpose of funding the second payment of five installment payments for the Fire Department Monitor/Defibrillators.

DISCUSSION:

Councilor Cox noted that this Special Budgetary Transfer is to fund a routine installment payment for Fire Department monitors/defibrillators.

MOTION: On a motion by Councilor Cox, seconded by Councilor Memhard, the City Council voted 9 in favor, 0 opposed, to approve Special Budgetary Transfer 2019-SBT-2 in the amount of \$24,000 from Account #0122052-558015, Fire Department, Ordinary Maintenance-Supplies for Men & Women to Account #0122058-585003, Fire Department, Capital Outlay-EMS Equipment, for the purpose of funding the second payment of five installment payments for the Fire Department Monitor/Defibrillators.

Ordinances & Administration: September 2 - No Meeting - Labor Day Holiday**Planning & Development: September 5**

There are no matters for Council action under this heading.

Scheduled Public Hearings:

- 1. PH2018-031: Draft Marijuana Establishments ordinance to replace existing GZO Sec. 5.27 “Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities” with a new Sec. 5.27 “Marijuana Establishments Ordinance”; Amend Sec. 2.3 “Use Tables”; Amend Sec. 2.3.2 “Community Services Uses”; and DELETE Sec. 5.31 “Temporary Moratorium on Recreational Marijuana**

This public hearing is opened at 7:50 p.m.

Upon opening the Public Hearing, **Council President Lundberg** conveyed that this is the result of a lot of work that the city has done following a vote two years ago to legalize recreational marijuana use, noting that the city already had a Zoning Ordinance in place for medical marijuana. He pointed out that there’s a lot that has to do with processing and selling of recreational marijuana that the city doesn’t control -- the state issues the licenses, collects the sales tax and makes the rules. What the state has left to cities and towns is the zoning of where retail establishments and other marijuana establishments, include testing and growing establishments, can be located. The Mayor had appointed a Task Force made up of city department heads and members of the School Committee and City Council to go through everything that had to be considered for a zoning recommendation. That recommendation went to the City Council and Planning Board last spring. Due to the highly technical nature of a Zoning Ordinance, there is a lot of work that goes into its development and that work is now complete, he announced. During the deliberation on this Zoning Ordinance there were a lot of discussions on issues that pertain to marijuana itself. The one issue not being debated this evening is whether to have it or not as voters have already made that decision. He reiterated that the Council this evening is deciding where to locate these retail marijuana establishments. He asked the city’s Chief Administrative Officer, Jim Destino to give the Council an overview of the process to date.

Jim Destino, CAO, conveyed the following information:

- In November 2016 Massachusetts voters approved an initiative petition for a law pertaining to the regulation and taxation of marijuana. The state voted 53.7% in favor, 46.3% in opposition. Gloucester voted 56.7% in favor, 41.1% in opposition. In December 2016 the state legislation codified the initiative petition; included in that law was the creation of the Cannabis Control Commission (CCC) charged with adopting regulations and licensing of marijuana establishments.
- Shortly after the referendum vote the Mayor commissioned a Marijuana Task Force to examine the issue of adult use marijuana in the city.
- The proposed Zoning Ordinance will replace the Medical Marijuana Zoning Ordinance (GZO Sec. 5.27).
- Types of Marijuana Establishments: Marijuana cultivators may cultivate, process and package marijuana to transfer and deliver marijuana products to marijuana establishments but not to customers. Marijuana manufacturer: a manufacturer is an entity authorized to obtain, manufacture, process and package and marijuana products, to deliver marijuana and marijuana products to marijuana establishments and to transfer marijuana and marijuana products to other marijuana establishments - not to customers. A marijuana research facility may cultivate, purchase or otherwise acquire marijuana for conducting research regarding marijuana or marijuana products. Then there are retail shops -- it is to be determined as to the time, place and location of these establishments in the city.
- Not covered in the proposed Zoning Ordinance is social consumption and delivery. Those regulations have been delayed for further study by the CCC.
- Locally the city was charged with the regulations for time, place and manner of the retail establishments in the city. After many meetings, including ward meetings, and it was noted that recommendation to make from the Marijuana Task Force were difficult to reach.

Mr. Destino extended his and the Mayor's "deepest" appreciation to the members of the Marijuana Task Force, the Planning & Development Committee, chaired by Councilor Gilman and the Planning Board, chaired by Rick Noonan, for their diligence and hard work. He continued by explaining that:

- In March of 2018 the Mayor put forward recommendation to the Council to cap the number of retail establishments which was voted in May 2018. Also voted in May 2018 was the adoption of the 3% local sales tax - revenue that goes into the General Fund, and the city isn't limited on what they can spend those funds on. The sales tax only applies to retail sales.
- There is an impact fee associated with a Community Host Agreement regardless of the type of marijuana establishment. That fee is capped at 3% and must be attributed to the cost incurred by a city or town because of the marijuana establishment. Some examples of use of the Host Agreement impact fees are: donations to local non-profits; providing drug and alcohol education in the schools; providing community outreach and educational initiatives. All marijuana establishments will need a Community Host Agreements.
- As part of the licensing process with the state, applicants must have community outreach meetings, and the applicant must submit documentation of those meetings. A brief detailed description of what the state requires of an applicant to document that process within six months of filing an application included: Notice of the meeting which must include time, place and subject of the meeting including the proposed address of the proposed establishment published in a newspaper at least seven calendar days prior to the hearing. It was detailed as to how documentation such as the submission of agendas filing with various municipal departments was to be made, and that a copy of the meeting notice must be mailed to abutters and all other parties of interest identified in the regulations. Information that must be discussed at the meeting was enumerated as well, found in the CCC regulations. The community outreach meetings in the city will need to be held before a Community Host Agreement is negotiated so that the Administration, the Planning Board, the Council and city staff can hear the concerns of residents. A Community Host Agreement can be negotiated for up to a five-year term. It was suggested that the city would prefer shorter term agreements in order to see how it will work and what the effects are on the community.
- The Mayor asked that the city adopt an ordinance governing accessories, and there is a provision in the ordinance that addresses accessories. The Zoning Ordinance pertains to any business that comes in after the ordinance is adopted. If there is an accessories establishment that is pre-existing prior to passage of the Zoning Ordinance in the city, they are not affected. It was suggested there may something the Council can do through the Code of Ordinances on displays of accessories for pre-existing accessories establishments.
- The Board of Health has draft regulations that they are reviewing addressing inspections regarding edible marijuana products, which is concurrent to the Zoning Ordinance process.

Mr. Destino concluded his remarks by saying that before the Council is zoning for the EB District (Extensive Business) located on arterial streets, a 20,000 square foot lot size minimum. He added that the city worked extremely hard to get to this point, and is ready to move forward.

Those speaking in favor:

Attorney Joel Favazza, Seaside Legal Solutions, 123 Main Street spoke on behalf of his client, of HVV Massachusetts, Inc. (Happy Valley), owners of 38 Great Republic Drive, and recently permitted for a medical marijuana cultivation and treatment center in the Blackburn Industrial Park. He expressed support for the Planning Board's draft recommendation saying that the draft ordinance was "comprehensive; well crafted." The industry is heavily regulated by the state, he noted. He suggested that at Planning & Development the balance was shifted "slightly off center" to make the permitting process unnecessarily protracted and more expensive for applications. He asked the Council to return the ordinance to reflect the Planning Board draft only. He indicated that the Planning Board should be the permit granting authority as they are doing the Site Plan Review for all marijuana establishments, and that the Board sees every single marijuana establishment regardless of its subset. He indicated that to make sure it is done right, the Planning Board should hold that the authority as the "gatekeepers." By doing so it would streamline the application process, he suggested. He pointed out that the Council confirms appointees to such Boards, so they should know that these Board members can be relied upon. He noted a potential amendment discussed at P&D for increased notice requirements and asked the Council refrain from passage of that amendment as there is no other use in the city that requires going beyond state law requirements.

Attorney Deborah Eliason, Eliason Law Office, 63 Middle Street, representing a potential applicant for an adult use dispensary licensed name, "Caregiver-Patient Connection" owned by principals that are long-time Massachusetts residents, advised she was speaking in favor of the Zoning Ordinance. She also asked the Council to give further consideration for more flexibility for the size of lots. She advised that her client reviewed the properties in the EB District, and found that there are 23 parcels that are 20,000 square feet or more and that appear to be on an arterial street. She noted they've not analyzed the proximity to schools or whether the parcel owners have federally insured bank debt that would preclude them having a dispensary as a tenant; some of those parcels may drop off the list of possible parcels. Of the 23 parcels, three or four seem to have space available. The state statute allows ordinances to be adopted to impose reasonable safeguards as long as they aren't "unreasonably impracticable." Allowing some flexibility to lot size will ensure the city doesn't "run afoul" of that statute. She submitted for the record a list of properties her client compiled to the Council. **Ms. Eliason** conveyed that it was her understanding that a property owner who has a federally insured mortgage can't lease to a marijuana facility because it would violate the mortgage because marijuana is still illegal on a federal level which, therefore, could eliminate shopping centers that have available space. She asked the Council to examine the "underlying assumption" that lot size needs to be 20,000 square feet in order to protect the public. She suggested the Council could institute some flexibility in the ordinance which would allow them to consider a smaller site where the applicant can show that public safety can be protected and that Special Permit requirements can be met. She asked the Council to keep in mind that there are a lot of checks and balances in the application process -- a community meeting before a Community Host Agreement can be signed -- the applicant will have to have a Host Agreement before applying for a Special Permit and will have to meet whatever criteria the Council sets for this flexibility.

Ms. Eliason mentioned the special notice requirement that was previously mentioned, as discussed at Planning & Development, to churches, libraries and licensed day care centers. She asked who would generate the list to notice those entities, pointing out that with other Special Permits the list is generated by the city and would the city generate that list for the applicant's notice. She described briefly some of the dilemmas in identifying such entities, noting issues with contacting licensed day care facilities which are licensed with the state.

Jonathan Moody, 5 Belleview Avenue, founder of High Tide Glass Company, advised he is currently in the process for applying for three different medical marijuana licenses. He reported he is at the point where he needs to present his plans and negotiate Community Host Agreements with the city but hadn't been able to get a response from the city on when and with whom he can speak. He asked if there is any progress on developing regulations and restrictions where hemp can be cultivated because it is its own program. He also asked if the Council is aware that the state's attorney general has deemed that no medical marijuana establishment can be denied by any city or town in the state. He suggested that under his medical marijuana licensing as a caregiver he should be able to establish a shop where he can conduct his "caregiving." He asked if the city has any regulation or restriction on that. He expressed his support for the Zoning Ordinance.

Peter Foster, 16 Lawndale Circle owner of the property at 123 Eastern Avenue, a property under consideration as a possible retail marijuana establishment. He advised he was in favor of the Zoning Ordinance. He noted 123 Eastern Avenue is the site of a former gas station; however, the Zoning Ordinance as proposed would not allow this location to be developed for that purpose because of the square footage required. He showed several pictures of the

gas station through the years, and gave the Council a copy of a photograph of the gas station from 1958 (placed on file). He asked that the Council consider more flexibility for the square footage for the location of marijuana establishments.

Thomas Denman, 2 Cross Street, advised that he and several partners are determining their place in the industry, and expressed his thanks for the extensive work by the Council and the Planning Board. He asked that the Council considers flexibility on the lot size as there are some areas in West Gloucester that is agricultural land for which there should be some degree of Special Permitting where micro-business licensees, for tier manufacturing which has no interaction with the public could potentially be located where it wouldn't be obtrusive. Cultivation occurs within an enclosed space, he pointed out.

Kathy Clancy, 78 High Popples Road, was before the Council as a parent and as a former member of the Mayor's Task Force. With trends of cigarette use having gone way down recently, but marijuana use is on the rise among youth. She asked that anything the Council can do to control displays will be important for children, noting the paraphernalia shop at the corner of Washington Street and Centennial Avenue. She asked displays be done discretely to protect the city's youth and keeping the city's good reputation. She recounted briefly an experience on the Annisquam River travelling behind a dinghy with adults smoking pot on it while out with her son which she indicated was concerning to her. She expressed her support for the Zoning Ordinance with the thoughtful process that was undertaken. She asked that permitting be kept at the Council level as they are elected officials and have a broader perspective. She indicated her understanding that the locations for retail marijuana establishments are concentrated in East Gloucester, and asked that these locations be spread out to other areas of the city as well for accessibility.

Matt Morris, 2 Kent Road, voiced his support for the Zoning Ordinance as is without relaxing any of its regulations, as did his wife, **Alice Morris**, 2 Kent Road, who highlighted her support for the chosen lot size and elected officials as the Special Permit granting authority.

Alec Morrissey, 268 Western Avenue, a long-time medical marijuana patient, expressed his support saying that the city can benefit from a medical marijuana and adult use recreational marijuana to allow safe access to pain relief. He pointed out that recreational marijuana establishments and cultivation facilities for both recreational and medical use can be a source of tax revenue to the city. He highlighted the state of Oregon's collection of \$84 million from its marijuana industry which went towards education, addiction recovery centers, infrastructure improvements and public safety.

Those speaking in opposition:

Josh Ulrich, 7 Grandview Road, a state police investigator, expressed disappointment that the city has come to the point of proposing a marijuana Zoning Ordinance. He enumerating cases he has investigated that he attributed to deaths by drug overdoses. He encouraged the Council to look carefully at their sources of information on the subject of marijuana as they do their research cautioning that the quality of the information depends on who paid for the study. He pointed to his professional experience saying that marijuana leads to harsher drug use. He suggested that with the proliferation of marijuana use, there will be an "uptick" of violence and other crime in the city, that there would be black market marijuana sold in the community as well. He noted another issue to be considered of an added burden and expense of sobriety checks for OUI's (Operating Under the Influence) and training police officers to detect drug usage. He suggested that the city isn't ready to deal with this issue. If adults want to use drugs and live with the consequences that is their decision, he pointed out, but that whatever they can do to slow this down and keep the establishments as far away as possible from children is what he recommended. This is sending a message to all children who drive by the bong shop on Washington Street is that it isn't such a bad thing, which he said in his opinion was not a good thing. He asked that the retail establishments be kept to the far reaches of the city.

Leora Ulrich, 7 Grandview, expressed her concern and opposition to recreational marijuana establishments and places them far away from the city's children.

REBUTTAL:

Mr. Moody claimed that in 1974 the federal government recognized cannabis as a treatment for cancer, fibromyalgia, Alzheimer's disease, and epilepsy and that there had never been a recorded "dope" death or overdose regarding the proper setting and use of medical marijuana or street use of marijuana. He conveyed his opinion that the biggest threat for marijuana to children as a gateway drug would be the prohibition of cannabis and the dangers it presents when a child obtains cannabis from a local street dealer in an unregulated situation and unsafe settings. He cited other medical uses of hemp and cannabis as beneficial to the human body as well pointing out some of the chemical compounds found in Ritalin and other drugs generally prescribed to children are found in cannabis.

REBUTTAL OF THE REBUTTAL

Ms. Morris suggested that the bigger threat now with marijuana is through vaping especially that it is now more potent than it was years ago; expressing concern that marijuana can be laced with fentanyl which could be

deadly. She expressed that there needs to be restrictions on edibles as they look like candy which will appeal to children. All that has to be very carefully considered and implemented, she added.

Communications: **Catherine Trifilo**, The Caregiver-Patient Connection asking that the City Council consider language in the Marijuana Establishment Ordinance to allow for a reduction in lot size without the necessity of seeking a variance from the Zoning Board of Appeals with suggested draft language. Communication was received through Council President Lundberg via email to him forwarded to all Councilors.

Councilor Questions:

Councilor Cox noted the proposed Zoning Ordinance sets a 20,000 square feet (sf) lot limit but there is a way to go through the Zoning Board of Appeals (ZBA) process to ask for a variance. **Mr. Cademartori** advised that if someone wanted to pursue an undersized lot, they could go to the ZBA for relief. He highlighted that this Zoning Ordinance was referred out from the Council after it came up as an informal recommendation from the Planning Board. The work at the Board level of refining the ordinance further in response to public input changes were made from the original draft. The basis for all the uses that are allowed in this ordinance are by district and what isn't allowed by district. The districts in which manufacturing and production is allowed are the city's General Industrial (GI) districts, and the Business Park (BP) district. For retail establishments, business in general is conducted in the Extensive Business (EB) district because they are typically larger sized parcels than Neighborhood Business districts (NB). As to the number of lots and distribution, **Mr. Cademartori** categorized using the EB district is a sound practice. He pointed out that within the EB district there are undersized lots that would fall immediately within residential areas, and that folks from those areas may have concerns as to impact of traffic. There is a heavier parking requirement in this Zoning Ordinance, he added. He advised that the range of what's been found in other communities for lot size is 2,500 sf up to 10,000 sf in terms of the building use. Then by layering in the requirements for parking, the Planning Board's concern was about capacity not about the legitimacy of use that's been enabled by the state statute that all communities have to deal with if they voted for it and so have to zone for it. To make the best decisions where to place these establishments in the city, larger sized lots located on arterial streets, visible for the public safety aspect, and not hidden away, the 20,000 sf is a fairly "blunt instrument." He noted that there are sites that "fall off" of the 105 parcels in the EB district which focuses on the sites on the best access with the best ability to attempt to comply with the other dimensional requirements in the ordinance.

Councilor Cox expressed she was pleased with the starting point of the Zoning Ordinance.

Councilor Holmgren asked if the Community Host Agreements stipulate security to prevent sales to people under 21 years old per state statute and asked who will enforce that once a permit is issued. **Mr. Destino** noted state statute will be the enforcement as well as the ordinance that says it is adult use. The Host Agreement won't say that, but may mention it as "belt and suspenders." Jurisdiction for enforcement will be the Police Department, if there were sales to minors. Enforcement concerning marijuana edibles and food products will be the purview of the Public Health Department; zoning enforcement would be through the Building Inspector. He added that the Community Host Agreement incorporates the law but that the statute governs it all.

Councilor Hecht asked for a map showing the EB district(s). **Mr. Cademartori** pointed out that the map the Councilor is requesting was on the city's website and showed him a color copy which highlighted the EB districts and the arterial streets. The manufacturing, testing and research facilities, those districts that enable those types of uses now are defined for everything other than the retail use. He recounted the restrictions of the Marijuana Zoning Ordinance briefly for the Councilor (on file). There has been analysis and testimony of the subset of those 105 lots in the EB district where there are some lots that are more amenable for the retail establishments such as shopping centers. There are a number of lots in the EB district that may not be quite as large as the shopping centers and are scattered around the community, some with access from Route 128, some from other arterial roads, he mentioned. He added that the selection of a zoning district is a screening tool, as the discussion evolved on appropriate locations, good access, ability to provide parking visibility, and lot size. This will remove those EB parcels that exist within predominantly residential neighborhoods, he advised. **Council President Lundberg** pointed out that the map shown by Mr. Cademartori was a part of the record for some months, in response to Councilor Hecht's request that the Council receive paper copy of the map. **Councilor Hecht** mentioned that if someone had a 2,000 sf store they'd need 20 parking spaces, which totals 11,000 sf which doesn't include setbacks, sidewalks, landscaping, fire lanes, and truck access. He suggested that the 20,000 sf lot size is a good number. **Mr. Cademartori** mentioned that with an access lane, the dimensions of aisle width, loading and unloading areas, is the type of analysis they did in coming up with the square footage of the lot size, and that they couldn't know what the intensity of use would potentially be.

Councilor Gilman noted that Ms. Clancy mentioned the opportunity to spread these retail establishments around the city, and asked how that affects the Community Host Agreements. She noted that as she was on the Marijuana Task Force that had wanted to see the establishments spread out. **Mr. Destino** advised that they had to look at what was fair; and looked at districts for locating the establishments correctly. The Community Host

Agreement process is a selection process for the city, with a cap of three retail establishments in the city with one in the Business Park district. One goal is to see the establishments spread out, he noted. He mentioned interviewing a number of people already who are interested in retail marijuana shops and won't do anything until the Council passes the Zoning Ordinance. **Councilor Gilman** noted that the CCC has done a thorough job with public outreach and asked what role did the state play in overseeing the regulations versus the role the Administration is providing as to local oversight for siting. **Mr. Destino** reiterated that there has to be a Host Agreement; there has to be community outreach by the applicant; the applicant must have a license from the state, as well as have the agreement of the community as to the right location.

Councilor O'Hara noted the number of retail shops allowed and asked a brief series of questions related to it. In response, **Mr. Destino** reiterated that there is a cap of three retail establishments in the city, one already will be in the Blackburn Industrial Park, and that two others will be able to be permitted. He suggested that whatever these establishments are that it will be supply and demand that will dictate whether these establishments will be successful -- the market will make the determination, he suggested. **Councilor O'Hara** noted that it costs about \$10,000 to train police officers for narcotics recognition. **Mr. Destino** advised they will have officers trained. This was something voted by the citizens of Gloucester, he pointed out and that the revenue will not outweigh the cost of training and other expenses incurred by the city. It will touch every city department affecting their budgets, and the Community Host Agreements will be important to cover the city's expenses. He gave an example of a situation in Washington State with a retail establishment making \$1 million a month. Every marijuana establishment must have 3% impact fee in their Host Agreements. **Councilor O'Hara** expressed concern with the downside of drug issues. He touched on his concern for the city's children and controlling the situation. **Mr. Destino** advised that it is a step in the right direction by capping the number of retail establishments to three. The referendum is done, and they are only dealing with the zoning, he added. They will do all they can to get the revenue they need to educate the city's students. This is adult use marijuana for those over 21 years old, he pointed out. The city staff involved in enforcement will do all they can to the best of their ability to control this and won't let this get out of hand he assured.

This public hearing is closed at 9:14 p.m.

Councilor Gilman reviewed the motions that would come before the Council briefly and with the unanimous consent of the Council, the reading of the proposed Zoning Ordinance 5.31.1, 5.31.2 and 5.31.3 was waived. Councilor Gilman then read the rest of the proposed Zoning Ordinance from Sec. 5.31.4 to 5.31.12.

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Holmgren, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve the Planning and Development Draft Marijuana Establishments Ordinance, dated September 5, 2018.

Councilor Gilman conveyed to the Council that the Zoning Ordinance will be numbered as GZO Section 5.31.

AMENDMENT TO THE MAIN MOTION:

Councilor Gilman moved to amend the main motion as follows: **Amend GZO Sec. 5.31.4 to include "Medical Marijuana Treatment Centers" by ADDING after Site Plan Approval for "a medical marijuana treatment center as defined in M.G.L. c. 941 or...."** **Councilor Holmgren** seconded the motion.

DISCUSSION ON THE AMENDMENT TO THE MAIN MOTION:

Councilor Gilman explained that they have to integrate Medical Marijuana Treatment Centers into the Ordinance because they are integrating the Medical Marijuana rules into the ordinance.

MOTION: On a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted 9 in favor, 0 opposed, to Amend GZO Sec. 5.31.4 to include "Medical Marijuana Treatment Centers" by ADDING after "Site Plan Approval for "a medical marijuana treatment center as defined in M.G.L. c. 941 or...."

Amendment passes.

DISCUSSION ON THE MAIN MOTION:

Councilor Gilman highlighted the following: The Planning Board increased their initial buffer zone from 250 feet to 500 feet for schools Kindergarten through Grade 12. The zoning recommendation supported good feeder roads, turnaround access points for retail outlets in addition to reasonably sized shops and adequate square footage and ample parking which eliminated the downtown area. The one parking space for every 100 sf of retail space and one parking space for every 200 sf of bulk storage were added from the Planning Board's perspective which was based on best practices. Salem went a step above what most municipalities did in terms of the details of energy efficiency and conservation because cultivation centers use a great deal of energy. It was pointed out that the P&D Committee had quite a bit of discussion on that one matter. The recommendation that came forward is that it is covered in what the applicants have to do anyway, and so city's Zoning Ordinance language reads, "subject to the discretion to the City Council's policies and procedure for energy efficiency and conservation. If the Council determines that it should take another look because of an issue in the city such as not enough energy for other businesses in the Blackburn Industrial Park, they can. After many conversation, the outcome is that the Planning & Development Committee wanted to recommend that only 20,000 sf and frontage and access to an arterial street was included and not limited to Route 128, Bass, Eastern and Essex Avenues, Thatcher and Gloucester Crossing Roads, was a good way to start.

Council President Lundberg thanked Councilor Gilman for all her hard work bringing this matter forward in a way the Council could understand for their consideration.

Councilor Hecht asked if the Planning Board grants approval or does the Council mentioning Sec.'s 5.31.4 and 5.31.10. **Council President Lundberg** reviewed that when any application for a Special Permit under this Zoning Ordinance is received it will be referred out to Planning & Development and the Planning Board. The Board will do their Site Plan Review and P&D will do their review; those two processes will come together in the P&D recommendation to the Council. **Mr. Cademartori** added that other than retail establishments, establishments for production, testing and cultivation will be allowed as of right with Site Plan review by the Planning Board. The companion part is the use table, he pointed out. **Councilor Hecht** noted out that this Zoning Ordinance amendment doesn't include a definition of an arterial street. **Mr. Cademartori** advised that there is already a definition for arterial streets in the city's Zoning Ordinance.

Councilor O'Hara, highlighting GZO Sec. 5.31.3 and .4 expressed that in addition to the dimensional standards, he was questioning the phrase, "located using a route of direct pedestrian access" and asked how that subjective language would be interpreted. **Mr. Cademartori** noted this is the same language, if Sec. 5.27 is repealed, is how measurements are made, which he termed as conservative because it talks of going from the property boundary and to the use. It is about the proximity and whether are you walking by it from the receptor. They don't run into these instances of educational uses in the EB district and was one of the reasons why the EB district was chosen. The buffers around these school facilities don't intersect with the eligible EB district lots. The language is in the ordinance because there's always potential for someone to petition to change a zoning district for a piece of property -- that's the importance of having this language in the ordinance. **Councilor O'Hara** reiterated his concern about measuring. **Mr. Cademartori** advised that this type of measurement has been used for some time, and was the guidance at the time the Council was considering the buffers to Medical Marijuana ordinance and is being carried forward into this Zoning Ordinance.

MOTION: On a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted by ROLL CALL 8 in favor, 1 (O'Hara) opposed, approve the Planning and Development Draft Marijuana Establishments Ordinance, dated September 5, 2018 and as amended by the City Council on September 11, 2018.

MOTION PASSES.

Without objection of the members of the Planning & Development Committee, **Councilor Gilman** then moved an amendment to reflect the corrected use table that mirrors GZO Section 5.31.4 to GZO Sec. 2.3 "Use Table" dated June 21, 2018 by DELETING "PB" references and ADDING "CC". **Councilor Holmgren** seconded the amendment.

Councilor Gilman highlighted that this is an administrative issue to ensure the use chart was updated. A lot of thought and time was put into the use table as to where the Council wants to participate in the permitting process. She recounted that the Council already had the Special Permit granting authority for medical marijuana

facilities, and expressed her “utmost” confidence that the Planning Board will continue to do a good job with Site Plan Review and Site Visits and make recommendations to the Council. **Council President Lundberg** advised P&D had approved a use chart that they hadn’t yet corrected from when they changed the Permit Granting authority for retail establishments and is a technical change. Responding to an inquiry by **Councilor Hecht, Mr. Cademartori** noted that the original Planning Board recommendation was that the Board would be the Special Permit granting authority but now the Council would be the Special Permit granting authority for medical marijuana facilities and for retail marijuana establishments.

MOTION: On a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted by ROLL CALL 9 in favor, 0 opposed to adopt the Planning and Development Recommendation Use Tables regarding Marijuana Establishments dated September 5, 2018 and as amended by the City Council on September 11, 2018.

MOTION PASSES.

Councilor Gilman moved and was seconded by **Councilor Holmgren, to Amend GZO Sec. 5.27 by DELETING Sec. 5.27 in its entirety.**

DISCUSSION:

Councilor Gilman noted that this section deletion was a process matter that the adopted Zoning Ordinance section was now Sec. 5.31 and so they are removing GZO Sec. 5.27 which was the Medical Marijuana Cultivation Facility and Medical Marijuana Treatment Center Zoning Ordinance.

MOTION: On a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to Amend GZO Sec. 5.27 by DELETING Sec. 5.27 in its entirety.

MOTION PASSES.

COMMITTEE RECOMMENDATION: On a motion by Councilor Holmgren, seconded by Councilor Lundberg, the Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the City Council the repeal of the existing GZO Sec. 5.31 Temporary Moratorium on Recreational Marijuana Establishments.

DISCUSSION: None.

MOTION: On a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to repeal of the existing GZO Sec. 5.31 Temporary Moratorium on Recreational Marijuana Establishments.

Councilor Gilman expressed her thanks to the Councilors, city staff and 100 residents 2:48:15

For Council Vote:

1. *Decision to Adopt SCP2017-012: School House Road #2, #3 and #4, Map 262, Lots 14 & 37 and Gloucester Crossing Road #7, Map 43, Lots 4 & 5 for a Special Permit under the Mixed Use Overlay District pursuant to GZO Sec. 5.29 (including Major Project under GZO Sec. 5.7) and Sec.’s 5.29.10 and 5.11.8*

MOTION: On a motion by Councilor Gilman, seconded by Councilor Holmgren, the City Council voted by ROLL CALL 9 in favor, 0 opposed, to adopt the Special Council Permit decision for SCP2017-012: School House Road #2, #3 and #4, Map 262, Lots 14 & 37 and Gloucester Crossing Road #7, Map 43, Lots 4 & 5, for a Special Permit under the Mixed Use Overlay District pursuant to GZO Sec. 5.29 including Major Project under GZO Sec. 5.7 and Sec.’s 5.29.10 and 5.11.8.

2. *City Council Civility Resolution (Cont’d from 08/28/2018)*

Council President Lundberg advised that the Civility Resolution as adopted by the previous Council and all Councilors signed it upon passage. There are new Councilors who wanted to be included as signatories, which prompted this Civility Resolution vote, he pointed out.

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Cox, the City Council voted 9 in favor, 0 opposed, to adopt a City Council Civility Resolution as follows:

WHEREAS: On this 11th day of September, 2018

WHEREAS: Gloucester is a special place because we have a long history of community.

WHEREAS: In collaboration with the Mayor and City Administration, the City Council is proud to continue our community spirit by honoring our commitments to respectfulness, equality, non-discrimination, and keeping all of our people safe.

WHEREAS: Any acts of violence, discrimination, or harassment do not reflect the values of the Gloucester community, and will not be tolerated.

WHEREAS: The Gloucester Police Department has been instructed by our City Administration to take all allegations seriously and will work diligently to investigate any claims of discrimination.

WHEREAS: If you fear for your immediate safety, call the Gloucester Police Department via 911 or 978-283-1212.

This Civility Resolution to be signed by all current City Councilors.

Unfinished Business: None.

Individual Councilor's Discussion including Reports by Appointed Councilors to Committees:

Update on the by Animal Advisory Committee by City Council Representative, Councilor Jen Holmgren, highlighted that the committee meets tomorrow in the 1st Fl. Council Conference Room at 6:30 p.m. to discuss the dog ordinance with the intention to make recommendations to the Council.

Councilors' Requests to the Mayor:

Councilor Holmgren thanked the Mayor, the Fire, Police, and Harbormaster's Departments, Cape Ann Veterans Services, the Sea Cadets and the JROTC who participated in this morning's Sept. 11 remembrance which she expressed was a moving ceremony.

Councilor Memhard expressed his thanks through the Mayor's office to the DPW for remedying signage issues in Ward 1 and for their SeeClickFix tool on the city's website; to Councilor Gilman for her work, and the city for the recent Schooner Festival.

Councilor Nolan noted that on Friday, Sept. 21 at 6:30 p.m. at the Manchester Bath & Tennis Club there will be a fundraiser for the Save the Magnolia Pier. There is a meeting Wednesday, Sept. 12 at 6:30 p.m. at the Magnolia Library of the Magnolia Pier Committee. He expressed his thanks to the Administration, P&D and the Planning Board on all their work on the marijuana ordinances. He noted it was a long two years of listening, and meetings. What was done this evening by the Council was the will of the people, saying that good government happened, he added.

Councilor Cox wished Councilor Gilman a Happy Birthday.

Councilor LeBlanc noted the 9/11 remembrance ceremony this morning. He expressed his thanks to and pride in Councilor Gilman for the work she did on the marijuana Zoning Ordinance.

Councilor Hecht noted there would be a meeting of the Tourism Commission this month; that he is forming a Gloucester Murals project committee for the downtown; in conjunction with the Chamber of Commerce, Discover Gloucester, the Tourism Commission, the Downtown Development Commission and the Downtown Merchant's

Association there will be a downtown holiday storefront decorating contest starting with Black Friday. He mentioned that on Saturday, Sept. 22 the lighting of the Main Street trees will be completed and anyone interested can join them at 9:00 a.m. He requested through the Mayor that the DPW repair “serious” potholes at the intersection of Pleasant Street and Cedar Street. He also extended his thanks to Councilor Gilman for a job well done.

Councilor O’Hara offered his thanks to Councilor Gilman as well as offering his thanks to the DPW for painting city crosswalks. He announced that on Monday, Sept. 24 from 2:00 p.m. to 7:00 p.m. there will be a Red Cross Blood Drive at the Magnolia Library; appointments are recommended and can be made by calling 1-800-Red Cross.

Councilor Gilman extended her thanks to Councilor Cox for organizing the Will Bren commendation presentation. She announced there is a clean-up hosted by Clean Gloucester and Seaside Sustainability on Saturday, Sept. 15 at 8:00 a.m. at Dun Fudgin; on Tuesday, Sept. 25 from 9:00 a.m. to 1:00 p.m. there will be flu shots will be available and during that time members of the Clean City Commission along with her and Councilor Hecht will be pass out reusable bags to seniors as they get ready for the Jan. 1, 2019 ban on single-use plastic bags.

Council President Lundberg highlighted the Council’s last two “significant” pieces of legislation they’ve taken on this summer - the permitting of the Fuller Mixed Use Ventures, LLC development of the Fuller School property and the marijuana Zoning Ordinance both of which most Councilors see once in a lifetime, and this Council saw two this summer. The performance of the City Council getting through it in a proper way is “awesome.”

A motion was made, seconded and voted unanimously to adjourn the meeting at 10:05 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Oral Communications:** Louise Palazzola, 57 Western Avenue written statement with photographs
- **Presentations:** “Charter Commission Process” timeline submitted by Meredith Fine
- **Public Hearing:** Photograph circa 1958 of gas station at 123 Eastern Avenue submitted by Peter Foster, owner of property; List of possible sites for retail marijuana establishments in the city of Gloucester submitted by Attorney Deborah Eliason on arterial roads in EB Districts