

City of Gloucester City Council

CITY HALL • GLOUCESTER • MASSACHUSETTS • 01930
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CITY COUNCIL
AND
CITY COUNCIL STANDING COMMITTEE
Ordinance & Administration
Monday, February 23, 2009 – 7:00 PM
Council Conference Room (First Floor) City Hall

1. DPW audit update.
2. Memo from Public Prop. Op. Mgr. re: Beach and Stage Fort Park Regs.
3. Order 09-002 (George/Devlin) Request administration permanently close West Gloucester Firing Range and find other suitable arrangements.
4. Order 09-003 (Foote) Ordered that the Mayor be requested to investigate feasibility of establishing a Commissioner of Public Safety to oversee Police and Fire Depts.
5. Order 09-006 (Foote/Ciolino) Ballot question to remove Fire and Police Chiefs from Civil Service.
6. Order 09-005 (Hardy/Tobey) Review of Council Rules of Procedure.

COMMITTEE
Councilor John "Gus" Foote, Chair
Councilor Sefatia A. Romeo, Vice Chair
Councilor Bruce Tobey

C: Mayor
Jim Duggan
Mark Cole
Mike Hale
Sal Frontiero
Chief McKay
Chief Beaudette

MEMORANDUM

TO: Mayor Carolyn Kirk

FR: Mark Cole, Operations Manager Public Properties

Date: January 14, 2009

Subject: Notice of Proposed Changes to the "Beach and Stage Fort Park Regulations"

Reference: City Charter, Section 7-16.

In accordance with the City Charter, section 7-16, the attached revised "Beach and Stage Fort Park Regulations" is forwarded for review. The revisions represent an attempt to administratively "clean up" the document and to propose changes that reflect "lessons learned" from this past season's operational experiences. All newly proposed operational changes to the current regulations are red-lined in the revised regulations, with changed or deleted sections being blue-lined.

Request that this notice of proposed changes be filed with the City Council for approval.

Cc: Michael Hale, DPW Director

BEACH & STAGE FORT PARK REGULATIONS

Revised January 16, 2009

I. Schedule of Operations:

A. Good Harbor & Wingersheek Beaches

1. Access to Parking Lots:
 - a. Seasonal: Gates opened April 1 to October 31 annually
Gates closed November 1 to March 31 annually
 - b. Daily in Season: Gates opened at 8:00am and locked at 9:00pm
 - c. Vehicles in beach parking lots shall be placed only within areas designated by the Director of Public Works or his agents.
 - d. Vehicles (except City vehicles engaged in beach maintenance) including off-road vehicles, motorbikes, mopeds, motorcycles, trucks, dune buggies, and snowmobiles are prohibited on beaches or dunes at Good Harbor and Wingersheek beaches without authorization.
2. User Fees:

Parking fees may be collected from May 1 to September 30 annually and shall be collected daily from Memorial Day to Labor Day, in accordance with the schedule of fees established in Appendix A.
3. Certified Lifeguards:

Red Cross certified lifeguards shall be on duty daily, weather permitting, from 9:00am to 5:00pm from Memorial Day to Labor Day. Weather permitting, lifeguards may also be on duty weekdays and weekends during May and September.
4. Snack Bars:

Snack bars may be open weekends during May and September and shall be open daily from Memorial Day to Labor Day, weather permitting. Hours of operation shall be from 9:00am to 6:00pm daily.
5. Rest Rooms:

Rest rooms may be open weekends during May and September and shall be open daily from Memorial Day to Labor Day. Hours of operation will be from 8:00am to 8:00pm daily. The restrooms may be closed early during periods of inclement weather when the parking lot is also closed.
6. Bike Racks:

At Good Harbor Beach, bicycles are allowed only at the concession, and at the bike rack on Nautilus Road and not on the footbridge.

B. Stage Fort Park

1. Access to Parking Lots:
 - a. Seasonal: Gates opened April 1 to October 31 annually
Gates closed November 1 to March 31 annually.
 - b. Daily in Season: Gates opened at 8:00am and locked at 9:00pm.
 - c. Vehicles in parking lots shall be placed only within areas designated by the Director of Public Works or his agents.
 - d. Vehicles (except City vehicles engaged in beach maintenance) including off-road vehicles, motorbikes, trucks, dune buggies, and snowmobiles are prohibited on beaches and within the enclosed areas of Stage Fort Park without authorization.
2. User Fees:

Parking fees may be collected from May 1 to September 30 annually, and shall be collected daily from Memorial Day to Labor Day, in accordance with the schedule of fees established in Appendix A.

3. Certified Lifeguards:

Red Cross certified lifeguards shall be on duty daily, weather permitting, from 9:00am to 5:00pm, Memorial Day to Labor Day at Half Moon Beach only.

4. Snack Bars:

Not applicable

5. Rest Rooms:

Rest rooms may be open weekends during May and shall be open daily from Memorial Day to Labor Day, 8:00am to 6:00pm; and during special events as required. The restrooms may be open during the months of September and October from 9:00am to 6:00pm daily or to coincide with the hours of the Visitor Center.

6. Permits – Group Functions and Picnic Areas:

- a. Groups of 25 persons or more shall be required to obtain a group permit for the general use of park facilities and the dedicated use of a group picnic area.
- b. Individuals shall be required to obtain a permit for the dedicated use of the Bandstand (Gazebo), Rose Garden, beach areas and group picnic areas.
- c. Designated group picnic areas may be reserved in conjunction with the issuance of a group permit. Group picnic areas are designated as: Area A – the hollow area to the rear (east) of the rest facility building, Area B – the area to the south of Tablet Rock, Area C – the upland area to the far west of the volleyball court.
- d. Catered events may be conducted in the designated picnic areas in conjunction with a group permit.
- e. User fees: see Appendix A.

C. Niles, Pavilion, and Plum Cove Beaches:

1. Parking Restrictions:

There shall be resident sticker parking only in designated areas at Niles and Plum Cove beaches (Ord. – 22-270.1).

2. Open Parking:

Pavilion beach

3. Certified Lifeguards:

Red Cross certified lifeguards shall be on duty daily, weather permitting, starting Father's Day weekend through Labor Day 9:00am to 5:00pm, Pavilion beach excepted.

D. Closing of Beaches & Parks:

The Director of Public Works, as well as legally-authorized public health or other law enforcement officials, shall have discretion to close city beaches and parks to the public should questions of public health or safety arise. Parking fees will not be refunded. Signs shall be posted during times when beaches are open but there are no lifeguards on duty.

E. Beach and Park Rental:

1. Beaches, parks, playgrounds and other outdoor recreational facilities may be rented out in whole or in part for commercial use and social activities when such use does not conflict with permitted use.
2. User fees: see Appendix A

II. Beach Parking:

A. Sticker Eligibility:

1. RESIDENT STICKER criteria:

- a. Domiciled Residents of Gloucester, verified with vehicle registration and other supporting documentation, if required. Include copy of lease agreement if car is leased.
- b. Armed Forces Service members stationed in Gloucester, verified with vehicle registration and an official letter from their Commanding Officer confirming permanent residency. Include copy of lease agreement if car is leased.
- c. User fees: see Appendix A.

2. NON-RESIDENT STICKER criteria:
 - a. Non-Domiciled Residents who own residential property in Gloucester, verified with a copy of their tax bill and vehicle registration. ~~Limit of two (2) stickers per household.~~ Include copy of lease agreement if car is leased.
 - b. Non-Domiciled Residents who rent property; must be for a minimum of 60 days and verified with a lease agreement, vehicle registration and other supporting documentation, if required. Include copy of lease agreement if car is leased..
 - c. A residential taxpayer having no residency in Gloucester, verified with a copy of their tax bill and vehicle registration. Include copy of lease agreement if car is leased.
 - d. Domiciled Residents of Essex and Rockport, verified with vehicle registration and copy of their driver's license. Include copy of lease agreement if car is leased.
 - e. All other Non-Residents of the City of Gloucester, no more than 200 stickers to be sold annually. Include copy of lease agreement if car is leased.
 - f. User fees: see Appendix A

3. SENIOR CITIZEN STICKER criteria:
 - a. Domiciled Senior Citizen Residents of Gloucester, age 65 and older, verified with their vehicle registration and drivers license. Include copy of lease agreement if car is leased.
 - b. A Senior Citizen sticker carries residency status.
 - c. User fees: see Appendix A

4. GUEST VOUCHER criteria:
 - a. Motel, hotel, guest house, camp ground owners, and licensed innkeepers only may receive bulk issue of beach parking guest vouchers for the current season as needed for issue to guests that are actually booked into accommodations at their establishments.
 - b. Vouchers will only be issued to establishments that show State Room Tax #, valid Federal Employer ID Number or Social Security Number, which ever applies. This procedure is subject to review by the Director of Public Works and abuse may result in revocation of Vouchers.
 - c. Vouchers shall be valid for one day only, Memorial Day to Labor Day, 8:00am to 3:00pm. Reduced rates for late arrivals do not apply to Guest Vouchers. Vouchers are non-negotiable and non-transferable.
 - d. User Fees: see Appendix A.

B. Issue restrictions:

1. All stickers will be issued to a vehicle based on registration and property ownership, and not to a person or residence, except senior citizen stickers. Dealer plates are not acceptable as proof of registration or property ownership.
2. Senior citizen stickers will be issued to a qualifying vehicle (based on registration), together with the qualifying individual (based on age) for his/her exclusive use. The qualifying individual must be present in the vehicle for the vehicle to receive exempted admittance. There is a limit of one senior citizen sticker per qualifying individual / vehicle combination.
3. A resident can get a sticker for a company owned car if they have a letter, on company stationary, signed by an officer of the firm, stating the employee has exclusive use of the vehicle. The employee must provide proof residency.
4. Non-Domiciled Gloucester residential property owners may receive a beach sticker for the owner(s) of record only, with a maximum of two stickers per owner.
5. All stickers shall be permanently affixed to the approved vehicle at the time of issuance. Stickers shall be affixed to the extreme lower left corner of the front windshield or to a driver's side window. ~~and not to front or rear windshield.~~ Loose stickers will not be honored.
6. To prevent confusion, misunderstanding and delays at the parking lot entrance gate, all patrons will be asked to remove all expired stickers.
7. Commercial property owners do not qualify for Resident Stickers without proof of residency.
8. All stickers and guest vouchers are non-transferable and non-negotiable.
9. Stickers expire at the end of the calendar year in which issued, except senior citizen stickers which shall expire in year dates ending in zero and five.

C. User Fees:

1. Parking fees: see Appendix A.
2. Sticker and voucher fees: see Appendix A.
3. All user parking fees, once paid, are nonrefundable.
4. Parking user fees shall routinely be collected at the full applicable rate at Stage Fort Park from 8:00am to 4:00pm daily.
5. Parking user fees shall routinely be collected at the full applicable rates from 8:00am to 3:00pm daily at Good Harbor Beach and Wingersheek Beach. From 3:00pm to 5:00pm a reduced rate of \$10 off the applicable weekday rate and \$10.00 off the applicable weekend/holiday rates shall be collected at both locations in order to fairly accommodate late arrivals. This reduced rate does not apply to Guest Vouchers.
6. When, at the option of the Director, Beach parking fees are collected on the weekdays or weekends before Memorial Day and after Labor Day, there will be a \$10 discount off the applicable daily rate to reflect non-peak season beach conditions.
7. Buses and vans that drop off passengers within the park or beach parking areas shall first pay the applicable parking fee regardless if the parking lot is used or not.
8. All stickers, including seniors, that are lost, stolen, destroyed, missing, confiscated, or invalidated due to a change in plates or registration will be charged a re-issuance fee at the time of application for a replacement sticker.
9. Exemptions: domiciled resident senior citizens only, age 65 and older (an issuance fee will be effective in 2011).
10. Special Events: The Director of Public Works may establish nominal parking fees for groups, organizations and special events to cover the expenses of conducting the event.

D. Parking Restrictions:

1. Parking restrictions posted in and around beaches, park areas, and the Beach District (Ord. 22-176(b)) will be strictly enforced. Violators may be tagged and towed at owners expense.
2. Unattended children and pets shall not be left in vehicles in the beach and park parking lots.
3. All City beach and park employees (collectors, lot attendants, lifeguards, etc.), contract concession personnel, and contract rest room personnel that are residents of Gloucester, must have a current beach sticker ~~for entrance into~~ in order to enter and park in the parking lot. Any non-resident employee will need to purchase a "employee pass for non-residents" at the price of a Resident beach sticker. This pass will be valid only on days the employee is working at the beach or park.
4. Employee and contractor vehicles shall be parked in the general use parking lot areas and will not be parked adjacent to concession facilities.
5. Vehicles, public and employee, shall not be parked closer than 30 feet to a collector booth.
6. Reserved parking areas for "resident sticker use only" may be established and made available for dedicated resident use from lot opening time up to 1:00pm daily, at which time the reserved parking areas will revert to unrestricted use.
7. There shall be "resident sticker parking only" on Witham Street, west side, from Thatcher Road to the beach; Niles Beach, westerly side, fronting on the beach; Plum Cove Beach parking lot, adjacent to the ball field; and Folly Cove Beach, between poles #356 and #357 (Ord. 22-270.1).

E. Enforcement:

1. Violation of sticker eligibility criteria and sticker issue restrictions may result in enforcement actions to include sticker confiscation, and/or ineligibility for sticker issuance for one succeeding calendar year.
2. Violation enforcement authority is vested in the Public Properties Operations Manager, Beach Constables, Parking Lot Supervisors of the DPW, and Treasurer/Collector.

III. Miscellaneous Restrictions:

A. Horses:

Horseback riding is prohibited on city beaches and in Stage Fort Park, year round.

B. Games & Sports:

Baseball, softball, football, archery, frisbee tossing, horseshoe pitching, golfing or any other rough-game sports or play is permitted only in areas designated by the Director of Public Works.

C. Inflatable Objects:

Use of inflatable toys, rafts, tubes, mattresses or other inflated objects and the use of all floating objects, except "boogie boards", in the water of all public beaches is prohibited. Boogie Boards will be permitted within the boundaries of a designated area to be located at the far eastern end of the public portion of Good Harbor Beach. A "boogie board" will be defined as a small 19" to 44" soft board comprised of foam, polyurethane, polystyrene, etc., with an attached wrist leash. Floating boards that do not meet this definition are prohibited from use on the beach.

D. Umbrellas, Tents, & Shelters:

Umbrellas must be properly anchored to prevent wind-caused accidents. No tents or shelters are allowed with the exception of sun shades and umbrellas.

E. Airplanes & Helicopters:

No airplanes or helicopters shall be permitted to take off or land from City beaches or park land (other than on official Government business). Violators will be reported to the Federal Aviation Agency.

F. Model Airplanes (Radio Control Aircraft):

Good Harbor Beach Parking Lot

1. Permitted to fly only when beach parking lot is not in operation (no attendant on duty).
2. Restricted to times when pedestrian and vehicle traffic are at a minimum.
3. Not permitted before 8:30am.
4. Shall fly over the parking lot and marsh areas, not the road or beach.
5. Noise levels will be restricted to an acceptable level (non-flow thru, expansion chamber mufflers only).
6. Pilots shall fly in a safe and responsible manner at all times.
7. Pilots will be responsible and liable for their actions.
8. Pilots will abide by regulations in effect and maintain a safe environment.
9. Pilots will be considerate of wetlands and wildlife.

G. Scuba or Skin Diving:

1. At no time will Scuba or skin divers be allowed to use underwater weapons of any type in waters off city beaches.
2. Snorkeling paraphernalia used by non-scuba or skin divers shall be restricted at the discretion of the lifeguards.

H. Boat Launching & Surfing:

1. Boat launching and landing are prohibited at all public beaches between the hours of 9:00 a.m. and 5:00 p.m., from Memorial Day to Labor Day, without the permission of the lifeguard.
2. Surfing is prohibited at all public beaches between the hours of 9:00 a.m. and 5:00 p.m., from Memorial Day to Labor Day, without the permission of the lifeguard.
3. Boardsailing shall be prohibited at all Gloucester City public beaches subject to the following exceptions:
 - a. At Niles beach, boardsailers may access the southeastern most 75 feet of public beach and shall be prohibited from the harbor channel.
 - b. At Cressey's beach, boardsailers may access only a 75 foot section of the beach located immediately to the west of the drive-through ramp in the seawall and shall be prohibited from the Harbor channel.
 - c. At other public beaches boardsailing is prohibited between 9:00am and 5:00pm daily from Memorial Day to Labor Day.

I. Sand Dune Protection:

Motor vehicles of any kind are prohibited from driving on sand dunes at City beaches. Pedestrian or animal access to Dunes Conservation Areas is strictly prohibited.

J. Audio Devices:

Radios, portable stereos, so-called "boom boxes", etc., are prohibited at City beaches and parks. Personal systems with individual speaker outlets (i.e. ear pieces, walkman, ear phones) are permitted.

K. Pets:

1. Dogs and other pets shall be prohibited from being on all public beaches from May 1 to September 15 of each year. Dogs on public beaches from September 16 to April 30 of each year shall be under direct control of the owner or keeper in accordance with the local Animal Control Ordinance.
2. Dogs and pets in Stage Fort Park shall be under direct control of the owner or keeper by leash at all times in accordance with the local Animal Control Ordinance.

L. Alcoholic Beverages Prohibited:

In accordance with state law and local ordinance, the unpermitted use of alcoholic beverages on all City beaches, parks, playgrounds, ball fields, and parking lots is prohibited. Bottles and glass of any kind are prohibited on city beaches, parks, playgrounds, ball fields, and parking lots.

M. Litter Control:

Rubbish and litter shall be deposited in trash receptacles, dumpsters, and / or bags provided by the City. Littering on city beaches, parks, playgrounds, ball fields, and parking lots is prohibited and punishable by fines up to \$100 per violation. Good Harbor, Wingaersheek, Niles and Plum Cove beaches have instituted a "Carry In - Carry Out" policy. Beach goers must be prepared to take away all trash as there are no longer any trash receptacles on the beach for public use.

N. Conduct and Behavior:

All persons destroying public property or engaging in disorderly conduct will be prosecuted to the full extent of the law. Sleeping or camping on city beaches, parks, playgrounds, ball fields, and parking lots between 9:00pm and 8:00 am is strictly prohibited.

O. Open Fires Prohibited:

Open fires of any type are prohibited on city beaches and Stage Fort Park. Cooking is allowed with either gas or charcoal grills at Stage For Park only. All hot coals must be deposited in designated containers.

APPENDIX A

PARKING AND RENTAL FEES ESTABLISHED

1. Parking fees

SFP

Passenger car, SW, mini-van	\$10.00 weekdays \$15.00 weekends, holidays
Motorcycle	\$5.00 each
Van (+7 seats)	\$15.00 each
Bus (+12 seats)	\$20.00 each
Bus (+25 seats)	\$25.00 each
Guest Voucher	\$5.00 discount off the full daily rate

GHB/WING

Passenger car, SW, mini van	
8:00am to 3:00pm	\$20.00 weekdays \$25.00 weekends, holidays
3:00pm to 5:00pm	\$10.00 weekdays \$15.00 weekends, holidays
Motorcycle	\$5.00 each
Van (+7 seats)	\$25.00 each
Bus (+12 seats)	\$30.00 each
Bus (+25 seats)	\$35.00 each
Guest Voucher	\$10.00 discount off the full daily rate

2. Sticker fees:

Domiciled Resident sticker	\$20.00
Resident Armed Forces Service Member	\$20.00
Domiciled Resident Senior Citizen sticker (65+)	No Charge (\$5.00 issue fee effective 2011)
Non-Domiciled Resident (property owner) sticker	\$50.00
Non-Domiciled Resident (+60 day renter) sticker	\$50.00
Non-Resident sticker – Essex and Rockport	\$100.00
Non-Resident sticker – (200)	\$250.00
Re-issue fee	\$5.00

3. Beach and Park Rental fees:

Beach fee: off season (commercial)	\$250.00 daily
Beach fee: in season (Memorial to Labor) (commercial)	\$400.00 daily
Beach fee: non commercial	\$25.00 daily
Stage Fort Park: group area use permit (Sch, YMCA, Camp)	\$25.00 daily
Stage Fort Park: group area use permit – non catered	\$50.00 daily
Stage Fort Park: group area use permit – catered	\$200.00 daily
Stage Fort Park: Bandstand (Gazebo)	\$100.00 2 hr max
Stage Fort Park: Rose Garden	\$100.00 2 hr max
Stage Fort Park: off season, commercial	\$250.00 daily
Stage Fort Park: in season, commercial	\$400.00 daily

4. Special Events:

The Director of Public Works may establish nominal parking fees for special events to cover the expenses of conducting the event.



**CITY OF GLOUCESTER 2009
CITY COUNCIL ORDER**

ORDER: #CC2009-002
COUNCILLOR: Sharon George/Philip Devlin

DATE RECEIVED BY COUNCIL: 01/13/09
REFERRED TO: O&A
FOR COUNCIL VOTE:

ORDERED that the Administration be requested to permanently close the Police Department Firing Range in West Gloucester and find other suitable arrangements.

Councillors Sharon George and Philip Devlin



**CITY OF GLOUCESTER 2009
CITY COUNCIL ORDER**

ORDER: #CC2009-003
COUNCILLOR: Councilor Gus Foote

DATE RECEIVED BY COUNCIL: 01/13/09
REFERRED TO: O&A
FOR COUNCIL VOTE:

Ordered that the Mayor be requested to investigate the feasibility of establishing a Commissioner of Public Safety who will have oversight over the Police and Fire Departments.

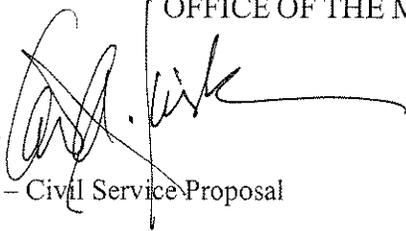
Councilor Gus Foote

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CITY OF GLOUCESTER
OFFICE OF THE MAYOR

TO: City Council
FR: Carolyn A. Kirk, Mayor 
RE: Special Mayor's Report – Civil Service Proposal
DT: January 13, 2008

Dear Councilors,

As promised in previous correspondence to the City Council dated August 14, 2008, herewith is a package of reforms for your consideration regarding Civil Service rules for both the Fire and Police Chiefs in the city of Gloucester.

When considering changes to Civil Service, the Administration has focused on the goals we are trying to accomplish for modern and professional departments of public safety. Each goal has its own set of requirements which need action thus the need for a "package of reforms" rather a single-minded focus on removing the Police and Fire Chiefs from Civil Service.

The goals we are trying to accomplish with this package of reforms are as follows:

1. Expand the pool of possible candidates for the positions of Police and Fire Chief.

- In order to accomplish this goal, the pool of candidates needs to be drawn from more than just Civil Service candidates as well as from outside our existing police and fire departments.
- Enclosed is the precise language that the Senate and House of Representatives in the General Court of the Commonwealth of Massachusetts needs to adopt in order to remove the Chiefs from Civil Service and to lift the departmental hiring constraints.
- Enclosed also is proposed ordinance language that adjusts the Gloucester ordinances to reflect a non-Civil Service system for Police and Fire Chiefs.

2. Attract and recruit the best possible candidates for the positions of Police and Fire Chief.

- Not only do we want many candidates, we want good candidates. It is my belief that concurrent two-year terms for both the Mayor and the City Council will deter highly qualified Chiefs from switching from their current community to Gloucester because of the risk of turnover, and potential impact on their career.
- Enclosed is a proposed resolution that the Administration is asking the City Council to adopt which supports the establishment of a Charter Commission intended to review length and structure of terms of office especially.

3. Implement a performance-based employment arrangement.

- In the event that the individual occupying the position of a Chief does not work out, the Administration needs expanded management discretion and authority to remove a sitting Chief than is currently allowed under Civil Service rules.
- Enclosed is proposed ordinance language that would specify the employment arrangement under a non-Civil Service system for Police and Fire Chiefs. A migration to an employment contract places emphasis on performance.

ENCLOSURES

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CITY OF GLOUCESTER
OFFICE OF THE MAYOR

Enclosure 1 is the proposed motion for City Council vote on requesting a home rule petition for the purpose of removing the Fire Chief from Civil Service. *Please refer to the Ordinance and Administration subcommittee for review and approval.*

Enclosure 2 is the proposed ordinance language that adjusts the Gloucester ordinances to reflect a non-Civil Service system for the Fire Chief. *Please refer to the Ordinance and Administration subcommittee for review and approval.*

Enclosure 3 is the proposed ordinance language that specifies the employment arrangement under a non-Civil Service system for the Fire Chief. *Please refer to the Ordinance and Administration subcommittee for review and approval.*

Enclosure 4 is the proposed motion for City Council vote on requesting a home rule petition for the purpose of removing the Police Chief from Civil Service. *Please refer to the Ordinance and Administration subcommittee for review and approval.*

Enclosure 5 is the proposed ordinance language that adjusts the Gloucester ordinances to reflect a non-Civil Service system for the Police Chief. *Please refer to the Ordinance and Administration subcommittee for review and approval.*

Enclosure 6 is the proposed ordinance language that specifies the employment arrangement under a non-Civil Service system for the Police Chief. *Please refer to the Ordinance and Administration subcommittee for review and approval.*

Enclosure 7 is the proposed resolution that the Administration is requesting the City Council adopt regarding a Charter Commission. *Please refer to the Ordinance and Administration subcommittee for review and approval.*

NOTE: City Council action should reflect the fact that the proposed ordinances cannot take effect until a positive vote of the State Legislature on the home rule petitions.

Enclosure 1

Motion that the City Council file a Home Rule Petition with the General Court of the Commonwealth of Massachusetts to enact a special law substantially in the following form:

AN ACT EXEMPTING THE POSITION OF FIRE CHIEF IN THE CITY OF
GLOUCESTER FROM THE CIVIL SERVICE LAW

Be it enacted by the Senate and the House of Representatives in the General Court assembled, and by the authority of the same, as follows:

SECTION 1. The position of Fire Chief in the City of Gloucester shall be exempt from all provisions of Chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of the persons holding the position of Fire Chief in the City of Gloucester on the effective date of this act.

SECTION 3. The act shall take effect upon passage.

Enclosure 2

Proposed Ordinance amending section 8 of the Code of Ordinances to reflect the non civil service status of the Fire Chief

Sec. 8-16

1. The Mayor shall appoint a Fire Chief who shall be the department head of the fire department and shall hold the office under an employment contract. The terms and conditions of the Chief's employment shall be established by contract the term of which shall not exceed three years. The Fire Chief shall be exempt from civil service law.
2. The department shall also consist of deputy fire chiefs, captains, mechanics, inspectors, and firefighters who shall be subject to civil service law. The numbers of each position shall be established by contract and approved by city council.

Sec. 8-17

The Mayor shall appoint all fire department personnel. Except for the Fire Chief, all personnel shall be appointed from the appropriate civil service list.

Sec. 8-18

B) Any firefighter who shall fail to meet the requirements of subsection (a) may be discharged from the department in accordance with the provisions of the law and any applicable contract.

Sec. 8-19

All firefighters shall pass a physical examination required by the City of Gloucester. All firefighters subject to the civil service laws must also pass the physical exam required by the same.

Enclosure 3

Proposed ordinance that specifies the employment terms of the Fire Chief.

Sec. 8-XX

The Mayor shall have full and exclusive power to appoint the Fire Chief who shall hold his office at the pleasure of the Mayor and may be removed by him or her pursuant to the terms of the Chief's employment contract. The Fire Chief shall be appointed for a term of three years.

Enclosure 4

Motion that the City Council file a Home Rule Petition with the General Court of Massachusetts to enact a special law in substantially the following form:

AN ACT EXEMPTING THE POSITION OF POLICE CHIEF IN THE CITY OF GLOUCESTER FROM THE CIVIL SERVICE LAW

Be it enacted by the Senate and the House of Representatives in the General Court assembled, and by the authority of the same, as follows:

SECTION 1. The position of Police Chief in the City of Gloucester shall be exempt from all provisions of Chapter 31 of the General Laws.

SECTION 2. Section 1 shall not impair the civil service status of the persons holding the position of Police Chief in the City of Gloucester on the effective date of this act.

SECTION 3. The act shall take effect upon passage.

Enclosure 5

Proposed language which amends section 17 of the Code of Ordinances to reflect non civil service status of the police chief.

Sec. 17-16

1. The police department shall consist of a chief of police who shall be the executive head of the police department who shall be exempt from the civil service laws and who shall exercise and perform the duties heretofore provided for the city marshall.
2. The department shall also consist of lieutenants, sergeants, and as many police officers with the rank of patrolman as the City Council shall deem necessary, and a principal clerk, a senior clerk, an executive/confidential secretary (non-union, non-management status), a confidential secretary, investigations, and a custodian. The City Council hereby deems it necessary that the number of regular police officers with the rank of patrolman in the department be no more than sixty-two (62) until otherwise provided.

Sec. 17-17

1. The Mayor shall have full and exclusive power to appoint the Chief of Police who shall hold their office at the pleasure of the Mayor and may be removed by him or her. The terms and conditions of employment of the Police Chief shall be memorialized in writing. The appointment shall be for a term of three years.
2. All other police officers and patrolmen shall hold their offices at the pleasure of the Mayor and may be removed by him or her, provided the same is in accordance with the laws pertaining to civil service. All newly appointed police officers are hereby required to be citizens of the United States and to reside in Gloucester within nine (9) months of their permanent appointment date and for the duration of their employment as a City of Gloucester police officer.

Enclosure 6

Proposed ordinance that specifies the employment terms of the Police Chief.

Sec. 17-XX

The Mayor shall have full and exclusive power to appoint the Police Chief who shall hold his office at the pleasure of the Mayor and may be removed by him or her pursuant to the terms of the Chief's employment contract. The Police Chief shall be appointed for a term of three years.

Enclosure 7

Motion to adopt resolution that the City Council supports the initiation of the process to review the city charter provisions including but not limited to the length and structure of the terms of office of elected officials.

CITY COUNCIL
AND
CITY COUNCIL STANDING COMMITTEE
Ordinance & Administration
Monday, May 5, 2008 – 7 PM
City Hall - Third Floor Conference Room

Attendance: Councilor John “Gus” Foote, Chair, Councilor Joe Ciolino, Councilor Bruce Tobey

Also: Councilors Grow and Curcuru, Hardy, Devlin, Jim Duggan, Mark Cole, Jim Caulkett, Barry McKay, John Beaudette, Bob Whynott, David Bain, Suzanne Egan, Mike McLeod, Richard Gaines, John McCarthy, Phil Bouchie

Absent: Councilor Sefatia A. Romeo

The meeting was called to order at 7 p.m. A quorum of the council being present a City Council meeting was also called to order.

1. Response from Public Prop. Op. Mgr. on questions arising from discussions on Beach and Park Regulations. (*cont from 4/28/28*)

Mark Cole, Public Properties Operations Manager submitted a written response on questions regarding a reciprocal beach sticker agreement between Gloucester and Essex and Gloucester and Rockport. (*copy in file*) There is somewhat of a reciprocal agreement with Essex charging Gloucester residents \$25 for Conomo Point and Rockport charging \$100 for parking at the South Street parking lot, providing access to both Cape Hedge and Long Beaches. Stickers were sold to Essex and Rockport at a consistent price as follows: 445 in 2003; 284 in 2004, 196 in 2005, 204 in 2006 and 226 in 2007.

Councilor Ciolino asked if the Rockport stickers are good at the meters.

Mr. Cole replied no, beach and parking stickers are separate. He also provided a copy of the ordinance showing where in the proposed amendment regarding enforcement should be inserted. (*copy in file*)

A vote was already taken to recommend this at the 4/28 O&A meeting.

2. Response from Harbormaster on questions arising from request to increase mooring fees. (*cont from 4/28/08*)

Jim Caulkett, Harbormaster provided a memo dated 5/5/08 in response to questions asked at the last meeting regarding a proposed mooring fee increase. (*copy in file*). He noted there are currently 1085 moorings in Gloucester waters and of these 26 are transient moorings issued to businesses and the remaining 1061 are personal moorings. Of the 1061 personal moorings, 232 are non-resident and 859 are resident moorings. Of the 1061 personal moorings, 41 are issued to commercial fishermen (lobstermen) and 3 businesses. Of these 41 moorings, 5 are non-resident. He further noted that last year they increased moorings by 22, while not encroaching on environmentally sensitive areas and the Waterways Board is presently considering a proposal to create new mooring fields in Southeast harbor. The Waterways Board is required to hold a public hearing and

must include the Fisheries Commission and Mass Lobstermen's Association. A private enterprise came to the Board requesting the creation of a new mooring field to provide shuttle and mooring service and the Public Facilities Committee will bring this to the full Board for their consideration this Wednesday, but first we have to contact the City's legal department to see if that is an avenue the city wants to go down. We will hold a public hearing to increase the moorings but any fee increases won't take effect until 2009.

Therefore, the Waterways Board respectfully requests postponement of this.

Councilor Foote asked about the funds to support the position of Harbor Plan Coordinator.

Mr. Caulkett up to \$30,000 may be requested by the Administration but if above that it would start cutting into the Waterways reserve account. That is also part of the reason for the request for an increase in fees but there is no immediate need for an increase.

Councilor Foote would like to get the entire amount of what this is going to cost.

Mr. Caulkett meets with the Mayor tomorrow to discuss the Waterways budget and will bring that back to the Board.

Councilor Ciolino asked what the wait for a mooring is.

Kate Banks, resident of Gloucester has been waiting for a mooring for 23 years.

Councilor Ciolino stated the previous council asked to increase these mooring fields and he cannot see increasing any fees until there is a firm plan to increase the moorings.

Councilor Tobey asked how long the waiting list is.

Mr. Caulkett noted there are about 460 people on the list.

Councilor Tobey asked if there is any sense of the range of increase the Public Facilities Board is considering for Southeast Harbor.

Mr. Caulkett replied 100 or so moorings.

Councilor Tobey stated when he was Mayor and the Waterways Board and Harbormaster position was established, there was a strong underlying philosophical bent to make a more welcoming harbor for folks who live here and for those who visit - growing the capacity for moorings and he feels they need to pick up the pace.

Mr. Caulkett stated in 2004 the City of Gloucester was voted #4 on the east coast as ports to visit. He agreed to get back to the committee in July with more information.

The request to increase mooring fees was continued until the first O&A meeting in July (TBD).

A five minute recess was called at 7:15 p.m.

The meeting reconvened at 7:20 p.m.

3. Order 08-04 - Home Rule to exempt Chief of Police and Fire from MGL Ch. 31 (Civil Service)

Councilor Foote read a letter from Robert Whynott, City Clerk, dated 5/1/08 regarding Councilor Foote's ability to take part in discussions about Civil Service. He stated for the record that he is not in conflict with this discussion, only the selection of a chief. (*copy in file*).

Bob Whynott explained it can take the Ethics Commission up to three months to respond to a request; therefore the reason for his phone call to them and this letter.

Jim Duggan, Adm. Asst. to Mayor submitted a memo from the Mayor dated 5/5/08 regarding Civil Service status and a memo dated 1/27/03 from Linda Lowe, former City Solicitor to Donna Leete, former Personnel Director regarding the appointment of the police chief and civil service. *(copies in file)*.

Councilor Tobey hopes to begin a conversation about the options before us.

David Bain, Personnel Director explained the questions posed by Mr. Tobey and responded to in the memo. The intent was for the Chiefs to be under Civil Service and that there be a local exam. There is a slight possibility that the wrong section number was referenced on the ballot question and he will check into that and get back to the committee on that.

Mr. Whynott explained that the Fire Chief had been in Civil Service since 1921.

Councilor Tobey referred to the summary of question 1 and the departmental exam and asked if that was the explanation provided on the ballot.

Mr. Whynott replied yes.

Mr. Bain as an attorney believes the intent of the voters was to hold a local exam and he doesn't believe that allows us to go to a state list and doesn't know if we should do that anyway. That means the exam is open to all - statewide. Everyone can take the exam and no one checks qualifications.

Councilor Tobey assumes there must be a process and ranges of limitations.

Mr. Bain stated it is open to captains and lieutenants. There is little control over a state wide exam and the results are released by residence. The two vehicles that could be used to resolve this question would be a Home Rule petition or putting this back on the ballot.

Councilor Tobey stated under the Charter there is only one way for binding referendum question to go on the ballot.

Suzanne Egan, Assistant General Counsel explained that the statute requires that a petition signed by at least 5% of the voters be filed with the City Clerks office or through a home rule petition. Both Fire and Police Chiefs are included under Civil Service.

Councilor Tobey referenced MGL, Ch. 31, §55.

Councilor Grow asked if successfully taken out of Civil Service, is there anything that prevents the existing members of the department from applying for position of Chief.

Mr. Bain assumes it would be open as a nationwide search and anyone who wanted to apply could.

Councilor Grow asked could local preference be a part of that equation with regards to the selection process.

Mr. Bain replied all things being equal that person may have more qualifications for that position if they are local. If you hire someone from the outside it will take that person about six months to know what is going on. If you hire someone from outside they will be getting most of their information from the people inside.

Councilor Grow asked if there is presently any special management skills or training required for a police chief candidate.

Mr. Bain replied you want someone who has had experience in the police line.

Mr. Whynott believes that as it stands now if at least 4 lieutenants take the exam it is not open to sergeants, and if there are not enough lieutenants then it is open to sergeants.

John McCarthy, Sargeant concurred that it is 4 lieutenants.

Mr. Whynott stated when not in civil service selection can be made out of rank

Councilor Tobey stated the home rule petition will determine how it is handled.

Councilor Grow stated right now a qualified person in the city who had police experience would not be allowed to apply for a position of chief if there were not presently a member of the department.

Mr. Bain replied yes and if you took it out of civil service you could have someone outside the department who was local.

John Beaudette, Police Chief stated there are no job openings presently so why are we discussing this.

Councilor Tobey replied that Councilor Grow filed an order and we felt it warranted more exploration.

Chief Beaudette stated there is no comparison with a police chief's job and private industry. He has always maintained an open door policy with the council.

Councilor Tobey asked if Chief Beaudette was selected through the civil service process and was it a good process and would he recommend it be used in the future.

Chief Beaudette feels it is excellent selection process and that there are qualified members within the department that are more than capable of running the department. He stated the key difference between this and private industry is that a CEO can bring in his own people, while a Chief has to work with what is there and feels he has done a good job.

Michael McLeod, former Police Chief and former City Councilor stated that in the late 90's we did a survey on community policing and citizens came back overwhelmingly that they liked their police department. This is a police department that gets awards from the council for saving lives and we have to look at what has gone into the process. He feels that once you mix politics with the selection process you have big problems. If you take it out of civil service anyone can apply. Our police department does a great job. The vote taken in 1976 was almost 3:1 in favor and that is an overwhelming vote.

Barry McKay, Fire Chief spoke also in favor of keeping it within the department ranks. By keeping this in civil service you get someone who knows the community, who has been working in the community. He is concerned with limiting promotional opportunities. This does reduce the pool for local candidates and he doesn't feel it is a level playing field. He agrees we should look at all the options. With regards to the process of the assessment center, he believes the same thing applies to the Fire Chief and would like to see that process followed going forward.

Councilor Tobey used the analogy of the process for selecting a superintendent, who has the same constraints as a police or fire chief and asked what the difference is.

Chief Beaudette replied right now you are paying a bargain rate for chiefs and by opening it up you will pay another \$35,000, which is the going rate for a city this size.

Chief McKay feels the only other differentiation is that the Police and Fire Chief have some extraordinary powers. The Fire Chief can enter any building without a search warrant and that is a powerful law; and if you leave it to a person who is potentially politically inclined, they may use it for other than what it is intended for.

Councilor Tobey asked if he has seen difficulties arise in other communities.

Chief McKay replied yes. He has seen people with different agendas not related to fire safety.

Councilor Ciolino feels in the case of the selection of a superintendent – it depends on the person's talents. People do appreciate the fact that we do have people from the community as superintendent of schools.

Sgt. McCarthy stated the Fire and Police Chiefs should be able to inform hard and cold facts regarding public safety and should be free of any political influence. There have been frequent changes in non-civil service chiefs. The Mass Coalition of Police see a lot higher rate of legal issues with non-civil service chiefs as far as union issues.

Councilor Grow asked for an explanation of the assessment aspect of the selection process, the conclusion and what is done with that assessment.

Mr. Bain explained that generally what happens is they bring in police chiefs from various places, they ranked those and the mayor makes the decision.

Councilor Grow feels the political nature exists regardless if they are in or out of civil service. This is not a personal slam to individual chiefs. The reason for bringing this forward is to open up a pool of the best possible candidates – he maintains the best possible candidate should get the job. These are different times then 1976 and we need to adapt with the times. Less than 90 cities and towns in Massachusetts have their chiefs in civil service. Cities around the Commonwealth are not collapsing because of an inability to find qualified personnel. To maintain a protectionist system in order to maintain a job career path for certain individuals is not in the best interests of the people of the city. We are not trying to push anyone out of their positions – it doesn't mean we can't modernize the way we look at two important positions in the city. He wants the opportunity to make sure we have the best possible candidate whether inside or outside the city.

Councilor Tobey asked about a home rule petition and the message from the local body.

Mr. Bain replied it requires two-thirds to unanimous vote of the council.

Mr. Whynott stated home rule petitions need to be almost unanimous and always have to be signed by the Mayor.

Councilor Tobey asked if the Mayor has a position on this.

Mr. Duggan replied no.

Councilor Tobey stated we need more data on Section 20.

Mr. Bain stated the only times he has seen a home rule petition succeed was with a unanimous vote of the council.

Councilor Tobey asked both Chiefs to come back with a perspective on this after attending the Mass. Coalition of Police and Fire Chiefs. What is best for the next election process and why, based on the model of 90 communities that do and the rest that don't, **Phil Bouchie, Firemen's Union President** asked how many of the 290 cities and towns without civil service have volunteer departments. He also suggested the need to wrap this up quickly because this is creating an aura of distrust in the department.

Councilor Foote stated there are a lot of people who want to serve as police and firemen and who would someday like to be chief. He saw the good and bad in the police department, but has yet to see any corruption in it. He feels we have a good police department that has been through a lot of press lately. The same with the fire department and he is for leaving this where it is. He agrees that many from out of town don't stay long; they don't understand the system because it is different then theirs and the pay is different. Gloucester is a close knit community and he feels the majority of people would not sign a petition. He will not support this and hopes the city council will not support this either.

Mr. McCarthy asked where we are procedurally with this. He feels this is being dragged out, until they wear people down and then push this through.

Councilor Tobey noted three items subject to a follow up meeting: The vote taken in 1976 and the reference to Sec. 20? The analysis of 351 communities in the state, 90 with civil service and 261 without and for each chief to give us their professional opinion after attending Mass. Coalition of Police Chiefs and Mass Coalition of Fire Chiefs.

Councilor Devlin doesn't see any harm in exploring this to see if there is a better way to do this.

Councilor Ciolino feels that out of all the problems the city has - no one ever talks about concerns with civil service. He has a problem with overturning a vote and doesn't see this going to the state with a unanimous vote of the council.

Mr. McLeod stated no one ran on the platform of taking the chiefs out of civil service.

Councilor Devlin stated people don't always speak their minds in a public setting; there is a quiet talk about it. He agrees it should be wrapped up in a timely manner but also feels we should have the conversation.

The matter of exempting the Police and Fire Chief from Civil Service was continued to 6/2/08.

4. Order 08-10 - Reorganization of Civil Defense Department

Councilor Hardy arrived at 8:20 p.m.

Councilor Foote read the order filed by Councilor Hardy into the record (*copy in file*).

Councilor Hardy noted that the present civil defense ordinance was probably written in the 1950's and with 9-11 we need to be in step with other communities. What brought attention to this was fire at the Lorraine Apartment building. She feels there was a lot that could have been done for the victims in the moment and at the time. She would like to see a volunteer outreach from the community to get involved in this civil defense/emergency management. So many people came out for the clothing, food and furniture drives. She would like to see consideration of a subcommittee to do research and reach out to other communities to see what they do.

Councilor Tobey asked the Administration to take the lead in getting a group together to perform a study, including the two Chiefs, the Red Cross, but also opening it up to other volunteer groups to focus on how to maximize resources and volunteers and capture the evolution that has occurred in this field, giving considerations to home land security.

Councilor Hardy stated the information the Red Cross gathered during the Lorraine Apartments fire, they were willing to share with no one. We had to find out who needed assistance through an alternate means. We need someone local at the Red Cross table to share the information – we need an opportunity to be invited to that table.

Councilor Ciolino asked if Chief McKay is the present Civil Defense Director.

Chief McKay replied he is and noted the term today is Emergency Management Director and involves hazard planning for all events. He noted that during the Lorraine fire they didn't have a good handle on the whereabouts of the victims. He is not opposed to this – he feels the best thing that has happened in the city that has happened in a long time is the pandemic committee made up of 80 people - there isn't anything relating to public safety that group can't tackle. Actual plans mean nothing – it is “planning” that is everything. If

CITY COUNCIL
AND
CITY COUNCIL STANDING COMMITTEE
Ordinance & Administration
Monday, June 9, 2008 – 7 PM
City Hall - Third Floor Conference Room

Attendance: Councilor John “Gus” Foote, Chair, Councilor Sefatia A. Romeo, Vice Chair, Councilor Bruce Tobey

Also: Councilor Jackie Hardy, Councilor Joe Ciolino, Allyson O’Connor, Edward Pasquina, Jim Duggan, Barry McKay, John McCarthy, Eric Christopher, Phil Bouchie, Joe Orange, Charles Crowley, Bruce Lennan, John Richards

Absent: Sarah Buck, John Beaudette,

The meeting was called to order at 7:00 p.m. A quorum of the council being present a council meeting was also called to order.

1. Appointment:

a. Licensing Board – Allyson O’Connor (TTE 4/29/11)

Councilor Romeo asked about criteria.

Councilor Tobey stated the requirements call for one member from each of the major parties and one un-enrolled.

Councilor Romeo asked if she is ready for upcoming controversies and those who have been waiting for licenses as opposed to granting licenses to the highest bidder.

Allyson O’Connor is a professional event planner and would like to work on an education forum so as people apply they can come in with complete packages.

Councilor Tobey asked if the board has thought about revolving the appointment of chair.

Edward Pasquina, Chair of the Licensing Board instituted revolving the chair while serving on the Board of Health. Even with this small board he would try to be more inclusive. It is important to have everyone involved in the structuring of these licenses. The law is promulgated by statute and case law but there is no procedure in place. He has talked to Allyson about this and she is enthusiast about including everyone as chair and having licenses go to those more needy.

Councilor Foote talked to chair about working with the Licensing Board and the youth of Gloucester to address the underage drinking problem and hopes that after the budget, the Licensing Board will join in trying to get this straightened out.

MOTION: On motion of Councilor Tobey, seconded by Councilor Romeo the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council the appointment of Allyson O’Connor to the Licensing Board for a term to expire 4/29/11.

b. Comm. Dev., Dir. – Sarah Buck (TTE 2/14/09)

Jim Duggan, Adm. Assistant to the Mayor explained that Sarah is hosting the listening post for harbor development and therefore could not be present tonight. The Administration is in favor of her appointment and requests a favorable recommendation.

Councilor Tobey asked this be continued to 6/23.

Councilor Hardy asked for a copy of the job description and resume for the next packet.

The appointment of Sarah Buck to Community Development Director is continued to 6/23.

4. Order 08-18 - Review of vendor fees

Councilor Hardy would like O&A to consider reviewing the fees already on the books to find out events in the city we aren't collecting fees on (i.e. Canterbury Fair) because we need the revenue.

MOTION: On motion of Councilor Tobey, seconded by Councilor Romeo the Ordinances and Administration Committee voted 3 in favor, 0 opposed to request the Assistant City Clerk to review the calendar of events and overlay the fees by outreach to Fire, Police, DPW and Board of Health to provide a statement of the costs they incur arising from those events and to compare those costs to the revenues, fees and any other monies coming to the city as a result of the event.

5. Order 08-19 - Request for sticker on all short term meters.

Councilor Ciolino stated this request arises from the problem of people feeding meters who work on Main Street. There is an ordinance in place that reads if you are there more than 2 hours you have to move your car to a long term meter on Short or Parker Street. On the meter there is no place that says you can't feed the meter, so he is proposing a small sticker on the meter with the appropriate language that states you cannot continuously feed the meter.

Councilor Foote asked if other cities and towns provide that.

Councilor Tobey would like to see that ordinance.

John McCarthy, Superior Officers Union believes there is an ordinance.

Councilor Tobey requested language from the Clerk's office on the ordinance.

Request the Mayor apply stickers to all short term meters and look into replacing the meter lenses where needed.

6. Order 08-04 - Home Rule to exempt Chief of Police and Fire from MGL Ch. 31
(Civil Service) *(cont from 5/5/08)*

A written statement from the Gloucester Superior Officers Association dated 6/9/08 was read into the record as follows: "The Gloucester Superior Officers Association would like to go on record as being opposed to the motion to remove the Police Chief's position from Civil Service. The Union's position is that the current system is in the best interest of the Police Department and the City of Gloucester." *(copy in file)*

Councilor Tobey stated the last time we met on this we asked for an explanation on the referendum question as to the meaning of Section 20 of the civil service law, an analysis of all the communities in the state with and without civil service, and a professional opinion from each of the two chiefs after outreach to each of their respective professional organizations. Having received tonight a printout and listing of all the communities in the Commonwealth, lacking the analysis requested; he undertook his own noting there are 43 cities with civil service, 21 still have civil service for both Police and Fire, 11 have civil service for just Fire. Seventy-five percent (75%) have civil service in some form. Three have civil service for Police only, which means a little more than half have civil service. A distinct minority of nine communities have neither, including Chelsea, Springfield, Melrose, N. Hampton, Newton and Waltham. He is disappointed Mr. Bain didn't give an analysis of this and would like to have that analysis. He also would like to hear the input from the Fire Chief. He feels the Fire Chief should stay in Civil Service but the Police Chief should come out.

A letter dated 6/9/08 from Phil Bouchie, Vice President of the Gloucester Fire Fighter's Local 762 endorsing the current practice of hiring the fire chief using the Civil Service process was entered into the record. *(copy in file)*

Barry McKay, Fire Chief attended the Mass. Fire Chief's Association meeting and found that Hingham went through a similar experience, going out of civil service – they brought a person in from Texas who lasted 7 years, now Hingham has decided to keep the position out of civil service but to promote from within. The next one was Methuen; that involves a police chief who usurped his power to the point of allegations of corruption and that chief was removed. The city made the decision to take the position out of civil service and promote from within. Methuen is a city where the fire chief has never been civil service – they have always promoted from within.

Councilor Tobey asked if he found out the process for selection.

Chief McKay did not but can find out the process and the reason for it being there or for it being taken out. North Andover has always been a non-civil service department that promoted from within. The city decided for whatever reason to go to a national search for their most recent chief. He feels this was put in through a referendum vote and should be taken out the same way. The Mayor has funded public safety audits and he suggested that study team take a look at this and make a recommendation.

Councilor Tobey requested Everett Brown provide the committee with a draft RFP for the public safety audit. As a practical reality, no matter what we vote as a Council – because of State elections, the legislature is going to recess the end of July, so the timing is just not there and the legislature is not going to embrace this without a unanimous vote of the council. He feels we do need some substantive resolve; that there is a way to eliminate civil service, keeping a commitment to promote from within.

Councilor Romeo stated the only way she would support non-civil would be if it was written that we had to promote from within.

Councilor Ciolino agrees with Romeo. We are at a point where we have put in so much time and realizing this will not be unanimous decision, we need to send this to the Council and vote it up or down and come up with some type of mediation once the audit is complete.

Councilor Romeo stated we can include community input as part of the RFP for the audit.

Councilor Foote agrees that without the full support of the council, the legislature will not look at this. This came in on a referendum vote and should go out the same way.

John McCarthy, Police Department stated there are a lot of ways for the Mayor, Administration and the Council to be involved in this under the current system.

Councilor Tobey asked the Administration to follow up on the audit trek, the analysis and to bring this back as soon as the budget is passed; and that the word go forward that not all councilors are convinced this is an automatic no vote. He asked the audit be structured in such a way to allow, if necessary, for a referendum on the November 09 election ballot.

Councilor Hardy request that when this is continued that it be placed first on the agenda.

MOTION: On motion of Councilor Tobey, seconded by Councilor Romeo, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to continue the matter of Civil Service to July 14th pending receipt of a draft RFP for Police and Fire audit services.

7. Other Business

It was moved and seconded to adjourn the meeting at 9:00 p.m.

Respectfully submitted,
June Budrow
Clerk of Committees

CITY COUNCIL
AND
CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration
Monday, July 14, 2008 – 7 PM
City Hall - Third Floor Conference Room

Attendance: Councilor John “Gus” Foote, Chair, Councilor Sefatia A. Romeo, Vice Chair, Councilor Bruce Tobey

Also: Jack Clarke, Sandra Dahl Ronan, Mike Hale, Richard Gaines, David Bain, Phil Bouchie, John McElhenny

Absent:

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

1. Order 08-04 Home Rule to exempt Chief of Police and Fire from MGL Ch. 31 (Civil Service) (*cont from 6/9/08*)

David Bain, Personnel Director referred to the statistical analysis presented to the committee the last time they met.

Councilor Tobey asked if there is any money in the budget to invest in training Fire Department lieutenants and deputies to qualify as Fire Chief.

Mr. Bain replied cities as rule don’t conduct management training. In the past employees have learned by osmosis and he feels this needs to change.

Phil Bouchie, President of Firefighters Union believes training is an investment in the company. We have internal monies that should be used for those purposes and the firefighters would encourage the use of part of the \$33,000 in training funds for that purpose.

MOTION: Councilor Tobey moved and Councilor Romeo seconded that the Ordinances and Administration Committee recommend to the full City Council that the Mayor and City Council petition the General Court for the enactment of a Home Rule Petition for the purpose of exempting the positions of Chief of Police and Fire Chief from the provisions of Civil Service Law, Chapter 31 of the General Law and further that Section 17-17 and Section 8-16 & 8-17 of the Gloucester Code of Ordinances be amended accordingly to delete references to the respective chiefs as they pertain to inclusion in Civil Service.

FIRST AMENDMENT TO THE MAIN MOTION: On motion of Councilor Tobey, seconded by Councilor Romeo the Ordinances and Administration Committee voted 1 in favor, 2 opposed (Romeo, Foote) to recommend to the full City Council deletion of the words “AND FIRE CHIEF” and any reference to the Fire Chief from all pertinent sections in the ordinance; seeking only the removal of Police Chief from the provisions of Civil Service. **MOTION FAILS**

Discussion. Councilor Tobey feels that each public safety division has its own distinct set of issues but when he compares the sets of issues, he concludes that the Fire Department is more the victim of inadequate funding; that those who contest the terms of the contract related staffing don’t understand what it takes to effectively fight a fire and that the management model is therefore is not broken and is more fundamentally sound and less a concern. He is focusing on the more substantial management difficulties we are facing in the Police Department. We need the highest level of professionalism and the greatest level of objectivity and knowledge of the field. A Gloucester lieutenant may have that and can compete fairly outside of civil service. As

president of the MMA he is advocating for management rights (which means getting out of civil service all together) while recognizing sometimes you have to go with what is possible and make incremental changes.

Councilor Romeo has no problem either way but would make an amendment that you hire from within. If we have a problem we need to address it but if there is no documentation then there is nothing that can be done. She would like to let this be for now until after the public safety audits.

Mr. Bain feels this still needs a home rule petition but the requirements could be a matter of local ordinance.

Councilor Foote is against taking it out of civil service but agrees we should hire from within.

Councilor Romeo stated we are all in agreement that we want to hire from within so what is the difference between being in civil service or not and what are we going to gain by taking these positions out of civil service.

Mr. Bain explained that when you hire a person that isn't a civil service employee, it is done by contract. In the contract you can fire that person for "cause" at any time; it gives the employer more freedom. Under civil service, you have to have "just cause" to take someone out and there are high standards.

Richard Gaines, GDT asked if there a typical duration of a contract for police chief in the law.

Mr. Bain replied typically those contracts are for three years.

Councilor Foote would like to keep it as is. Both chiefs have said their doors are always open.

Councilor Romeo would like to see this resolved and done properly.

Mr. Bouchie stated if done properly he is sure most would agree with the amendment to remove the chief from civil service as long as they hired from within but it would have to be in the ordinance.

SECOND AMENDMENT TO THE MAIN MOTION: On motion of Councilor Romeo, seconded by Councilor Tobey the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council to exempt the positions of Fire Chief and Police Chief from the provisions of Civil Service Law, MGL, Chapter 31, requiring they be hired from within the existing departments. (Language to be provided by the Legal Department) MOTION CARRIES

MAIN MOTION WITH AMENDMENT: On motion of Councilor Romeo, seconded by Councilor Tobey the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council that the Mayor and City Council petition the General Court for the enactment of a Home Rule Petition for the purpose of exempting the positions of Chief of Police and Fire Chief from the provisions of Civil Service Law, Chapter 31 of the General Law and further that Section 17-17 and Section 8-16 & 8-17 of the Gloucester Code of Ordinances be amended accordingly to delete references to the respective chiefs as they pertain to inclusion in Civil Service; requiring respective chiefs to be hired from within the existing departments. (Appropriate language to be provided by the Legal Department.) MOTION CARRIES

2. Miscellaneous

- a. Memo from Inspector of Buildings re: ordinance pertaining to vacant buildings. *(cont from 6/30/08)*

Memo dated 7/14/08 from Bill Sanborn, Building Inspector was entered into the record. (copy in file)

Councilor Romeo read Councilor Hardy's questions from her e-mail dated 7/14/08 into the record. *(copy in file)*

Councilor Foote supports the ordinance.

**GLOUCESTER CITY COUNCIL CALENDER OF BUSINESS
WEDNESDAY, JULY 23, 2008 - 6 P.M.
ROSE BAKER SENIOR CENTER
SPECIAL COUNCIL MEETING #2008-017**

Attendance: Council President, Bruce Tobey, Council Vice President, Sefatia A. Romeo, Councilors Joseph Ciolino, Steve Curcuru, Philip Devlin, John "Gus" Foote, Sharon George, Jason Grow, Jacqueline Hardy
Also: Mayor Kirk, Nancy Papows, Jim Duggan, Marcia McInnis

The meeting was called to order at 6:00 p.m.

FLAG SALUTE & MOMENT OF SILENCE

SCHEDULED PUBLIC HEARINGS

Public Hearing #1

08-031: Acceptance of the FY2009 Budget (Enterprise Funds) *Cont. from 7/8/08*

The public hearing is opened.

Speaking in favor.

Speaking in opposition.

Questions.

The public hearing is closed.

SEWER ENTERPRISE REVENUES

MOTION: The Budget and Finance Committee voted 3 in favor, 0 opposed to recommend to the full City Council the FY09 SEWER ENTERPRISE REVENUES as follows:

Non-Rate Revenue:	\$ 295,161	
Essex/Rockport:	\$ 384,578	
Collections @ .667	\$ 347,948	
Total Non-Rate Revenue		\$1,027,687
Metered Revenue:		\$6,332,910
TOTAL REVENUES:		\$7,360,597

MOTION: On motion of Councilor Grow, seconded by Councilor Ciolino the City Council voted 8 in favor, 1 opposed George the FY09 SEWER ENTERPRISE REVENUES as follows:

Non Rate Revenue:	\$ 295,161	
Essex/Rockport	\$ 384,578	
Collections @ .667	\$ 347,948	
Total Non-Rate Revenue:		\$1,027,687
Metered Revenue:		\$6,332,910
TOTAL REVENUES:		\$7,360,597

TOTAL FY09 SEWER ENTERPRISE REVENUES \$7,360,597

SEWER ENTERPRISE APPROPRIATIONS

COMMITTEE REPORTS**1. O&A 7/14/08**

MOTION AS AMENDED: The Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council that the Mayor and City Council petition the General Court for the enactment of a Home Rule Petition for the purpose of exempting the positions of Chief of Police and Fire Chief from the provisions of Civil Service Law, Chapter 31 of the General Law and further that Section 17-17 and Section 8-16 & 8-17 of the Gloucester Code of Ordinances be amended accordingly to delete references to the respective chiefs as they pertain to inclusion in Civil Service; requiring respective chiefs to be hired from within the existing departments. *(Appropriate language to be provided by the Legal Department.)*

MOTION AS AMENDED: On motion of Councilor Foote, seconded by Councilor Romeo the City Council voted 5 in favor, 4 opposed (Ciolino, Hardy, Foote, Romeo) that the Mayor and City Council petition the General Court for the enactment of a Home Rule Petition for the purpose of exempting the positions of Chief of Police and Fire Chief from the provisions of Civil Service Law, Chapter 31 of the General Law

MOTION: The Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council amendment of Chapter 1, Section 1-15, entitled "Penalty for violation of certain specified sections of Code" by ADDING the vacant building registration fee schedule based on square footage, as proposed and by ADDING Chapter 5, Article II, Division 3, entitled "Vacant Buildings", Sections 5-30 through 5-36, as proposed and FURTHER TO ADVERTISE FOR PUBLIC HEARING.

MOTION: On motion of Councilor Foote, seconded by Councilor Ciolino the City Council voted 9 in favor, 0 opposed amendment of Chapter 1, Section 1-15, entitled "Penalty for violation of certain specified sections of Code" by ADDING the vacant building registration fee schedule based on square footage, as proposed and by ADDING Chapter 5, Article II, Division 3, entitled "Vacant Buildings", Sections 5-30 through 5-36, as proposed and FURTHER TO ADVERTISE FOR PUBLIC HEARING.

MOTION: The Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council approval of the Pay As You Throw Trash Bag Program as proposed. *(Legal to provide ordinance language).*

MOTION: On motion of Councilor Foote, seconded by Councilor Romeo the City Council voted 9 in favor, 0 opposed approval of the Pay As You Throw Trash Bag Program as proposed. *(Legal to provide ordinance language).* and FURTHER TO ADVERTISE FOR PUBLIC HEARING

MOTION: The Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council approval of the \$5 bulky item sticker fee and FURTHER TO ADVERTISE FOR PUBLIC HEARING.

MOTION: On motion of Councilor Foote, seconded by Councilor Romeo the City Council voted 9 in favor, 0 opposed approval of the \$5 bulky item sticker fee and FURTHER TO ADVERTISE FOR PUBLIC HEARING.

MOTION: The Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the full City Council that the following question be placed upon the ballot for the regular State Election scheduled for November 4, 2008: Shall the City of Gloucester accept sections 3 to 7 inclusive, of Chapter 44B of the General Laws, as approved by its legislative body.

MOTION: : On motion of Councilor Foote, seconded by Councilor Romeo the City Council voted 9 in favor, 0 opposed that the following question be placed upon the ballot

**CITY OF GLOUCESTER 2009
CITY COUNCIL ORDER**

ORDER: #CC2009-05
COUNCILLOR: Jackie Hardy/Bruce Tobey

DATE RECEIVED BY COUNCIL: 01/27/09
REFERRED TO: O&A
FOR COUNCIL VOTE:

Ordered that the City Council review the current Council Rules of Procedure in order to bring them up to date, and further

Ordered that this matter be referred to O&A for recommendations.

Councillor Jackie Hardy
Councillor Bruce Tobey

CITY COUNCIL – CITY OF GLOUCESTER

RULES OF PROCEDURE 1997-1998

(Revised by Vote of the City Council 1/11/94, 4/5/94, 7/12/94, 7/19/94, 9/6/94, 4/2/96, 2/18/97, 2/17/98, 11/10/98, 2/29/00 and 1/15/02)

RULE 1: MEETINGS

- A. Regular City Council meetings shall be held every other Tuesday beginning May 3, 1994, including the months of June, July, and August, and shall begin at 7:00 P.M., unless the City Council votes otherwise.
- B. All regular meetings shall be concluded on or before 11:00 P.M. unless extended by a 2/3's vote of the Council members present. Such an extension shall not exceed 30 minutes in length. If necessary, the meeting shall be continued to another evening.
- C. Special meetings of the City Council may be called in accordance with Section 2-5 of the City Charter.
- D. When a City Councilor is unable to be present or arrival will be delayed at the City Council Meeting or a Standing Committee meeting, he or she shall report same in advance to the City Clerk's Office or to the Clerk of Committees.

RULE 2: ORDER OF BUSINESS

The following list establishes the Order of Business for City Council meetings. It is understood that in special situations, the City Clerk and the Council President may rearrange the calendar(s) in the interest of public convenience:

1. Flag Salute
2. Moment of Silence
3. Oral Communications*
4. Commendations **
5. Confirmation of Appointments
6. Consent Agenda
7. Mayor's Report
8. Councilor Requests to the Mayor
9. Approval of Previous Minutes
10. Unfinished Business
11. Scheduled Public Hearings
12. Standing Committee Reports
13. Communications
14. Applications and Petitions
15. Councilors' Orders
16. Council Discussion, including reports by appointed Councilors to Committees.
17. Name of Councilor by rotation designated to vote first on roll calls.
18. Listing of Minutes from miscellaneous Boards filed for record.

* Oral Communications shall allow any resident who has a request or complaint of any nature relative to City business to appear before the Council, state their problem, without debate, and the matter shall be referred to the proper agency, through the Office of the Mayor. The resident must be notified in writing within 2-week period of disposition of same, and a copy shall be forwarded to the City Council.

**Commendations – When Councilors submit orders for commendations, the Council President shall schedule them as soon after the final ??? (date?) as practicable.

RULE 3: AGENDA PROCEDURE

- A. All matters to be presented at regular City Council meetings shall be filed with the City Clerk's Office not later than 4:00 P.M. on Wednesday preceding regular Tuesday Council meetings.
- B. Standing Committee reports shall be delivered to the City Council with the agendas. Reports of Committee meetings held on Mondays preceding the regular Council meetings shall not be considered until the next regular meeting (except by unanimous consent of the City Council).
- C. The City Clerk shall arrange delivery of the agendas (calendars of business and enclosures) to the City Councilors on the Friday preceding the regular Council meetings.
- D. Any addendum or other matter filed after the closing time noted, shall be listed on a "Unanimous Consent" calendar and shall be considered at said Council meeting, provided no member objects. If any member objects, then said item(s) shall be considered at the next regular Council meeting.
- E. Whenever correspondence, written reports or other pertinent documents, are received by the Council President or an individual Councilor (in the name of the City, the Council or agencies of the Council) copies of said document(s) shall be filed with the City Clerk for inclusion on the next Council calendar of business; and when possible, copies shall be forwarded to individual City Councilors.

RULE 4: PUBLIC HEARINGS

All public hearings conducted by the City Council shall proceed with the following format which shall be printed on the back of the meeting agenda.

- A. Public Hearing opened by Council President
- B. PRESENTATIONS FROM PROPONENTS. In matters related to Special Permits, petitioners may make initial oral presentations up to thirty (30) minutes; others speaking in favor shall be allowed up to five (5) minutes each. Proponents are encouraged to enter into the record, documentation of their presentation testimony.
In Public Hearings considering general matters, each individual may speak for up to five () minutes
- C. PRESENTATIONS FROM OPPONENTS. Opponents shall be allowed initial oral presentations up to thirty (30) minutes in total; others speaking in opposition shall be allowed up to five (5) minutes each. Opponents are also encouraged to enter into the record documentation of their testimony.
- D. COMMUNICATIONS READ INTO THE RECORD AND FILED.
- E. REBUTTALS. Proponents shall be allowed one person to make rebuttal up to five minutes and opponents shall be allowed a total of five minutes by one person representing the opposition.
- F. QUESTIONS by City Councilors and the audience to either side.
- G. PUBLIC HEARING OFFICIALLY CLOSED.
- H. STANDING COMMITTEE REPORTS. The three "standard" conditions placed upon all Special Council Permits shall be printed on a sheet of paper and handed to the applicant and the reading of same shall be waived each time after the Public Hearing
- I. COUNCIL DISCUSSION.
- J. ROLL CALL VOTE(s). Unless the Council chooses to postpone the vote pending further information.

RULE 5: RULES OF DEBATE

City Council debate shall be guided by the Council President within the following constraints:

- A. No member shall speak more than once on the same question until all other members desiring to speak have spoken;
- B. No member shall have or hold the floor for more than 5 consecutive minutes during debate on the same question, and;
- C. No member shall discuss any individual or company in a derogatory manner without first notifying the party(ies) involved. Upon notice, the matter shall be placed on the agenda for a future meeting.

These constraints may be lifted by the Council President for good cause or by a 2/3's Roll Call vote of Councilors present.

Roberts Rules of Order shall prevail on all matters not specifically covered by these Rules of Procedure.

RULE 6: MANNER OF VOTING

- A. Roll Call votes shall be conducted in the following manner:
- B. The Clerk shall call the name of each City Councilor in alphabetical order. The first name on the roll call shall be rotated at every new meeting.

RULE 7: COMMITTEES

- A. Council Committees shall be established as set forth in City Charter Sections 2-9 a,b,c, and d.
- B. When a member of a Standing Committee is absent, the Committee Chairman should appoint another Councilor as an alternate member of said Committee with voting authority.
- C. Ad Hoc Committees may be established by the City Council, the members of which shall be appointed by the Council President.
- D. Should a Committee schedule a daytime meeting and any Councilor objects, the meeting shall be rescheduled to an evening meeting.

RULE 8: ADMINISTRATIVE PROCEDURES

- A. All requests of Councilors to the Mayor's Office or City Department Heads shall be processed through the Mayor's Office in writing (on standard "blue slip" memo forms with one subject to each sheet). Requests may also be processed in this manner through the City Clerk or the Clerk of Committees. There is no need to put such a "blue slip" request into the City Council record at Council meetings, unless special requests are voted officially by the full City Council.
- B. The Mayor's Administrative Assistant shall be responsible for implementing or otherwise responding to all Councilors' requests. In all cases, replies to the originating Councilor request(s) shall be processed and in hand within two weeks.
- C. In emergency situations, at their discretion, individual Councilors may contact the Director of Public Works or Department managers directly to make reasonable requests on behalf of citizens, but Councilors are not to influence employees in any way that may conflict with instructions from their Department Head or delegated supervisors.
- D. Official requests of the full City Council will be handled in a similar fashion by the Administration, but interim and final reports should appear in the Mayor's Bi-Weekly Reports to the City Council.

RULE 9: VACANCIES IN POSITIONS OF CITY CLERK OR CITY AUDITOR

- A. Within one week of the council learning of a vacancy or impending vacancy in the City Clerk or City Auditor's positions, the positions shall be advertised in a Boston and a local newspaper on two consecutive days and in one Boston Sunday newspaper. The weekday advertisements shall appear simultaneously.
- B. Advertisements shall indicate that the applications must be in a sealed envelope with the words "Auditor Application" or "Clerk Application" clearly printed on the outside and mailed to the City Clerk's Office. Applications must be received by the City Clerk's Office no later than three weeks from the first day of advertisement.
- C. Upon receipt of applications by the City Clerk, each envelope shall be date stamped, sequentially numbered but not opened.
- D. The City Clerk shall deliver the applications marked "Clerk Application" to the Ordinances and Administration Committee and applications marked "Auditor Application" to the Budget and Finance Committee, where the applications shall be opened, evaluated and screened to select a group of six finalists for personal interview by the Committee.
- E. The appropriate City Council Standing Committee, after reviewing resumes, conducting personal interviews, and doing reference checks shall submit the names of three finalists to the full City Council no later than five weeks from the closing date of the application period.
- F. Following receipt of the report of the Ordinance and Administration Committee, the City Council shall conduct interviews and make a final selection within two weeks.

RULE 10: SPECIAL PERMITS

- A. During discussion of Special Permits, Councilors are required to give testimony on their reasons for voting based upon the judging criteria in Section 1.4.2.2.(e) of the Zoning Ordinance.

RULE 11: MINUTES

- A. Minutes of Council meetings shall only be altered or approved by the full City Council at a regularly scheduled meeting.

RULE 12: TRANSFERS and AUTHORIZATION for SIGN-OFF

- A. City Council Transfers are to be signed by the Department Head, being defined as the Chairman or Vice Chairman of the appropriate Standing Committee of the City Council. In the absence of the Chairman or Vice Chairman, the Council President is authorized to sign.
- B. Sign Off Authority:
- Authority to sign off on City Council, Personal Services, Line 5110 to City Clerk
 - Authority to sign off on City Council, Ordinary – Contracted Services – Line 5200 to City Clerk
 - Authority to sign off on City Council, Ordinary Account lines 5710 and 5720 to Budget and Finance Committee Chairperson or, in his/her absence, Budget and Finance Committee Vice Chairperson.

(Revised 1/11/94, 4/5/94, 7/12/94, 7/19/94, 9/6/94, 4/2/96, 2/18/97, 2/17/98, 11/10/98, 2/29/00 by Vote of the City Council)