

GLOUCESTER CITY COUNCIL CALENDER OF BUSINESS

TUESDAY, JANUARY 27, 2009 - 7 P.M.

KYROUZ AUDITORIUM, CITY HALL

COUNCIL MEETING #2008-002

Attendance: Bruce Tobey, Council President, Sefatia A. Romeo, Council Vice President, Councilors Joe Ciolino, Steve Curcuru, Phil Devlin, John “Gus” Foote, Sharon George, Jason Grow, Jacqueline Hardy
Also: Mayor Kirk, Jim Duggan, Jack Wiggin, Sarah Buck, Stan Usovicz
Absent:

The meeting was called to order at 7:00 p.m.

FLAG SALUTE & MOMENT OF SILENCE

Presidents Message

Council President Tobey spoke about the explosion on Eastern Avenue on Sunday. He reminded the public that a neighborhood meeting is being convened on Thursday, 1/29, 7 p.m. at the Rose Baker Senior Center where members of numerous agencies will be present to provide information and answer concerns. Councilors have expressed concerns about the need for general briefing about gas company operations, protocols and how public concerns can be effectively voiced and addressed. He instructed the Clerk with the Mayor’s office to set that up for the beginning of the council meeting of 2/10. Additionally, the matter of commendations warrants community celebration and asked that also be coordinated if possible for the meeting of 2/10.

Part of the after report on the incident includes a statement of improvements and one of the improvements the Police Department has asked for is as follows: “civilian, city and state officials must be kept away from the hot zone or the kill zone. During this mission they occupied our work space and distracted rescue personnel from their mission. This must be addressed. In the event of a secondary explosion, which was very possible during the mission these people would have been injured or killed along with rescuers. Also to be noted is the fact that elected officials draw the attention of the press. A staging area away from the hot zone must be established early on for the elected officials with the responsibility of their safety dedicated to the liaison officer and other rescuers.” We all need to be mindful of the operational concerns.

ORAL COMMUNICATIONS

John O’Hara, Magnolia asked to speak on the TIF petition matter. He asked if the certificate of vote is part of the packet.

Council President Tobey ruled this out of order as the matter is already on the agenda.

COUNCILLOR'S REQUESTS TO THE MAYOR

09-015 (Tobey) January 20, 2009

To: Carolyn Kirk, Mayor

From: Bruce Tobey, Council President

Subject: Request for Documents

Numerous councilors have voiced their concerns to me that the Administration needs to release promptly full and unredacted versions of two documents to the council and to the community. One of those documents is the NEMLEC report on the recent investigation of events in the Gloucester Police Department, and the other is the after-incident report on the Lorraine Apartment Building fire. I hereby request that those reports be forwarded to the council for inclusion on the agendan of our January 27, 2009 meeting.

While the council's need for this information generally mirrors that of the community at large -- the necessity that we all share complete confidence that our public safety organizations are performing with complete effectiveness and integrity -- the council as the Mayor's co-equal partner in local government has an additional reason to demand the production of these reports: having just begun a comprehensive management audit of the City's public safety departments, we must have full access to any and all information regarding their operations and practices.

Insofar as the NEMLEC report is concerned, I would make one additional point: it has been reported that this report has been deemed a personnel record because the administration and the recently-disciplined officer agreed in would be so-regarded; if that is in fact the case, I challenge that designation (which unfortunately follows in the wake of a similarly-flawed approach employed in the settlement of the Lamberis case) as being ineffective to prevent its full release as a public record.

I hope you will honor this request. In the event the documents are not released, I will propose to the council at our next meeting that we consider our options under section 2-6 of the City Charter.

09-016 (Grow, Hardy) Request the Mayor provide the council copies of the Lorraine Fire After Action Report.

09-017 (Grow) Request that the administration investigate and report to the council on allegations that a computer in the police department was ordered disposed of in a manner that appears to be inappropriate and whether this computer contained public records, what the disposition of this computer is and whether any action on the part of the administration has been taken to insure that future events of this nature are prevented. Further it is requested that the administration convey to the council the policy on the disposal of computers and other assets containing public records.

EMERGENCY REQUEST

Councilor Devlin stated the driveway at West Parish School traffic flow at that area has become increasingly unsafe – so much so that if an emergency vehicle would not be able to get in that area during. Feels strongly a police officer needs to

be posted from 8 a.m. to 8:45 a.m. to ensure the safety of the children and families arriving at school.

PRESENTATIONS

1. Community Development Director Sarah Buck – Harbor Plan

Sarah Buck, Community Development Director thanked Jack Wiggin, Urban Harbors Institute for his support and guidance bringing this forth. The goal is to submit an approvable harbor plan to the state. She provided a brief history of the harbor plan process and the differences between the plans. The original plan divided the harbor into three sections. (See power point presentation). The waterfront property owners wanted to be treated as one group. They also wanted 75% new dockage for recreational boats. We held listening posts where people said they wanted mixed use and public access and uses of the waterfront. We put all the recommendations that could be approvable into the plan and started direct technical assistance to waterfront property owners. What could not go into the plan is being considered by the state as a rule change and legislative action. The 2009 harbor plan reflects the shift of the original harbor plan. Regulatory changes allow a higher percentage of commercial uses, up to 50%, while still meeting the intent and the rules of the DPA. Recommendations for local site plan review create consistency between local and state regulations. She talked about the 2009 plan recommendations to create a vision based on expansion of the maritime economy.

4-1 – Ways to strengthen the commercial fishing industry.

4-2– Expand and diversify the maritime economy.

4-3- Recreational boating

4-4 - Visitor based economy

4-5 – Infrastructure

4-6 – Permitting process

4-7 - Commercial berthing

4-8 - Fresh fish processing

4-9 - Port security

4-10- Administration

We received review and comment from boards and committees, Waterfront Property Owner’s Task Force, Waterways Board, Fisherman’s Wives, Listening Post Community Panel, Citizens for Gloucester Harbor, 2004 Harbor Plan Implementation Committee. This plan is also on the web page.

Next steps are to submit the plan to the City Council, submit the plan to the state in April 2009, technical assistance and rule and regulations changes and legislation.

Council President Tobey asked for an overview on the City Council’s role and process.

Mr. Wiggin stated in terms of eventual approval of the plan by the state; once the plan is finalized by the city, the plan will be submitted to the state and the state will accept it as a completed plan. At that point a notice is published in the Environmental Monitor which starts a 30 day comment period. At the end of the comment period the state will ask to meet with the Planning Representative from Gloucester to discuss any submitted comments. Those comments are worked out during that consultation process and then the state writes a decision for approval of the harbor plan. It is probably a several month process.

Council President Tobey asked for a report back at the next City Council meeting on how we receive public input to include the possibility of at least a public hearing and potentially something more innovative like a charrette with resources being available from one of the nearby academic institutions and a time line from P&D so the City Council can take action on this with lots of public input and discussion completed by the end of March.

MOTION: On motion of Councilor Hardy, seconded by Councilor Romeo the City Council voted 9 in favor, 0 opposed to refer the 2009 City of Gloucester Harbor Plan and Designated Port Area master plan to Planning and Development for review and scheduling and back to the City Council for further consideration.

Instructed the Clerk to provide at the beginning of the 2/10/09 agenda after Presentations a report as to the recommendations from P&D on the harbor plan and DPA master plan process so we can agree on how to proceed.

Councilor Grow requested the process also be included on the website version of the plan.

Councilor Foote asked about the ferry landing. We appropriated around \$80,000 for that study and have gotten nothing back on that. It was coming from Shelburne to Gloucester.

2. Stan Usovicz – Verizon re: Current and Proposed Activities in Gloucester Is here at the Council's request to answer any questions the Council may have.

Councilor Hardy represents Ward IV and they don't have access to DSL.

Therefore, they are compelled to use another service provider. Why don't we have DSL in Lanesville.

Stan Usovicz, Verizon is not certain why the decision was made not to deploy DSL in that particular area. It is a matter of being continuous and contiguous with deployment of DSL.

Councilor Hardy stated you need to understand the level of frustration. She understands there is a similar situation in West Gloucester and asked what Verizon is doing to upgrade the infrastructure in Gloucester.

Mr. Usovicz explained that Verizon looks at service areas that are either under utilized or not serviced to a level people would like to see. It is a decision to invest in a fairly complex system. He will try to find out why DSL has not been deployed to this area.

Councilor Hardy asked what FIOS is and is that something that is going to be available to the people who don't have DSL or will it be the same situation.

Mr. Usovicz explained that FIOS is a fiber optic communications system; a new network that is not tied to the existing copper wire network so there are no interrupting copper wires. It is costly and complex and decisions to deploy are made by engineering. He can't say there is a plan to bring that to Gloucester this year. If we came into Gloucester with fiber optic network we would be obligated to provide this network to every area of the city. FIOS provides the fastest and

most consistent data transfer of any system, as well as telephone service and cable but it is years away.

Councilor Hardy asked if FIOS does come to Gloucester would it be available to those without DSL or would it be the same service area. Did the city have to approve a contract for DSL and will we have to for FIOS.

Mr. Usovicz stated if the company decides to provide cable television Verizon would be obligated to supply this FIOS to every area of the city. It would provide internet connections.

Councilor Hardy stated the City of Gloucester is experiencing an inordinate number of double poles in the city and occasionally National Grid will come in asking for new poles. She asked Mr. Usovicz what he knows about the double poles, how it is being addressed and when can we expect the issue to mitigate itself out.

Mr. Usovicz replied here is a system and database in place that shows who is next to move their lines off the poles.

Councilor Devlin asked how Verizon can provide DSL to one house and not the other even in the same neighborhood.

Mr. Usovicz will look into that.

Councilor Devlin feels that there is a lot of opportunity here for Verizon if we can get some of these services into Gloucester.

Council President Tobey asked what the regulatory standards are regarding a provider like Verizon and if it serves one, must it serve all.

Mr. Usovicz replied you must serve all.

Council President Tobey noted the fact of the scattered capability is a problem for Verizon.

Mr. Usovicz stated in terms of DSL it is a service not regulated like a telephone service or cable service.

Council President Tobey suggested that Councilor Hardy's concerns be turned into a written statement of questions to be submitted on our behalf to Verizon.

Mr. Usovicz stated in terms of some of the issues of double poles it may be easier to handle it by phone.

CONSENT AGENDA

ACTION

• **MAYOR'S REPORT**

1. Memo from Administration re: audited Financial Statements for FY08
2. Memo from Operations Manager-Public Property Mark Cole re: Beach and Stage Fort Park Regulations **(Refer O&A)**
3. Memo from Health Director Jack Vondras re: \$5,000.00 for Medical Reserve Corps Capacity Building **(Refer B&F)**
4. Memo from Health Director re: Drug Free Communities Support Program Grant Renewal Process **(Refer B&F)**
5. Special Budgetary Transfers from Registrar's Office **(Refer B&F)**
6. Memo from Police Chief re: Shannon Grant Award for \$10,682.69 **(Refer B&F)**
7. Report from City Auditor re: accounts with expenditures exceeding their appropriation **(Refer B&F)**
8. Appointments:

- a. David J. Bain, Jr. Personnel
Director (TTE 02/14/2010) **(Refer O&A)**
- b. Sarah Buck Community Development Director
(TTE 02/14/2010) **(Refer O&A)**
- c. Bill Sanborn Building Inspector
(TTE 02/14/2012) **(Refer O&A)**
- d. Jim Caulkett
Harbormaster (TTE 02/14/2012) **(Refer O&A)**
- e. Gary Johnstone
Assessor (TTE 02/14/2012) **(Refer O&A)**

- **INFORMATION ONLY**
 - 1. Memo from Fire Chief re: open burning season and permit/safety requirements **Info Only**
 - 2. Quarterly Report of the Assessor's Office **Info Only**

- **APPROVAL OF MINUTES**

- 1. January 13, 2009
(Approve/File)

- **APPLICATIONS/PETITIONS**

3.2.2.a

- 1. SCP2009-001: 3 Pirmi Lane f/k/a 343 Washington Street, Sec.
(Refer P&D)

- **COMMUNICATIONS**

- 1. COM2009-002: 54 Great Republic Drive Proposed Telecommunications Tower **(Refer P&D)**
- 2. COM2009-003: Responses to anti-TIF Petition **File**
- 3. COM2009-004: City Solicitor's Response to Oral Communications **File**
- 4. COM2009-005: 09-015 Memo from Councillor Tobey re: Request for Documents **(Refer O&A)**

- **ORDERS**

- 1. CC2009-005(Hardy/Tobey) re: review Council Rules of Procedure and bring them up to date **(Refer O&A)**
- 2. CC2009-006(Foote/Ciolino) re: question on City ballot to remove Police and Fire Chiefs from Civil Service **(Refer O&A)**

ITEMS REMOVED FROM CONSENT AGENDA

Councilor George removed Mayor's report #1 audited financial statements from the consent agenda.

Councilor Hardy removed Mayor's report #8 Appointments from the consent agenda.

Councilor Grow removed Orders # 2 from the consent agenda.

Council President Tobey removed Communication #4 from the consent agenda.

MOTION: The consent agenda is adopted by UNANIMOUS consent of the full City Council with the following exceptions: Mayor's report #1, #8, Orders #2 and Communications #4.

Councilor George read the audited financial statements and is disappointed that the management still comes up with the same thing year after year.

MOTION: On motion of Councilor George, seconded by Councilor Romeo the City Council voted 9 in favor, 0 opposed to refer the audited financial statements to Budget and Finance.

Discussion. Councilor Grow noted that once again this audit report which is a vehicle delivered through the City Council was delivered to the Mayor prior to the City Council. B&F will be reviewing this with the auditor himself.

Council President Tobey urged it is time for an RFP process on who the city uses as an auditor.

Councilor Hardy referred to Mayor's report #8 Appointments and requested that before these go to O&A that the Mayor's office provide job descriptions and resumes.

Councilor Grow would like clarification on whether positions that terminate on 2/14, should receive a 90 day appointment.

Council President Tobey stated under the Charter they continue to serve either until a successor is approved or 180 days has passed.

Councilor Hardy asked for clarification if they are extended for 180 days and then another 90 day appointment after that.

Council President Tobey replied the 180 days is the absolute end point.

MOTION: On motion of Councilor Ciolino, seconded by Councilor Romeo the City Council voted 9 in favor, 0 opposed to refer the appointments to Ordinances and Administration.

Councilor Grow would like a response from the Legal Department on the Order 09-006 regarding Civil Service. He wants to make sure the process is correct and whether or not this occurred the first time as a referendum.

Councilor Ciolino referenced Section 9-5 of the City Charter. He had conversation with the City Solicitor who is 95% sure this can go on the ballot and is checking with the Attorney General to make sure she is correct on that. When this goes to O&A we will have something from her on this. We also have Sec. 9-7 and asked the Clerk to find the original verbiage of the last time this went to ballot.

Councilor Foote feels a referendum vote is the fair way to do this; it is the people who voted it in and the people should be able to vote it.

MOTION: On motion of Councilor Ciolino, seconded by Councilor Foote the City Council voted 9 in favor, 0 opposed to refer Order CC2009-006 regarding Civil Service to Ordinances and Administration.

Council President Tobey referred to communication #4 regarding a request for documents. He has been in contact with the City Solicitor to determine with good faith effort full disclosure on the NEMLIC report and he is hopeful by the next

Council meeting, that we can have full disclosure so we can have full faith and compliance with our Police Department. He advised the after incident report on the Lorraine Fire should be released to the public at large.

MOTION: On motion of Councilor Grow, seconded by Councilor Hardy the City Council voted 8 in favor, 1 opposed (Ciolino), 1 abstaining (Foote).

Discussion. Councilor Grow also has concerns on the NEMLIC report and the lack of transparency and speaks to a larger concern of general accountability.

Councilor Ciolino stated there are a lot of personnel matters and legalities involved and felt that receiving this in executive session would be a good compromise.

Council President Tobey stated it is about the whole community knowing what is going on and the truth will set us straight.

Councilor Foote will look for the opinion of the City Solicitor and will abstain until such time.

The request from City Auditor to accept the provisions of Chapter 44, section 31D snow and ice removal, emergency expenditures, not to exceed an additional \$480,000 was accepted under UNANIMOUS consent of the full City Council.

MOTION: On motion of Councilor Romeo, seconded by Councilor Hardy the City Council voted 9 in favor, 0 opposed to refer the request from City Auditor to accept the provisions of Ch. 44, sec. 31D snow and ice removal to Budget and Finance.

FOR COUNCIL

VOTE **ACTION**

1. Order 09-004 (Foote/Ciolino) Ordered that DPW Director be requested to arrange auction for City surplus property (FCV)

MOTION: On motion of Councilor Hardy, seconded by Councilor Foote the City Council voted 9 in favor, 0 opposed ordered that the DPW Director be requested to arrange for an auction of city surplus property, particularly non-working motor vehicles and equipment being stored at the DPW, and prepare a report on the status of abandoned bicycles, which were previously auctioned annually.

Councilor Ciolino made a friendly amendment to put this on Craigslist.

Mr. Duggan stated the clutter that is down there has been recognized by the Administration and there will be an auction within 6 weeks.

Councilor Foote noted there has to be police reports on every stolen bike and those bikes were stored at the DPW. He suggested this be handled the way it use to be.

Councilor Ciolino asked the Administration to let the Council know the date and time this is going to happen.

DECISIONS TO

ADOPT

ACTION

1. SCP2008-008: 820 Washington Street, Sec. 5.13
PWSF **Adopt**

MOTION: On motion of Councilor Hardy, seconded by Councilor Grow the City Council voted by ROLL CALL 9 in favor, 0 opposed to adopt the SCP decision for 820 Washington Street, pursuant to Section 5.13 of the Gloucester Zoning Ordinance.

2. SCP2008-009: 186 Main Street, Sec. 5.13
PWSF **Adopt**

MOTION: On motion of Councilor Hardy, seconded by Councilor Ciolino the City Council voted by ROLL CALL 9 in favor, 0 opposed to adopt the SCP decision for 186 Main Street, pursuant to Section 5.13 of the Gloucester Zoning Ordinance.

3. SCP2008-011: 58 Rocky Neck Avenue, Sec. 5.5.4 Lowland Requirement
Adopt

MOTION: On motion of Councilor Hardy, seconded by Councilor Ciolino the City Council voted by ROLL CALL 9 in favor, 0 opposed to adopt the SCP decision for 58 Rocky Neck Avenue, pursuant to Section 5.5.4 of the Gloucester Zoning Ordinance.

SCHEDULED PUBLIC HEARINGS

Public Hearing #1

09-002 Renewal of Permit Pursuant to MGL Ch. 148, Sec. 56 and GCO Sec. 22-153 re: Antonio & Maria Procaccini

The public hearing is opened and continued to 2/10/09.

Councilor Hardy noted this has been continued to our next P&D meeting for additional information.

COMMITTEE REPORTS

1. B&F 1/22/09

MOTION: The Budget and Finance Committee voted 3 in favor, 0 opposed to recommend to the full City Council payment of an invoice without a purchase order #9928592866-1 dated 12/04/08 to McBee in the amount of \$334.07 for W-2 forms and envelopes.

MOTION: On motion of Councilor Grow, seconded by Councilor Romeo the City Council voted 9 in favor, 0 opposed payment of an invoice without a purchase order #9928592866-1 dated 12/04/08 to McBee in the amount of \$334.07 for W-2 forms and envelopes.

2.P&D 01/21/09 – complete.

COUNCILLOR’S REQUESTS OTHER THAN TO THE MAYOR

Councilor Devlin stated the Magnolia Historical Society is looking for members.

Councilor Hardy announced that a Ward meeting will be called in Ward IV regarding polling places, to put on the table whether or not the Lanesville Community Center might be an appropriate place to conduct voting.

Councilor Grow added likewise for Ward I, Thursday, 1/29, 7 p.m. at the Rose Baker Senior Center to address the issue of the Eastern Avenue explosion.

Councilor Romeo will be going to the state house to talk to the Secretary of Elder Affairs about prescription advantage and our seniors.

Councilor Foote asked the Clerk to send a letter from all the City Council to the Chiefs thanking them for how they handled the explosion on Eastern Avenue.

Councilor Curcru asked the people to give the trash bag program a chance.

Council President Tobey stated the City Council and School Committee met jointly last night for a productive meeting about the tough financial situation we are in compounded by the difficult decisions the Governor is forced to make that lays out the scope of the challenge we face. We are linked to work together to get through this with more joint meetings to follow on a monthly basis.

It is moved and seconded to adjourn the meeting at 8:30 p.m.

Respectfully submitted,

June Budrow
Clerk of Committees