



GLOUCESTER CITY COUNCIL CALENDAR OF BUSINESS

TUESDAY, DECEMBER 7, 2010

7:00 P.M.

KYROUZ AUDITORIUM, CITY HALL

COUNCIL MEETING #2010-026

CITY CLERK
GLOUCESTER, MA
10 DEC -3 AM 11:55

- FLAG SALUTE & MOMENT OF SILENCE
- ORAL COMMUNICATIONS
- COUNCILLOR'S REQUESTS TO THE MAYOR
- CONFIRMATION OF APPOINTMENTS

Josh Arnold Capital Improvements Advisory Board TTE 02/14/2013

CONSENT AGENDA

ACTION

• **MAYOR'S REPORT**

- 1. Correspondence from Deputy Fire Chief Aiello re: revocation of tank licenses for facility formerly known as Bickford's Marina (Refer P&D)
- 2. Memorandum from Harbormaster re: \$26,000 appropriation from Waterways Enterprise Retained Earnings for purchase of new Harbormaster vehicle (Refer B&F)
- 3. Memorandum from Harbormaster re: \$20,000 appropriation from Waterways Enterprise Retained Earnings for repairs to the Magnolia Pier Public Landing (Refer B&F)

• **APPROVAL OF MINUTES**

- 1. City Council Meeting 11/23/10 (Approve/File)
- 2. Standing Committee Meetings: O&A 11/29/10, (P&D 12/01/10 cancelled), B&F 12/02/10 (under separate cover), Joint B&F and Gloucester School Committee 12/06/10 (under separate cover), P&D 12/06/10 (under separate cover) (Approve/File)

• **APPLICATIONS/PETITIONS**

- 1. Reapplication for License of Flammable and Combustible Liquids, Flammable Gases and Solids re: 54 Great Republic Drive (Refer P&D)

• **COMMUNICATIONS**

- 1. Request from YuKan Sports, LLC to hold One Mile Road Race on April 9, 2011 (Refer P&D)
- 2. Correspondence from Peter Perthou re: Traffic Safety Issues (Refer DPW & Senator Bruce Tarr)
- 3. Letter from Secretary of Elder Affairs to Senator Tarr, Representative Ferrante and Mayor Kirk (Info Only)
- 4. Public Safety Badge Ceremony December 2, 2010 (Info Only)

• **ORDERS**

- 1. CC2010-083(Mulcahey) Amend GCO Sec. 22-287 entitled "Disabled veteran, handicapped parking re: vicinity of 4B Summit St. (Refer TC&O&A)
- 2. CC2010-084(Mulcahey/Curcuro) Review traffic flow and directions to alleviate congestion on Washington Street (Refer TC&O&A)

ACTION

SCHEDULED PUBLIC HEARING

- 1. PH2010-061: Amend Gloucester Zoning Map and GZO re: **33 & 47 Commercial Street (Birdseye Mixed use Overlay District)** (TBC)
- 2. PH2010-118: SCP2010-016: **New Way Lane #50**, GZO Sec. 5.13 Personal Wireless Service Facilities (PWSF) (cont'd to 01/25/11)
- 3. PH2010-119: Modification of SCP2010-004 granted July 22, 2010 re: **9-11 Rogers Street**
- 4. PH2010-120: Modification of Special Council Permit granted December 14, 2004 re: **85-89 Bass Avenue**
- 5. PH2010-103: Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: **adding Main Street #46** (open and close without action)
- 6. PH2010-122: Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: **adding Main Street #20**
- 7. PH2010-104: Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: **adding Main Street #287** (cont'd from 11/09/10)
- 8. PH2010-123: Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" **two (2) spaces re: East Main Street #267**
- 9. PH2010-124: Amend GCO Sec. 22-269 "Stop Intersections" by **adding a stop sign at Bass Rocks Road at its intersection with Atlantic Road northerly end**
- 10. PH2010-125: Amendments to GCO Chapter 11 entitled "Hawkers and Peddlers and Transient Vendors" **Sec. 11.1 "Definitions", Sec. 11-3(b) "Local license/permit requirement for fixed vending locations; procedure to obtain, Sec. 11-2(c) "Sealed bid procedures", Sec. 11-5 "Fixed vending site specific locations (6) - subsection (1), Sec. 11-6(2) "Conduct of business"**

COMMITTEE REPORTS

O&A 11/29/10, B&F 12/02/10, P&D 12/06/10

COUNCILLOR'S REQUESTS OTHER THAN TO THE MAYOR

ROLL CALL - Councillor Joe Ciolino

Linda T. Lowe, City Clerk

NEXT REGULAR CITY COUNCIL, JANUARY 11, 2011

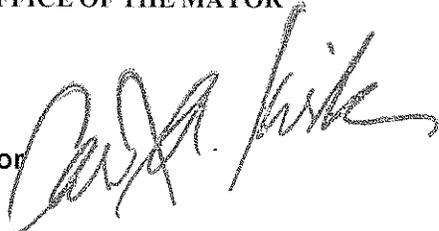
City Hall
Nine Dale Avenue
Gloucester, MA 01930



TEL 978-281-9700
FAX 978-281-9738
ckirk@gloucester-ma.gov

CITY OF GLOUCESTER
OFFICE OF THE MAYOR

CITY CLERK
GLOUCESTER, MA
10 DEC -1 AM 10:10

TO: City Council
FROM: Carolyn A. Kirk, Mayor 
DATE: November 24, 2010
RE: Mayor's Report for the December 7, 2010 City Council Meeting

The following matters require your attention and action:

Enclosure 1 is correspondence from Deputy Fire Chief Steve Aiello requesting that the City Council revoke storage tank licenses for the facility formerly known as Bickford's Marina. *Please refer this matter to the Planning and Development subcommittee for review and approval.* Deputy Chief Aiello will be available to answer questions and provide further information as required.

Enclosure 2 is a memorandum from Harbormaster Jim Caulkett requesting an appropriation in the amount of \$26,000 from Waterways Enterprise Retained Earnings for the purchase of a new Harbormaster vehicle. *Please refer this matter to the Budget and Finance subcommittee for review and approval.* Jim Caulkett will be available to answer questions and provide further information as required.

Enclosure 3 is a memorandum from Harbormaster Jim Caulkett requesting an appropriation in the amount of \$20,000 from Waterways Enterprise Retained Earnings for repairs to the Magnolia Pier Public Landing. *Please refer this matter to the Budget and Finance subcommittee for review and approval.* Jim Caulkett will be available to answer questions and provide further information as required.

ENCLOSURE 1



CITY OF GLOUCESTER FIRE DEPARTMENT
8 SCHOOL ST.
GLOUCESTER, MA 01930
978-281-9760



*TO: J. DUGGAN
11-15-10*

RECEIVED

NOV 15 2010

November 12, 2010

Mayor's Office

Mayor Carolyn Kirk
City Of Gloucester
9 Dale Ave.
Gloucester, MA. 01930

Mayor Kirk,

In accordance with Chapter 148, Section 13 of the Massachusetts General Laws, and 527 C.M.R. 9 of the Board of Fire Prevention Regulations, I am requesting the City Council revoke the following Storage Tank licenses approved for the facility formerly known as Bickford's Marina at 31 Rocky Neck Ave., Gloucester:

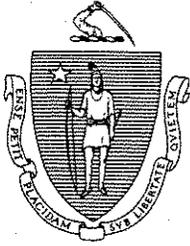
1. Granted 5/16/1928, 1500 gallons
2. Granted 9/26/1951, 1000 gallons
3. Granted 5/28/1958, 2000 gallons
4. Granted 6/22/1961, 10,000 gallons

I have attached a correspondence from the Massachusetts Department of Revenue Underground Storage Tank Program that details that this facility is no longer operating as a motor fuel dispensing facility. It is my understanding that the storage tanks have been removed from this site.

Please feel free to contact me should have any questions regarding this matter.

Sincerely,


Stephen Aiello, Deputy Chief
Gloucester Fire Department



DEVAL L. PATRICK
GOVERNOR

NAVJEET K. BAL
COMMISSIONER

The Commonwealth of Massachusetts
Department of Revenue
Underground Storage Tank Program

100 Cambridge Street, 7th Floor
Boston, Massachusetts 02114
(617) 626-2600 Fax; (617) 626-2619

October 20, 2010

Via Certified Mail 7002 2410 0001 8604 3284

BICKFORD MARINA
31 Rocky Neck Ave
Gloucester, MA 01930

Re: Certificate of Compliance Renewal - Ineligibility Status
UST Facility No. 5137; BICKFORD MARINA INC
31 Rocky Neck Ave, Gloucester, MA 01930

Dear UST Owner/Operator:

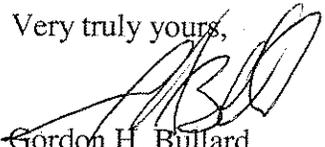
Our records indicate that the above-referenced motor fuel dispensing facility no longer operates as an active underground storage tank (UST) facility (i.e. USTs have been removed and not replaced, or have been closed in place in accordance with the Massachusetts State Fire Code; 527 CMR 9.00).

Accordingly, your Certificate of Compliance (COC) has been deemed "ineligible" to be renewed and your COC file is hereby closed. If you decide to install new USTs at this facility in the future, you may re-apply for a COC provided you submit a Board Acceptable Site Assessment (BASA) with your COC application.

You may continue to file claims for Release Tracking Numbers for which a UST Eligible Release Number has been assigned. Any new Release Tracking Numbers must have an Application for Eligibility submitted within 365 days of the tank removal, and within 180 days of the release being reported to MassDEP.

If you disagree with this determination, please file a Request for Reconsideration within sixty (60) days of receipt of this notice. Should you have any questions regarding this matter, please contact Compliance Officer Philip J. O'Sullivan at (617) 626-2604.

Very truly yours,


Gordon H. Bullard
Executive Director

GHB/pjo

cc: Gloucester Fire Department ✓
File



CITY OF GLOUCESTER

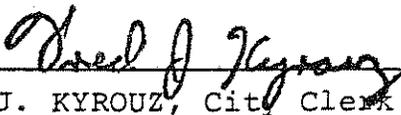
GLOUCESTER · MASSACHUSETTS · 01930

OFFICE OF THE CITY CLERK

April 26, 1990

THIS IS TO CERTIFY THAT ACCORDING TO THE RECORDS IN THE OFFICE OF THE CITY CLERK, THE CITY COUNCIL ON (see dates below) GRANTED A LICENSE TO Forrest A. Bickford* FOR THE STORAGE OF FLAMMABLE LIQUIDS IN ACCORDANCE WITH CHAPTER 148, SECTION 13 OF THE GENERAL LAWS.

ATTEST:



FRED J. KYROUZ, City Clerk

*RE: BICKFORD MARINA, INC., 31 Rocky Neck Avenue, Gloucester

Granted 5/16/28 to Forrest A. Bickford: 1 - 1,000 gal. &
1 - 500 gals. gasoline.

Granted 9/26/51 to Alan G. Hill, Jr.: 1,000 gals. gasoline.

Granted 5/22/58 to Alan G. Hill, Jr. dba Bickford Boat Service:
2,000 gals. gasoline.

Granted 6/22/61 to Stephen O. Cluett: additional 10,000 gals.
gasoline underground.

TOTAL storage: 14,500 gallons

ENCLOSURE 2



Nineteen Harbor Loop
Gloucester, MA 01930

TEL 978-282-3012
FAX 978-978-281-4188
jcaulkett@gloucester-ma.gov

CITY OF GLOUCESTER
HARBORMASTER'S OFFICE

Memorandum

From: Jim Caulkett, Harbormaster
To: Mayor Carolyn Kirk
Date: November 22, 2010
Subject: Mayor's Report to Council

RECEIVED

NOV 22 2010

Mayor's Office

Mayor Kirk,

In your next Report to Council, Budget and Finance Committee will you please include this request;

The Harbormaster's Office requests an appropriation in the amount of \$26,000.00 from the Waterways Enterprise Retained Earnings (700000.10.000.35900.0000.00.000.00.000.) to the Waterways Capital Outlay Enterprise Vehicles (700000.492.58750.0000.00.000.00.058) for the purpose of purchasing a new Harbormaster vehicle.

If you have any questions please feel free to contact me.

Sincerely,

Jim Caulkett

Cc: Kenny Costa, Gloucester City Auditor
Jeff Towne, Chief Financial Officer

Committee Reports:

Operations & Finance: Anthony stated Jim Marshall gave a good report on the mooring survey. It was noted that out of 1,100 moorings only 300 were not found. A Tuff Book has been purchased to be used for future surveys. Cost to repair the cross braces on the Magnolia pier is \$19,140.00. The float ramp is also in need of repairs. An estimated cost to replace the Harbormaster's truck is \$25,200.00 and an estimated cost of \$10,000.00 for an access ramp off Trefry Park in Rocky Neck.. A motion by Arthur Sawyer was presented to the full Board for funding for repairs to the Magnolia pier in the amount of \$20,000.00 and a new truck in the amount of \$26,000.00 was unanimously passed. It was noted that approval from the City Council for funding from the reserve account for these items may be needed. Jim told the Board the use of "free cash" for FY2011 cannot be used until the State certifies it; therefore, the Board cannot go before the City Council at this time. Purchasing will not put these 2 items out to bid until certification is complete. Magnolia pier repairs and the truck were sent back to committee.

Public Facilities: Cate informed the Board that the neighbors of Stanwood Point Landing will mark the derelict boats left on the landing for removal and the Shellfish Warden and Conservation Commission will work on a permit to repair the stone wall. Cate and David inspected several Public Landings and found the need to check all Public Landings. The Regulations Review Committee will work on Public Landings Regulations. Cate stated her concern with the loss of revenue when issuing moorings permits. Discussion followed.

Waterways Safety: No report

Regulations Review: Board members went over the proposed Mooring Regulations changes. Cate suggested the Board approve the proposed changes to date. The City Council approves any changes to the Ordinances.

>**Motion:** On a motion of Chairman Bent, second by Arthur Sawyer the Board voted unanimously to accept the proposed mooring changes to date.

Board members discussed proposed changes to the Wait List. It was suggested changing the timely return from 45 day to 30 days. Board members agreed to keep the number of days as 45. Discussion continued.

>**Motion:** On a motion of Chairman Bent second by David Murray the Board voted unanimously to approve all changes subject to City Council approval.

Jim noted that the State Director must certify our regulations.

Continuing and Other Business: Chairman Bent requested comments from Board members on the review of the Harbor Economic Plan. These comments need be given to Chairman Bent before the review meeting and he will present them at the meeting.

There being no other business the meeting adjourned at 9:30 p.m.

Board goes into executive session.

Respectfully submitted,

Shirley M. Edmonds

ENCLOSURE 3



Nineteen Harbor Loop
Gloucester, MA 01930

TEL 978-282-3012
FAX 978-978-281-4188
jcaulkett@gloucester-ma.gov

CITY OF GLOUCESTER
HARBORMASTER'S OFFICE

Memorandum

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To: Mayor Carolyn Kirk
Date: November 22, 2010
Subject: Mayor's Report to Council

RECEIVED

NOV 22 2010

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This request is made based on a unanimous vote of the Waterways Board during their October 6, 2010 meeting, minutes attached.

If you have any questions please feel free to contact me.

Sincerely,

Jim Caulkett

Cc: Kenny Costa, Gloucester City Auditor
Jeff Towne, Chief Financial Officer

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Respectfully submitted,

Shirley M. Edmonds

GLOUCESTER CITY COUNCIL MEETING
Tuesday, November 23, 2010 – 7:00 p.m.
Kyrouz Auditorium – City Hall
Council Meeting 2010-25

- MINUTES -

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

Absent: Councilor Mulcahey

Also Present: Linda T. Lowe; Jim Duggan; Kenny Costa; Jeff Towne; Bethann Godinho; Gary Johnstone; Tim Good; Dave Murray; Robert Hastings

The meeting was called to order at 7:02 p.m.

Flag Salute and Moment of Silence.

Councilor Hardy announced Councilor Mulcahey was absent due to illness,

Oral Communications: None.

Councilors' Requests to the Mayor: All Councilor requests have been received in writing and forwarded to the office of the Mayor.

Presentations:

1 of 1: Possible Consolidation of Polling Places by Gloucester City Clerk

Linda T. Lowe, City Clerk reviewed for the Council the possible consolidation of polling places within the City of Gloucester; and that the matter had been part of an on-going discussion in the O&A Committee. Noting a recent news article regarding the subject that may have given the impression this matter was already decided, Ms. Lowe assured that this is not something that is done, but being discussed. She hoped that, if there are changes, they would be made so as to be in place for the coming year's local election allowing ample opportunity for the community to weigh in on any possible consolidation plan as well given the time frame. She clarified that they are not speaking of the 10 voting precincts; rather they are talking about c of polling places. The consolidation of polling places would have no ramifications on the precincts. Those polling places are located within the precincts; it doesn't that there are two precincts within each of the five wards. In addition to consolidating of polling places, there is a re-precincting required by the State. Noting preliminary discussions with Jim Duggan, CAO; and Council President Hardy, that the City did receive some notices based on the 2010 U.S. Census, what is required of municipalities in early spring through the Secretary of State's office, what has to be done is "re-precincting". With the results of the 2010 census, each municipality has to take a look at their precincts and see if the census results show if they might have to change due to population. In order to make intelligent choices she felt both aspects should be viewed at the same time. They have applied to the Secretary of State of MA for free technical assistance on doing any redrawing on those precincts (should they need changing). They also offer seminars which her office would take advantage of. Gloucester has a "huge" geographic area. Indicating the map of the 10 precincts on display for the Council, Ms. Lowe noted some precincts are geographically quite large. You go by voting population not the gross area and pointed out that West Gloucester is not as densely settled as the downtown areas are, and so the West Gloucester precincts are much larger. In the State, they have a law if you are town form of government

you can have one polling place; but a city form of government may not. The fewest polling places the City could ever reduce to is two. However, one other restriction is that if and when polling places are combined, those precincts that the polling places are in have to be adjacent to one another; by her interpretation there must be common boundaries before they can be combined. She gave the example that if people in Precinct 1-1 felt they wanted to move from the East Gloucester School; it couldn't be done by combining with Precinct 4-2 because there are no adjacent lines. The location of those new places and what precincts would be served must be kept in mind. Another example Ms. Lowe gave was that Gloucester High School is in 3-1. She suggested that might be a good downtown area polling place; 3-1 currently goes to the Veteran's Center on Emerson Avenue. The map shows 3-1 is adjacent to 2-2, 3-2, 5-1 and 5-2 as well; and it may be possible to take those five precincts and combine them into a very large, central downtown place that has a lot of parking as some polling places do not. She did not wish to imply that some of these polling places were 'bad' places or inconvenient, but that some of them do not have the best parking and accessibility for getting into particular neighborhoods; and enough space within that particular polling place itself. Sometime school is in session and that can make for a busy, crowded situation at the various elementary schools which can be difficult sometimes for voters, school staff, and alike. She posited if they could find places that are more central and are more open, there will be improved accessibility. Another reason to do this consolidation would be cost efficiencies. They would not be dramatic which she had reviewed from previous years. Election costs differ as to State or local elections. The State reimburses municipalities for some of the election costs; but local elections are 100% on the City. If you take into consideration the maintenance of the voting machines, etc., that can come to \$24,000 per election. "That is not a budget breaker", but she felt it was worth looking at to see if it can be more efficient. Further if there were fewer polling places, they may need less poll workers. They've had as many as 110 for an election. It is \$90-\$100 per day per poll worker. There are problems with some folks not being able to show up on Election Day who have committed to work the polls, and it can be a problem to scramble to fill their spot in order to have adequate coverage. While there is no suggestion that those 10 polling places do not comply with disability accessibility they might be able to provide even better access for handicapped voters by changing venues for polling places; it is mandated by law to meet ADA requirements. She hoped in the next few months there would be public forums to invite public comment. She encouraged comments to the Council or to the City Clerk's office by the public in order to hear their suggestions.

Councilor McGeary expressed concern raised by several of his constituents on the impact this might have for seniors who had to travel greater distances, as in-town has a higher senior population and wondered what the impact might be, noting having a polling place at McPherson Park is very convenient. **Ms. Lowe** didn't think there'd been any studies on distance to polling places; other than McPherson Park whose residents have the ultimate convenience of a polling place in their building. The problem is for other people who live in that precinct have problems with parking because there is essentially none there and can get very crowded. She hoped they could investigate, study and look to CATA (believing other communities did this) where there may be able to put on special buses for Election Day where they would have a schedule that went to various drop-off points and/or a have a dial-a-ride also through CATA for voters in order to assist them to get to the polls conveniently and be returned home.

Councilor McGeary thought one of the issues of voting in the schools, especially in East Gloucester, the time people want to vote is early in the morning during drop off which is very crowded and difficult to access the school. He believed the high school was closed for Election Day as it was in-service day. He wondered if they could work with the School Department to make Election Day a no school day without extending the school year.

Ms. Lowe believed Election Day was a professional day in most schools this year as it had the previous year. She thought even if they didn't consolidate, it would be helpful to the voting public and be better for the children and for the school staff, especially at the smaller elementary schools it gets very crowded to the point of getting of perhaps being a little dangerous with a high voter turnout..

Councilor Verga noted two or three years ago the School Department would try to make Election Day a day off. He thought the difficulty is in knowing if there would be a preliminary locally and having the

local election shortly thereafter that having both those days as professional days for the teachers can be difficult to schedule. For the last three years Election Day “has been off”. The School Department does recognize that it is an issue and is working with it.

Councilor Whynott noted he had looked at this matter a long time ago [in his capacity as City Clerk] and spoke to Robert Ryan, General Manager of CATA, who had expressed a willingness to have buses available to take voters to the polling places. He believed that would give more people chances to get rides to the polls than they have now. He recalled when the City moved the polling place from the American Legion to the Veteran’s Center on Emerson Avenue which wasn’t without objections. After one election those objections went away. He also felt very few citizens walk to the polls anymore. He cautioned that same day [voter] registration is looming. If the State legislature passes it, they will need at least three more people at each polling place and a possible computer hook up to City Hall from each polling place. There is a big concern at the elementary schools, but at the high school not as much. He thought five polling places at the high school was a good idea.

Councilor Hardy expressed her intention to have separate Ward meetings on the matter noting 4-2 is quite a distance away from the only other place where they would be able to vote which would be 4-1 because they touch one another. She informed the community that City Council will hold a public hearing on the matter; it would not be a quick decision. They will be looking to hear from the public on the subject of polling place consolidation.

Ms. Lowe noted Councilor Whynott has done a great deal of work on polling place consolidation, and on his last point about Election Day Registration (EDR), she commented that EDR would make voting much more hectic and crowded and would be much more work in City Hall to coordinate polling places. It has been suggested they might have to have internet connectivity and laptops at every polling place which she felt was all the more reason to seriously consider whether or not they need to reformulate where their locations for voting are located.

Consent Agenda:

- **MAYOR’S REPORT**
 1. Memorandum from Fire Chief re: acceptance of a donation of a 1977 CF Mac 1250GPM pumper from Town of Lynnfield (Refer B&F)
 3. Memorandum from Operations Manager-DPW re: rules and regulations for a proposed dog park in the City of Gloucester (Refer O&A)
 3. Appointment: Capital Advisory Board TTE 02/14/2013 Josh Arnold (Refer O&A)
- **APPROVAL OF MINUTES**
 1. City Council Meeting 11/09/2010 (Approve/File)
 2. Standing Committee Meetings: O&A 11/15/10; P&D 11/17/10 (under separate cover); B&F 11/10/10, B&F 11/16/10, B&F 11/18/10 (under separate cover) (Approve/File)
- **APPLICATIONS/PETITIONS**
 1. Application for License of Flammable and Combustible Liquids, Flammable Gases and Solids re: 54 Great Republic Drive (Refer P&D)
- **COMMUNICATIONS**
 1. Letter from Mayor Kirk re: Swearing-in Ceremony for Police Department and Fire Department (Info Only)
 2. Downtown Improvement Committee re: FY2010 Funding Expenditure (Info Only)
 3. City’s rights to property located at 61 Commercial Street known as Pavillion Beach – letter from City Solicitor to Atty. L. Mead (Info Only)
 4. Letter from Mayor Kirk to Secretary of Elder Affairs & further local examination of elder care services (Info Only)
 5. City Auditor Review of DPW Director’s one time pay adjustment (Info Only)
 6. Letter from Attorney Adam J. Costa re: Extension of Special Permit under the Permit Extension Act of 2010 re: 201, 205 and 253 Main Street (a.k.a. Main Street Plaza) (Info Only)
- **ORDERS**
 1. CC2010-078(Verga/Whynott) Traffic Commission to investigate need for blind driveway sign at 198 Concord Street (Traffic Commission)
 2. CC2010-079(Verga/Tobey) DPW Director’s update to April 13, 2010 report of the Magnolia Woods (Mayor)
 3. CC2010-080(Curcuru) Amend GCO Sec. 287 “Disabled veteran, handicapped parking” re: vicinity of 197 Washington Street (TC & O&A)
 4. CC2010-081(Verga) Request to purchase Speed Study Equipment (Refer B&F and Police Dept.)
 5. CC2010-082(Verga) Speed limit signs and “Slow Children” sign re: Fuller Street (TC & O&A)

Items to be added/deleted from the Consent Agenda:

Councilor Ciolino wished to add the closing of Main Street on Saturday, December 18, 2010 from 5:30 p.m. to 8:00 p.m.

Councilor Tobey asked to pull Item #3 under Communications.

Councilor Tobey stated that Item #3 letter from the City Solicitor to Attorney Mead, representing the BirdsEye team for the 61 Commercial Street rezoning of property with regard to the issue of who owns Pavilion Beach. He appreciated the good work the City Solicitor had done in writing this letter. He asked, however, that this letter be referred back to the City Solicitor believing it could be cause for concern that this letter issued simultaneously with the City Solicitor issuing a new zoning proposal for the BirdsEye site and was troubled that there may be some sort of connection by way of a “quid pro quo” between the two; such that if the zoning change were enacting that this could be challenged as being “contract zoning”. Not knowing if it was the case or not, he wanted to flag the issue and asked that it be referred back to the City Solicitor for advice and counsel on that issue.

Councilor Ciolino expressed he did not understand of why this was an issue at all; that before P&D was strictly a zoning issue and had nothing to do with the beach nor Chapter 91 issues. He didn’t think they should tie the two separate issues of the beach and what is in front of them at this time.

Councilor McGeary asked can they un-ring the bell as the letter has been sent.

Councilor Tobey stated the “bell has been rung” and posed the question, “is there a link between the two projects that the City Solicitor has worked on and is there a quid pro quo”. He stated he didn’t know the answer and didn’t know if they should be concerned. He wanted to know what the City’s attorney thought about it. He hadn’t studied the issue. He expressed he had a lot of concerns on spot zoning, having spent a lot of his time reading up on the matter; which was separate issue from this one; and wanted to make sure there was not “another potential cloud” and to make sure that it isn’t; if it is that they are aware. He thought the knowledge would be “a good thing”.

Councilor Verga agreed on one hand with Councilor Ciolino that the two aren’t related and at the same time he agreed with Councilor Tobey that it made sense to be prudent, that there was this cloud and why not “try and remove it”; and had no problem to refer it back to General Counsel. He didn’t believe it would hold up anything one way or the other and would help to clarify things for the Council.

MOTION: On motion by Councilor Tobey, seconded by Councilor Theken, the City Council voted 8 in favor, 0 opposed to refer back to General Council re: City’s rights to property located at 61 Commercial Street known as Pavillion Beach – letter from City Solicitor to Attorney Lisa Mead for further consideration and advice and counsel.

Councilor Hardy explained the matter of the Main Street closure for Saturday December 18, 2010 came too late to the Council to make the agenda and asked Councilor Ciolino to explain.

Councilor Ciolino stated that Santa Clause will be coming to Gloucester’s downtown on Saturday, December 18, 2010 from 5:30 p.m. to 8:00 p.m. and to close Main Street from the corner of Manuel Lewis Road to the corner of Pleasant/Duncan Street for a multi-faceted event to take place opposite Brown’s Mall in front of the Lobster Trap Tree, with a lot of festivities for children and adults alike, including a drawing for an \$1,100 shopping spree. He asked his fellow Councilors to approve the road closure. He noted Lt. Aiello of the Police Department has reviewed it and given his approval.

By unanimous consent the City Council allowed for a motion to be made on the matter of the closure of Main Street on Saturday, December 18, 2010.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted 8 in favor, 0 opposed to permit the closure of Main Street on Saturday, December 18, 2010 from 5:30 p.m. to 8:00 p.m. from the intersection of Manuel F. Lewis and Main Streets to the intersection of Pleasant and Duncan Streets.

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

For Council Vote:

1. Decision to Adopt: SCP2010-010: Middle Street #15, GZO Sec. 2.3.1.7, Sec. 1.10.1, Sec. 3.1.6 And Sec. 3.2.2a

MOTION: On motion by Councilor Theken, seconded by Councilor, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to adopt the SCP2010-010 decision for Middle Street #15 pursuant Sections 2.3.1.7 conversion of a three-family to a four-family, and for a height exception, also Sections 1.10.1, 3.1.6 and 3.2.2a of the Gloucester Zoning Ordinance.

2. Decision to Adopt: SCP2010-009: Holly Street #70, GZO Sec. 2.3.6(4)

MOTION: On motion by Councilor Theken, seconded by Councilor McGeary, the City Council voted BY ROLL CALL 8 in favor, 0 opposed to adopt the SCP2010-009 decision for Holly Street #70 pursuant Sections 2.3.6(4) of the Gloucester Zoning Ordinance to operate an art gallery in a residence.

Public Hearings:

1. PH2010-008: SCP2010-001: **79-99 Essex Avenue**, Sec. 2.3.1(12), Sec. 5.7.3 Major Project, Sec. 3.1.6(b) height excess 35 ft., lowlands Sec. 5.50 lot area per two guest special permit 3.2.6

Councilor Hardy opened the public hearing and stated the Council was in receipt of a letter from the applicant's attorney, Ralph Pino, asking that the matter is continued to the City Council's meeting of February 22, 2011. She asked that the City Clerk's office send a letter to Attorney Pino notifying him of the date certain for the continuation of the public hearing.

This matter is continued to the City Council's second regularly scheduled meeting of February 22, 2011.

2. PH2010-115: **Tax Classification** in accordance with M.G.L. Ch. 40 §56 and GCO Sec. 2—26 to Determine the percentage of the local levy to be borne by each class of real and personal property

This public hearing is open.

Those speaking in favor:

Gary Johnstone, Assessor presented to the Council the "Tax Classification Information for Fiscal Year 2011" (on file). The document submitted covered Classification Considerations; some economic and political issues as outlined by the Department of Revenue (DOR). They received final certification of values from the DOR on October 26, 2010 with the new growth approved on November 1st. A residential factor has to be adopted; and the maximum shift allowed by the State is a factor of 1.5 %. He gave some history of the shifting between commercial and residential property tax burden. The residential class now makes up over 89.3% of the total value in the community, leaving a balance of commercial/industrial personal property of 10.7%. The value is down to \$5,288,079,920.00 or approximately 1.73 % from last year which was \$5,381,431,000.00. He noted 89.3% of residential values is down from the previous year's 89.63%, and also that the percentage of commercial valuation has gone up, now at 10.7%, whereas the previous year it was at 10.37%. Last year's factor of one tax rate was at \$10.57. The Council determined a shift of a Tax factor of 1.06% resulting in a change of tax rates to \$10.49 to \$11.20. The levy limit from FY10 plus the Prop 2-1/2 increase plus residential new growth and commercial/industrial and personal property new growth gives them the FY11 levy limit, \$58,859,206.00. Added to that is the Poles Hill debt exclusion of \$139,985.00 and the CSO debt shift of \$1,750,000.00 which indicates a maximum allowable levy of \$60,749,191.00. That number divided by the total value of all parcels in the City indicates an \$11.49 potential tax rate at the factor of 1.0% where

they start from; rounded to \$11.48 so as not to exceed the maximum allowable levy (\$11.49 being the “tipping point” or the maximum allowable levy). Last year the shift factor was 1.06%, and if again adopted would result in a tax rate of \$11.40, and a CIP rate of \$12.18. They do not have parcels classified as Open Space, so Open Space discount is not applicable; and the Mayor has not opted to adopt either the residential or the small commercial exemption.

Those speaking in opposition: None.

Communications: None.

Questions:

Councilor Tobey asked in FY10 with a tax classification factor of 1.06% what percentage of the levy was borne by the residential class and what percentage of the levy, the balance, was borne by the commercial/industrial class.

Mr. Johnstone responded residential class carried was 89.63% and commercial/industrial and personal property carried 10.37%.

Councilor Tobey then asked then in FY11 with a tax classification factor of 1.06% what percentage of the levy was borne by the residential class and what percentage of the levy, the balance, was borne by the commercial/industrial class.

Mr. Johnstone corrected that in FY10 residential would be 89.01% and commercial/industrial and personal property would be 10.99%.

Councilor Tobey then asked then in FY11 with a tax classification factor of 1.06% what percentage of the levy was borne by the residential class and what percentage of the levy, the balance, was borne by the commercial/industrial class

Mr. Johnstone stated at 1.06% residential would be 88.66% and commercial/industrial and personal property would be 11.34%.

Councilor Tobey noted he had asked Jeff Towne, CFO as to how revenues from the sewer fund were allocated over the several classes in FY2010 prior to the meeting to be answered at the public hearing.

Jeff Towne, CFO stated he chose July 2009 to June 2010 to show a full fiscal year, commercial/Industrial volume for consumption was a combination of 18.54%. Public property is included in ‘other’. They don’t bill for public property. There is a mixed use of some residential, some commercial which is another 9.58%; and then there is 66.95% which is residential. Public property is just under 5% at 4.92%. He suggested they could look at it as either 18.54% if just commercial/industrial and a piece of the other category. He stated they don’t do it like the other valuations where everything is by class for utilities. There are some that are mixed and go under a category of “other”. There is a portion of the 9.58% that would factor into the equation as well. On a query by **Councilor Theken, Mr. Towne** clarified it was 18.54% for commercial/industrial, 9.58% for other; 4.92% for public property and residential is 66.95% which adds up to 100% of the consumption. **Robert Hastings**, 197 Main Street, Executive Director Cape Ann Chamber of Commerce stated they would like to see an approach towards parity between residential and commercial/industrial classification over time, they recognize realities of the economy facing all employers and employees, therefore the Chamber of Commerce supports the Budget & Finance Committee’s recommendation of a Tax Classification of 1.06%.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion of Councilor McGeary, seconded by Councilor Verga, the Budget & Finance Committee voted 3 in favor, 0 opposed to recommend to the City Council a Tax Classification Factor of 1.06 percent.

Discussion:

Councilor Tobey stated for a number of years he has voted consistently for 1.06% because they were

maintaining equilibrium. Year to year there was no new factor introduced into the equation so it was a fairly maintained equilibrium which got them away from some discord in the past. He expressed he had a problem this year is that there is a new factor introduced into the equation. From his reading of minutes from B&F, he didn't see that new factor considered, that of the CSO debt shift. Given the numbers that Mr. Towne gave the Council, there is a disproportionate movement to the residential class of a cost previously borne by the commercial/industrial class. While he didn't know if it was right or wrong, he knew it was not considered, he believed it to be an incomplete consideration, believing it to be another cloud from their "ill-considered" decision to move the CSO debt on to the tax rate hovering over them again and would vote no this evening.

Councilor Hardy asked if Councilor Tobey had an alternate rate he wished to propose and he responded he did not.

Councilor Ciolino stated the business community has always recognized the tax classification factor has been unfair to them how they've been increased as compared to the residential. They all keep saying they want to attract business to Gloucester, but when they have this disparity of charging 6% more to businesses; it is the act of what the figures say, not what they say. At some point there should be parity with no difference between commercial and residential. The commercial sector keeps shrinking and didn't believe they want to turn Gloucester into a 'bedroom community'. They don't want to scare off businesses in hard times. He will support the B&F recommendation and urged his fellow Councilors to do the same.

Councilor Whynott stated they're not putting a disparate amount onto residential, just not as much onto commercial and would support the B&F recommendation.

Councilor McGeary felt Councilor Tobey should be praised for his research and kinds of questions he asks. However, he felt the CSO debt shift is a discussion for another day; and that the 1.06% factor is appropriate and would support it.

Councilor Curcuru expressed his support of the tax classification factor recommendation of 1.06%. The Council should want to grow the economic base, the business base and believed it was obvious it has shrunk over the years.

Councilor Theken thanked Councilor Tobey. She asked why B&F didn't consider the CSO as a factor. If they keep the shift this way she wondered what will happen to the debt factor. It is 1.06%, not 6%. If they keep it at 1.06% she wondered what happens to the sewer debt shift. That would continue as it is.

Mr. Towne responded the Councilor was correct; the CSO debt shift adds to the maximum tax levy. Then the 1.06% divides up which classification of property is going to pay for the maximum levy. So the \$1.75 million doesn't change; that will still be done on the tax levy. It is who bears the cost of that versus the savings for the sewer bills themselves. Commercial users have a higher consumption; therefore, they will receive a greater benefit because of the lower sewer rate.

Councilor Theken stated that was not considered in this factor at all.

Mr. Towne stated that was considered all along with the discussion of the CSO debt shift but for this discussion they did not bring it up.

Councilor Theken asked if they take it away from the debt shift and do the stormwater utility fee, would it interfere with this factor they are discussing this evening.

Mr. Towne asked if the Councilor was asking if they remove debt shift and don't shift it anymore; if they were to do that as a Council, they would end up raising less on the tax levy because they wouldn't be shifting it and then divide a lower maximum levy and raising less in taxes; and shifting it again depending on what they vote for a tax class shift.

Councilor Theken thought that gave them all the more initiative to work on the stormwater utility fee. She noted because the economy is as it is, she will vote for this; and she would continue to work on the stormwater utility fee in order to get it away from residential and made clear if that was still happening next year, she would not vote in favor of a tax classification factor that did not take it into consideration

Councilor Verga stated this is not the time to make the shift greater to hurt businesses and should keep the 1.06% and agreed with Councilor Theken this should be a call to action to keep working on the CSO debt shift and would support the vote this evening.

Councilor Tobey appreciated Councilor Ciolino's remark on the need to maintain a strong business industrial base in this community. He thought it interesting to see how residential values are contracting and business industrial aren't contracting really at all, and showed some areas of growth. They had with the real estate boom a skewing of the perception of how much business and residential they had. He would be more worried if all the commercial properties on the waterfront converted to condos but that wasn't happening. The City seems to be holding a good foothold, and that is where they should be focusing our efforts – keeping those areas industrial.

MOTION: On motion of Councilor Curcuro, seconded by Councilor Verga, the City Council voted by ROLL CALL 7 in favor, 1 (Tobey) opposed a Tax Classification Factor of 1.06 percent.

3. PH2010-116: Amend GCO Chapter 22 entitled "Traffic and Motor Vehicles" **Sec. 22-220 "Deposit To extend parking time beyond maximum legal time" by adding new subsection (c) entitled "Anti-shuffling"**

This public hearing is opened.

Those speaking in favor:

Robert Hastings, 196 Main Street, Executive Director, Cape Ann Chamber of Commerce supported the anti-shuffling ordinance having had great experience with other downtowns. He noted an issue of employers and employees take away from the parking downtown trying to stay close to their offices, in particular like attorneys, realtors, accountants, etc. He believed by initiating an anti-shuffling ordinance, this will make those spaces turn over four or five times a day instead of having one employee taking up that space for a whole day. He believed it makes a downtown more vibrant, helping restaurants, gift shops. People most affected by this ordinance could find long-term parking in the permanent long-term parking lots on either side of Main Street. He encouraged the Council to pass the ordinance, noting it was successfully passed in the previous community he lived in and that "it really worked". It allows the parking officers who know which cars belong to employees and employers who shouldn't be there, with a few tags will be found in long-term parking and commended the Council for bringing it forward.

Those speaking in opposition: None.

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinance & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-220 (Deposit to Extend Parking time beyond maximum legal time) by ADDING new subsection "Anti-Shuffling":

(c) In order to regulate the practice of shuffling cars from one metered space to the next throughout the workday within the downtown area from Main and Spring Streets to Tally's Corner, the intersection of Main Street and Washington Street, once a meter expires it shall be unlawful to park the car in another metered space within the area all days except Sundays and holidays between the hours of 9:00 a.m. and 6:00 p.m.

Discussion:

Councilor Theken stated this was a difficult and long discussion. She hoped Mr. Towne could answer regarding the ticketing process. She asked if they had the new electronic ticketing equipment.

Mr. Towne stated they've had them since August.

Councilor Theken continued that now parking enforcement can know exactly how long a vehicle has been in one spot with the new scanning equipment. Hopefully now employees that do park on Main

Street will move their cars. It's been a "war" downtown with parking. "Let's bring the smile back to downtown". She hoped the employers and employees would now take advantage of the City's monthly parking passes in the long-term parking. She would support the ordinance.

Councilor Whynott felt this was another step in the right direction to keep traffic on Main Street moving feeling two hours was enough to do one's shopping.

Councilor Ciolino would "wholeheartedly" support this and that he'd been asking for this for a long time. This is geared to the constant abusers; the employers and employees who park on Main Street because of a loophole in the law to stay at a meter all day long. It ties up so much of the parking downtown. This is not geared for those who go to lunch, the hairdresser, to patronize the shops. It is a tool in the box of parking enforcement to encourage people to use the long term parking. The unique features are a two hour limit on Main Street as opposed to Rogers Street where many meters having an 8 hour time limit. This is not targeting customers. It is targeting those that abuse the meters; and parking enforcement knows who they are. It is unfair to the majority who obeys the law and park in long-term parking. He urged his fellow Councilors to vote in favor.

Councilor Tobey noted this is based on his order. He expressed his gratitude to the O&A and in particular to the Chair, for keeping it alive and getting it done. He believed this would help the downtown "scene", and appreciated the good work that got it to the Council.

Councilor Hardy felt she needed to be convinced to vote yes on the ordinance. She wanted to know how they will tell who the employee is or who the shopper is that had lunch an hour previously and moved her car a bit further down Main Street to now shop. To her it is discriminatory. She asked Councilor Tobey how meter enforcement personnel make that decision; and how would it stand up on appeal because she believed she would appeal her ticket.

Councilor Tobey felt the focus is best placed on what they are regulating there - parked vehicles. They're paying less attention to who drove it there for what purpose, and treat all parked vehicles equally. The prime culprits who have made this an issue have been business and commercial people on Main Street. Inevitably there will be folks visiting businesses who may fall under the same pitfall as Councilor Hardy described. They will be equally culpable. Meter enforcement should not folks before they give them a ticket. The fact a vehicle is shuffled is the violation not the reason why.

Councilor Hardy returned to Councilor Ciolino's statement that it was geared towards the employer and employee; and that it has to be fair. She contended it is not fair toward the customer, yet now she was hearing the other side. She stated in other words, there will be no discrimination; a shuffler is a shuffler no matter who owns the car.

Councilor Tobey responded, "Yes".

Councilor Hardy continued there would be no discretion on meter enforcement's part.

Again, **Councilor Tobey** responded, "Yes".

Councilor Hardy concluded don't they already have a violation on the books that says one isn't supposed to continue to put money in the same meter, and wondered why wasn't that working.

Councilor Tobey stated the big improvement is the new hand held device which opens up a whole new world of tracking capacity to know what cars are doing while sitting on Main Street. It wasn't working previously because they weren't marking tires, otherwise identifying folks who were feeding the meters. With these new tracking devices, the City's enforcement people will know when someone has been feeding the meter, just as with these new tracking devices they will know that they shuffled.

Mr. Towne noted parking enforcement see employees come out, move their car up two spots, and put more money in the meter and return to work. Enforcement knows most of the cars on Main Street that do that. He can even tell by the plates knowing how the tickets come in on a regular basis. He explained their parking enforcement officers have the ability to go and mark a vehicle noting its location, say 202 Main Street on their hand-held device and mark the time they were there, and then can come back, confirm this is the same vehicle now at 204 Main Street by looking it up on their hand held device and can see on the machine the vehicle was shuffled. The goal is to make sure that they get the buying public into the shops. The City offers long-term parking passes. Some businesses give them to their employees. There are many ways to figure out the violators. He gave one example of people who live above the

street level in condos. They'll move their car first thing in the morning. They'll know them as well. He supported this and that parking enforcement is well trained and knows the vehicles.

Councilor Hardy wanted to be sure all were treated equally.

Mr. Towne stated parking enforcement will not walk and mark arbitrarily. They will make their best effort to treat everyone equally. They will notice the car has been there more than two hours and mark it and second time if the vehicle is moved to a new spot, they'll probably get a ticket.

Councilor Hardy noted she goes downtown in the morning, then goes home, comes back, and so forth. To her, it is telling her to stay away from Main Street.

Councilor Whynott thought that if this is well advertised, people will know to go to Rogers Street for parking [if their business will take longer]. If you park on the east side to the west side, he didn't think they'd get a ticket.

Councilor Theken stated there is an anti-shuffling law on books that you must move at least 500 feet. They tried and talked and observed; they noted all those who abused the parking on Main Street. She noted for herself who the employees were and that it was a handful that made it a problem. She noted since March O&A has been debating the issue. She thought they would try this. They could bring it back if it didn't work. She felt if it makes this calmer downtown it would be worth it. She wondered what they would do with the tourists who might go to a restaurant and shop; how would they know they have a two hour anti-shuffling ordinance. She wondered how they would deal with that situation.

Councilor Ciolino stated there should be a sticker put on the meters which states there is a shuffling ordinance. It doesn't need to be made more complicated. The majority of the owners of the apartments on Main Street do park in long-term parking. If they choose to park at a short-term meter, they have to suffer the consequences. He believed it wasn't working the way it is now. He felt this is a workable solution.

Councilor Tobey stated there is a comprehensive scheme; that there is lots of 8 hour parking off of Main Street downtown. This is to give the businesses the capacity to have folks flowing through the downtown. He asked Mr. Hastings of the Chamber of Commerce as to how it was handled in another community with regard to the notification to the public and how it was provided.

Mr. Hastings responded they campaigned the businesses and let the public know. As a practical matter he noted the City will likely see a flurry of tickets for the first six months. It will go away and very few tickets will be issued after that. He felt they want to get the people who are scofflaws off of the downtown parking spots.

Councilor Hardy asked did Mr. Hastings think it was detrimental.

Mr. Hastings stated the officers understand the pattern of parking downtown and can tell who is parking with the intention of scofflaw.

Councilor Theken would look at this in September again; for O&A to find out from Mr. Towne how many tickets were issued to out-of-towners. She didn't think that if one has been downtown for two hours they will know the cars. The 'gun' issues the ticket.

Mr. Towne stated clearly, they don't write tickets "off". If someone is at Virgilio's, CVS, Cameron's, they would take that in consideration, if they show some kind of evidence they could take that into consideration as a mitigating factor if someone wished to contest the ticket. They don't write off many tickets in Gloucester unless there is something pertinent to the ordinance. They take pictures to the ticket so they can prove it visually; they'll have some evidence.

Councilor Curcuru noted his many parking tickets and thought he would find one space and stay there.

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted by ROLL CALL 7 in favor, 1 (Hardy) opposed to recommend to the City Council to Amend GCO Sec. 22-220 (Deposit to Extend Parking time beyond maximum legal time) by ADDING new subsection "Anti-Shuffling":

(c) In order to regulate the practice of shuffling cars from one metered space to the next throughout the workday within the downtown area from Main and Spring Streets to Tally's Corner, the

intersection of Main Street and Washington Street, once a meter expires it shall be unlawful to park the car in another metered space within the area all days except Sundays and holidays between the hours of 9:00 a.m. and 6:00 p.m.

4. PH2010-117: Amend GCO Chapter 22 entitled "Traffic and Motor Vehicles" **Sec. 22-289 "Main Street Parking Meter Time Limits"**

This public hearing is opened.

Those speaking in favor: None.

Those speaking in opposition: None.

Communications:

Kathy Cuddyer, Chair, Downtown Improvement Committee against removal of parking meters (in Council Packet) as noted by **Councilor Theken**.

Questions:

Councilor Theken stated Ms. Cuddyer's letter which was a report on expenditures with meter funds pointed out that the money from the downtown meters support what the Downtown Improvement Committee (DIC) uses to beautify the downtown area.

Councilor Hardy, having viewed the report and noted that Ms. Cuddyer did not make mention of the proposed ordinance to remove meters either in opposition or in favor of the matter, but was an explanation of monies spent by the DIC on behalf of the Downtown Development Commission (DDC), with photographs, to improve the downtown corridor.

Councilor Theken responded that at O&A, the DDC told them the money from the meters does not come out of the City budget but comes out of meter fees which if there were no more meters on Main Street would have to come from someplace else. Some of the meter money is used for all the beautification of the downtown; holiday lights, wreaths, the sign at the Rotary, for a total of \$18,900.00 spent at locations on Main Street, St. Peter's Square, Railroad Avenue, Rose Baker Senior Center, American Legion, etc. If the City eliminates parking meters, they don't get that money to do this. She asked Jim Duggan, CAO, if that money would have to come from someplace else.

Mr. Duggan stated she was correct; "it would have to come from someplace else."

Councilor Theken added this is how important meters were, and wanted the Council to understand that this is what the DDC does and where that money comes from and how it pays for the beautification of the downtown business district.

Councilor Hardy confirmed that Chapter 22, Sec. 22-298 has to do with the eliminating of parking meters on Main Street as opposed to two-hour parking limits.

Councilor Theken confirmed that to be the case.

This public hearing is closed.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council Amend GCO Sec. 22-289 Main Street Parking Meter Time Limits "to remove parking meters from the downtown area from Main and Spring Streets to Tally's Corner, the intersection of Main Street and Washington Street".

Discussion:

Councilor Theken reviewed this matter brought forward from Councilor Tobey who wanted to try something different to make the downtown more user friendly. They heard from the downtown organizations at O&A and had in-depth discussions on the matter. Councilor Tobey got all the numbers for the Committee of what monies were generated in a year also. She felt downtown needs the meters for parking control and for the money it generates to beautify not just downtown but for the rest of the community.

Councilor Tobey stated he filed the order and realized it didn't have much of a chance to pass. He filed it to get the Council thinking. He asked that it come out of O&A forwarded to the Council so they could think about why they have parking meters on Main Street; and what are they seeking to accomplish with the resource of two hour parking spaces on Main Street. They talk about wanting to help business; but it seems they've turned it into "an array of arcade machines" for quarters; and then justify keeping them "because we need the money. "We're addicted to the money." The DIC says don't take them away we need the money. If this remains a regulated two-hour parking zone, without meters, they will still realize 40% of the revenue being generated now because that is being collected from tickets. When the line item in the budget attributable to parking meter activity, 60% of it is from the meters, and 40% is from the tickets that would presumably continue to be written. The City Council is trying to grow the business base in Gloucester. The tools are not many; the power to regulate and affect tax by levying fees, which they do when they require "parking meters to exist and be fed." He suggested they can create a friendlier downtown by saying it can be done for free. From the business travel he does he sees many communities where their downtown has meters in the outskirts for long-term parking, and no meters on their main business district street(s). He noted the vibrancy of these communities' business areas. There are a lot of empty stores in downtown Gloucester. He suggested this could be one of the things they could "and need" to consider as a Council they can do what they can to help the downtown grow with new economic growth like with new second floors that don't exist now that could be built up. That new growth generates tax revenue which he suggested could make up the 60% in revenue lost by meter removal. He proposed they do a better job for the downtown with this regulation for parking, "one of the few tools" at the Council's disposal.

Councilor Ciolino stated meters were put in to control parking; to get people to move along as with the shuffling ordinance this evening. The revenues were supposed to reimburse the downtown to rehabilitate it which didn't happen. When they raised the meter fees from 25 cents per hour to 50 cents per hour, at that time Councilor Theken put in the motion that some money should go back to downtown, that's when the \$18,900 came back. When they doubled the parking rates per hour, they thought they would double their revenues. The revenues never doubled; they were less. He believed they needed to keep the meters as parking control; but suggested that they lower the value back down to 25 cents per hour which he felt was "doable". There aren't enough parking spaces, and they need to turn over. He thought they would all like to see a parking garage. He stated they can't remove the meters because they need to turn the parking over. It is the only tool they have to control parking at this present time. He urged the Council to vote against meter removal.

Councilor Verga wondered what the purposes of meters were; was it to raise revenue, and then they should be left in place. If the meters are for turn over of parking to keep businesses downtown, the anti-shuffling ordinance achieves the same goal. "It would send a bold message" for people to come downtown to spend their money." Perhaps the loss of revenue on the meters will be made up sufficiently by increases in business. He stated he was not a member of the Council when they voted for the 100% jump in meter charges; but knew it went over badly. He felt this was a good idea, and would vote for it.

Councilor Whynott would support Councilor Ciolino to vote against the motion. The meters help to pay for the enforcement people. Further, he could also support going back to 25 cents per hour.

Councilor McGeary would vote against the order. He thought it was more of a convenience matter; rather than going downtown many quarters, which is the inconvenience. He noted Councilor Curcuro that day had viewed a demonstration of parking kiosks used in many cities, including Salem that are much more convenient and at which one can use credit cards as well as cash; and was the direction he thought the City should go. The meters or some kind of parking control does necessitate the moving on when time is up.

Councilor Theken didn't think that you could control the shuffling ordinance without the meters. There are museums with meters in front of them. At the Harbor Loop there is the Heritage Center and asked "what about those meters." She felt they have to fight for all the businesses in Gloucester. It is not

fair to the other businesses in the City. Museums and other merchants, Lanesville, Magnolia; she urged focus to other areas as well. She wouldn't support the motion.

Councilor Ciolino didn't want to open up another argument of decreasing meter fees. In the future when they go to a kiosk system, which he believed was a matter of time; that was when they could do that it would be a time to revisit the cost of parking. "Meters should stay because that is parking control."

Councilor Tobey thanked Councilor Verga and all the Council; that what they were just doing was a workshop of how to improve the parking management system in the downtown. There is an opportunity with the kiosk system to "get this right." Councilor Ciolino, he felt, was correct that they were sold a bill of goods when the Council voted to raise the two hour meter fees; and felt the economic concept of diminishing returns was real. He hoped the Council would allow the O&A Committee to continue the conversation, perhaps reconfiguring the meter charges working with the Administration, especially Mr. Towne, before they tie themselves to a kiosk system.

MOTION: On motion by Councilor Theken, seconded by Councilor Tobey, the City Council voted ROLL CALL 2 (Tobey, Verga) in favor, 6 opposed to recommend to Amend GCO Sec. 22-289 Main Street Parking Meter Time Limits "to remove parking meters from the downtown area from Main and Spring Streets to Tally's Corner, the intersection of Main Street and Washington Street".

MOTION FAILS.

Committee Reports:

Ordinances & Administration: November 15, 2010

There were no matters to be brought forward from this meeting for action by the City Council.

Councilor Theken brought forward a lingering motion from the July 26, 2010 meeting of the O&OA Committee and the Rules of Procedures to adopt changes to the Council's Rules of Procedure (on file):

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the adoption of changes to the Gloucester City Council Rules of Procedure as presented.

Discussion:

Councilor Theken thanked Councilor Hardy who brought the matter forward to O&A and took complete charge of the project herself.

MOTION: On motion by Councilor Theken, seconded by Council President Hardy, the City Council voted 8 in favor, 0 opposed to adopt the City Council Rules of Procedure as amended by the City Council on November 23, 2010 and to become effective as of January 1, 2011.

Planning & Development: November 17, 2010

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to permit Pursuit Racing, LLC to run a half marathon on May 15, 2011 starting at 9:00 a.m. from the Good Harbor Beach parking lot, turning right on Thatcher Road (Rt. 127A); continue on over the Gloucester City line and return to Gloucester via Thatcher Road; entering left at Good Harbor Beach with the following

CONDITIONS:

- 1) A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk's office 14 business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race on file;
- 2) A memorandum from Fire Chief Phil Dench be on file with this approval in the City Clerk's office 14 business days prior to the race delineating the role of the Gloucester Fire Department, during and after the race;
- 3) Signs indicating "Runners in the Road" shall be placed at key locations along the race course for safety purposes. They are to be posted the morning of May 15, 2010 and removed by 2:00 p.m. the same day;
- 4) A Certificate of Insurance naming the City of Gloucester as the Certificate Holder;
- 5) All memorandums of approval shall be obtained by Pursuit Racing LLC and be delivered to the office of the City Clerk 14 days prior to May 15, 2011.

Discussion:

Councilor Ciolino noted that the Fire Chief will come back to P&D for a new set of regulation that he will require and will be added to the Committee's handout for emergency command that is National Incident Management System compliant (under FEMA) for all road races and parades.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott, the City Council voted 8 in favor, 0 opposed to permit Pursuit Racing, LLC to run a half marathon on May 15, 2011 starting at 9:00 a.m. from the Good Harbor Beach parking lot, turning right on Thatcher Road (Rt. 127A); continue on over the Gloucester City line and return to Gloucester via Thatcher Road; entering left at Good Harbor Beach with the following CONDITIONS:

- 1) **A memorandum from Lt. Joseph Aiello be on file with this approval in the City Clerk's office 14 business days prior to the race delineating the role of the Gloucester Police Department before, during and after the race;**
- 2) **A memorandum from Fire Chief Phil Dench be on file with this approval in the City Clerk's office 14 business days prior to the race delineating the role of the Gloucester Fire Department, during and after the race;**
- 3) **Signs indicating "Runners in the Road" shall be placed at key locations along the race course for safety purposes. They are to be posted the morning of May 15, 2010 and removed by 2:00 p.m. the same day;**
- 4) **A Certificate of Insurance naming the City of Gloucester as the Certificate Holder;**
- 5) **All memorandums of approval shall be obtained by Pursuit Racing LLC and be delivered to the office of the City Clerk 14 days prior to May 15, 2011.**

Councilor Tobey stated the P&D Committee minutes begin with the extensive account of the discussion of the BirdsEye Project Planned Unit Development; and the recently presented set of revisions that appear to represent a new proposal. He noted on page 5 of P&D minutes that, "Mr. Whitten stated that he had seen Attorney Mead's revision and Attorney Egan's revision. He noted they are two very different approaches." He wasn't sure how that revision came from Attorney Egan. He proposed that what is appropriate is that City Councilors have proposed an amendment to the zoning ordinance. Under the zoning enabling act that means the referral to the Planning Board should occur which he then proposed in the form of a motion, seconded by Councilor Theken below:

MOTION: That the City Council refer the four page draft zoning amendment prepared by Attorney Suzanne Egan on behalf of Councilors unknown on the P&D Committee for review by the Planning Board.

Councilor Ciolino stated the “compromise solution” came out of the Planning Board’s recommendation. At P&D’s next meeting, it would be “all tied together”. P&D is utilizing the Planning Board’s recommendation and felt that to send it back to them for their own recommendation did not serve any purpose. He reiterated Attorney Egan crafted the compromise out of the Planning Board’s recommendation.

Councilor Whynott stated when he got the 11 page draft version [from Attorney Lisa Mead on behalf of the applicant] it said Chapter 5.2 Birdseye Mixed Use Overlay District. He objected to the use of “BirdsEye” throughout the document as this could be incorporated into the Zoning Ordinances; and called Linda T. Lowe, City Clerk and Attorney Egan; and that was how the four page document came to them and thought he was responsible for that.

Councilor Ciolino didn’t understand why something that came out of the Planning Board documentation had to go back to the Planning Board. They [P&D] are following the process and thought that if there was other motive to inhibit the process, he didn’t see any reason to do it. He asked for an explanation as to why a document that came out of the Planning Board had to go back to it.

Councilor Tobey responded he intended to look at this proposal in an “unbiased” way and had spent a lot of time doing research, to evaluate various concerns that he believed were very serious which he was concerned P&D was giving “short shrift” to. He felt it should go back to the Planning Board because its Chairman (Rick Noonan) had written to him, “I know the Planning Board have been given been given the opportunity to review the revised document in a public forum.” He believed it to be a new plan, a new proposal, and a new zoning ordinance. He talked to practitioners in the zoning field; shown them the document, who felt the same as he. This was a big divide in the opinions as to what may be going on legally. “This was too important not to do right.” It was not about inhibiting the process. He contended this was much too important and had “vast implications” not just for that site, but for other neighborhoods in the City where a similar overlay “could be dropped.” He asked the Council to adhere to a conservative reading of the zoning enabling act on what the process is, and refer this back to the Planning Board.

Councilor Curcuru expressed his agreement with Councilor Tobey; but if individuals on the Planning have a problem with this, they should state it at the meeting. It is being taken back up at P&D. Have them make a statement then. If they have some issues and concerns with the document, he wondered why they didn’t make their concerns known at the last P&D meeting. He felt they should go back to P&D, if they have issues and concerns, they should bring them up at P&D’s next meeting, not to “kick it back right away.”

Councilor Tobey responded the zoning enabling act does not say the Planning Board has jurisdiction over a matter if the members go to a City Council Committee and say they say want it back. There is an automatic referral that should be happening. This was done by the lawyer and input by the planner. “This is a government of elected officials, a City Council; and appointed bodies, (i.e.) a Planning Board; not a government of staff.” He believed this was a legislative function that should be closely managed by the legislators not by the staff “feeding” it to them.

Councilor Theken agreed with Councilor Tobey. She saw the video of the meeting being referred to. They had just seen the four-page draft proposal for the first time that day. She believed the four page document does pertain to other neighborhood as well. She noted that it took 25 years to change the waterfront. She also felt another meeting; another month would not be untoward to make sure this was a correct process. She urged the Council to be protective by sending it back to the Planning Board for review and not to rush. She expressed if the Planning Board whom they’ve appointed wish to review it she believed they should have them do so. While she had not attended the P&D meeting being referred to, she did not believe the meeting to be “fair”. She asked for clarification because this was “major”. She urged her fellow Councilors, “Let’s obey the law.”

Councilor Verga thought it was a chance to do it right. He stated he wasn’t pleased with the perception that came out of the last P&D meeting. He wished to see the matter handled in the “right way”. While he expressed that he had “no sense of guilt” but didn’t want to have anyone say they are trying to push

something through. He urged they stop and “hit rewind” to make sure it is done right.

Councilor Ciolino expressed he didn't mind sending it back to the Planning Board but thought it was too early in the process. He thought P&D needed to present a document and wondered what they would be sending to the Planning Board as they don't have anything to send them yet as it is a draft. At P&D's next meeting of December 1st they will work on the draft and then send it back to the Planning Board to see what their recommendation is. To do it midstream, he felt, was premature. “Send it to the Planning Board after P&D has finished with it and we'll hear it after.”

Councilor Tobey stated he was hearing this for the first time that evening and thought that was a good idea as he had believed the four page proposal was final. If they're willing to pull back and revise the four-page document to whatever final form it then is; and then send to the Planning Board he believed, then, they had a consensus.

Councilor Whynott stated they had planned on another meeting of P&D on December 1st, and didn't expect this to come to the City Council before that meeting; and hoped that there would be a document to be sent to the Planning Board and comes back with the two recommendations.

Councilor Curcuru agreed thinking it was a good idea; to bring it back to P&D for reviewing and then sending it to the Planning Board. He thought jumping from P&D right on to the Planning Board, he “had a problem with that.”

Councilor Hardy stated Councilor Ciolino's charge at the last P&D meeting to Attorney Egan and to Attorney Mead was to work it out and come back with a revised draft to P&D; and had he seen a revised draft as a result of that yet.

Councilor Ciolino responded he got a second draft back late that day and had yet to read it.

Councilor Hardy asked when he planned on sharing with the other members of P&D and with the Council.

Councilor Ciolino replied he would be more than glad to finish up the document and then refer it out to the Planning Board for their opinion. He stated he would share the email with his fellow Councilors “tomorrow”. He had received it late in the day and had not had an opportunity to review it.

Councilor Tobey wished the record to reflect that given the commitment from the P&D Chair that this matter will be brought back before us to be referred to the Planning Board and will withdraw the motion.

Councilor Hardy reiterated Councilor Tobey's summation that “there is an understanding on the floor that P&D will come back to the Council and the reiteration that P&D will end up going back to the Planning Board before it comes to the City Council for a full public hearing.” The maker of the motion had withdrawn the motion on the floor.

Councilor Ciolino stated that there would be a simple motion that evening to send it to the Planning Board would suffice and then it won't be scheduled for City Council until they hear the results of the Planning Board. They would have to wait for whatever the schedule of the Planning Board is and make a recommendation.

MOTION WITHDRAWN.

Budget & Finance: November 18, 2010

No action matters were to be brought forward from that meeting.

Councilors' Requests Other than to the Mayor:

Councilor Whynott updated the Council that Retired Sgt. Ted Costa is back home and is improving and expressed his congratulations to him.

Councilor Tobey congratulated the two attorneys involved in the recent victory in the courts over the current phase of the challenge of the inter-municipal agreement that relates to the Town of Essex and the City of Gloucester. Linda T. Lowe, City Clerk, former City Solicitor, he felt “crafted a fine document” and was good to see it upheld; and commended current City Solicitor, Attorney Suzanne Egan for her

work in defending it on the most recent motion. He made note of the Board of Elementary and Secondary Education recently met, without noticing they were going to do so, and voted to initiate another high school graduation requirement MCAS for history. He felt this placed more burdens on the kids and system to pass another test with no resources to do it; and another field to teach to a test.

www.citizensforpublicschools.org has a petition to the Governor and Secretary of Education Reville asking that this be “undone”. He then thanked the Mayors office; the DPW for their assistance today as he had been asked him to give a tour of City Hall to the 5th grade classes of Veteran’s Memorial, which he had conducted that day. They had a lunch in Kyrouz Auditorium which the Mayor joined. He thanked Ms. Jorgensson, Clerk of Committees and Ms. Lowe for helping to do a mock City Council meeting. He related that the students of Veteran’s Memorial, he noted, are bright, eager to learn, enthusiastic. He expressed it was a wonderful experience for the students, teachers and himself as well.

Councilor McGeary made note of the Harvest Meals Program Tuesdays and Fridays at St. John’s Church and Trinity Congregational Church providing meals for those hard on their luck in tough times. They’re asking the public to create gift packages for their clients: mostly cookies, candies, fudge, candy canes (no nuts please) and the like and items such as one-size-fits-all gloves; and deliver them to St. John’s Church December 13th and 14th in the morning who will make sure their clients receive them in time for the holidays.

Councilor Ciolino announced on Sunday, November 28th Santa is coming to visit the City. The Santa Claus Parade will step off 3:00 p.m. from the Jodrey State Fish Pier. Santa welcomes anyone who wants to join the parade as long as it is a Christmas theme. The parade will proceed down Main Street ending at Kent Circle. There will be photo opportunities with Santa and see Mrs. Claus; and the tree lighting at Kent Circle will take place at dusk. He looked forward to seeing a large turnout and wished everyone a peaceful and joyous Thanksgiving.

Councilor Theken knew people are panicking about open enrollment, and they are now booking to December 29th every half hour to assist seniors. She asked for understanding; they will get to all seniors with needs and urged seniors not to worry assuring that all applications will be processed. She asked people not to panic, that it was not too late as they have technically until December 31st. She reassured that the seniors on Cape Ann will be taken care of. She also proposed to the Council that one evening after the New Year that all the Council serve dinner at the Open Door Food Pantry to supply the food. She stated the economy is bad; and it doesn’t matter who you are in the City, the Council is there for them.

Councilor Hardy reminded all that at the tree lighting there is a table the Veteran’s Office, mentioning Lucia Pino Amero and the City’s Veteran’s Agent, Jeffrey Williams, set up to make sure that there’s enough Christmas cards for our soldiers wherever they are during the holidays; and thanked Councilor Ciolino for donating all the cards. She asked everyone to please step up to the Veteran’s table and sign the cards that the Veteran’s Office forwards in bulk to U.S. soldiers serving around the world.

A motion was made, seconded and voted unanimously to adjourn the meeting at 9:22 p.m.

Respectfully submitted,

**Dana C. Jorgensson
Clerk of Committees**

DOCUMENTS RECEIVED AT MEETING:

- **City Council – City of Gloucester, Rules of Procedure 2011, effective date: January 1, 2011**

CITY COUNCIL AND
CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration
Monday, November 29, 2010 – 6:30 p.m.
1st Fl. Council Conference Room – City Hall

Present – O&A Committee: Chair, Councilor Sefatia Theken; Councilor Bruce Tobey; Councilor Greg Verga (Alternate)
Absent: Councilor Mulcahey

Present – B&F Committee: Chair, Steven Curcuru; Vice Chair, Paul McGeary; Councilor Joseph Ciolino (Alternate)
Absent: Councilor Hardy

Also Present: Linda T. Lowe; Jim Duggan; Mike Wells; Mike Hale; Josh Arnold; Kenny Costa; Jeff Towne; Mark Cole; Mary Lou Maraganis; Judy Masciarelli; Suzanne Egan

Councilor Ordinances & Administration Committee meeting was called to order at 6:30 p.m.

1. *Continued Business:*

- A) CC2010-036 (Tobey) (a) Rescinding for FY12 Budget Cycle the CSO debt shift enacted on May 25, 2010, and (b) instituting a stormwater fee system pursuant to the ordinance enacted September 2009 (Cont'd from 10/04/2010 Ordinances & Administration Committee Meeting):

DISCUSSION HELD JOINTLY WITH THE BUDGET & FINANCE COMMITTEE

Councilor Curcuru called the Budget & Finance Meeting to order at 6:31 p.m.

There was a quorum of the City Council present at 6:32 p.m.

Councilor Curcuru stated the stormwater team has met three times in the past month and felt they have done a good job formulating a stormwater plan as far as the structure was concerned.

Jim Duggan, CAO noted the rules and regulations draft before the Committee (on file). They're also reviewing a fair and equitable formula; looking at median versus mean. They will present a number of scenarios with a recommendation moving forward. Mike Wells will present the scenarios so they can gain a good appreciation of what they've been examining over the last four months.

Mike Wells, IT Director reviewed the Scenario 'A' document with data prepared as if they were getting to 'load the system' to start billing and made report assumptions and so created a spread sheet for each parcel; updated it as to if it was residential or not; what its impervious square footage; merged the data from the old flyover; to produce a matrix of information so they could manipulate the parameters to see what it generates in terms of charges and its distribution. He explained the Scenario sheets [NOTE: The scenario sheets referred to are on file with these minutes.] showed under Report Assumptions are the parameters they used to 'feed' the report: [stormwater] Budget put at \$800,000 to start with; a Multi-Occupancy Factor (the multiplier they use for condos or multi-family homes when there is more than one residence on a parcel) of 0.50; ERU size (Equivalent Residential Unit) is the average square footage of a single family home. There is a minimum and maximum of ERU's that a residential parcel can be charged; and a minimum/maximum that can be charged on non-residential which are numbers in ERU's. [NOTE: for discussion purposes SFR stands for Single Family Residential throughout.] In the case of non-residential using the impervious square footage of the site divided by the average single family, there is no limit to how big that number can get. He noted the two numbers generated by this computation:

Total number of charged ERU's; this is for taking a fixed budget and dividing it by the number of ERU's, they can calculate what the typical single family home what a charge for an ERU of 1; in the case of Scenario 'A' it would be \$50.82 which would be an annual figure. He noted the distribution of impervious service in the City, 46% for residential from flyovers (a known fact). Beneath the report assumptions are two charts; the top chart is Area by Parcel Type, is the same in all the scenarios. It shows the distribution of the impervious surface by those categories. It shows 46% of the impervious surfaces in the City are single family homes. That is data taken from the flyover which are the basis of the City's GIS maps. Beneath it is a chart for ERU's Paid by Parcel Type which shows the same categories are paying in terms of where the ERU's are being charged. This is how they came up with a formula that distributes the charges in a fair way given the surface areas. The table that extends over two pages is a group of figures and statistics that has to do with the categorization. For each of the types that are on the chart, each block has a variety of statistical information. All the square footage is impervious; there is no lot size data in this set.

Councilor Tobey stated that based on these charts the single family homes should bear 46% of the total budget of \$800,000. So you take the number of single families and divide it into whatever 46% of \$800,000 is and that is the charge; and wondered if it was that simple

Mr. Wells stated that was "pretty much" what this was doing; it is taking the mean surface area of an average single family and allocating it.

Councilor Tobey asked if it drove the formula on all the others.

Mr. Wells responded there was a bit of a distortion with the allocation.

Councilor Tobey added one commercial unit may have ten times the impervious surface.

Mr. Hale stated the single family is a one-to-one ratio. When you speak of multi-families and non-residential, that's when it becomes a little bit skewed. On inquiry from **Councilor Tobey**, Mr. Hale explained the multiplier for each subsequent unit was .5. It was based on most two families in looking at the impervious area.

Mr. Wells noted the average two-family is bigger at 3585 sq. ft. than the average single family at 3287 sq. ft. The 3-family average is less than the two and single family at 3,047 sq. ft. This happens because these distributions are not symmetrical. A house can have a "gigantic" impervious surface but can't go less than zero. The large outliers distort the mean average. They've also considered using median. If you line the values up in order, use the middle one which is another way of calculating an average. If you do that it gets rid of the large outliers then their effect is much smaller. That is the figure that is shown as median. A two family median is bigger than the median for a single family as is for a three family. The median gets rid of the large outlying single family homes at the top end. He noted that one of the reasons this approach is not going to suit because in non-residential maximum rate, the maximum ERU's (the largest number of ERU's that can be charged to a single parcel) is 354.85. This would be like Gloucester Crossing parking lot would pay 354.85 times \$50.82 which is about \$18,000.00 per year, if they use that simplistic approach (with no maximum). Although the formula generates a fair distribution, it may not be the one they want. It will punish the very large land owners.

Councilor Theken asked what these large landowners pay in tax rate through the debt shift.

Jeff Towne, CFO stated with a value of \$40 million, they would pay about \$13,200.00. Gloucester Crossing did not qualify for a TIF this year, and this figure reflects what they would pay without a TIF.

Councilor Curcuro stated the \$13,000; this fee is based with the debt staying where it is

Mr. Wells continued what would be the effect of capping large parcels, that is large multi-families and large non-residentials, as shown in Scenario 'B' looked at what if they use the *median* rather than the *mean* SFR and No Maximums; and if you compare the two graphs, by using a smaller divider, they throw more emphasis onto the non-residential.

Councilor Theken asked what it would be for Gloucester Crossing.

Mr. Wells responded the maximum ERU's in non-residential is 493.20. By using a smaller number, they've driven up the amount they could get from non-residential. Single families pay slightly less because non-residential is picking up more; they're using a better average number because it excludes the outliers.

Councilor Curcuru asked re: \$800,000.00 – the annual operating stormwater utility proposed first year budget, how much is the existing budget that it is operating under the sewer budget (\$500,000) which would go off the sewer fee and go onto the stormwater fee. He asked for a description of how it was broken down to an average cost per household. He explained if they go with something similar to what is before them; high water users will see a significant difference.

Mr. Hale stated anyone who is served by sewer will see a savings on their sewer rate because the rate is lower and shifted over to more homes; the total savings even with this fee won't be for everyone.

Councilor Theken noted non-profits would get a bill not on the debt shift.

Mr. Hale noted that if the sewer rate was lower people are paying less even with this on top; the debt shift is a separate issue.

Mr. Wells noted Scenario 'C' is the same as Scenario 'A' in that they use a Mean SFR and Low Maximums but are limiting multi-families to no more than five ERU's, using a .5 factor, that's 10 residences. If you have more than 10 multi-family units on your parcel, you pay the same. Maximum non-residential is limited to 10 also which means ten times the size of the standard SFR. In that situation "instead of paying \$18,000, for example, Gloucester Crossing pays ten times \$61.98 which comes to about \$610.00. This is to show the effect of a cap." They are not advocating this, and is not their recommendation. This is an example, for instance, of putting the cap in place it dramatically reduces the non-residential (see pie chart) which means to make up for it everyone else has to pay more. In order to make up for that, to cover the budget, everyone else pays more, with residential paying a large portion of it. Scenario 'D' is as to Scenario 'B'; that is Medium SFR and Low Maximum where the cap drives down the non-residential.

Councilor Tobey noted the cap gives a misallocation. The impervious surface drives the cost away disproportionately in Scenarios 'C' and 'D'.

Mr. Hale thought the one thing the cap does in looking at the bigger developments, Gloucester Crossing went through the stormwater calculations and mitigation they went through with a net decrease post development as opposed to pre-development.

Councilor Tobey interjected that was a system benefit they gave the City as part of a mitigation package.

Mr. Hale stated any new development would. A cap, he believed, was justifiable at some level; that at some point one has to say they've paid their fair share.

Councilor Curcuru noted everything was based on the proposed 1st year stormwater utility budget of \$800,000. They don't know where the fee is going since the budget will increase.

Mr. Hale thought it wrong to say it was going lower (than \$800,000.00).

Mr. Hale commented whether there is a stormwater fee or not the chart will still be there. They aren't doing anything extra; they're not taking on any more work just because of the stormwater fee. They're taking it on to be compliant with the State and Federal requirements.

Councilor Curcuru asked hypothetically where the fee would end up: on the sewer rate or on General Fund.

Mr. Hale stated most is paid through the sewer rate currently which is applicable to State law. It is sanitary sewer versus storm sewer. It is all sewer.

Councilor McGeary felt they should be creating a separate utility.

Mr. Hale stated this is what this all was for is to create a stormwater utility.

Councilor Curcuru noted \$400,000-\$500,000 is operating costs. The rest is built into additional costs.

Mr. Hale stated the other costs, personnel, ordinary costs, the cost of what they assume permits will entail, sampling, other permit plan issues and collection of new data (one time cost) was included.

Mr. Wells stated the only thing "unique" to draw from these issues is that by lowering the ERU size it would drive cost into non-residential; and by adding caps add it back into non-residential. Their *recommendation* is that they do 'Scenario-Recommendation' of Median SFR and 20/30 ERU Maximum (a cap of 20 ERU's for residential and a cap of 30 ERU's for commercial). They use the lower ERU size, the median and adjust the caps and try and drive the allocations. This creates a much closer distribution. This is not saying these are the right numbers; rather, their recommendation is something along these lines. They can adjust it; perhaps it is 25 each.

Mr. Hale on inquiry by **Councilor Theken** if they took 30 and multiplied it by \$52.35, it would be about \$1,600.00 which she felt made quite a large difference.

Mr. Hale stated it's not a big difference from Scenario 'A' where a single family home is paying \$52.35 which comes to a \$1.50 difference for the average single family, the majority of the parcels in the City. It is still makes it more attractive to the non-residential base to have something that is a reasonable fee.

Councilor McGeary stated it isn't that they are penalizing the small to medium businesses who has less than or close to 30 ERU's in square footage. They're going to pay the maximum and Gloucester Crossing gets the breaks.

Mr. Hale stated it will always be the case. He gave the example of perhaps Councilor Theken had a bigger lot than he did; and he will pay the same as the Councilor. At some point there has to be a way.

Councilor Theken could argue, she has a one family, and he has a four family. It is smaller in lot size but they have four families in that rental. Why do I pay more than you because I only have one single lot?

Small businesses are already suffering; how do you explain a small business owner is paying \$500 while Gloucester Crossing is only paying \$1,600. They have to be able to justify what is being done. She also wondered who pays for Gloucester Crossing – the developer, Sam Parks, or individual store owners.

Mr. Duggan stated it is the management company who pays the bill. Each lease is individually negotiated.

Mr. Hale stated the idea is a formula that gives them a direction. Some of the variables are static, some dynamic. Caps can be adjusted from time to time or set now.

Councilor Theken appreciated the recommended scenario because she felt it to be fair. They're all still paying their sewer bills.

Councilor Tobey stated anything they launch will have to have a "trial flight" and be based, like the water and sewer rate, on an annual recommended charge. These will come back before the Council every year. There will be time to fine tune and be a good reasonable base to start.

Councilor Theken stated this is a way to be fairer. She noted her own personal situation with regards to mortgages. For someone who has refinanced, and has to pay these taxes and fees, this would not go on the escrow.

Councilor Verga asked Mr. Towne on a house assessed at \$300,000, what was increase when they shifted to the tax on the sewer.

Mr. Towne stated it was 33 cents per thousand, about \$115.00.

Councilor Curcuru asked how much will the debt shift changes that figure if they add it on there. They're at \$52.35 per ERU for an \$800,000 budget; and wondered how much money they were talking about.

Mr. Towne responded it would be \$2 million.

Councilor Theken thought it would be paid out of her own pocket and doesn't go on the escrow.

Councilor Curcuru brought them back to the multi-family where that becomes an issue.

Mr. Hale stated this is a snapshot in time – anticipating year one's budget for the stormwater utility.

Councilor McGeary stated they can work on the formula each year to maintain the equilibrium.

Mr. Hale stated this is another budget to review. Responding to **Councilor Curcuru**, he stated in year one a fly over is captured in the budget. The old flyover is 2005. Ms. Papows spent a great deal of time and put Gloucester Crossing in. GIS needs updated information every seven years. They don't change dramatically; Gloucester doesn't change dramatically.

Mr. Towne stated the reason why to focus on this now is they have to do programming for software to get the formula and concept so they can work with the software vendor to move this forward. It's as to how they're going to do it – they need to know the formula and how to do the billing.

Mr. Wells stated all the numbers can be changed but they have to say how they're going to do it; the rules, the multiplier, etc. They need to decide the method to use. The numbers can be decided at the end of June.

On inquiry from one of the Councilors, **Suzanne Egan**, City Solicitor responded the reason that this is a good legal way to do it is that it is based on data. It makes it defensible. There is a basis for it.

Councilor McGeary asked how much time it takes to create the utility agency.

Ms. Egan stated they enacted the stormwater utility ordinance last year; the utility is in place which gives them the authority to charge this fee.

Mr. Wells stated one of the reasons to go to this method is to not create a whole new assessors office. They have to come up with a method they can do mechanically with large data sets they already have.

Mr. Towne stated they don't want to do a lot of manual data manipulation. Just as they do for water and sewer, they want to do a report to work off of the software data in the system already.

Mr. Wells noted the unassigned are 214 lots (as listed in the documents on file) that they can't decide how to handle yet.

Councilor Tobey asked about the Coast Guard station; the State Fish Pier and asked how the team had accounted for those government owned parcels.

Ms. Egan noted they would be considered non-residential.

Councilor Tobey thought it will be interesting to see going forward when they send a stormwater fee bill to any federal agency if they pay because federal agencies aren't paying this across the country.

Mr. Wells' understanding was most of these are parcels are improved but not residential, for instance, they have a shed only on them.

Mr. Duggan gave an example of a piece of property next to your residence that has a shed for a tractor; that would be one of the 214 parcels referring to.

Mr. Hale stated it could be a result of perimeter deeds for zoning purposes; they've perhaps never combined the deeds but are looking at them as one combined parcel.

Councilor Ciolino asked regarding deductions from federal taxes he knew commercial to be deductible, is the deduction for residential as well.

Mr. Towne stated no, not if it goes to a stormwater fee. If it is on the taxes it would be. You're looking at a residential fee of \$52.35 annually for a deduction. If it was on the taxes, it would be about the same amount, 15% of \$52.35. They're losing about \$10-\$12.

Councilor Tobey thought this is a good sound approach for a trial run; and if the sentiment prevailed, would the Administration put the recommended version forward, the 20/30 ERU Max.

Mr. Duggan stated that is what they would do and asked the Councilors to look at the regulations that are in draft form that were a part of their packet as well as the scenario.

Councilor Curcuru stated \$52.35 for single family; \$52.35 for a two family; plus half of that for a three family would be \$77.00; a four family would be \$104 and was there a cap.

Mr. Duggan stated there was. It was on 20 ERU's, like the Heights at Cape Ann.

Councilor Curcuru stated condos pay their own way.

Mr. Wells noted the cap doesn't apply to condos because they're considered single parcels; each one pays a half. There is an inequality being created there. If there were two blocks, one condos, one multi-family then the condo unit would end up paying more because the cap wouldn't come into effect.; whereas it would if they cap it at 40.

Councilor Curcuru thought this would be an added to a condo fee.

Mr. Duggan stated that the condo owners would be billed individually.

Councilor Verga clarified that the condo residents may not have a water and sewer bill but they would get the stormwater fee bill.

Mr. Wells believed there would be about 2,500 new bills to be done for those who currently get their water and sewer some other way.

Mr. Towne stated that non-profits would see these bills now.

Councilor Curcuru didn't see a problem with the figures now; but once that figure [for the annual budget] jumps, that's when it will begin to be an issue.

Councilor Ciolino stated for those who don't have water and sewer what is the justification.

Steve Malboeuf, 25 Overlook Avenue stated Councilor Ciolino was correct, that the majority of Ward 5 don't have sewer. This debt shift to the taxes didn't do anything but increase his taxes. He felt real important thing that happens is that the sewer rate shall be reduced by an amount equal to what is shifted to the taxes. This is great if everyone is on sewer, but a large majority outside the center of town isn't on

sewer. This is the fairest system that's come out to date but doesn't get back to the issue of the debt shift. He was looking to see the debt shift rescinded.

Councilor Theken stated this is the best [recommendation] they've seen in the last year and a half. No matter, they'll have to do it and can't keep doing it on sewer.

Councilor Tobey stated if they view the CSO projects as stormwater management oriented, they have to take stormwater out of sewer system and handle it differently. The CSO costs have to be moved to the fee which would be the equitable answer. Then folks like Mr. Malboeuf who doesn't have water or sewer services from the City, will pay a baseline fee for the water that runs off their property into the street that has to be paid for.

Councilor Curcuru interjected they're still basing it on the \$800,000 proposed 1st year budget.

Councilor McGeary stated Mr. Malboeuf will pay one way or the other. He's going to pay on his taxes; he's going to pay a stormwater management fee. If he pays on his tax rate, he gets 15% to 20% back from the federal government. If he pays on the stormwater fee, there is nothing back. He also asked how much debt they are looking at long term for CSO.

Mr. Towne stated right now it is \$34 million. \$1.750 million is on the tax rate.

Councilor McGeary asked how much more could they add if they preserve the method of putting all the debt of the CSO on the tax rate, how much money would be added in levy.

Mr. Towne responded the maximum would be about \$2.5 million if they went to about \$36 million from \$34 million. Its 33 cents for \$1.750 million; additionally on the tax rate, it would be 50 cents on an \$11 tax rate. If you have a value of \$5 million for residential property, then you end up with a lot of change. If you have a \$350,000, he didn't believe anyone would be terribly dismayed. They'll probably pay the same stormwater fee as you would pay on your tax bill. It's when the tax rate goes up with high value residential and commercial will pay more on the debt shift versus stormwater which is spread to more people based on impervious surface.

Councilor Theken stated they're willing to put a cap on the large residential and commercial. A low income or medium income it is very difficult. It may only be \$50.00 but many people have had their values re-evaluated. A working class person just wants a bill and will pay it. It comes at them all the time. She lives in Ward 5 and knows her stormwater goes into the drain on her street. She likes this idea.

Councilor Tobey stated they "can't eliminate the pain but they can eliminate the uneven way they distribute the pain now."

Councilor Theken felt they should give something to the Administration to let them move forward with a plan.

Councilor Curcuru stated Councilor Tobey was right. It doesn't become equitable and fair if they put a fee on top of this; someone who owns a three family it won't make a difference; and when you start adding additional fees on that, that figure changes. He expressed his concern about additional fees coming on this. If you add fees it is not equitable, his point being that this won't stay in one place (that of the overall budget number).

Councilor Ciolino asked if Mr. Malboeuf could live with the recommendation.

Mr. Malboeuf thought it was a great way to do it, but reiterated it doesn't fix the debt shift issue. He liked the caps. He thought this is a saleable plan.

Councilor McGeary asked about the basis for seeking abatement.

Mr. Hale stated they haven't vetted that which **Mr. Duggan** agreed and thought it would be a case-by-case basis.

Ms. Egan responded the abatement process will be the same. This is an act pursuant to the City's sewer charges, and so it will follow the same process.

Councilor McGeary quoted from the suggested language, "...and may result in the City's termination of all services appearing on the bill." What would those services be?

Mr. Towne stated that would be water and sewer; yes, the law does allow them to shut off the water just like it now allows them to shut it off for non-payment of a water bill. It would then affect the sewer.

They turn it on when they get the stormwater bill paid. That is the way it is intended. It is the way they enforce it now. And like sewer and water, it can be liened on the tax bill.

Councilor Verga thought this was a credible recommendation. It took some convincing for people who weren't on sewer. Most have come around and wanted something like the recommendation presented. He didn't wish to lose sight of the intent of the order which is the intent to rescind.

Councilor McGeary liked the recommended version and thought, like Councilor Tobey, that it was a good place to start. They can change the percentages and caps annually which is part of the budgetary process. It is not an ordinance change.

Mr. Towne stated the calculation comes from the DPW Director as a recommendation that they approve through the budget process.

Mr. Wells agreed it is exactly like water and sewer. They know how much money the fund is going to expend; therefore, they know how much money they have to raise. The calculation drives the number of users charged which sets the rate.

Councilor Tobey thought it was a two-step process; one step is the May/June review as to how the formula will generate the rate for the next fiscal year. If folks aren't happy at Council the next step would be in the subsequent months to revisit the regulations.

Mr. Towne asked they all recall the timing of how the debt shift was done. Books weren't closed; the finances of the City were in tough times. They had to make a decision to leave it on the sewer rate or do something else because this was not in place. They had two options, and chose the debt shift.

Councilor Theken summarized the discussion and thought what is in front of them was great teamwork. She felt she advocated for citizens in those meetings. It was the way it was promised to the people who came before them; and she didn't want them to think they weren't working on it.

Councilor Curcuru had no problem with the recommendation. The \$800,000 figure will jump, gradually year to year; and therefore so will the fee.

Mr. Wells stated one of the things that has changed dramatically prior, they were unable to do this calculation; but in the last two year there is now a GIS person on board; and they have the ability to do these kinds of calculations.

The Committees agreed to consensus on the chart entitled "Recommended Scenario" by the stormwater team (on file with the minutes). The matter was placed back to the Administration for further modification. Mr. Duggan would meet individually with the Councilors who were unable to attend to discuss and educate them, with the team.

The Councilors thanked the Stormwater team for their hard work, especially Mike Wells and Nancy Papows.

A motion was made, seconded and voted unanimously by the B&F Committee to adjourn their meeting.

- B) CC2010-073 (Tobey) Enact ordinance amending GCO Ch. 8, Article II, §8-16 and §8-17 Re: Process of selection of Fire Chief (Cont'd from 10/18/10)

Mr. Duggan assumed they would follow the way the Police Chief ordinance was done. He thought that was the area that this ordinance is intended. The Administration understands that and supports it.

Councilor Tobey asked for recommendations for the next meeting on how to do this. With the Police Chief ordinance, they spoke of educational degrees, the composition of the screening committees. Was it enough to say the same number? How do the Fire Department and its professional standards, union make up, translate into that ordinance? He asked they go through the ordinance perhaps with the City Clerk so that it is specific then it could be translated which could be done quickly and come back to the Committee and get that coordinated and can come back to O&A on December 13th. They're "butting up against time" on how to get a new Police Chief; with the Police Department having an interim Chief, whom he felt everyone respects "enormously"; and wondered how they coordinate the timing when his contract runs out; is there an option on it. Police is immediate.

Mr. Duggan stated the ordinance kicks in once the Mayor declares the position is declared vacant. There is an option to renew on the contract.

Councilor Tobey asked in the spirit of transparency he'd like to know where they are on that matter.

Mr. Duggan stated Chief Lane has expressed a willingness to continue by means of the option to renew. He knew the Fire Chief was up in April.

Councilor Tobey stated there will be a transition; and in order for the process to be handled correctly, assuming April 1st is the last day of the term. It will take four months to do what this ordinance calls for, for the very first time; he didn't believe that to be the case; that it would take more than four months.

Mr. Duggan stated both the Chiefs have expressed their desires to renew.

Councilor Tobey felt this only makes a stronger case to get the ordinance moving forward now.

This matter is continued to December 13, 2010.

2. *Appointments:*

Capital Improvement Advisory Board (CIAB) TTE 02/14/2013 Josh Arnold

The Committee questioned Mr. Arnold to his professional background and qualifications, desire to serve the community as well as his familiarity with the Open Meeting Laws. He was also asked if he had taken his State Ethics exam, and filed appropriately with the City Clerk's office.

Councilor Theken stated they were very fortunate and was grateful to have Mr. Arnold on board for the CIAB. She knew him to get along with everyone in the community in all walks of life and was assured by his coming forward.

Councilor Verga endorsed Mr. Arnold and knew him for many years and thought his experience was appropriate.

Councilor Tobey stated Mr. Arnold has great analytical capability .

MOTION: On motion by Councilor Verga, seconded by Councilor Tobey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Josh Arnold to the Capital Improvement Advisory Board, TTE 02/14/2013.

3. *Memorandum from Operations Manager-DPW re: rules and regulations for a proposed dog park In The City of Gloucester*

Councilor Theken asked Mr. Cole's opinion on the rules.

Mark Cole, DPW Operations Manager didn't have any issues with the rules and thought them to be fine. There would need to be discussion on the hours. From a logistical standpoint they don't open the parking lot until 8 a.m. but that doesn't mean the dog park can't be used before that time.

Councilor Theken noted the location hasn't been confirmed by the Council. It is assumed it would be at Stage Fort Park. It hasn't been confirmed by the Council. It was never stated.

Councilor Tobey stated they can assent to these rules without it being said where the park will be.

Councilor Theken agreed this would be their standard procedure.

Ms. Lowe added when they choose the site, the location will go into the rules because that is the way the Dog Park ordinance is written.

Mr. Cole stated if Mr. Hale determines the site to be at Stage Fort Park, which they walked with Councilors McGearry, Curcuru and Ciolino, and wondered if it would require a public hearing.

Ms. Lowe clarified that it would be part of the rules and would come before them the same way.

Councilor Theken asked that they present a formal letter from the DPW Director this is where they think it would be the most proper place.

Councilor Tobey stated they need to know the area and neighbors which will determine whether these rules are stringent enough. They could say they don't disagree with them but won't mean anything until Mr. Hale recommends a location.

Ms. Lowe confirmed that the rules and the selected location do require a public hearing as part of the rules.

Councilor Theken thought there should be a ward meeting by that Councilor with his constituents to discuss the Stage Fort Park location for the new proposed dog park. They're talking about where the old school house is.

Mr. Cole noted the school house (Stanley Marchant building) is used by the Gap program. The park would not go in that area. He reviewed a photograph (not submitted as previously part of the record of the Committee) of the area with the Committee so they would have full access to the school, the basketball court. The area isn't used often at all for parking. There is plenty of room for all users. The only time it is really used is for the Waterfront Festival, which is two days out of the year.

Mr. Cole stated the biggest issue is the fencing.

Councilor Theken asked who enforces the rules.

Mary Lou Maraganis, dog park proponent stated the dog parks are self governed. There is no lock on the area.

Councilor Theken expressed her concern that it not be used as a 'hangout' for safety purposes. There is also a liability issue. Who is liable if someone doesn't follow the rules and someone is injured.

Councilor Verga noted a procedure in the packet.

Mr. Cole stated the Animal Control officer is the first call and then the Police are the next call. There was a discussion that the phone line to the Dog Officer cannot be relied upon for a response.

Judy Masciarelli, another dog park proponent noted that the "What to Do If" are suggestions for safety for those using the park. These are the types of things that would be posted. It is only the first page that is the actual rules. There are limits to ages for people who can go in there, how many dogs someone can bring in.

Councilor Verga asked do the police respond to dog issues.

Councilor Tobey thought they were empowered to.

Councilor Verga wanted to be sure someone in a position of authority would be able to step in.

Ms. Masciarelli stated it would be same as if it happened outside of the dog park.

Councilor Verga thought a call to Chief Lane to see what would be his plan.

Councilor Theken asked that the Clerk of Committees Chief Lane have the rules forwarded to him and what he felt could be done to improve the rules and "What to Do If". She noted the Animal Control number gives you a recording.

Councilor Tobey thought the rules covered the right areas and needed to be turned into regulations. He asked that Mr. Cole and the dog park proponents meet with General Counsel to get the regulations done correctly and to get the recommendation from the DPW Director for the location at once back to the Committee.

Mr. Cole noted that the gates at Stage Fort Park are locked at 9 p.m.

Councilor Theken thought once the dog park users got used to the parking situation they would understand to move their cars.

Mr. Cole expressed the concern that the parking is open from 8 a.m. to 9 p.m. Whatever the hours are they need to be tied to the parking lot.

Councilor Verga stated it really is a non issue in the morning but is at night.

Councilor Theken didn't want there to be arguments regarding the parking scenario with the gates.

Mr. Cole stated the hours for the lot are well posted.

Ms. Maraganis noted after 9 p.m. there are other areas to park.

Councilor Theken asked that it should be posted at the dog park itself.

Ms. Lowe suggested they should check with the City's insurer to see if they cover the dog park and to what extent

Councilor Theken asked that Mr. Hale make his recommendation and work with Councilor Curcuru have his ward meeting on the location of the dog park. Prior to it coming before the City Council, Councilor Curcuru has to let the abutters know and discuss the matter with them. These rules and the location have to go to a public hearing so that it can go forward. They want to be sure the public is fully informed.

Councilor Tobey asked if Mr. Hale could get this to them in the next Mayor's Report which would get the matter moving forward.

Councilor Verga thought it should be a joint ward meeting with himself and Councilor Curcuru as well noting the park is in Councilor Curcuru's ward, but the abutters are in his.

MOTION: On motion by Councilor Tobey, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed that the matter of the rules and regulations for a proposed dog park in The City of Gloucester be continued to January 3, 2011 so that the following steps may be taken:

- A) A specific site recommended by the DPW Director be made and forwarded through Mayors Report;
- B) The materials referred to the O&A Committee from the November 23, 2010 City Council meeting regarding dog park rules be converted into regulatory language through a meeting with the proponents, Mark Cole, DPW Operations Manager, and Suzanne Egan, General Counsel;
- C) That the CFO be requested to obtain and provide guidance on the extent to which the City's existing insurance company will extend to a dog park;
- D) That Ward 4 & 5 Councilors reach out to the abutters of a site that has been indicated at Stage Fort Park so that all this information is available to the O&A Committee at its January 3, 2011 meeting.

This matter is continued to January 3, 2011.

4. *CC2010-080 (Curcuru) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: Vicinity of 197 Washington Street (TBC to 12/13/10)*

This matter is continued to the December 13, 2010 meeting.

5. *CC2010-082 (Verga) Speed limit signs and "Slow Children" sign re: Fuller Street (TBC to 12/13/10)*

Councilor Verga noted this is a resubmission of Councilor Devlin's order put submitted 2005.

This matter is continued to December 13, 2010 meeting.

6. *Letter and documentation from Deputy Fire Chief Aiello re: enactment of ordinance to bill for Certain Fire Dept. responses (Referred from B&F Committee on 11/18/210)*

Mr. Duggan reviewed for the Committee that what Chief Dench and Deputy Chief Aiello to bill for particular services of the Fire Department. It is something that right now on comprehensive insurance on homeowners and car insurance you're paying \$500 automatically, as an example on a homeowner's policy. North Andover does this, and others; they are tapping into what's already being charged to the homeowners by the insurers for those fees. They would have a local ordinance that applies to people that are at fault for automobile accidents. If they have a response, it's "x" amount of dollars. If they have to use the 'Jaws of Life', an axe; it is almost like an ala carte menu as they use each piece of equipment it is charged to this total bill to the insurer.

Councilor Tobey thought it was sounding like the situation in a mid-West community where folks didn't pay their fire service fee to the local fire district and the Fire Department didn't respond and sat there and watched the house burn feeling it was a "slippery slope".

Mr. Duggan felt it wasn't because responded he didn't know how the fire services were set up there and with the insurance in that particular state. Deputy Chief Aiello has done his research; we are paying a comprehensive part of our homeowners insurance. They bill the insurance companies (not the homeowners).

Councilor Tobey thought a smart company was making a pitch to benefit their business plan as well; and was concerned for the "slippery slope" that a day comes when they're seeing a house burn, what happens when someone is uninsured. "We're going to turn the water on, but before we do, do you have homeowner's insurance. It's cancelled? Sorry." Finally, does the money go to the General Fund.

Mr. Duggan stated the money would come to the General Fund, and as part of the budget review process, they'll look at the proposed revenue and then increase that budget just by that amount. He understood the concern.

Councilors Tobey and **Theken** expressed that in the past these sorts of promises were broken regularly.

Mr. Duggan responded they have been doing that with the ambulance now, unlike in the past.

Councilor Verga sat at B&F two weeks ago. For the home it is negligence. A house burns down because they were smoking in bed, not using a licensed electrician. A grease fire isn't a homeowners fault. There is a third party billing. Chief Lane asked about billing for police services, and that wasn't recommended and is the "slippery slope". He thought it might be worth having Deputy Chief Aiello explain this to the Committee.

Councilor Theken expressed her concern in billing someone who may have not been at fault but what happens in the case of no fault.

Mr. Duggan stated the insurance company is taking this money and putting it in their pocket. They're saying that money is not theirs; it should be the City's.

Councilor Theken realized they would render services but it is billing on top of billing. How do they know the insurance company will continue paying this, recalling when Gloucester had the highest car insurance in the area.

Mr. Duggan stated that they do this billing already in North Andover, Wenham. They could potentially see, with the number of runs per year, \$50,000 to \$60,000 annually in increased revenue.

Councilor Verga noted that the equipment used is part of a typical report anyway. What they do day to day would serve the purpose.

Councilor Theken would like to ask questions of the Chief and Deputy Chief reiterating her concern.

Councilor Verga noted if the fire responds to a tourist driving recklessly and there is a cost for the Jaws of Life, then there is a fee involved.

Councilor Theken wanted to be sure if they do this the money does go back to the Fire Department.

Councilor Tobey thought it was "a concerning shell game." He respected the Department looking to find new fees but had policy concerns.

Councilor Theken asked about the third party billing.

Mr. Duggan stated they get a percentage which comes from the percentage from the insurance company whereas now they get nothing now at all.

Councilor Verga agreed it was worth the conversation and commented when this was presented last week at B&F, it was perceived more positively because they had the Chief and Deputy Chief Aiello in front of them.

Mr. Duggan stated he would have them bring them scenarios. The billing is similar to the billing for the ambulance bills. He noted annually they take 'bad' ambulance bills and write them off, the same would apply here.

Councilor Tobey asked that when that meeting occurs, he'd like the local insurance firms to receive notice because he wants to hear whether or not they think the dollar cost of claims would not have an adverse affect on homeowner and car insurance rates in the City.

This matter was continued to January 17, 2011.

A motion was made, seconded and voted unanimously to adjourn the meeting as 8:32 p.m.

Respectfully submitted,

**Dana C. Jorgenson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Scenarios A, B, C, D and final recommendation for Stormwater Fee calculations (each two pages long) as prepared by and provided by the Mayor's Stormwater Utility Fee Team**

BUDGET AND FINANCE MINUTES

12/02/10

UNDER SEPARATE COVER

JOINT BUDGET AND FINANCE COMMITTEE AND GLOUCESTER SCHOOL
COMMITTEE MINUTES

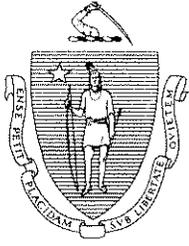
12/06/10

UNDER SEPARATE COVER

PLANNING AND DEVELOPMENT MINUTES

12/06/10

UNDER SEPARATE COVER



FP-2A
(Rev. 04-2010)

The Commonwealth of Massachusetts

City/Town of Gloucester

Application For License

Massachusetts General Law, Chapter 148 §13

New License Amended License

GIS Coordinates

LAT.

LONG.

License Number

Application is hereby made in accordance with the provisions of Chapter 148 of the General Laws of Massachusetts for a license to store flammables, combustibles or explosives on land in buildings or structures herein described.

Location of Land: 54 Great Republic Drive Assessors Map/Parcel ID: 263 65
Number, Street and Assessor's Map and Parcel ID

Attach a plot plan of the property indicating the location of property lines and all buildings or structures.

Owner of Land: Bearcat Realty LLC, Peter Spinney, Manager

Address of Land Owner: 22 Salt Marsh Lane, Gloucester, MA 01930

occupancy by: Anchor-Seal, Inc.
Use and Occupancy of Buildings and Structures: custom formulation of epoxy resins & polyurethanes

If this is an application for amendment of an existing license, indicate date of original license and any subsequent amendments

Attach a copy of the current license

Flammable and Combustible Liquids, Flammable Gases and Solids

Complete this section for the storage of flammable and combustible liquids, solids, and gases; see 527 CMR 14;
Attach additional pages if needed. All tanks and containers are considered full for the purposes of licensing and permitting.

PRODUCT NAME	CLASS	MAXIMUM QUANTITY	UNITS gal., lbs, Cubic feet	CONTAINER UST, AST, IBC, drums drum, IBC
liquid plastic N.O.S.	IIIB	29,000	gal.	drum, IBC

Total quantity of all flammable liquids to be stored: _____

Total quantity of all combustible liquids to be stored: 29,000 gal.

Total quantity of all flammable gases to be stored: _____

Total quantity of all flammable solids to be stored: _____

10 DEC -1 PM 1:52
CITY CLERK
GLOUCESTER, MA

LP-gas (Complete this section for the storage of LP-gas or propane)

Indicate the maximum quantity of LP-gas to be stored and the sizes and capacities of all storage containers. (See 527 CMR 6)

❖ Maximum quantity (in gallons) of LP-gas to be stored in aboveground containers: _____
List sizes and capacities of all aboveground containers used for storage: _____

❖ Maximum quantity (in gallons) of LP-gas to be stored in underground containers: _____
List sizes and capacities of all underground containers used for storage: _____

Total aggregate quantity of all LP-gas to be stored: _____

Fireworks (Complete this section for the storage of fireworks)

Indicate classes of fireworks to be stored and maximum quantity of each class. (See 527 CMR 2)

❖ Maximum amount (in pounds) of Class 1.3G: _____ Type/class of magazine used for storage: _____

❖ Maximum amount (in pounds) of Class 1.4G: _____ Type/class of magazine used for storage: _____

❖ Maximum amount (in pounds) of Class 1.4: _____ Type/class of magazine used for storage: _____

Total aggregate quantity of all classes of fireworks to be stored: _____

Explosives (Complete this section for the storage of explosives)

Indicate classes of explosive to be stored and maximum quantity of each class. (See 527 CMR 13)

❖ Maximum amount (in pounds) of Class 1.1: _____ Number of magazines used for storage: _____

❖ Maximum amount (in pounds) of Class 1.2: _____ Number of magazines used for storage: _____

❖ Maximum amount (in pounds) of Class 1.3: _____ Number of magazines used for storage: _____

❖ Maximum amount (in pounds) of Class 1.4: _____ Number of magazines used for storage: _____

❖ Maximum amount (in pounds) of Class 1.5: _____ Number of magazines used for storage: _____

❖ Maximum amount (in pounds) of Class 1.6: _____ Number of magazines used for storage: _____

I, Peter E. Spinney, hereby attest that I am authorized to make this application. I acknowledge that the information contained herein is accurate and complete to the best of my knowledge and belief. I acknowledge that all materials stored pursuant to any license granted hereunder must be stored or kept in accordance with all applicable laws, codes, rules and regulations, including but not limited to Massachusetts Chapter 148, and the Massachusetts Fire Code (527 CMR). I further acknowledge that the storage of any material specified in any license granted hereunder may not exceed the maximum quantity specified by the license.

Signature Peter E. Spinney Date 11/30/10 Name Peter E. Spinney, President
Anchor-Seal Inc.

Fire Department Use Only

I, Joseph Mountain, Head of the Gloucester Fire Department endorse this application with my

Approval Disapproval

Joseph Mountain F.I.
Signature of Head of the Fire Department

12/01/10
Date

Recommendations: _____



CITY CLERK
GLOUCESTER, MA

10 NOV 29 PM 3:31

Imagine What YuKan Do.

November 19, 2010

The Honorable Carolyn Kirk
Gloucester City Hall
9 Dale Ave.
Gloucester, MA 01930

RECEIVED

NOV 21 2010

Mayor's Office

Dear Mayor Kirk:

As a life-long resident of Massachusetts' north shore, I have a great appreciation for the charm of its communities and the unique character of its people. As a runner, I have traveled the quiet country roads, scenic coastlines and quaint downtown streets. I'm combining these two passions and am organizing an exciting new road race series on the north shore. I'm writing to ask if I may host a 1-mile road race in Gloucester on Saturday April 9, 2011 at 9:00am.

The running community is dedicated to fitness and an active, healthy lifestyle. Road racing attracts some of the most positive, outgoing, and energetic folks around. The road race will bring energy and excitement to Gloucester and help support the local economy.

I've prepared a well-organized race plan that will ensure a fun, festive, competitive and safe event for all participants. I've attached a course map for your review. The race will include:

- Police Detail
- Event Insurance
- Bathroom Facilities
- Professional Timing
- Course Marshals
- Ambulance & Medical Staff
- Water Station & Refreshments
- Clearly Marked Course
- Parking Attendant
- Clean-up Crew

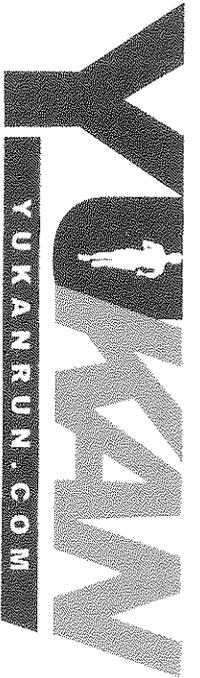
I'm eager to support the local community and give back to those that give so much. The race will include fundraising efforts and portions of the race proceeds will be donated to The Open Door.

I'm excited about the race and eager to work with you to bring this event to Gloucester. I'll contact you soon to determine the appropriate next steps.

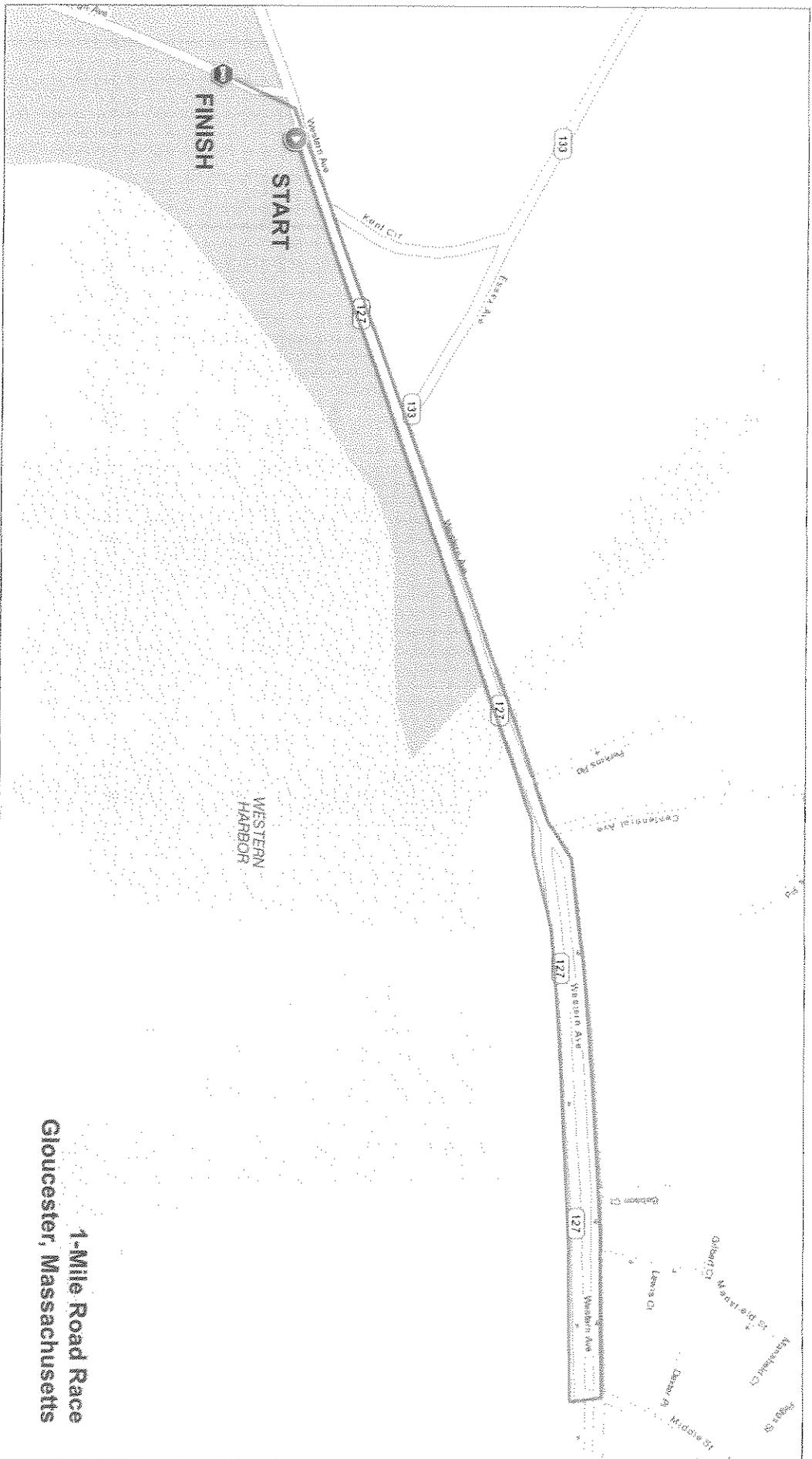
Sincerely,

Richard A. Morrell, Jr.
YuKan Sports, LLC

cc: Chief Michael Lane
Gloucester Police Department
197 Main St.
Gloucester, MA 01930



Imagine What Yukan Do.



**1-Mile Road Race
Gloucester, Massachusetts**

CC agenda = Communication
+ To DPW refer

CITY CLERK
GLOUCESTER, MA

9 to Sa Tall

10 NOV 30 PM 2:19

November 16, 2010

City Council
City Hall
9 Dale Avenue
Gloucester, MA 01930

RE: Traffic Safety Issues

Dear Councilors:

Last year a friend of mine was almost killed in a head-on crash on Washington Street. When I see the new road surfacing done on Washington Street and Leonard Street, I am reminded how important it is to have *double yellow lines down the center and white lines on the borders of the road*. There are whole stretches of Washington Street between Grant Circle and the Lanesville border with Rockport which have *no visible lines* painted on the street.

DPW

Before it is too cold, please paint lines on that whole stretch of road so that in the dark and rain of winter, residents can drive safely. There is also a benefit in having this *entire* windy road freshly painted at the same time, so that the lines can be maintained on a regular basis, rather than in a patchwork fashion.

DPW

Several years ago **Professor Mario Matta of M.I.T.** and Wingersheek Beach made an illuminating presentation before the council on urban public lighting. The council was convinced by him to request that National Grid replace all burned out street lights only with **flat lens lights**. This kind of lighting is much safer than the standard lenses which scatter light in all directions, creating night blindness for drivers, and in fact making it much more difficult to see at night, to say nothing about wasting energy.

During the past year a \$25 million state highway project has been completed to make the A. Piatt Andrews Bridge safe to drive over. **I think that this would be a great opportunity to write both Mass Highway and National Grid to request that they replace all the street lights with flat lens lights now on the last section of Route 128 from the bridge to Bass Avenue.** This will insure that the thousands of people who drive here can safely see, and would be a *small effort with a big return*, and an appropriate way to complete this major project, especially with winter approaching

Sen Tall

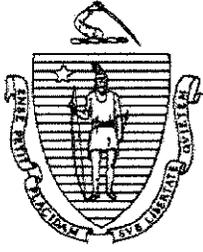
Thank you!

Yours truly,



Peter Perthou
P.O. Box 127
Rockport, MA 01966.

B Linwood Ave
→ Rockport



The Commonwealth of Massachusetts
Executive Office of Elder Affairs
One Ashburton Place, Boston, MA 02108

DEVAL L. PATRICK
Governor

TIMOTHY P. MURRAY
Lieutenant Governor

ANN L. HARTSTEIN
Secretary

SANDRA K. ALBRIGHT
Undersecretary

Tel: (617) 727-7750
Fax: (617) 727-9368
TTY/TTD 1-800-872-0166
www.mass.gov/elder

November 29, 2010

Senator Bruce Tarr
State House, Room 313-A
Boston, MA 02133

Representative Anne-Margaret Ferrante
State House, Room 26
Boston, MA 02133

Mayor Carolyn A. Kirk
City of Gloucester
City Hall
9 Dale Avenue
Gloucester, MA 01930

CITY CLERK
GLOUCESTER, MA
10 DEC - 1 AM 10:35

Dear Senator Tarr, Representative Ferrante and Mayor Kirk:

Thank you for your interest regarding the situation reported in the November 12 and 15, 2110 Gloucester Daily Times. I appreciated having the opportunity to share with you further information on this issue, and to reaffirm both my confidence in the investigation already conducted by SeniorCare and our support and cooperation with any future police investigations.

As you know, the Executive Office of Elder Affairs (EOEA) is the Commonwealth's primary agency responsible for the provision and oversight of many programs and services to assist elders across the Commonwealth. Our approach is two-pronged: the Executive Office is charged with the administration and coordination of a comprehensive system of long-term care benefits and services for Massachusetts seniors and we rely on our network of 27 regional Aging Services Access Points (ASAP) to locally deliver many of these services.

While this system of care is indeed comprehensive (more than 70,000 individuals per year benefit from the home care program), the founding principle of the system is simple: home and community-based services are best coordinated by professionals who are most familiar with the local institutions and service networks. As you know, SeniorCare is the designated ASAP for the greater Gloucester region.

One of the long term care programs funded by EOEAA is Supportive Housing. All of the 31 Supportive Housing sites across the state are partnerships among EOEAA, the Department of Housing and Community Development (DHCD), the local housing authority and the local ASAP agency. The goal of this partnership is the creation of a blend of housing and services resulting in an "assisted living-type" setting for residents in low-income, subsidized housing authority properties. It is a successful model which helps residents in achieving their goal of living in a community setting, even as their needs for assistance grow. The model offers essential community-based services to seniors who otherwise could not financially access such programs as well as ongoing services based on an individual's needs. Because the Supportive Housing Program is available, individuals are often able to live independently in their own apartments for longer periods of time, thereby delaying or avoiding placement in a nursing facility.

The Supportive Housing Program aligns with EOEAA's mission and its commitment to ensure that seniors make their own decisions about living in the setting of their choice, with the assistance they need to promote their independence and security. EOEAA is also committed to providing appropriate protection for individuals who need it. We believe that an individual has the right to make his/her own decisions unless they are deemed to be incompetent. In order to fulfill this mission, EOEAA mandates (and provides funding for) each Supportive Housing program to have a Resident Services Coordinator to work with residents to address their daily needs. Each Resident Services Coordinator is on site and available to provide additional support for residents who are not eligible for, or do not choose to take advantage of, more formal supports that are available. McPherson Place in Gloucester is a Supportive Housing site.

The formal supports and services available to residents in Supportive Housing Program sites are offered through the Home Care Program, which is also monitored by EOEAA. These are the same services that are available to people living in their own homes or to those residents in other community-housing settings. Regardless of the home setting, all home care program services are offered through a contractual arrangement with the designated regional ASAP. ASAPs, including SeniorCare, contract with eligible vendors who supply the scheduled, formal assistance for residents. These services are provided by the vendor agencies in accordance with a service plan that has been developed by the resident, his/her ASAP care manager and any family member whom the resident requests be involved.

Additionally, other services to help people live independently in Supportive Housing are provided by volunteers from various local organizations and agencies. Friendly visiting, companionship, medical insurance counseling and money management are all examples of programs that may be offered by fully trained volunteers to meet each individual's needs. For example, the Money Management Program offers individuals who, for one reason or another, cannot fully manage their finances and need some assistance in this arena. Someone who has vision impairment and may not be able to read his/her bills and/or write checks to pay those bills, may be referred to a volunteer money manager who would assist them with those tasks. The elderly individual determines when the bills will be paid and how much, but the money manager is available to assist where assistance is needed. Individuals who need assistance with some portion of a task managing money are not in any way deemed unable to oversee and manage the overall task.

If consumers or relatives are concerned about the level of care received through the Supportive Housing Program, EOEAs Community Ombudsman Program is available to help. This program, which has been in place since 1999, is often in contact with people who are concerned about their relatives and who are seeking assistance in navigating the home care system. If situations arise suggesting a problem the ASAP responsible for the program takes action according to processes established by EOEAs. While the Executive Office does not directly conduct the investigation, EOEAs program staff are often consulted and involved with decision making about how the ASAP proceeds to investigate and provide technical assistance during the investigation.

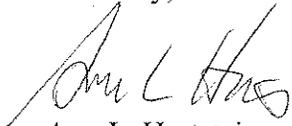
Each ASAP investigation results in a final report, which is reviewed by EOEAs. The Executive Office also monitors any corrective actions the ASAP takes in response and if the report indicates that the investigation appears incomplete or that appropriate actions were not taken, EOEAs works with the reporting agency to correct all identified deficiencies. During this review, EOEAs staff also evaluate if there are systemic problems that need to be remedied and to address any flaws in the process and procedures.

In the situation reported in the Gloucester Times, EOEAs program staff reviewed the internal investigation conducted by SeniorCare and found that the investigation report reflected proper procedures and resulted in appropriate action to address the identified issues and safeguard the elder's wellbeing.

Please know that I will review the report again and work with my staff to determine if there are any areas where managerial or operational improvements are necessary in order to continue to ensure high-level service to elders in the Gloucester area. Also, if further investigations by other entities (including the Gloucester Police Department) indicate that the investigative process was incomplete, we will use any additional information to review and examine the process and procedures to determine whether any systemic solutions are required.

Thank you again for your interest in assuring that all residents of Gloucester are able to live independently in a safe and secure environment. We join you in your efforts to ensure that this remains true now and in the future.

Sincerely,



Ann L. Hartstein

Cc: Michael Lane, Gloucester Chief of Police
Jackie Hardy, Gloucester City Council President



PUBLIC SAFETY BADGE CEREMONY

DECEMBER 2, 2010

Flag Salute and Welcome

Mayor Carolyn Kirk

Invocation

Reverend Deirdre Greenwood-White

Swearing In Ceremony

Mayor Carolyn Kirk

GLOUCESTER FIRE DEPARTMENT

GLOUCESTER POLICE DEPARTMENT

Reverend Deirdre Greenwood-White
Gloucester Fire Department Chaplain

Michael Gossom
Promotion from Patrolman to Sergeant

Nicholas Ouellette
New Hire, Firefighter/Paramedic

Michael Williams
Promotion from Patrolman to Sergeant

William Ruitter
New Hire, Firefighter/Paramedic

Christopher Liacos
Promotion from Reserve to Patrolman

Jamie Santos
New Hire, Firefighter/Paramedic

Timothy O'Leary
Promotion from Reserve to Patrolman

Peter Sutera
Promotion from Reserve to Patrolman

Recognition of John Cooney, Gloucester Fire Department

Acknowledgement of City of Gloucester
Emergency Management Director Miles Schlichte

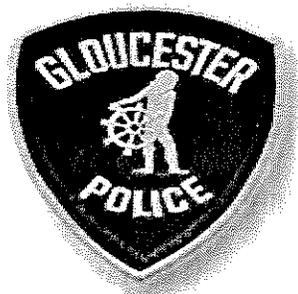
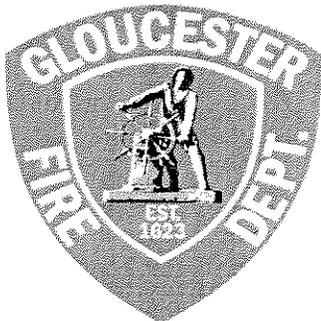
Mayor Carolyn Kirk

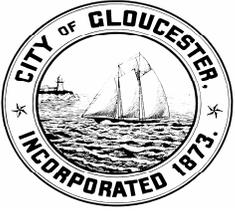
Benediction

Reverend Deirdre Greenwood-White

Refreshments

The City of Gloucester extends congratulations to all of our newly sworn in public safety professionals.





CITY OF GLOUCESTER 2010 CITY COUNCIL ORDER

ORDER:	#CC2010-083
Councillor	Ann Mulcahey

DATE RECEIVED BY COUNCIL:	12/07/10
REFERRED TO:	TC & O&A
FOR COUNCIL VOTE:	

ORDERED that the GCO Sec. 22-287 entitled “Disabled veteran, handicapped parking” be amended by adding:

Summit Street, one handicapped parking space in the vicinity of #4B

And further

Ordered that this matter be referred to the Traffic Commission and the Ordinances and Administration Committee for review, recommendation and measurements.

Councillor Ann Mulcahey



CITY OF GLOUCESTER 2010 CITY COUNCIL ORDER

ORDER:	#CC2010-084
Councillor	Ann Mulcahey/Steve Curcuru

DATE RECEIVED BY COUNCIL:	12/07/10
REFERRED TO:	TC & O&A
FOR COUNCIL VOTE:	

ORDERED that the Ordinances and Administration Committee with the assistance of the Traffic Commission review the traffic flow and direction of traffic on the side streets impacting Washington Street in a northerly direction for the following side streets to alleviate congestion on Washington Street.

Gloucester Avenue, Easterly; Riverside Avenue, Easterly; Madison Avenue, Westerly; Knowlton Square, Easterly; Whittemore Street, Easterly; Grove Street, Westerly; Centennial Avenue, Easterly; Commonwealth Avenue, Easterly; Derby Street, Westerly; Railroad Avenue, Westerly; Pearl Sreet, Westerly; Addison Street, Westerly; Exchange Street, Easterly; Beacon Street, Easterly; Foster Street, Easterly, Pine Street, Westerly; Granite Street, Easterly; Orchard Street, Easterly; Washington Square, Easterly; Mansfield Street, Easterly; Middle Street, Westerly and all other affected side streets

Councillor Ann Mulcahey/Steve Curcuru



GLOUCESTER CITY COUNCIL 2010 PUBLIC HEARING

PUBLIC HEARING NUMBER: PH2010-061
SUBJECT: Amend Gloucester Zoning Map and Zoning Ordinance
re: 33 & 47 Commercial Street (Birdseye Mixed Use Overlay District)

DATE OPENED: 12/07/10
CONTINUED TO: TBC
CONTINUED FROM: 8/17/10, 10/26/10, 11/09/10
COMMITTEE MEETING: PB & P&D

33 & 47 COMMERCIAL ST.,
GLOUCESTER

LEGAL NOTICE NOTICE OF PUBLIC HEARING

Pursuant to MGL Ch. 40A, Section 5, and Section 1.11 of the Gloucester Zoning Ordinance, the Gloucester City Council will hold a public hearing on Tuesday, August 3, 2010 at 7:00 p.m. in the Fred J. Kyrouz Auditorium, City Hall, Dale Avenue, to consider the following petition to amend the Zoning Map and Zoning Ordinance as follows:

Amend the Gloucester Zoning Map by creating an overlay district zone consisting of 3 +/- acres in the Marine Industrial district located at 33 & 47 Commercial Street, Assessor's Map 1 Lots 33 & 22, respectively, and to amend the Zoning Ordinance by adopting a corresponding new Section 25 entitled "Birdseye Mixed Use Overlay District (BMOD) governing the permitting of new uses by master plan and special permit in the overlay district.

The complete application is available for review during regular business hours at the City Clerk's Office, City Hall, 9 Dale Avenue and at the Community Development Office, 3 Pond Road. At the public hearing, all interested persons will have the opportunity to be heard.

By Vote of the City Council
Linda M. Lowe, City Clerk

AD#12294027
Cape Ann Beacon 7/16, 7/23/10

TO BE CONTINUED



GLOUCESTER CITY COUNCIL 2010 PUBLIC HEARING

PUBLIC HEARING NUMBER: PH2010-118
SUBJECT: SCP2010-016: New Way Lane #50, GZO Sec. 5.13 Personal Wireless Service Facilities (PWSF)
DATE OPENED: 12/07/10
CONTINUED TO: 01/25/11
CONTINUED FROM:
COMMITTEE MEETING P & D

50 NEW WAY LANE
**LEGAL NOTICE
NOTICE OF PUBLIC HEARING**

In accordance with MGL Chapter 40A, section 11 and GZO section 1.5.10(b), the Gloucester City Council will hold a public hearing on Tuesday, **December 7, 2010 at 7:00 PM** in the Kyrouz Auditorium, City Hall relative to the following Special Council Permit under GZO section 5.13 Personal Wireless Service Facilities(PWSF) as follows:

SCP2010-016: LOCATION: 50 New Way Lane, Map 22, Lot 46
APPLICANT: T-Mobile Northeast, LLC
OWNER: Pasquale Barletta
Presently Zoned: R-30

Plans of the above are on file in the City Clerk's Office and may be seen any business day prior to the Public Hearing. At the Public hearing, all interested persons will have the opportunity to be heard.

By Vote of the City Council
Linda T. Lowe, City Clerk

AD#12394229
Cape Ann Beacon 11/19, 11/26/10

TO BE CONTINUED UNTIL JANUARY 25, 2011



GLOUCESTER CITY COUNCIL 2010 PUBLIC HEARING

PUBLIC HEARING NUMBER: PH2010-119
SUBJECT: Modification of Special City Council Permit #2010-004 granted
July 22, 2010 re: 9-11 Rogers Street
DATE OPENED: 12/07/10
CONTINUED TO:
CONTINUED FROM:
COMMITTEE MEETING P & D 11/03/10, 11/17/10

LEGAL NOTICE

NOTICE OF A PUBLIC HEARING

In accordance with the provisions of MGL Chapter 40A, section 11, the Gloucester City Council will hold a public hearing on **Tuesday, December 7, 2010 at 7:00 PM** in the Kyrouz Auditorium, City Hall relative to the following Application for Modification to Special Council Permit:

APPLICANT and OWNER: Cape Ann Brewing Co. /Applicant and Doyon Realty Trust /Owner

LOCATION: 9-11 Rogers St., Map #7, Lot 15

TYPE OF PERMIT: Modification to Special City Council Permit under GZO Sec. 2.3.4(8) to install a 23ft high 9 ft circumference silo along the Rogers St side of the permitted building in accordance with submitted plans.

PRESENTLY ZONED: M1

Plans of the requested modification are on file in the City Clerk's Office and may be seen any business day prior to the Public Hearing. At the Public hearing all interested persons will have the opportunity to be heard.

By Vote of the
City Council
Linda T. Lowe,
City Clerk

GT - 11/23, 11/29/10

CITY CLERK
GLOUCESTER, MA

10 JUL 22 PM 12:57

In Re:

Application of Cape Ann Brewing Company)
for a Special Council Permit pursuant) DECISION OF THE
to Sections 2.3.4 (8) and (9)) CITY COUNCIL OF THE
of the City of Gloucester Zoning Ordinance) CITY OF GLOUCESTER

The City Council of the City of Gloucester, Massachusetts, constituting the Special Permit granting authority under the laws of the Commonwealth of Massachusetts and the Zoning Ordinance of the City of Gloucester, hereby adopts the following findings and conclusions with regard to the application of Cape Ann Brewing Company for a Special Permit pursuant to Section 2.3.4 (8) and (9) of the City of Gloucester Zoning Ordinance to operate a restaurant at 9-11 Rogers Street, Gloucester, Massachusetts. The property is shown on Assessor's Map 7, Lot 15, and is located in the MI Zoning District.

Doyon Gloucester Realty Trust owns the property located at 9-11 Rogers Street, Gloucester, which is shown on Assessors' Map 7, Lot 15. The zoning district is MI, Marine Industrial. The applicant, Cape Ann Brewing Company, seeks a Special Council Permit pursuant to Sections 2.3.4 (8) and (9) of the Zoning Ordinance to operate a restaurant within the Marine Industrial district at 9-11 Rogers Street, Gloucester, MA

On May 11, 2010, the application was filed with the City Clerk. It is incorporated herein by reference.

The application was referred to the City Council Planning & Development Committee. After proper advertising and notice, on June 2, 2010, the Committee held a meeting.

Jeremy Goldberg spoke on behalf of the applicant explaining that the requested permit is to move the Cape Ann Brewing Company from 27 Commercial Street to 9-11 Rogers Street. Approval has been received from the Conservation Commission and the Planning Board. The applicant is currently waiting for the Department of Environmental Protection (DEP) to issue its decision regarding the Chapter 91 license. The applicant will apply for a liquor license.

He explained that one half of the building will be used for the brewery and the other half will be for the pub. The restaurant is 2368 square feet with 1220 square feet of outside patio. The pub will have a kitchen and the menu will be increased from the cheese and crackers and lobster rolls it currently serves.

There will be parking for employees. The lobster trap storage areas will remain available, although a small charge may be imposed to pay for the upkeep of the exterior where the traps are now stored.

Councilor Ciolino reported that the six requirements of the Special Permit have been met.

On Motion of Councilor Ciolino, seconded by Councilor Verga, the Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant the Special Council Permit 2010-004: 9-11 Rogers Street, Map 7, Lot 15, zoning classification MI pursuant to Gloucester Zoning Ordinances Section 2.3.4 (8) and (9) for a restaurant with outdoor seating or with takeout constituting more than 20% of total business or both, and Section 5.18, Marine Industrial District, applicant name of Jeremy Goldberg and Michael Goldberg d/b/a Cape Ann Brewing Company and the owner of the property, Doyon Gloucester Realty Trust. Applicants have a lease on the property with owner/purchase and sale agreement on the property with the owner.

Approval is based on the Plan endorsed by the Planning & Development Committee and prepared by Gateway Consultants for Gary Doyon dated 02/17/2010 received on 04/27/2010. Approval is based on the following conditions:

1. The restaurant will occupy 2,368 square feet in the center and water-facing portion of the 9-11 Rogers Street building;
2. Outdoor seating is permitted on the deck all as shown on the Plan consisting of 1,220 SF;
3. No all-alcohol license has been or will be requested by applicants or owners;
4. Landscaping shall be as shown on the Plan;
5. Pursuant to the Zoning Ordinance take out food shall not constitute more than 20% of the total business of the restaurant;
6. Parking shall be provided by Municipal parking at St. Peter's Park, and the Municipal parking lot adjacent to the Gloucester House.
7. Applicant/owners shall comply with all applicable state and local statutes and regulations governing the property. Further, that the Planning & Development Committee finds that the applicant/owner Special Council Permit application meets all six requirements of the Gloucester Zoning Ordinance, Section 1.8.3(3).

On July 6, 2010, after proper advertising and notice, the City Council held a public hearing.

Attorney Catherine Henry spoke for the applicant, Jeremy Goldberg, owner of the Cape Ann Brewing Company. She stated that the brewery will be on the front portion of the building, the Rogers Street side, and will be separated from the restaurant by a glass wall. There will be outdoor seating which will be constructed. Their Chapter 91 license was approved. They will be applying for a liquor license. The restaurant has a 180 person occupancy limit when full. The special permit criteria has been addressed and met. The dumpsters will be screened. The business will provide public restrooms as required by the DEP license.

Patricia Johnstone, 14 Pleasant Street, spoke in favor of the application.

No one spoke in opposition to the application.

The public hearing closed.

Councilor Ciolino, chair of the Planning and Development Committee reported that the committee voted unanimously to recommend that the Council grant the special permit.

The Council found that the application met the six special permit criteria as follows: Social, economic and community needs will be served; traffic flow and safety; adequacy of utilities and other public services; neighborhood character and social structure; qualities of the natural environment; and potential fiscal impact.

Whereupon, having considered the entire record herein, including all minutes of the Planning and Development Standing Committee and all testimony and documents received at the Council hearing, the Council considered and determined that the criteria for granting a special council permit had been met. Accordingly, the Council voted as follows:

Approval is based on the Plan endorsed by the Planning & Development Committee and prepared by Gateway Consultants for Gary Doyon dated 02/17/2010 received on 04/27/2010. Approval is based on the following conditions:

1. The restaurant will occupy 2,368 square feet in the center and water-facing portion of the 9-11 Rogers Street building;
2. Outdoor seating is permitted on the deck all as shown on the Plan consisting of 1,220 SF;
3. No all-alcohol license has been or will be requested by applicants or owners;
4. Landscaping shall be as shown on the Plan;
5. Pursuant to the Zoning Ordinance take out food shall not constitute more than 20% of the total business of the restaurant;
6. Parking shall be provided by Municipal parking at St. Peter's Park, and the Municipal parking lot adjacent to the Gloucester House.
7. Applicant/owners shall comply with all applicable state and local statutes and regulations governing the property. Further, that the Planning & Development Committee finds that the applicant/owner Special Council Permit application meets all six requirements of the Gloucester Zoning Ordinance, Section 1.8.3(3).
8. Dumpster or trash container area to be permanently screened and maintained.

On motion by Councilor Ciolino, seconded by Councilor Verga, the City Council voted by roll call 8 (Ciolino, Curcuru, Hardy, McGeary, Mulcahey, Tobey, Verga, Whynott), in favor, 0 opposed to grant the Special Council Permit 2010-004: 9-11 Rogers Street, Map 7, Lot 15, zoning classification MI, pursuant to Gloucester Zoning Ordinances Section 1.8.3 and Section 2.3.4(8) and (9) for a restaurant with outdoor seating or with takeout constituting more than 20% of total business or both, and Section 5.18, Marine Industrial District, applicant name of Jeremy Goldberg and Michael Goldberg d/b/a Cape Ann Brewing Company and the owner of the property, Doyon Gloucester Realty Trust. Applicants have a lease on the property with owner.

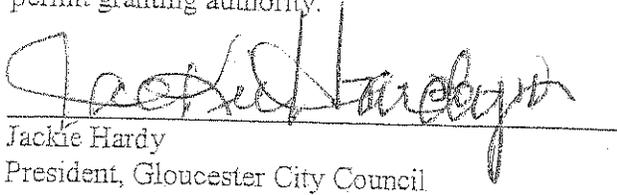
In addition to the above-referenced special conditions, the following general conditions shall also apply:

1. In granting this special permit, the City Council has relied upon the oral and written representations of the applicants, the documents submitted in support of their application and in their testimony at committee meetings and the public hearing. Any failure to honor any material representation shall constitute just cause for revocation of this special permit.
2. The minutes of the Planning and Development Committee meeting of June 2, 2010 and the July 6, 2010 City Council public hearing and all documents and testimony received during the hearing are incorporated into this Decision. All construction and use of the property must comply with the plans submitted with this permit application. Any changes which are not contemplated by this Permit will require either a new special permit or an amendment hereto.
3. Each finding, term and condition of this decision is intended to be severable. Any invalidity in any finding, term or condition of this decision shall not be held to invalidate any other finding, term or condition of this decision.
4. This permit shall not take effect until a certified copy of this decision is recorded with the Registry of Deeds for Essex County. The fee for such recording shall be paid by the owner.

Accordingly, by said City Council Vote of July 6, 2010, the Special Council permit pursuant to Section 2.3.1(7) is granted.

Decision adopted at the City Council meeting of July 20, 2010.

Pursuant to Rule 25 of the City Council Rules of Procedure, the President of the City Council and the City Clerk have signed this decision demonstrating that it is a true and accurate reflection of the July 6, 2010 vote of the City Council sitting as the special permit granting authority.



Jackie Hardy
President, Gloucester City Council



Linda T. Lowe
City Clerk

Dated: July 20, 2010.

RIGHT OF APPEAL

This decision may be appealed pursuant to General Laws, Chapter 40A, Section 17, to the Superior Court of Essex County or the District Court of Eastern Essex by bringing an action within twenty days after this decision has been filed in the Office of the City Clerk.

CERTIFICATE OF NOTICE

I hereby certify that notice of this decision was mailed forthwith to the applicant, to the parties in interest designated in G.L. Ch. 40A, Section 11, and to every person present at the hearing who requested that notice be sent to him and stated the address to which notice should be sent on this date.



Linda T. Lowe, City Clerk

CERTIFICATE OF LAPSE OF APPEAL

I hereby certify that twenty (20) days have elapsed from the date of the filing of this decision with the Office of the City Clerk and that no appeal has been filed with said office.

Date:

8/26/2010



Linda T. Lowe, City Clerk

APPEAL FILED

Date of Filing:

Linda T. Lowe, City Clerk

APPEAL DISMISSED

I hereby certify that an appeal of this decision was filed in Essex Superior Court, Civil Action # _____ . The Appeal was dismissed with prejudice by agreement of the parties on _____ .

Linda T. Lowe, City Clerk

poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Company may deem necessary, in the public way or ways hereinafter referred to as requested in petition of said Company dated the 12th day of August, 2010. All construction under this order shall be in accordance with the following conditions: Poles shall be of sound timber and reasonably straight, and shall be set substantially at the points indicated upon the plan marked National Grid No. 8800963 dated 08/09/10 filed with this order. There may be attached to said poles not to exceed 15 wires and 2 cables and all of said wires and cables shall be placed at a height of not less than 20 feet from the ground. The following are public ways or parts of way along which the poles above referred to may be erected, and the number of poles which may be erected thereupon under this order at Tufts Lane – Installation of one (1) J.O. Guy Stub Pole #3-84, Anchor and Guy.

2. *Modification to Special Council Permit granted to Nino Ciaramitaro on December 14, 2004
Re: 85-89 Bass Avenue (To be continued to November 17, 2010)*

This matter is continued to November 17, 2010.

3. *Modification to Special Council Permit granted to Cape Ann Brewing Company on July 20, 2010
Re: 9-11 Rogers Street (To be continued to November 17, 2010)*

This matter is continued to November 17, 2010.

4. *Downtown Gloucester Holiday Parade re: Request to use City Streets, Sunday, November 28, 2010 (by direction of the City Council President)*

Councilor Ciolino recused himself from the discussion and vote as he was the organizer of this annual Gloucester event.

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed to permit the Downtown Gloucester Holiday Parade to proceed on City streets on Sunday, November 28, 2010 with a weather date of Sunday December 5, 2010. The parade will assemble at the Jodrey State Fish Pier on Parker Street with a starting time of 3:00 p.m. The route is: Jodrey State Fish Pier to Parker Street; left onto Main Street to Western Avenue and end at the Tree Lighting Ceremony at Kent Circle. The following conditions apply:

1. Certificate of Insurance, issued through the Carroll K. Steele Insurance Agency will be on file seven (7) days in advance of the parade on file with the City Clerk's office;
2. Gloucester Police Department to sign off on the proposed route seven (7) days in advance of the parade on file with the City Clerk's office;
3. Santa Clause or his designee to sign a waiver indemnifying the City of Gloucester regarding any liability as prepared by Fire Chief Phil Dench of the Gloucester Fire Department for permission to ride atop the Gloucester Fire Department's ladder truck and to be on file seven (7) days in advance of the parade with the City Clerk's office.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:36 p.m.

Respectfully submitted,
Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.

modification to the Special Council Permit for 85-89 Bass Avenue; applicant has agreed to pay for the publishing of the two advertisements for public hearing.

- C) Modification to Special Council Permit granted to Cape Ann Brewing Company on July 20, 2010
Re: 9-11 Rogers Street (Cont'd from 11/03/2010)

Jeremy Goldberg, owner of the Cape Ann Brewery discussed with the Committee his proposal to modify the recently granted Special Council permit to add an installation of a stainless steel grain silo, 23 ft. high, with a 9 foot circumference along the Rogers Street side of the building to house their grain at 9-11 Rogers Street. He noted this was originally planned as a future addition; but that an opportunity to purchase a silo came sooner than expected. He believed it would be aesthetically pleasing addition to the site as well as provide them with a great deal of financial relief to their brewing operations as it would decrease the number of grain deliveries required by the brewery. He offered that the silo would be well maintained and that an artist's rendering of the Cape Ann Brewery logo would be the only signage on the silo itself which features the Man at the Wheel landmark. Therefore, he asked that the Committee approve the silo as an appropriate modification to the Special Council permit issued to his company in July of 2010.

Councilor Ciolino was concerned that they are on the "front door of Gloucester"; and that the Committee wants to be sure the property will be kept looking good.

Mr. Goldberg stated it is their job to keep the property looking good. It is a stainless steel tank. They have pressure washers; and their employees work hard to keep their brewery spotless.

Councilor Whynott asked about the color of the silo.

Mr. Goldberg stated it is stainless steel.

Councilor Whynott expressed concern about reflectivity.

Councilor Ciolino stated he would vote for it. However, he expressed that if a year from now it is not well kept and is not aesthetically pleasing, the Council amendment could be taken away. The Brewery has a responsibility to keep it looking well. They are giving "a lot of slack" in order for them to have this silo.

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to the modification of the Cape Ann Viewing Company Special Council Permit SCP2010-004 for 9-11 Rogers Street, Gloucester, MA to operate a restaurant in a Marine Industrial Zone, to permit the applicant to install a 23 foot high 9 foot in circumference grain silo along the Rogers Street side of the building in accordance with the plans dated August 17, 2010 and submitted with the application.

MOTION: On motion by Councilor Whynott, seconded by Councilor , the Planning & Development Committee voted 3 in favor, 0 opposed to ADVERTISE FOR PUBLIC HEARING the modification to the Special Council Permit granted to Cape Ann Brewing Company on July 20, 2010 Re: 9-11 Rogers Street; applicant has agreed to pay for the publishing of the two advertisements for public hearing.

2. *SCP2010-016: New Way Lane #50, GZO Sec. 5.13 PWSF (To be continued to 12/01/10)*

Councilor Ciolino announced this matter would be continued to December 1, 2010.

3. *Request from Pursuit Racing, LLC for use of City Land for half-marathon May 15, 2011*

David Murray, a representative of Pursuit Racing, LLC asked the Committee to permit their race on May 15, 2011, a half marathon that will begin and end at the Good Harbor Beach Parking Lot and proceed



GLOUCESTER CITY COUNCIL 2010 PUBLIC HEARING

PUBLIC HEARING NUMBER: PH2010-120
SUBJECT: Modification of Special City Council Permit granted
December 14, 2004 re: Nino Ciaramitaro - 85-89 Bass Avenue
DATE OPENED: 12/07/10
CONTINUED TO:
CONTINUED FROM:
COMMITTEE MEETING P & D (See attached)

LEGAL NOTICE

In accordance with the provisions of MGL Chapter 40A, section 11, the **Gloucester City Council** will hold a public hearing on **Tuesday, December 7, 2010 at 7:00 PM** in the Kyrouz Auditorium, City Hall relative to the following Special Council Permit Modification Application:

APPLICANT and
OWNER: Star of the Sea
Plaza - Nino Ciaramitaro
LOCATION: 85-89
Bass Avenue, Map #66,
Lot 12

TYPE OF PERMIT:
Modification to a 2004
Sec. 5.2 Special City
Council Permit (land-
scaping, signage, park-
ing spaces)

PRESENTLY ZONED:
Extensive Business and
Med/High Residential

Plans of the above referenced modifications are on file in the City Clerk's Office and may be seen any business day prior to the Public Hearing. At the Public hearing all interested persons will have the opportunity to be heard.
GT — 11/23, 11/29/10

Back-up and supporting documentation re: 85-89 Bass Avenue

1. Decision of the City Council granted December 14, 2004
2. Petition of Residents Located in the Vicinity of Bass Avenue, Atlantic Road and Thatcher Road Requesting Remedy of Alleged Zoning Infractions
3. Communication from Building Inspector to Bass Avenue Petitioners
4. P&D Minutes – October 28, 2009
5. P&D Minutes – December 9, 2009
6. P&D Minutes – June 16, 2010
7. P&D Minutes – June 30, 2010
8. P&D Minutes – July 28, 2010
9. P&D Minutes – October 20, 2010
10. P&D Minutes – November 3, 2010
11. P&D Minutes – November 17, 2010

In Re:

05 JAN 20 AM 9:39

Application of Nino Ciaramitaro)
85 Bass Avenue)
for a Special Council Permit Pursuant)
to the City of Gloucester Zoning)
Ordinance, Sections 1.4.2.2 and)
5.2 (Earth Removal))

**DECISION OF THE CITY COUNCIL
OF THE CITY OF GLOUCESTER**

The City Council of the City of Gloucester, Massachusetts, constituting the Special Permit granting authority under the laws of the Commonwealth of Massachusetts and the Zoning Ordinance of the City of Gloucester, hereby adopts the following findings and conclusions with regard to the application of Nino Ciaramitaro for an Earth Removal Special Permit pursuant to Sections 5.2, and 1.4.2.2 of the Gloucester Zoning Ordinance

1. The applicant is Nino Ciaramitaro. The property is located at 85 Bass Avenue, Gloucester, and is shown on Assessor's Map 66, Lot 12. The Zoning District is EB/R-3.
 2. The applicant seeks a Special Permit pursuant to Section 1.4.2.2 (special permit) and Section 5.2 (earth removal) to remove approximately 2960 cu. yards of materials in order to construct a retaining wall on the site.
 3. The application for the Special Permit was filed with the City Clerk on October 26, 2004.
 4. The City Council referred the application to its Planning and Development Standing Committee. The Committee hearing was properly advertised for a hearing on November 17, 2004. The Planning and Development Standing Committee opened the hearing on November 17, 2004, took testimony, and concluded its hearing on November 17, 2004. At the hearing, Robert Coakley, attorney for Nino Ciaramitaro, presented the application and plans to the Committee. He explained that the applicant had retained a blasting contractor who, he believed, had applied for and received all the necessary permits to perform blasting at the site. Approximately ninety percent (90%) of the blasting has been completed and it has now come to the applicant's attention that an earth removal permit is required. The applicant intends to complete the blasting necessary and construct a retaining wall on the property. Attorney Coakley stated the applicant had received the necessary relief from the Zoning Board of Appeals to construct the retaining wall. Mr. Coakley further noted that future plans for the site are as yet undetermined, but that at the very least this work will provide a larger off-street parking area. Any future proposed development will necessitate further municipal approvals.
-
5. Through the Planning and Development hearing, the applicant's representative addressed the concerns raised by City Councilors and various municipal department heads who reviewed the plans. Specifically in response to a request from the Planning Department and the Engineering Department, the applicant submitted a drainage plan for review by the City's Engineering staff. The applicant submitted a letter, dated November 16, 2004

to the Planning and Development Committee from Michael Hale, AICP, approving the drainage plan submitted by the applicant's engineer, Stanton Bigelow, P.E.

6. On the basis of the testimony at the hearing of the Planning and Development Committee on November 17, 2004, the Committee voted three (3) in favor, none (0) opposed to recommend to the full City Council to approve the Special Permit for Earth Removal and Fill pursuant to Section 5.2 of the Gloucester Zoning Ordinance with the following recommended findings and conditions:
 - A. The removal of approximately 2960 cu. yards of materials is consistent with the requirements set forth in Section 5.2 of the Gloucester Zoning Ordinance;
 - B. The earth removal, proposed retaining wall, and expansion of the usable portion of the lot is consistent with the surrounding uses in the neighborhood; the proposed parking scheme will ease parking on Bass Avenue and enhance traffic flow and safety; existing utilities and other public services will not be affected; the applicant's plan is consistent with the surrounding neighborhood character and social structure; the nature environment will be enhanced by the stabilization of the slope on the property; and there will be no financial strain on City services as a result of this project, subject to the following conditions:
 - i. A security fence shall be installed along the top of the slope;
 - ii. A landscaping plan shall be submitted showing how the area and, most particularly, the wall will be landscaped;
 - iii. The applicant shall be responsible for the maintenance of the wall in a clean and orderly condition, including keeping the gabion portions of the wall free of trash and debris.
7. After proper notice and advertisement, a public hearing was opened by the City Council on December 14, 2004 the application and plans were presented.
8. Attorney Robert Coakley, representing the applicant, noted the property in question is split between two zoning districts, EB and R-3. The applicant has completed several improvement projects to the property and now wishes to do further work which involved some blasting on the site. Mr. Coakley noted that the applicant secured the services of a reputable blasting company who assured the applicant that all permits were in place. Now it appears, after 93% of the blasting work has been completed, that an Earth Removal Permit is required. As soon as the applicant realized the need for this additional permit, he ceased operations and filed the necessary applications. The applicant has removed 2960 cu. yds of material, and approximately 200 cu. yds remain to be removed.
9. Mr. Coakley stated that the applicant had received approval from the Zoning Board of Appeals for a retaining wall to stabilize the blasted areas. He further noted that the applicant had worked closely with his neighbors to address safety and access issues and, indeed, had negotiated reciprocal easements with one neighbor to maximize access to

both properties. If, in the future, no further relief is granted to the property, there will still be a larger and more efficient parking area which will benefit the neighborhood.

10. Mr. Coakley outlined the proposed wall construction which will be a combination of a concrete wall and a gabion wall. A gabion wall is a wall constructed of wire mesh baskets which contain rocks. There will be a fence along the top of the wall for safety. The wall will be landscaped, and, in response to concerns from the Planning and Development Committee, the wall will be kept free of trash and debris.
11. In response to a question by Councilor Harrison, Mr. Coakley noted the removal is to be completed within the next month or two. The sequence of permitting is: Zoning Board of Appeals for the wall (granted); the Earth Removal permit from the Council (under consideration); then some relief related to the split zoning district. In general, at the moment, the applicant proposes one or two small retail spaces with five dwelling units above.
12. Councilor Foote asked about the fencing and Attorney Coakley pointed out the fence location on the plan.
13. In response to concerns raised from Councilor St. Peter, Mr. Coakley acknowledged that the blasting had been substantially completed prior to requesting the permit, but the applicant was under the impression that all approvals were in place at the time the blasting commenced.
14. Councilor Ciolino noted he had specifically polled the neighborhood regarding any questions or concerns over the application and none were received. The requests made by the Planning and Development Committee regarding landscaping and maintenance have been addressed. The neighbors would like the blasting work completed prior to the summer vacation months. They have also requested that the dumpster be moved closer to the existing building in a less conspicuous location than currently exists.
15. Councilor Khambaty asked for a clarification of the reciprocal easements.
16. No members of the audience spoke in favor or in opposition to the proposal.
17. The public hearing was then closed.

Whereupon, having considered the entire record herein, including all minutes of the Planning and Development Standing Committee and all testimony and documents received at the Council hearing, the Council found that the requirements for a Special Permit were met. Upon motion of Councilor Worthley, seconded by Councilor Ciolino, the Council voted by a roll call of 7 in favor, 2 opposed (Khambaty, St. Peter), to grant the Earth Removal and Fill Special Council Permit pursuant to Section 5.2 of the Gloucester Zoning Ordinance to permit the removal of approximately 2960 cubic yards to Nino Ciaramitaro, 85 Bass Avenue subject to the following conditions:

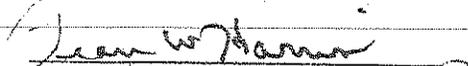
- i. A security fence shall be installed along the top of the slope as shown on the plan entitled, "Site Perspective Showing Proposed Landscaping, Proposed Commercial Site Rehabilitation, 85-89 Bass Avenue," dated December 14, 2004, prepared by Stanton W. Bigelow, P.E.
 - ii. Landscaping, including ivy to screen the gabion portions of the wall, shall be in conformance with site perspective plan referenced above.
 - iii. The applicant shall be responsible for the maintenance of the wall in a clean and orderly condition, including keeping the gabion portions of the wall free of trash and debris.
 - iv. The dumpster be moved closer to the buildings on the property.
 - v. The removal of earth and fill shall be completed before the beginning of the summer.
18. In granting this Special Permit, the City Council has relied upon the oral and written representations made by the applicant in documents submitted in support of its application and in his appearances at committee meetings and the public hearing on the application and the final plan for the project. Any failure by the applicant to honor any material representation made to the City Council shall constitute just cause for revocation of this Special Permit in accordance with Section 1.4.2.2(f) of the Zoning Ordinance.
19. Each finding, term and condition of this decision is intended to be severable. Any invalidity in any finding, term or condition of this decision shall not be held to invalidate any other finding, term or condition of this decision.
20. This permit shall not take effect until notice is filed with the Registry of Deeds for Essex County by the recording of a copy of the decision. The fee for such notice shall be paid by the owner. Prior to the recording of the decision with the Registry of Deeds, the petitioner shall have the seal of the City affixed to same.

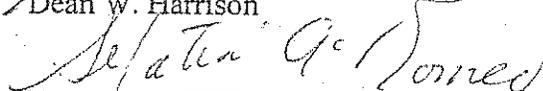
The minutes of the December 14, 2004 City Council public hearing and all documents and testimony received during the hearing are incorporated in this decision.

Decision adopted in City Council meeting of January 18, 2005.

In favor of Grant:


John "Gus" Foote


Dean W. Harrison


Sefatiz A. Romeo

Alphonse J. Swekla

Alphonse J. Swekla

Jeffrey T. Worthley

Jeffrey T. Worthley

Joseph A. Ciolino

Joseph A. Ciolino

Vito J. Calomo

Vito J. Calomo

Opposed to Grant:

Abdullah A. Khambaty

Abdullah A. Khambaty

D. Edward St. Peter, Jr.

D. Edward St. Peter, Jr.

RIGHT OF APPEAL

This decision may be appealed pursuant to General Laws, Chapter 40A, Section 17, to the Superior Court of Essex County or the District Court of Eastern Essex by bringing an action within twenty days after this decision has been filed in the Office of the City Clerk.

CERTIFICATE OF NOTICE

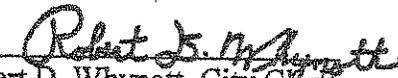
I hereby certify that notice of this decision was mailed forthwith to the applicant, to the parties in interest designated in G.L. Ch. 40A, Section 11, and to every person present at the hearing who requested that notice be sent to him and stated the address to which notice should be sent, on this date,


Robert D. Whynott, City Clerk

CERTIFICATE OF LAPSE OF APPEAL

I hereby certify that twenty (20) days have elapsed from the date of the filing of this decision with the Office of the City Clerk and that no appeal has been filed with said office.

Date: 2/10/04


Robert D. Whynott, City Clerk

APPEAL FILED

Date of Filing:

Robert D. Whynott, City Clerk

3-10-07 11:04

PETITION OF RESIDENTS LOCATED IN THE VICINITY OF BASS AVENUE, ATLANTIC ROAD, AND THATCHER ROAD, REQUESTING REMEDY OF ALLEGED ZONING INFRACTIONS

We, the undersigned, residents located in the vicinity of Bass Avenue, Atlantic Road, and Thatcher Road, in Gloucester, Essex County, Massachusetts, do herewith petition the members of the City Council of the City of Gloucester, through its President, Bruce Tobey, concerning our desire to remedy the following zoning infractions which have been ongoing at the Real Estate owned by Mr. Nino Ciaramitaro (a.k.a. Star of the Sea Realty Trust, Nino Trust, and Ciaramitaro Trust), at 85-89 Bass Avenue in said Gloucester.

WHEREAS, the aforesaid property owner is utilizing City owned land for his and his Lessees' customer parking at 85-89 Bass Avenue; and

WHEREAS, presently it appears that other non-tenant commercial vehicles are being parked on said property, thereby contributing to an overall disregard for the authorized use of said parking area; and

WHEREAS, in a letter dated March 29, 2007, from C. George Elanjian, Architect, of 107 Bass Avenue in said Gloucester to the Board of Appeals, a copy of which is attached hereto and marked "A," addressed several of the features which this Petition requests. Additionally, other documents, hereinafter identified, are included to substantiate the assertions herein made:

- Plan of land drawn for Mr. Ciaramitaro dated 2/14/06, with annotations by the aforesaid C. George Elanjian, Architect, hereinafter marked "B1 and B2."

3-10-07 3:00

- Plan of land drawn for Mr. Ciaramitaro dated 2/06/07, with annotations by the aforesaid C. George Elanjian, Architect, herein marked "C1 and C2;" said plan shows Mr. Ciaramitaro's potential site improvements, although at variance with your Petitioners herein.
- A sheet of four photos of Mr. Ciaramitaro's property at 85-89 Bass Avenue, looking West, and marked "D1."
- A sheet of three photos of Mr. Ciaramitaro's property at 85-89 Bass Avenue, looking West, and marked "D2."
- A sheet of four photos of Mr. Ciaramitaro's property at 85-89 Bass Avenue, looking East, and marked "E1."
- A sheet of four photos of Mr. Ciaramitaro's property at 85-89 Bass Avenue, looking East, and marked "E2."
- Minutes of meeting of Planning and Development Committee, Gloucester City Council, dated 2/15/06, and marked "F."
- Minutes of meeting of Planning and Development Committee, Gloucester City Council, dated 3/15/06, and marked "G."
- Minutes of meeting of Planning and Development Committee, Gloucester City Council, dated 8/01/07, and marked "H."
- Notices of meeting of Board of Appeals, City of Gloucester, dated 7/27/06 and 3/29/07, marked "I."

WHEREAS, 24 parking spaces, and three (3) of Mr. Ciaramitaro's sign posts located along the Northerly border of said property located at 85-89 Bass Avenue are predominantly located on City property, which is the Southerly border of Bass Avenue at that address, utilizing an approximate total square footage of City property equal to 3,260 s.f. +/-; and

WHEREAS, Mr. Ciaramitaro has no active agreement with the City of Gloucester for the utilization of the aforementioned City owned property; and

WHEREAS, Mr. Ciaramitaro has utilized City owned property to demonstrate to the City Council and Board of Appeals that he has more parking spaces than is required, although unnecessary. The utilization of city owned parking is done without record tax payment, remuneration, or rental agreement; and

WHEREAS, the parking area on the Southeasterly side of Mr. Ciaramitaro's property presents a less than admirable site consisting of a huge blank wall without decoration of the floral requirements imposed by the City Council Planning and Development Committee (see attachments marked "G", & "H"); and

WHEREAS, said site presents a discouraging commercialized view along with the newly begun commercial parking along said wall; and

WHEREAS, the undersigned are of the opinion that the Board of Appeals had in mind "the spirit of the Community Development Plan of 2001" which requires that its determinations make effort to retain the character, distinct identity, and comfortable scale of the individual villages and neighborhoods of Gloucester; that the personality of that area of Bass Avenue has been severely compromised during Mr. Ciaramitaro's ownership to the extent that land belonging to the City of Gloucester is being used in order to make the present scheme at 85-89 Bass Avenue more grandiose and convenient for him; and

WHEREAS, the present owner of 85-89 Bass Avenue has been acutely aware of neighborhood wishes to remove the parking area along the Northerly border of said property and beautify that area with a floral decor consistent with an owner's commitment to contribute to the overall neighborhood esthetics, an effort to retain the character and floral pattern of Bass Avenue, especially as it exists on the North side of Bass Avenue, and a recognition that Bass Avenue is the gateway to Good Harbor Beach and the Back Shore, as well as a satisfactory residential area which the residents are trying to preserve. A position that members of the City Council endorsed (see attachment marked "F.")

WHEREAS, some of the other commercial property owners have made effort to contribute something back to the neighborhood, but Mr. Ciaramitaro has not.

NOW, THEREFORE, the undersigned respectfully submit this Petition, as aforesaid, in a desire for the City of Gloucester to:

- 1) Reclaim the City land which is being presently utilized for parking and three (3) of Mr. Ciaramitaro's signs at 85-89 Bass Avenue in order that said land will not be utilized as part of a bogus parking scheme which is dangerous to both pedestrians and foot traffic along the Northerly side of the parking area, especially the portion along the building at that site, and for which Mr. Ciaramitaro has had extensive, but not necessary use. The reclamation by the City of Gloucester of the strip of land which is located between Mr. Ciaramitaro's property and the sidewalk along his property, as it has never belonged to Mr. Ciaramitaro, nor should it be utilized by Mr. Ciaramitaro unjustly and without compensation to the City of Gloucester, nor should the City of Gloucester be a party to the continuing use of this strip of

land for parking and the location of three (3) signs for and as an improvement to Mr. Ciaramitaro's scheme.

- 2) In lieu of the aforesaid desire #1, Mr. Ciaramitaro, and/or the City of Gloucester, as an alternative, should improve said City land with a floral pattern acceptable to a neighborhood committee in order to eliminate a compromise in the usage of this land so that it may be consistent with the neighbors' impressions and to assure some semblance of an effort to accomplish an unbiased result thereby creating a distinct buffer between the residential and commercial property consistent with this neighborhood scheme.
- 3) The City of Gloucester enforce the floral scheme suggested by the Board of Appeals and City Council on the large wall on the Southeasterly side of Mr. Ciaramitaro's property.

Contact Information for Petitioners:

Please address all notices, requests, responses, and correspondence for Petitioners to:

Bass Avenue Petitions
c/o Mr. Joseph Cromosini
101 Bass Avenue
Gloucester, MA 01930
(978) 281-4675

Respectfully submitted by the undersigned.

Attachments: A, B1, B2, C1, C2, D1, D2, E1, E2, F, G, H, & I.
cc: Building Inspector

(DK#2A6-12)



CITY OF GLOUCESTER

GLOUCESTER • MASSACHUSETTS 01930

INSPECTIONAL SERVICES

3 POND ROAD

PHONE: 978-281-9774 • FAX: 978-282-3036

October 7, 2009

Bass Avenue Petitions
c/o Mr. Joseph Cromosini
101 Bass Avenue
Gloucester, MA 01930

re: 85 Bass Avenue
Map 66 – Lot 12

Dear Bass Avenue Petitioners:

This office is in receipt of the written complaint that you have filed concerning what you have stated to be *'zoning infractions which have been ongoing at the Real Estate owned by Mr. Nino Ciaramitaro (a.k.a. Star of the Sea Realty Trust, Nino Trust, and Ciaramitaro Trust), at 85-89 Bass Avenue.'*

This letter is in response to your complaint in accordance with section 1.3.1 (e) of the City of Gloucester Zoning Ordinance.

After reviewing the complaint and the City's zoning ordinance and performing a site visit, this office is going to further investigate the matter and take the necessary course of action to resolve the issue if need be.

If you feel that you have been aggrieved by any action(s) I have taken or failed to take, you have the right to appeal to the City of Gloucester Zoning Board of Appeals or the State Building Board of Appeals accordingly.

I can be reached at the above phone number if you have any questions.

Sincerely,

William Sanborn
Inspector of Buildings

WS/llm

cc: Attorney Anthony Bertolino
Mr. Nino Ciaramitaro
City Clerk
✓City Council
Jim Duggan, Mayor's Office

09 OCT -7 PM 2:14
CITY CLERK
GLOUCESTER, MA

2. **That a certificate of insurance, naming the City of Gloucester as an additionally insured party, be filed with the City Clerks Office no less than fourteen (14) days prior to the date of the 10K Road Race.**
3. **That any substantial changes, as determined by the Chief of Police or his designee, to the route or related to safety issues come back to the Council for amendment and approval.**
4. **That appropriate informational signage be erected on Route 128 N, exit 14, informing race participants, visitors to the Waterfront Festival, and the general public about which exit to take for designated parking for each event.**
5. **That appropriate informational signage be erected along the entrance to Western Avenue (Boulevard) and at the entrance to the City at Grant Circle as to the directions to Gloucester's Down Town Shopping Area on Main Street.**

Councilor Ciolino congratulated the GFAA for tackling these races. He understood how hard it is to put something like this together for the first time and want to encourage them. Thank you for getting involved.

3. *Petition of Residents re: 85-89 Bass Avenue.*

Councilor Hardy mentioned that a petition was circulated in the community signed by a number of residents. However, there wasn't sufficient number of certified signatures on the petition to force matter to go before the City Council for a public hearing. Because this is related to a Special Council Permit, the Planning & Development Committee wants to hear it, as before this the matter came several times before the Committee for possible SCP violations. She invited the person who brought the petition forward to speak to the Committee.

Mr. George Elanjian of 107 Bass Avenue would be speaking for Mr. Cromosini, the representative of the petitioners, who had to work this evening and asked Mr. Elanjian to speak for them in his place.

Councilor Hardy asked specifically, as it relates to the SPC permit, what do the petitioners feel is still at issue.

Mr. Elanjian said that conditions of the SCP state there will be plantings on the wall. Plantings on the wall didn't materialize, and they're looking for that portion of the conditions to be executed. They want to see the wall visually impacted with plantings as suggested in P&D Committee meetings. The vines are in small soil containers that won't support them. They wish them to either plant at the base or top of the wall and have the ivy cascade down it. Mr. Elanjian said there are other conditions were noted in the P&D meetings which are in the petition. On the hearing on 2/15/06 P&D minutes which are in

the petition surrounding construction of the wall and the plantings and heard neighborhood complaints of the process of construction of wall over 3 years. Motion stated that a neighborhood meeting with the owner, Mr. Ciaramitaro regarding landscaping that the neighborhood be informed and it didn't happen until after the fact. The final meeting on the issue was held by the P&D Committee on August 1, 2007 in which Councilor Hardy stated she received telephone calls regarding the SCP conditions yet to be addressed, that vines would be planted to grow up the wall. She had suggested a site visit. The matter was continued to August 15, 2007. Today they have unregistered commercial vehicles on the lot. The neighbors are looking to have them removed.

Councilor Hardy asked if this that a violation of zoning ordinance? She stated Planning & Development would not be the appropriate venue with regard to the vehicles that that would be up to the Building Inspector.

Mr. Elanjian stated the neighborhood is looking for landscaping of open space because of the large expanse of hot top and with the city property it is an opportunity to have it happen. He was not aware of other conditions.

Councilor Hardy said only thing right now is under discussion for Planning & Development and that is the wall. She asked if anyone else from neighborhood was there to speak? No one came forward. She further stated that if there are Building Code violations get them in writing to the Building Inspector; and if you are in disagreement with his conclusions, then you can always take it up with the Zoning Board of Appeals. If vehicles are in violation, that would be same. As for future development of that property, there is no application in front of the P&D Committee. The issue of whether the foundation on the property has proper permitting – she checked with the Inspector of Buildings prior to this meeting and learned that the foundation was legally permitted and not an issue that is in violation of the Special Council Permit. A permit was issued for the foundation at the bottom of the wall. The P&D Committee is unaware at this time of any future use as there is no permit request before it now.

Councilor Hardy reminded the petitioner's representative that in order to obtain a public hearing that they would need signatures of 150 registered voters and have the City Clerk certify the signatures. To date she believes there are only about 113 signatures that have been certified; she suggested the applicant check with the City Clerks office to get the exact numbers if they wished to continue with their petition.

Anthony Giacalone, son-in-law of the property owner, Nino Ciaramitaro, at 85-89 Bass Avenue spoke as his representative. With regard to the wall maintenance, two years ago to comply with the permit on plantings, ivy couldn't be planted at that time as it was purchased too late. They addressed the neighbors concerns by purchasing mums to satisfy that season. The following year they purchased ivy and planted in September 2008. They are still planted and haven't taken. They are willing to talk. They want to do the right thing. They are considering a different kind of ivy, planting from the top and having it cascade down.

Councilor Hardy stated that for the record she was member P&D at the time. There was huge concern. It was agreed ivy planted would make it so the wall would not be such a monolith in the neighborhood. It was agreed to be placed at the top and cascade down. The first year, no planting; the second year no planting. You came before us again on plantings violation, and we're told those mums grow every year. They didn't and do not. You need something that will grow thrive and be maintained so that they will survive. This is the third time we're having to hear about this.

Mr. Giacalone said on September 22, 2009 that his father-in-law contacted J.R. McDowell from Rockport about their maintenance program and cost.

Councilor Hardy asked if they gave the owner a time frame for completion of the landscaping work.

Councilor Romeo-Theken at Councilor Hardy's request translated into Italian for the Committee to Mr. Ciaramitaro when the ivy will be planted. She has spoken to all parties on all issues. She informed the owner he needs a professional person. She told him to hire a landscaper which he did. The ivy is planted and has spent \$1,150. The estimate received by the owner for maintenance is \$40 an hour to maintain the wall in 2010.

Mr. Giacalone said they will explain to his father-in-law the need of a maintenance contract to maintain these plantings.

Councilor Hardy said all they are looking for is to get the wall done. If it is not maintained then you need to find another landscaper, but it needs to be done.

Councilor Romeo-Theken translated this to **Mr. Ciaramitaro**. Through translation **Councilor Hardy** asked for **Councilor Romeo-Theken** to get an agreement from **Mr. Ciaramitaro** now on the planting and maintenance of the plantings.

Councilor Romeo-Theken said that **Mr. Ciaramitaro** stated he will get a certified landscaper to maintain and plant appropriately and that he wants to do whatever needs to be done to keep the neighbors happy.

Councilor Hardy told the **Mr. Ciaramitaro** to just make sure it is done so we can put this behind us.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Ciolino, the Planning & Development Committee voted two in favor zero opposed to forward the minutes of this meeting to the Inspector of Buildings for review and recommendation as to whether or not there are any violations of the Conditions of the City Council Special Permit issued for 85-89 Bass Avenue relating to the large wall and the plantings thereon; further that the Inspector of Buildings prepare a report for the Planning and Development Committee as to the status of his findings so that the report may be reviewed at P&D's meeting on November 18th.

Councilor Hardy reminded all present that at approximately 7:15 p.m. for a presentation for School Committee in Kyrouz Auditorium.

4. 2009-002: Rezoning of 447 Western Avenue from NB to Residential (R10) or Residential (R-30) with savings provision (Planning Board Report on file).

Attorney Faherty stating he is representing Edward and Patricia Wall. He said that the property is zoned currently as neighborhood business (NB). He gave some background of the zoning history in the immediate area of the zoning issue now at hand. There is no business in their district or on their lot. Lot 29, Map 200 is the owner's property. The next lot is zoned NB and the one next to that as well. To the left is Ravenswood. The Lot is 19,468 sq. ft. All adjacent properties are R30 and the rest of road is R30. The Wall's want to have their petition to change their zoning to be R3 with same savings provision as their neighbors to the west and east of them have. There are no sewer lines in the area, and they're not giving up the business district. There is no change in usage.

Councilor Ciolino asked for clarification from Attorney Faherty on the site map.

Councilor Hardy said there seems to be confusion as to what is the legal address is. Is it 447 Western Avenue? The City calls it so.

Attorney Faherty asked that going forward to classify the address by Map 200, Lot 29.

Councilor Hardy asked if this is house is single family and if the owners plan for it to continue to be the same.

Attorney Faherty said yes. He said that the residents have been in place in late 70's, 1980, but before March of 1999 and was deeded to the Walls in 1999. The land behind is Mr. Baumgaertel in back, Mr. Schaffer is in front. The applicants want to change the zoning to that of the closest residential district. The applicant wishes to add an addition to his single family residence. The house has been on the lot since at least 1980. He explained the map and the lot as it relates to the neighborhood and as relates to pictures submitted by abutters.

Councilor Hardy stated that this then is just rezoning which abutters already enjoy so that the applicant can construct, by right, an addition to their home.

Attorney Faherty said this should have been caught when the City did the initial rezoning years ago. But in rush to rezone, the city didn't take into account leaving out of these 3 lots. By implication the change was made but didn't inform the owners.

Councilor Hardy called a 20 minute recess at 7:20 p.m. to return at 7:40 p.m.

Councilor Hardy called the meeting resumed at 7:45 p.m.

Councilor Hardy asked if there were any questions related to the rezoning?

**CITY COUNCIL
AND
CITY COUNCIL STANDING COMMITTEE
Planning & Development
Wednesday, December 9, 2009 – 7:00 p.m.
Council Conference Room (first floor)
9 Dale Avenue – City Hall**

**Attendance: Councilor Jackie Hardy, Chair, Councilor, Councilor Phil Devlin,
Councilor Sharon George**

Absent: None.

**Also in attendance: Steve Palazzola, Peter Glynn-Agent for National Grid, Jim
Pratt, Steven Lacey, Brian Tarr, Assistant Superintendent of Schools**

The meeting was called to order at 7:00 p.m. Items may be taken out of order.

1. Old Business

**a) Petition of Residents re: 85-89 Bass Avenue: Report by Building Inspector (re:
10-28-09 P&D Meeting)**

Councilor Hardy said this Committee is not acting on the referenced petition itself, rather the possible violation of a Special Council Permit condition related to plantings on the wall at that location. We have received a communication from the Building Inspector, Bill Sanborn related to the property (a copy of which is on file). Mr. Sanborn's memo dated December 3, 2009 in reference to 85-89 Bass Avenue which addresses many situations at the property. The piece directly related to Committee's inquiry on the wall and plantings, he indicates to the Committee that the property owner has planted the required plantings on the wall. The first planting failed and the plants died. The property owner had replanted the wall with new, larger plants earlier this past fall, and the owner does understand that he is responsible to assure the propagation of these plantings. This matter will be continued to the June 16, 2010 meeting of the P&D Committee to see if the plantings are being taken care of and growing.

MOTION: On motion by Councilor Hardy, seconded by Councilor George, the Planning and Development Committee voted 3 in favor, 0 opposed to continue this matter to the June 16, 2010 meeting of the Planning and Development Committee for an update on the plantings at 85-89 Bass Avenue by the Building Inspector, Bill Sandborn and further review.

CITY COUNCIL
AND CITY COUNCIL STANDING COMMITTEE
Planning & Development
Wednesday, June 16, 2010 – 6:30 p.m.
1st Fl. Council Conference Rm. – City Hall

Present: Chair, Councilor Joseph Ciolino; Vice Chair, Councilor Robert Whynott; Councilor Greg Verga

Absent: None

Also Present: Councilor Jacqueline Hardy; Councilor Paul McGeary; Al Kipp; David Tucker; Peter Williamson; Paul Rogers; John Linquata; Fire Chief Phil Dench; Police Chief Michael Lane; Anthony Giacalone; Anne Ziergiebel; Attorney Robert Coakley; Attorney Lisa Mead; Christina Passanisi; Lenny Linquata; Daniel Swimm; John McNiff, Jr.

The meeting was called to order at 6:30 p.m. Items were taken out of order. There was a quorum of the City Council.

1. Unfinished Business

- A) Petition of Residents re: 85-89 Bass Avenue: Report by Building Inspector. (Continued from 12/09/2010)

Councilor Ciolino reviewed the history of the matter noting that the petition had been originally brought before P&D in October of 2009, and was last heard on December 9, 2009 and that at that time the Committee asked to place this on the agenda for this evening and have the Building Inspector take stock of the situation with the wall plantings. The issue of the propagation of vegetation on the wall remains unresolved to date.

Anthony Giacalone, represented Nino Ciamartaro, owner of 85-89 Bass Avenue explained ivy was planted that was specified, in hopes it would thrive and grow down the wall, which failed and remains an ongoing problem. There's only 6" of top soil in the wall "pockets in a wall with an elevation of approximately 26 ft. in some areas. They've planted twice; the first time with mums because they could not find enough ivy to cover the wall and in order to meet the criteria of the Council as specified. Both the mums and ivy plantings have failed. It is now being overwhelmed by weeds. No matter how much maintenance is done, nothing will survive. He proposed to the Committee to do some tree plantings in the parking lot on the front line of the parking lot that faces the wall, and trees at the base of the wall. They felt it would be more pleasing to the eye. He asked for a modification of the original condition and be granted permission to put plantings in the driveway which will grow to 25 ft. tall. Wolf Hill Landscaping has given them a quote. They'll be 8-10 ft trees at planting. There'll be four at the front boundary line and two at the back of the parking lot where the electrical posts are. He felt it would please the neighbors, be more practicable, and be a good compromise. There is no way of maintaining plantings on the wall. When the wall went up, the planters were a part of the wall system. Because of neighborhood concerns they agreed to and had professionals choose and install plants. After thousands of dollars they recognized it would be an ongoing problem. They are proposing to take the soil out of the pockets; pressure wash the wall, and let it age naturally.

Councilor Ciolino expressed concern regarding choice of tree stating he had one in his yard. It is a nice ornamental tree but thought the salt and sand would adversely impact it. He didn't feel the species was a good choice. It was a harsh environment.

Mr. Giacalone did discuss this with Wolf Hill and expressed the same concerns; but they still felt it was a good choice. They will check out other nurseries about a more appropriate species.

Councilor Ciolino suggested a tougher species with the conditions there, and suggested looking into what the plantings were at the traffic island on Mondello Square.

Councilor Whynott thought the wall was attractive, and didn't feel there was anything wrong with it. **Councilor Ciolino** noted that the neighbors thought the wall was ugly. Since nothing can grow on the wall, growing something in the parking lot will help to distract the eye to something green.

Councilor McGeary asked about possible cascading plants from the top of the wall.

Mr. Giacalone stated that the land at the top of the wall was private property owned by the abutter; and that sending someone up to that height to maintain plantings was risky even if it could be arranged with the private property owner.

Councilor Ciolino stated thought they should continue this until June 16, 2011 and ask the Building Inspector, Mr. Sanborn, to review the plantings and ask him to come back and make a report to the Committee.

Councilor Hardy suggested that this was a change in the original permit that the wall be planted. He's asking for a change in the permit and she thought it would need to be approved by the Council.

Councilor Ciolino noted his conversation with Ms. Lowe, City Clerk, who thought just putting this forward to review for next year, would be appropriate because they're responding to a petition of the residents.

Councilor Hardy expressed she differed with that perception; that the matter had been dragging on for years now, especially since the neighbors were not represented there that evening and are not able to have a say as to whether they will accept the trees. If they accept the trees, she would be all for it. This was a violation of the special council permit. She reiterated if the neighbors agree to it, she'll agree to it. But she was on the original City Council when the Special Council Permit was approved. They had all agreed that as long as the neighbors agreed that as long as the plantings were on the wall it was acceptable. She thought last time there was a maintenance plan to go along with the planting of the vines to ensure their propagation.

Mr. Giacalone noted that when the condition was put on the wall for planting, there were no landscaping companies who could provide them with enough plants that were specified by Hancock Engineering and approved by the City. They just couldn't locate them even though they were willing to pay whatever it took. He did inform the City of their plans. They put mums in to make it look nice; not ever thinking this would be taking the place of the ivy.

Councilor Hardy reiterated they were told the mums would come back the next year because the vines weren't growing. She felt the neighbors had to agree to the tree plantings. Otherwise she thought it would have to go before the City Council for a revision and let the Council vote to decide on the revision of whether the trees are acceptable.

Mr. Giacalone felt it was important to get this resolved and do the right thing as quickly as possible. If they continue this to 2011, and continuing the existing conditions on the property now which are allowing him to clean the wall and put plantings in the parking lot.

Councilor Hardy disagreed that the permit allows for the owner to put plantings in the parking lot as opposed to the wall.

Councilor Ciolino posed that the wall is not going to support plantings.

Councilor Hardy responded then it should go before the City Council, and let the City Council make the decision as to whether or not they want to amend the Special Council Permit that they enacted.

Councilor Verga stated Councilor Hardy's point wondered if the neighbors had been informed of what was going on. We don't want to spin our wheels and go ahead and then have the neighbors out there protesting. He felt the neighbors needed to be involved.

Councilor Hardy suggested the neighbors may even be able to have input as to the kind of trees they'd like to see planted.

Mr. Giacalone had no problem with that. He didn't understand why he was not able to plant trees on the property as it was private property.

Councilor Hardy responded that they could plant all the trees they wanted but they'd still have to plant the wall according to the Special Council Permit.

Mr. Giacalone, if he understood correctly, that the matter was going to be continued to 2011. So as far as the wall planting, it would still be continued and up for review then.

Councilor Hardy stated if they wanted to bring the neighbors in, and they're OK with it; she'd have no problem with it. But the Special City Council Permit should be amended to allow the trees.

Councilor Ciolino thought that would be the case but was told they didn't have to. They didn't have the permit in front of them; it was the neighbor's petition.

Councilor Hardy stated the neighbors were not here to answer whether this was acceptable. It is their petition and discussed with **Councilor Ciolino** about his suggestion that they continue the matter for two weeks and ask the neighbors to come in to express their opinion or they move it forward to City Council and have the neighbors come there, and felt having them back to P&D so they could come to an agreement would be more appropriate.

Councilor McGeary understood Mr. Giacalone's desire to plant trees doesn't require a modification to the permit; the modification would be required to remove the condition of the planting of the wall. In that sense, you could continue the hearing for a year on whether or not to pull the requirement on planting the wall and Mr. Giacalone could go ahead and plant his trees. He felt the point was well taken to get the neighbors in before P&D to fully discuss the matter before Mr. Giacalone did the planting to see what they had to say.

Mr. Giacalone felt that it was reasonable noting he's on good terms with the neighbors and has had open conversations with them. And he felt many would be happy with the plantings in the parking lot. He would welcome their input at the next P&D meeting.

Councilor Ciolino and the Committee agreed that the matter would be continued and suggested Mr. Giacalone speak to Mike Hale or Mark Cole at the DPW for suggestions on what kinds of trees would thrive in a parking lot and bring with him his updated plans for the plantings at that time.

The matter was continued to June 30, 2010 and the neighbors who brought the petition would be invited to attend.

B) CC2010-016 (Verga) Request filed with City Clerk's Office on March 19, 2010 re: Lot on the corner of Concord Street and Rt. 128 (Continued from 06/02/2010)

Councilor Ciolino stated on a zoning law requirement, the time to hear this matter before the City Council has passed. The Planning Board did hear it, so it was not a waste of time. They will have Councilor Verga to resubmit this to the City Council; and it would move more quickly with the Planning Board's review having already been concluded.

Kathy Hurlburt, 6 Causeway Street stated she didn't know why the City would not want the property's zoning to revert to its original zoning. The neighbors want it changed. If the Planning Board thought that it shouldn't be changed because the City has plans for it then she wished the City would come forward with that. They could be using it as a staging area for the CSO. As it stands now no one has told her any reason not to change it. They don't want a shopping center there in the future, so the neighbors want it changed.

Councilor Ciolino understood how it is zoned now would be better off for all the neighbors.

Ms. Hurlburt questioned how that could be. The neighbors don't use the property. She also requested a copy of the Planning Board minutes where they took up the matter.

Councilor Verga stated they didn't have the Planning Board minutes. They requested them officially at their last meeting. At the last Planning & Development meeting they simply continued the matter. He noted Demoulas has been pretty quiet on this issue and doesn't seem interested to be a part of this conversation.

Councilor Ciolino stated they will take this up again, and when they do a letter will be sent to Demoulas asking them to join the Committee at their meeting. If they don't show up they'll continue the matter. They'll get it through this time around.

Ms. Hurlburt stated they want the zoning changed. The City can bring it back to change the zoning or Demoulas can do it. Or citizens of 10 can bring it back.

CITY COUNCIL STANDING COMMITTEE
Planning & Development
Wednesday, June 30, 2010 – 6:30 p.m.
1st Fl. Council Conference Rm. – City Hall

Present: Chair, Joseph Ciolino; Vice Chair, Robert Whynott; Councilor Greg Verga

Absent: None

Also Present: Councilor Hardy; Anthony Giacalone; Anthony Bertolino; Kathy Hurlburt; Jenny LeColst; Karen McCann; Art McCann

The meeting was called to order at 6:30 p.m.

1. Continued Business

- A) Petition of Residents re: 85-89 Bass Avenue: Report by Building Inspector (Continued from 06/16/2010)

Councilor Verga read from an email sent to Linda T. Lowe, City Clerk on June 20, 2010 for the record as follows: Representatives of Nino Ciarametaro, the owner of 89 Bass Avenue, were before the Planning & Development Standing Committee on Wednesday evening. I disclose that I had a business relationship with Mr. Ciarametaro that concluded in 2008. I represented him as a licensed real estate agent, specifically at 89 Bass Avenue. I was contracted to find a suitable tenant which I did in February 2008. Since that time I have not had any financial relationship with Mr. Ciarametaro. Additionally I believe I had only seen him in passing a couple of times since then. Therefore, I do not feel there is any conflict and, as I did at P&D, I will participate and vote should this issue come before the City Council.

Councilor Ciolino reviewed for those present that a year ago Planning & Development said they would revisit the matter in one year. This Committee did a site visit to look at the situation four weeks ago. They all checked it and came to the conclusion that nothing will grow on the wall. This was continued from the last meeting of P&D in order that the neighbors of 85-89 Bass Avenue could offer their opinion as to whether the new landscaping scheme proposed by Mr. Anthony Giacalone to plant trees on the property, in lieu of attempting to replant the wall pockets with vegetation as per the Special Council Permit condition, to be acceptable to them. Two trees would be planted against the wall and three would be planted on Bass Avenue. He felt the trees would 'take the curse off the wall'. Letters were sent to Anthony Bertolino, Joseph Cromosini and C. George Elanjian, the three neighbors who spearheaded the original petition to the Planning & Development Committee asking that the matter be revisited. He asked any neighbors of the property to step forward to offer their opinion.

Anthony Bertolino, 132 Bass Avenue noted this issue was approximately four years old. For that number of years they've been trying to come to some reasonable conclusion relative to 'taking the curse off the wall' which is an area that is a "gateway" to where they live. There is a common interest here to make it look nice. He knew the wall 'pockets' would be inadequate. The only reasonable alternatives would be to put some ivy on that wall. Boston ivy goes from the bottom up, English ivy from the top down. He still felt that Mr. Giacalone is not in favor of that. When they move snow around it would suffocate those plants. He appreciated that, but felt there were some things that could possibly have been done to protect those plants to propagate successfully. If trees were planted the length of the property to give it some kind of aesthetic beauty would be perhaps acceptable. Making decisions here this evening was difficult because it doesn't give everyone an opportunity to think and talk about the plan. He couldn't speak for the others who signed the petition.

Councilor Ciolino stated they're trying to settle this. Further, there's a lot of ledge under the soil. The pockets in the wall are too shallow, making viable propagation of vegetation in the pockets of approximately 6" of soil impossible. The only thing in front of them is what kind of vegetation will be put on the property; and the only thing they could come up with is trees. They can tell Mr. Ciarametaro to

plant trees and that will be their responsibility to make them grow and then one year from now have the Building Inspector go back and take another look.

Mr. Bertolino stated he's not as convinced it's an impossible task. They discussed trees there years ago. Five trees are not enough. When the trees become mature they'll see under the trees.

Councilor Ciolino stated the trees will make it better. There were only a few species of trees that were hardy enough to withstand the conditions of the salt and sanding of the parking lot and main road as well as the heat of the summer.

Mr. Giacalone stated there is only a certain amount of frontage that can be planted; maybe 100 feet along Bass Avenue. Further, with the wall not being maintained in accordance with the Special Council Permit, he'd like a modification - eliminate the plantings on the wall and replace it with planting the trees instead he and his family didn't wish to be in constant violation of the Special Council Permit condition. The planting troughs won't work but looking at the wall and how it was constructed, there's a four foot footing below it. There's hot top over concrete. He can't even plant a tree under that. The Bass Avenue side will require removing the hot top and then plant the trees by a professional company.

Mr. Bertolino hoped to see the trees run the length of the property.

Mr. Giacalone replied that this was all based on the permit. They were going for condominiums. A lot of these things were all generated when they were trying to do some intense development that is now not being done. It is a commercial piece of property. They want to do the trees on the frontage of Bass Avenue, large trees.

Mr. Bertolino stated from the onset they asked for the wall to be covered. Now it can't. Now we're going to an alternative. The Committee says five trees. It's not enough trees.

Councilor Ciolino stated in the Gloucester Code of Ordinances Section 24-4, Street trees, species, there's nine different types of large trees that you can choose from.

Mr. Bertolino asked what they could do reasonably to block the sight line of the wall.

Mr. Giacalone stated the trees they're talking about choosing start at 10 ft. and will grow to 30 ft. It all depends on how the trees are pruned. He looked at the trees across from Meineke Muffler. It was an ornamental pear tree.

Councilor Ciolino stated those trees have performed well in tough growing conditions.

Mr. Giacalone responded they're going to do it to get it done within the next few weeks.

Councilor Hardy stated that they should be thinking of the needs of the neighborhood. She suggested working with them on the number of trees. She also proposed a visit with Wolf Hill and to the area of Meineke to see the trees and determine what would work.

Mr. Bertolino liked the suggestion of going to Wolf Hill to discuss the selection of the species and number of trees that could be planted.

Councilor Verga also appreciated Councilor Hardy's suggestion. Five was the number spoken of. Let the professionals tell them what would work; how to maximize the growth and space.

Councilor Whynott had no idea how wide the trees were. At 100 feet there couldn't be 10.

Councilor Verga stated it might be three, but it will then be a professional opinion. It is a fair compromise. It may set it back a few weeks, but it's been a long time already.

Mr. Giacalone reiterated if they're talking about planting the Bass Avenue portion, he would want an agreement of how many trees so that the Special Council Permit condition can be modified.

Mr. Bertolino asked for a continuation for 30 days, go to Wolf Hill, and then if they do their homework and come back with their suggestions. Many neighbors of the property are seasonal.

Councilor Verga felt it was the 100 feet around the two entrances they were speaking of for the plantings.

Mr. Giacalone reiterated his willing to do the trees, 5 or 10 and then modify the permit.

Councilor Ciolino stated his degree is in forestry. You're not going to get more than three grown trees. We need to see if he can put some trees on the wall, and see where we can put the trees in front.

Councilor Verga stated that they're agreed on the 100 feet and then meeting with the landscaper and then coming back to P&D to discuss the findings.

Councilor Hardy stated that it is the sight line from across the street not having to look at the "Lego" wall. It probably is 100 feet.

Councilor Whynott stated that as long as it is the section of the property where the trees would go in.

Councilor Ciolino stated they've never sent people to the nursery.

Councilor Hardy stated they had.

Councilor Verga stated is there an expiration date.

Mr. Giacalone stated this is planting season and doesn't want to 'shotgun' this.

Councilor Ciolino stated they can plant in the fall.

Mr. Giacalone stated the visit to the landscaper will be organized by him to include the interested neighbors, Mr. Bertolino, and Councilor Hardy.

The Committee agreed this was the best course; and therefore continued the matter to July 28, 2010.

2. COM2010-031: Request from Seacoast Nursing and Rehabilitation Center, Inc., to hold the 7th Annual Seacoast Seven Road Race

Jennifer LeColst and **Karen McCann** of Seacoast Nursing and Rehabilitation Center, Inc. presented to the Committee their plans for the 7th Annual Seacoast Seven Road Race.

Chief Dench stated he's had a couple of phone calls and was asked for his blessing. If they have tents, they'll need to have them inspected. If there's cooking they will need a permit. He had no issues, and believed there was no need to confer about the race with the organizers or 'bless' it. His Department had no need to be involved.

Ms. LeColst assured that there were no tents being erected, nor would they have any cooking taking place. The only piece of the documentation remaining was the submission of their Certificate of Insurance, which they expect to have very shortly upon receipt would bring in an original copy to the City Clerk's office.

Councilor Ciolino stated they're not singling their race out; that they are asking all races and parades to come in before the P&D Committee, making sure all aspects are covered and there are no event conflicts.

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to permit Seacoast Nursing and Rehabilitation Center, Inc. to hold the 7th Annual Seacoast Seven Road Race on Saturday, July 17, 2010 starting at 8:00 a.m. and ending by 1:00 p.m. with the race to run from Stage Fort Park onto Hough Avenue, left onto Western Avenue, left onto Hesperus Avenue, right onto Fuller Street, through the intersection onto Magnolia Avenue, right onto Hough Avenue, ending at the top of the hill by the Gazebo on Hough Avenue with the following conditions:

1. A Certificate of Insurance be on file in the City Clerk's office seven (7) business days prior to the event naming the City of Gloucester the Certificate Holder;
2. A Memorandum of Understanding be on file between Seacoast Nursing and Rehabilitation Center and Lyons Ambulance confirming they will be providing a dedicated ambulance with crew for the duration of the event;
3. A Letter of Understanding between the Seacoast Nursing and Rehabilitation Center and the Department of Public Works indicating permission to use the grounds of Stage Fort Park to be on file 7 business days in advance of the event in the City Clerk's Office;
3. That a Memorandum of Endorsement from Police Department for the race be on file 7 business days in advance of the event in the City Clerk's Office;
4. A written plan of the parade route with attendant map indicating times of start and estimated finish be on file 7 business days in advance of the event in the City Clerk's Office.

3. CC2010-016(A) (Verga) Reinitiated Order re: Lot on corner of Concord St. & Rt. 128

CITY COUNCIL STANDING COMMITTEE
Planning & Development
Wednesday, July 28, 2010 – 6:30 p.m.
1st Fl. Council Conference Room – City Hall

**Present: Chair, Councilor Joseph Ciolino; Vice Chair, Councilor Robert Whycott;
Councilor Greg Verga**

Absent: None

Also Present: Councilor Hardy; Councilor McGeary; Mark Cole; Steve Winslow; Anthony Giacalone, Aaron Burke; Nino Ciamartaro; Anthony Bertolino, J.D. McEachern; Judy Masciarelli; Mary Lou Maraganis; Dan Morris; John McElhenny

The meeting was called to order at 6:30 p.m. Councilor Ciolino stated there was a quorum of the City Council.

1. Unfinished Business

- A) Petition of Residents re: 85-89 Bass Avenue: Report by Building Inspector (Continued from 06/16/2010)

Anthony Giacalone, 8 Edgewood Road was before the Committee representing his father-in-law, Nino Ciamartaro, owner of 85-89 Bass Avenue explained that after their last meeting on the matter, there was a site visit with Anthony Bertolino, Councilor Hardy and Aaron Burk of Wolf Hill Nurseries. They had agreed they would try to do around nine trees on the property. They are proposing that five trees now which he felt made sense which has nothing to do financially. It is that given the size and growth pattern of the proposed trees if they do more than five, they will be intertwining and cover all their signage (for businesses on the property). They did a layout and will do a more detailed plan for City Council. They will go with an evergreen tree so that leaves don't drop during foliage season. This will create a year round screen of the property.

Aaron Burke, Wolf Hill Nurseries suggested an eastern white pine, a Japanese black pine, something along those lines. The five trees will go in with only a loss of five parking spaces. They will all be about six feet in circumference going in from the ground up. They will gain screenage by truck tree immediately. Foliage won't be lost. There is a curb that comes down Bass Avenue. Two feet off that curb they'll cut a 4' x 4' hole framed in concrete and drop the trees in there. That way there is no cutting of the parking lot. There was a concern with underground pipes.

Councilor Ciolino restated that it was Mr. Burke's recommendation that five trees would be appropriate. **Mr. Burke** stated yes, for growth and screening purposes. He believed nine trees would totally overgrow the property and would not grow well.

Councilor Ciolino asked if there was a guarantee on the plantings.

Mr. Burke stated there is a 12 month guarantee from Wolf Hill after planting. Further, if they need to work out a contract for immediate care, they will.

Councilor Verga thought it made sense, and asked for Mr. Bertolino's thoughts on the matter.

Councilor Ciolino asked how tall the trees will be at installation and maturity.

Mr. Burke stated at maturity level the Eastern White Pine will grow to 16 to 18 feet. Within five years, maturity level is 25-30 feet. He saw the issue being is the low lying homes across the street. The trees will be higher than their living room windows in six or seven years. They will be looking at green immediately; and going in the trees will be 8-10 feet.

Councilor Hardy stated that wasn't what they talked about at the site visit and asked about the berm they spoke of also going in.

Mr. Burke spoke of excavation underneath and around the root base; if they excavate underneath them, they will be fine; with less interruption to parking.

Councilor Hardy asked what would be the arrangement of the trees on the lot; where would they be.

Mr. Burke showed a hand-drawn map to the Councilors to show where the five trees would go in. Five spaces would be lost.

Councilor Hardy disagreed feeling the plan as presented wasn't a loss of spaces

Mr. Bertolino stated he wasn't able to speak about the neighbors; things have changed. He didn't think what was presented was not the same thing they spoke about and about what Mr. Ciamartaro spoke to him about the next day because he had changed his mind. Councilor Hardy was present at the meeting. He stated he was overly biased. They had discussed in the beginning they had ivy. Then they recommended three and two for trees which they were unhappy with. They had talked about no less than nine trees across the front, very different from what was presented just now. They were going to go four or five feet from the curbstone that's on the Ciamartaro property side of the sidewalk. They were going to put in another curbstone. They were going to have a dirt strip for approximately 100 feet; and they had agreed to plant approximately nine trees. They labored intensely over what kind of trees they were supposed to be so they would be everlasting. They deliberated over what kind of trees they were supposed to be because they wanted something everlasting. As Councilor Hardy stated they were concerned about square patches and heaving of the hot top. There was to be a drawn plan; he was supposed to get a copy to be prepared for the meeting. He had not seen it before now. He felt it was entirely different from what they had discussed because of the second curbstone. The following day he received a call from Mr. Ciamartaro concerned about two signs being blocked by the number of trees which he understood. His son-in-law related that he would move the two signs. They further discussed that a reduction from nine to seven trees may very well adequately fill what they are trying to accomplish across that strip. He felt he was concerned about the signs and understood Mr. Ciamartaro's position. He discussed it with Mr. Giacalone and said he would move them to the ends of the property. If they move the signs to the end of the property, that would accomplish not having a problem with the signage. The earth strip between the two curbstones was a major change. He didn't know that would change. By moving the strip approximately six feet into Mr. Ciamartaro's property, they were going to extend the parking lines so that no parking spaces were lost. The distance between the proposed new end of each parking line to the next series of parking lines was so adequately lined that it was possible for cars to pull in and out without having a problem. The only change was the concern about the signs and the amount of trees predicated on the fact that the signs stayed where they were. Moving signage made that go away and left them with seven trees. The real issue was what those trees would be. It was to be a hiding of the wall and that the mature height would continue to screen the wall.

Mr. Giacalone didn't disagree with Mr. Bertolino. He was at the meeting. He was willing to move the signs. They did talk about a continuous curve. He just received the plan yesterday from Wolf Hill. He was first proposed sugar maples, but they drop their leaves. That's why they spoke about evergreens which would be a 'full-time' screen. He wanted to do this right.

Mr. Burke stated they never discussed the sign movement.

Mr. Giacalone stated that the next day after the site visit, he and his father-in-law went to Mr. Bertolino and had yet another site visit because he was concerned about the signs. That's where they reached the compromise that maybe the nine trees wouldn't work with the signs. They did some compromising; that the nine trees might not work; they could get by with five trees or seven trees. He wanted to get this done. The Committee will make the right decision; and they will do what they have to do because they want to move on and get it done.

Councilor Ciolino stated they have to make some decisions.

Mr. Bertolino replied the issue should be "blessed" but not decided here. They talked at length about evergreen trees. That was a great idea because it was coverage year round. They're back to another site visit at least their ability to present one or two or three alternatives to be chosen. He felt they were no where near there.

Councilor Ciolino discussed the number of trees. They've heard five, seven and nine. He asked Mr. Burke for his recommendation.

Mr. Burke stated if they're moving signs, they can put in seven trees. If signs stay, then the trees in the spaces five would work; and they use the larger eastern white pines. You don't want to crowd them.

Councilor Ciolino stated they'll stick with seven trees, that they'll be evergreens. There will be curbing.

Mr. Burke stated they had discussed at the site meeting he was at as putting in a Cape Cod berm. It's a rolled soft curb put in parking lots. It helps to keep run off from going into the beds and helps with plowing. They're made of asphalt.

Councilor Hardy stated they talked about a raised bed so when the salt and sand is on the road and gets kicked up it wouldn't go over. It would lift the trees up higher and not have to excavate so deep for the plantings. They shook hands on this at the site; and have now gone through two iterations since then. It was less expensive to rip up that whole side than dig a hole and drop a tree. At the time it was said that the roots would probably come up and get under it. She showed the Committee a picture she drew of what it should be, as they agreed to at their meeting.

Mr. Giacalone didn't dispute what the Councilor said and described. He could do what he was asked to do.

Councilor Ciolino stated they have now agreed on seven trees. There will be a raised berm and the signs go to the ends.

Mr. Bertolino agreed.

Mr. Giacalone also agreed.

Councilor Ciolino stated that it will be nice when completed which Councilor Hardy also concurred.

Mr. Giacalone cautioned they were moving towards the end of the planting season.

Mr. Burke stated he'd like to look at mid- to late September for the installation or early October. **Mr. Giacalone** asked what the timeframe would be.

Councilor Hardy stated they'd be looking at the end of September; and they need the Council permission on the modification for the plantings.

Councilor Ciolino stated that they submit all this.

Mr. Giacalone asked if they could submit a landscaping plan and if that would be satisfactory.

Councilors Ciolino and Hardy stated that would be all right.

MOTION: On motion of Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to require the owners/developers of 85-89 Bass Ave to immediately submit a request for modification of the City Council Special Permit issued January 5, 2005 for 85-89 Bass Avenue under the Gloucester Zoning Ordinances, section 5.2, Earth, Fill, and Removal, and to include with the request a written statement by the owners or their representatives of the agreement reached with the neighbors/abutters (the petitioners) and with this Committee concerning additional, new tree plantings and concerning the wall referenced in the 2005 Special Permit. The request for modification shall also include a revised, current plan updating all previous plans submitted to the Council for the 2005 Special Permit and the March 2006 rezoning, relating to the wall and landscaping.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to advertise for a public hearing for Modification of Special Permit for 85-89 Bass Avenue concerning wall and landscaping, trees, and plantings.

2. Creation of a Gloucester Dog Park Petition, pursuant to Sec. 9-1 "Free Petition" of City Charter

Steve Winslow, Project Manager-Community Development; Mark Cole, Operations Manager-DPW; Daniel Morris, Chair and John McElhenny – Open Space Committee; Judy Masciarelli and Mary Lou Maraganis, Dog Park proponents were introduced by Councilor Ciolino.

Mr. Robinson stated you have to account for how far away from the turbine you are. He suggested that if you left the conference room and went to the opposite end of the hall from the doorway, you would not be able to hear him, and likened the travel of sound from the turbine in that manner. He didn't think anyone in the school yard standing where the buses come through should be able to hear the turbine at all. **Kirk Benson** 42 Cherry Street asked if they could hard wire this into the school for more educational value.

Ms. Donnelly replied the turbine will be hard wired in.

Mr. Benson was in favor of the installation of the turbine and thought it a great idea; and wondered if this mount on the roof will hold the turbine firmly in place.

Mr. Robinson stated they have provided the engineering schematics, and that it will be supported well. It will be tied to the steel structure. It is the same style mount as on the Museum of Science in Boston.

Alicia Padre, 38 Cherry Street thought this seemed a benign project compared to a commercial wind energy conversion facility. She wondered if they did this and the school closes, like the Fuller School, would that use still apply in the future so someone else could put more turbines in because permit use usually goes with the land.

Councilor Ciolino stated the permit stays with the property. He believed a future owner would have to come back for an upgrade on the permit to add any more turbines. He didn't think they would allow anything bigger than what would be there [after this installation].

Ms. Padre thought that they should specify for educational use only.

Jacqueline Hardy, 29 Cherry Street asked if there would be a site visit and that they will be able to see the height the turbine will be.

Councilor Ciolino advised there is a pole up on the stack now at height of the full 30 ft. The ordinance states it be demarcated by a balloon but didn't think it would be necessary as they have the pole. He announced that there would be no action taken on the matter this evening; there would be a site visit to the location by the Committee on Saturday, October 23, 2010 at 8:00 a.m. rain or shine. They will meet at the front door of the O'Maley School.

This matter is continued to November 3, 2010.

F) Petition of Residents re: 85-89 Bass Avenue: Report by Building Inspector (Cont'd from 07/28/10)

Councilor Ciolino stated this matter was placed erroneously on the P&D Agenda. A matter related to it is anticipated to be referred out to the Committee by the City Council at its October 26, 2010 meeting and should be taken up by the Committee at their November 17, 2010 meeting.

2. PP2010-005: Installation of J.O. Guy Stub Pole #3-84 and Anchor and Guy re: Tufts Lane

Councilor Ciolino stated since no representative from National Grid was present this evening, he would continue the matter to November 3, 2010.

This matter is continued to November 3, 2010.

3. SCP2010-015 Kirk Road #9, Lowlands Permit, Sec. 5.5.4 Lowlands (To be cont'd to 11/03/10)

Councilor Ciolino corrected for the record that the agenda stated this matter would be continued to November 4, 2010 when in fact it will be continued to November 3, 2010.

This matter is continued to the November 3, 2010 meeting.

4. CC2010-074 (Verga) Permitting process for use of City Property

poles and wires to be placed thereon, together with such sustaining and protecting fixtures as said Company may deem necessary, in the public way or ways hereinafter referred to as requested in petition of said Company dated the 12th day of August, 2010. All construction under this order shall be in accordance with the following conditions: Poles shall be of sound timber and reasonably straight, and shall be set substantially at the points indicated upon the plan marked National Grid No. 8800963 dated 08/09/10 filed with this order. There may be attached to said poles not to exceed 15 wires and 2 cables and all of said wires and cables shall be placed at a height of not less than 20 feet from the ground. The following are public ways or parts of way along which the poles above referred to may be erected, and the number of poles which may be erected thereupon under this order at Tufts Lane – Installation of one (1) J.O. Guy Stub Pole #3-84, Anchor and Guy.

2. *Modification to Special Council Permit granted to Nino Ciaramitaro on December 14, 2004
Re: 85-89 Bass Avenue (To be continued to November 17, 2010)*

This matter is continued to November 17, 2010.

3. *Modification to Special Council Permit granted to Cape Ann Brewing Company on July 20, 2010
Re: 9-11 Rogers Street (To be continued to November 17, 2010)*

This matter is continued to November 17, 2010.

4. *Downtown Gloucester Holiday Parade re: Request to use City Streets, Sunday, November 28, 2010 (by direction of the City Council President)*

Councilor Ciolino recused himself from the discussion and vote as he was the organizer of this annual Gloucester event.

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed to permit the Downtown Gloucester Holiday Parade to proceed on City streets on Sunday, November 28, 2010 with a weather date of Sunday December 5, 2010. The parade will assemble at the Jodrey State Fish Pier on Parker Street with a starting time of 3:00 p.m. The route is: Jodrey State Fish Pier to Parker Street; left onto Main Street to Western Avenue and end at the Tree Lighting Ceremony at Kent Circle. The following conditions apply:

1. Certificate of Insurance, issued through the Carroll K. Steele Insurance Agency will be on file seven (7) days in advance of the parade on file with the City Clerk's office;
2. Gloucester Police Department to sign off on the proposed route seven (7) days in advance of the parade on file with the City Clerk's office;
3. Santa Clause or his designee to sign a waiver indemnifying the City of Gloucester regarding any liability as prepared by Fire Chief Phil Dench of the Gloucester Fire Department for permission to ride atop the Gloucester Fire Department's ladder truck and to be on file seven (7) days in advance of the parade with the City Clerk's office.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:36 p.m.

Respectfully submitted,
Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.

Jean Gallo, 20 Harvard Street referred to the Marriott Hotel process a year previously in the Fort area and it was made clear that the people who lived in that area did not want the hotel and how they had stopped it from going through.

Councilor Ciolino stated it never went through the process because it was "so convoluted" it got to the point they where didn't know what they were voting on; and ultimately it was not voted on at Council.

Ms. Gallo pointed out the neighborhood made clear they didn't want that. When the applicant now, presenting that particular piece, why they would put a hotel back into that system. It is the same thing on the Special Permit; why would you keep a hotel/motel there when Mr. Bell says the only way he can develop that property is if they residential. The hotel question, she noted, was coming up on Essex Avenue and one into the Downtown and one in Gloucester Crossing, of which that one is permitted; and now another one. Her request is that the hotel be pulled from the list especially since the community didn't want it and noted the residential piece is still a big question. In response to the contention of lack of economic growth in the City she pointed out that Neptune's Harvest didn't exist 10 years ago; Montillaro Lobster Company also exists now. She urged that they look at what they give away. She preferred the City protected them by keeping it MI and that the people who live there should be listened to as well as what citizens are saying to them for two years on the subject.

Councilor Ciolino stated there are other parts of the City that have been listened to as well. They have to listen to other parts of the City.

Ms. Gallo contended that at the listening posts there was not a preponderance of people saying they wanted hotels and residential especially in the harbor areas; that this was about people at a grassroots oriented level of consideration.

Councilor Whynott stated the whole process of the public hearings and Special Council Permits, a person can come and propose something but doesn't have an absolute right to get it. But neither does the neighborhood have the right to veto it. The Council has to weigh all the factors and make a decision based on what is good for everyone cautioning it may not be 100% good for everybody. They try to do the best they can with what they have been given to work with. "The answer is not always yes." There are rights on both sides, he contended.

Ms. Gallo added she agreed with the Councilor and that there are different ways of making a decision. She felt if they have an ethic of looking at the "greatest good and the greatest number" and make a decision a certain way; but it was not her view.

Gregory Doe, 7 White Mountain Road posed the following questions: Is this about fish? Is it about gentrification? Is it about aesthetics? Is it about the beach? What does the City, the neighborhood and Mr. Bell have to gain from a project there? What do they have to gain from a vacant lot? Did they want another I4-C2? He pointed out it is about jobs, taxes, neighborhoods; it is about improvement. He asked if they wanted a "stagnant Gloucester." He felt Mr. Bell's group has a good track record in property development and that the Fort and Beach Court could be brought back together through this rezoning process is correctly brought forward. He noted that everyone in Gloucester wanted the zoning change to allow for the Marketbasket Supermarket in his neighborhood, but they didn't want it in their neighborhood.

This matter is continued to the December 1, 2010 meeting.

B) Modification to Special Council Permit granted to Nino Ciaramitaro on December 14, 2004
Re: 85-89 Bass Avenue (Cont'd from 11/03/10)

Anthony Giacalone, son-in-law of Nino Ciaramitaro spoke for Star of the Sea Corporation to the Committee regarding the proposal to amend the Special Council permit as relates to the landscaping plan for the property at 85-89 Bass Avenue. They are now proposing to put in 8 trees on the Bass Avenue line, the easterly side of the property in lieu of the original landscaping plan on the original permit for the wall. The trees are purchased which are arborvitaes to be planted six to seven feet on center and will be 25-26 ft. in height upon maturity, and approximately 6 ft. in width. They are ready upon approval of the

amended permit to raise the Cape Cod berm and install the trees. They agreed that they will pay for the advertisements for the public hearing. He expressed they were ready to move forward

Anthony Bertolino, 132 Bass Avenue, representing himself and neighbors in the area of 85-89 Bass Avenue noted a letter from him dated October 21, 2010 regarding the matter (on file) and also the letter from Anthony Giacalone requesting the modification of the Special Council Permit. He requested the letters, his and Mr. Giacalone's, as well as the plan presented by Mr. Giacalone be used together as to define the work to be done at the site. He believed according to his calculations there would be 16 arborvitae trees in order to screen the area in question. He was aware that the proposed plan called for 8 trees. He contended the distance is approximately 100 feet and divided by 6 to 7 feet brings the number of trees to sixteen not eight trees.

Councilor Ciolino noted that the plan was done by a landscape architect, Doug Cook.

Councilor Verga asked if the plan was to scale; and that Mr. Giacalone and Mr. Bertolino are in agreement that the area in question is 100 ft.; which they indicated they did. The Councilor felt someone's math was incorrect.

Councilor Ciolino stated [with 16 trees] each parking space would have a tree. He expressed his familiarity with these types of trees which get quite big and felt even eight was a lot. Sixteen trees, unless they're tiny, will be choked at the formula between the trees proposed.

Mr. Bertolino respectfully offered that in order to do what they can to obliterate the "unsightly wall" it would take 16 trees. He was told that the trees would be 10 ft. high going in and 20 ft. at maturity. He observed several groups of trees in the area of 85-89 Bass Avenue, those of near abutters; and it was a "lot of years" before they will get to 20 ft. and contented 16 trees were not untoward.

Councilor Ciolino expressed disagreement with Mr. Bertolino, commenting the trees won't grow if they are crowded as they need room to grow; too many trees trunk-to-trunk will not grow.

Mr. Bertolino stated that he and Mr. Giacalone spoke and that he expressed that they would do their best to fill in the space. But that they had agreed on a different species of tree. Mr. Giacalone came to him and asked that they amend that to arborvitae. He contended that planting them 12 feet apart would leave a "tremendous" space between the trees. The issue was to do their best to fill in that space. He felt his letter defined Mr. Giacalone's letter. Mr. Giacalone's letter, he contended, amends the landscaping plan now presented.

Mr. Giacalone stated his plan came before the letter. He showed the plan to Mr. Bertolino; they discussed it. Mr. Bertolino is representing the neighborhood; that they were both in agreement before this meeting and was concerned that now he is presenting another view; that they should be moving forward on this matter now. The plan was done by a professional landscape architect. He stated arborvitae, as planted on the perimeter of his personal property at 8 Edgewood Road; do grow rather quickly which he knew from experience. They were planted 6 to 7 feet on center apart and are now 23 ft. in height. He believed it took 11 or 12 years for the trees to reach that height. As to the Bass Avenue property, he noted the electrical wires overhead. If they did anything other than they were proposing, they would have problems with clearing wires and chopping trees down for the clear easement of their electrical service to the property. He reiterated professionals have looked at the situation; and they have purchased the trees. He contended he was hearing things not heard before going from 8 to 16 trees. He asked that the Committee to assist them in going forward [with their proposal].

Mr. Bertolino called the Committee's attention to the 'bottom paragraph' of Mr. Giacalone's letter that "The modification requested includes the emplacement of sufficient arborvitae trees, six (6) to seven (7) feet on center...." What they agreed to was 6 to 7 feet on center and that if you take 100 feet and divide it by six to seven feet on center; it comes to about 16 trees. He contended they had spoken of this in his office together.

Mr. Giacalone disagreed with Mr. Bertolino's statement.

Councilor Hardy hoped they worked something out. She recalled they shook hands months ago on 9 trees, scotch pines.

Mr. Giacalone agreed with Councilor Hardy. The existing sign is approximately 30 feet beyond the entrance. They couldn't put arborvitae and block the sign as this is a commercial property. He

contended that if he was asked to cover his entire frontage to Bass Avenue, business signage would be covered.

Mr. Bertolino reviewed the history of the failed plantings according to previous plans as well as the agreement to the 9 scotch pines. He claimed Mr. Giacalone knew that the plan shown now as having an inadequate number of trees and that they had discussed it; it was not something new; not heard before.

Councilor Verga expressed he was still confused regarding the math; that if they both agree that there is approximately 100 feet to cover, and there are 8 trees 6 feet on center, he believed it came to 48 feet.

Mr. Giacalone noted there is an existing sign that they're moving. The scale drawing shows the trees at maturity appropriately. These trees are made for screening. They'll be six feet in diameter upon maturity, sometimes seven ft. Planted too close, the trees grow thinner and taller, thereby not filling in the space as intended. He offered that if it ended up nine trees, six or seven feet on center, he wanted to be sure it stayed away from business signage on the property he would be "OK" [with it].

Councilor Ciolino stated "they've been going around on this for years and years"; they finally have a professional landscape plan, a professional's recommendation. He reiterated the trees need room to grow to get them sited; and that he believed the eight trees solve the problem; that they have to move forward on the matter.

Councilor Whynott stated he heard "all kinds of numbers" and none seemed right to him. A tree that grows 6 feet in diameter, if it's 6 feet on center there's almost no space between each tree.

Councilor Verga went back to what Mr. Giacalone had said that after they get the 8 [trees] in, maybe a 9th tree.

Mr. Giacalone stated if they stay with 6 feet on center once they relocate the sign, that's where they came up with the on center [figure]. The trees, when they grow to full maturity, they will be touching at 6 ft. in diameter. Arborvitaes are made for screening, for vertical growth. He pointed out also that another important feature is these types of trees stay green all year long and do not shed leaves seasonally.

Mr. Bertolino offered that the abutters are not the "bad guys". They have gone from one amendment [to the Special Council Permit] to a third or maybe a fourth amendment. If you take the distance and divide it you're confronted with the trees growing together. The view of the wall is to be blocked off. They started with Boston ivy and now it is Arborvitaes. It is seven or 8 – 11 feet apart from one another. That leaves a lot of space.

Councilor Ciolino again reiterated the trees have to have space to grow. They can't be planted close together. They have to make a decision and need to move on.

Mr. Bertolino asked they make some reasonable estimation between one tree and another so that they don't find one tree at a different distance.

Councilor Ciolino stated the landscaping plan will be signed and is to scale, which they will go by.

Mr. Bertolino contended that the plan to be amended. He believed the letter was separated from the plan and describes a different scheme than the plan offers.

Councilor Verga confirmed it is 6 to 7 feet on center which he asked to be a part of the motion.

Mr. Bertolino asked that the Committee have the petitioners be responsible for the maintenance of the trees and that they can return in the case of any violations.

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the full City Council the approval of the modification of the Special Council Permit issued to Nino Ciaramitaro for 85-89 Bass Avenue, Gloucester, MA on December 14, 2004 to permit the application to implement the landscaping plan dated September 21, 2010 and submitted with the application and that the trees depicted on said plan shall be 6 to 7 feet on center; upon notification by the neighborhood that maintenance is not being properly performed that the Building Inspector shall investigate the matter and make a determination.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to ADVERTISE FOR PUBLIC HEARING the

modification to the Special Council Permit for 85-89 Bass Avenue; applicant has agreed to pay for the publishing of the two advertisements for public hearing.

- C) Modification to Special Council Permit granted to Cape Ann Brewing Company on July 20, 2010
Re: 9-11 Rogers Street (Cont'd from 11/03/2010)

Jeremy Goldberg, owner of the Cape Ann Brewery discussed with the Committee his proposal to modify the recently granted Special Council permit to add an installation of a stainless steel grain silo, 23 ft. high, with a 9 foot circumference along the Rogers Street side of the building to house their grain at 9-11 Rogers Street. He noted this was originally planned as a future addition; but that an opportunity to purchase a silo came sooner than expected. He believed it would be aesthetically pleasing addition to the site as well as provide them with a great deal of financial relief to their brewing operations as it would decrease the number of grain deliveries required by the brewery. He offered that the silo would be well maintained and that an artist's rendering of the Cape Ann Brewery logo would be the only signage on the silo itself which features the Man at the Wheel landmark. Therefore, he asked that the Committee approve the silo as an appropriate modification to the Special Council permit issued to his company in July of 2010.

Councilor Ciolino was concerned that they are on the "front door of Gloucester"; and that the Committee wants to be sure the property will be kept looking good.

Mr. Goldberg stated it is their job to keep the property looking good. It is a stainless steel tank. They have pressure washers; and their employees work hard to keep their brewery spotless.

Councilor Whynott asked about the color of the silo.

Mr. Goldberg stated it is stainless steel.

Councilor Whynott expressed concern about reflectivity.

Councilor Ciolino stated he would vote for it. However, he expressed that if a year from now it is not well kept and is not aesthetically pleasing, the Council amendment could be taken away. The Brewery has a responsibility to keep it looking well. They are giving "a lot of slack" in order for them to have this silo.

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to the modification of the Cape Ann Viewing Company Special Council Permit SCP2010-004 for 9-11 Rogers Street, Gloucester, MA to operate a restaurant in a Marine Industrial Zone, to permit the applicant to install a 23 foot high 9 foot in circumference grain silo along the Rogers Street side of the building in accordance with the plans dated August 17, 2010 and submitted with the application.

MOTION: On motion by Councilor Whynott, seconded by Councilor , the Planning & Development Committee voted 3 in favor, 0 opposed to ADVERTISE FOR PUBLIC HEARING the modification to the Special Council Permit granted to Cape Ann Brewing Company on July 20, 2010 Re: 9-11 Rogers Street; applicant has agreed to pay for the publishing of the two advertisements for public hearing.

2. *SCP2010-016: New Way Lane #50, GZO Sec. 5.13 PWSF (To be continued to 12/01/10)*

Councilor Ciolino announced this matter would be continued to December 1, 2010.

3. *Request from Pursuit Racing, LLC for use of City Land for half-marathon May 15, 2011*

David Murray, a representative of Pursuit Racing, LLC asked the Committee to permit their race on May 15, 2011, a half marathon that will begin and end at the Good Harbor Beach Parking Lot and proceed



GLOUCESTER CITY COUNCIL 2010 PUBLIC HEARING

PUBLIC HEARING NUMBER: PH2010-103
SUBJECT: Amend GCO Chapter 22 entitled "Traffic and Motor Vehicles"
Sec. 22-287 "Disabled Veteran, handicapped parking"
re: Main Street #46

DATE OPENED: 12/7/10
CONTINUED TO:
CONTINUED FROM: O&A 9/20/10, TC 9/23/10
COMMITTEE: O&A 10/18/2010, CC 11/09/10, O&A 11/15/10

TRAFFIC & MOTOR VEHICLES LEGAL NOTICE NOTICE OF PUBLIC HEARINGS

The Gloucester City Council will hold public hearings on Tuesday, November 9, 2010, at 7:00 PM in the Kyrouz Auditorium, City Hall, relative to the following proposed amendments to the Gloucester Code of Ordinances, Chapter 22 entitled "Traffic and Motor Vehicles" as follows:

Sec. 22-287 "Disabled Veteran - Handicapped Parking"

. Amend by ADDING "Main Street # 46, one (1) handicapped parking space to be placed on the northerly side of Main Street"

. Amend by ADDING "Main Street #287, one (1) handicapped parking space approximately 20 feet in an easterly direction on the southerly side of Main Street before the entrance of Gorton's satellite parking lot"

. Amend by ADDING "Harvard Street #2, one (1) handicapped parking space in front of #2 Harvard Street"

. Amend by ADDING "Summer Street #26, one (1) handicapped parking space at #26 Summer Street"

. Amend by DELETING "Addison Street, opposite # 28; one (1) handicapped parking space"

Sec. 22-270 "Parking Prohibited at all Times"

. Amend by DELETING "Hesperus Avenue at Rafe's Chasm" subsection (4), "Parking prohibited between 9:00 p.m. to 9:00 a.m." and ADDING "Parking prohibited between 7:00 p.m. to 9:00 a.m."

. Amend by ADDING "Maple Street, northerly side, from Warner Street to Mt. Vernon Street"

. Amend by ADDING "Oak Street, southerly side from Warner Street to Mt. Vernon Street"

. Amend by ADDING "Summer Street, westerly side from Granite Street in a northerly direction to Orchard Street"

. Amend by ADDING "Centennial Avenue, westerly side, in a northerly direction from Perkins Road to Leslie O.

Johnson Road"

Sec. 22-291 "Tow Away Zones"

Amend by ADDING "Summer Street, westerly side from Granite Street in a northerly direction to Orchard Street"

. Amend by ADDING "Centennial Avenue, westerly side, in a northerly direction from Perkins Road to Leslie O. Johnson Road"

. Amend by DELETING "Hesperus Avenue at Rafe's Chasm" subsection (4), Parking Prohibited between 9:00 p.m. and 9:00 a.m. and by ADDING "Hesperus Avenue at Rafe's Chasm" subsection (4), Parking Prohibited between 7:00 p.m. and 9:00 a.m.

At the public hearings, all interested persons will have the opportunity to be heard.

By Vote of the City Council
Linda T. Lowe, City Clerk

AD#12380677
Cape Ann Beacon-10/29/10

Councilor Hardy stated she will be meeting with Michael Hale, DPW Director, Mr. Grace and Mr. Foley the following day at the DPW regarding this matter. She will have more information shortly.

This matter is continued to October 18, 2010.

- D) CC2010-052 (Mulcahey) Amend Sec. 22-284 (Service or Loading Zones) of the GCO re: 6 Elm Street (Cont'd from 08/23/10)

Larry Ingersoll, Co-Chair of the Traffic Commission stated at their August 26, 2010 meeting, the Commission recommended that the Order be approved as amended after speaking to the owner of the Common Crow and Councilor Mulcahey. He explained the particulars of the measurements to the Committee. He noted this vote was not unanimous. Mr. Bertolino was concerned that this was a loss of yet another parking space, but the rest of the Commission disagreed and passed the motion to recommend the order.

The Councilors all agreed this loading zone was appropriate to the area.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Verga, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the GCO Sec. 22-284 (Service or Loading Zones) to create a loading zone at the beginning of Elm Street at its intersection with Main Street (across from #6 Elm Street) approximately 20 feet from the intersection of Main Street on the easterly side, northerly direction, for a distance of 40 feet (to the entrance of Cameron's rear lot) AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- E) CC2010-053 (McGeary) Amend GCO Sec. 22-265 Re: Old County Rd. restricting turns onto Eastern Avenue

Mr. Ingersoll stated at their August 26, 2010 meeting of the Traffic Commission recommended that CC2010-053 to amend the GCO Sec. 22-265 (Turning Movements) as relates to Old County Road to prohibit right turns onto Old County Road from the rear of the property of 168 Eastern Avenue and was approved as amended at their August 26, 2010 meeting.

Councilor Hardy asked for a diagram of the area to be available for the Council at the public hearing. **Councilor McGeary** explained he understood the concern of residents in the area was that people taking a right onto Old County Road would find themselves on a dead-end street and be turning to return to exit out at Old County Road and Eastern Avenue. This was to force people to make a left in order to not turn onto a dead end.

MOTION: On motion by Councilor Verga, seconded by Councilor Theken, the Ordinances & Administration Committee voted 2 in favor, 0 opposed. 1 (Curcuru) recused, to recommend to the City Council to amend the GCO Sec. 22-265 (Turning Movements) by ADDING restricting or prohibiting right turns onto Old County Road near rear property entrance of 168 Eastern Avenue onto Old County Road AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- F) CC2010-054 (Mulcahey) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: 21 Main Street

Mr. Ingersoll noted that at the August 26, 2010 meeting of the Traffic Commission amended the order to read: Main Street, one (1) handicapped parking space in the vicinity of #21, near the Mystery Train. However, after discussion and speaking to Councilor Mulcahey, the Traffic Commission tabled the matter until businesses in the area could be consulted before again taking this matter up. Mr. Ingersoll had

suggested the space be in front of Valentino's Restaurant. There was a concern raised of not having it too close to the former St. Peter's Club.

The Councilors asked Mr. Ingersoll to look more carefully at the area, particularly to the way that is to the side of Virgilio's. This would be a possible place for a handicapped parking space at the top of the way. There was a question as to whether the way was owned by the City; and the Committee also asked that the information as to that way's ownership be clarified.

This matter was continued to the October 18, 2010 meeting of O&A.

- G) CC2010-055 (Mulcahey) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: 287 Main St.

Mr. Ingersoll noted that at the August 26, 2010 meeting of the Traffic Commission amended the order to read: Main Street, one (1) handicapped parking space in the vicinity of #287. The Commission expressed their concern about the number of meters that are being eliminated with every handicap space and loading zone that is requested and approved for the downtown area.

The Committee felt this matter should be tabled to have another look taken at the immediate area, in particular the Main Street lot in that area. The City Clerk would look into the ownership of that lot. It was suggested this lot would help alleviate parking issues in that area.

The matter was continued to the October 18, 2010 meeting of O&A.

- H) CC2010-056 Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: Arnold Way

Mr. Ingersoll noted that the requestor or their representative for this handicapped space was unable to attend their August 26th meeting. At the request of Councilor McGeary the matter was tabled by the Traffic Commission to their September 23, 2010 meeting.

The matter was continued to the October 18, 2010 meeting of O&A.

Councilor Mulcahey entered the meeting at 6:16 p.m. Councilor Verga stepped away as an acting alternate.

- I) CC2010-057 Amend GCO Sec. 22-273f (Parking prohibited between certain hours on certain days) and Sec. 22-270.1 (Resident sticker parking only) re: Haskell Street

Mr. Ingersoll stated at the August 26, 2010 meeting of the Traffic Commission that the order was amended to be more reflective of what Councilor McGeary was intent upon accomplishing for his constituents in that area. Therefore, the order was amended and the motions before the Committee were what they came up with to satisfy all parties.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend GCO Sec. 22-273f (Parking Prohibited between certain hours on certain days) by DELETING Haskell Street, on the southerly side from its intersection with Rocky Pasture Road between May 1 and September 15, annually from 9:00 a.m. to 5:00 p.m. on Saturdays, Sundays and Holidays AND TO ADVERTISE FOR PUBLIC HEARING.

**CITY OF GLOUCESTER
TRAFFIC COMMISSION**

A meeting will be held on Thursday September 23, 2010 at 6:00 p.m.
at the third floor conference room at Gloucester City Hall

Please conduct your own site visits when convenient

The meeting was moved to the main auditorium at City Hall and was opened by Chairman Robert Ryan at 6:03 p.m. Also attending were members Larry Ingersoll, Robert Francis, Anthony Bertolino and Michael Mulcahey. Also, City Councilor Ann Mulcahey and residents Barbara Ferraro and Joseph Favaloro.

AGENDA

The following were tabled at our previous meeting and will be heard again at this meeting:

Order #CC2010-054 (Councilor Mulcahey) Ordered that the GCO Sec. 22-287, entitled "Disabled veteran, handicapped parking" be amended by adding:

Main Street, one (1) handicapped parking space in the vicinity of #21

(August Meeting) After a discussion and speaking to Councilor Mulcahey, a MOTION was MADE, SECONDED and PASSED to TABLE the order until such time the businesses in the area are consulted. The MOTION PASSED on a 4-1 vote. Member Larry Ingersoll dissented as wherever the handicap space is put, it will affect an area business and he saw no reason why a decision couldn't be made at this meeting.

(September Meeting) After a discussion and speaking to Councilor Mulcahey, A MOTION was MADE, SECONDED and PASSED to APPROVE the order with the Handicap Space being placed where meter #10 is currently installed. (Northerly side of Main Street by #46 Main Street. The TC believes that a Handicap Space is needed in the West End of Main Street.

NOTE: An unmetetered space at the end of Mansfield Way (between Virgilio's and Mystery Train) would be too small for a Handicapped space.

9/27/2010

study and gave Mr. Ryan, Co-Chair of the Commission some parameters and would email him the information and would like to do a neighborhood meeting on it with him.

This matter is continued to November 29, 2010.

C) CC2010-054 (Mulcahey) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: 21 Main Street (Cont'd from 09/20/10)

Councilor Theken thought this was wasteful to continue having public hearings at the Council level for handicapped parking; and wondered why it can't be done at a Committee level, especially when it is legitimate with all the appropriate documentation filed and having had a review by the Traffic Committee.

Councilor Tobey stated they just need to change the ordinance on how they enact such an ordinance.

Councilor Hardy added she believed it was allowed for in the City Charter that the City Council can vote to designate any standing committee to do the work of the Council.

Councilor Tobey likened the process to that of Pole/Conduit petitions now heard at the P&D level.

Ms. Lowe noted that every ordinance amendment on handicapped parking must be advertised according to the Charter. The Traffic ordinances just keep growing exponentially. Maybe, this major change, as has been done in other towns, is to have traffic regulations rather than traffic ordinances and then would not be necessarily bound by the advertising requirements that come out of the Charter or by State law. As it stands now, the Code of Ordinances and the Charter says you must advertise and is specific as to the venue, a newspaper, where it must be placed.

Councilor Theken asked Ms. Lowe if it could be checked into further because she'd like to see this idea go forward.

Mr. Ryan stated with respect to handicapped spaces, the requestors are asked to come in to the Traffic Commission, then they many times come to O&A when the matter comes to them, and then to the Council when they have the public hearing. He pointed out that is three trips for the requestor. He could see no problem take up the matter at the Traffic Commission and making the recommendation to O&A.

Councilor Tobey recalled when Councilor Foote was on the Committee was anxious that this kind of matter stay with the Council. But he would welcome the opportunity to shift this kind of thing off the Council give it to the Traffic Commission; and perhaps they could use this as a test case to do it legally and delegate it completely to the Traffic Commission. Further, he thought many of the traffic issues could be done collaboratively with the Committee and the Commission, especially in the case of handicapped parking.

The Committee further discussed the concept agreed there were traffic issues that could be consolidated into a regulations situation and would look to do so after some research as to how it could be accomplished.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinance & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by ADDING "Main Street, #46, one (1) handicapped parking space to be placed on the northerly side of Main Street" AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

D) CC2010-055 (Mulcahey) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: 287 Main St. (Cont'd from 09/20/10)

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinance & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by ADDING "Main Street #287, one (1) handicapped parking space approximately 20 feet in an easterly direction on the southerly side of Main Street, just before the entrance of the Gorton's satellite lot" AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

MOTION: On motion by Councilor Theken, seconded by Councilor Mulcahey, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by ADDING "one (1) handicapped parking space, in front of Harvard Street #2".

11. PH2010-103: Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: adding Main Street #46

Councilor Tobey stepped away from the dais at 10:21 p.m.

This public hearing is opened.

Those speaking in favor:

Mr. Ryan stated at the Traffic Commission meeting of September 23, 2010 the Commission was presented with two Council Orders. They do not have a handicapped parking space from Hancock Street to Washington Street. He noted that the two requests that came forward from Councilor Mulcahey were for the West End and the East End of Main Street. They worked with the City Clerk and Councilor Theken to find the ideal spots. They proposed to put it in front of #46, the old Whitmarsh Building. They picked the best locations to accommodate handicapped individuals.

Those speaking in opposition: None.

Communications: None.

Questions:

Councilor Ciolino asked if the gallery in the Whitmarsh Building knew of this space to be in front of them.

Mr. Ryan responded that Mr. Ingersoll did speak with the gallery. They would have to take out Meter #10 to put the space there.

Councilor Ciolino was surprised to hear that the business owner would agree to this. They've had numerous problems there with parking in that area. He had never voted against a handicapped parking space but that parking is so close there, they need to remove the loading/unloading space perhaps but that if you have a placard for handicapped you can park at any meter without paying the meter. He could support this that it be a two hour parking space because it is such a congested area so that no one person could park there all day long providing the people on the gallery have signed off on this and is a good solution.

Councilor Theken agreed and wanted it closer to the Mystery Train. They do need handicapped parking. They never planned for handicapped accessibility in the West End. They did debate this issue at O&A. The Commission made the recommendation. But there is a sidewalk cut there. If you put a two hour limit on this you have to do it for all the Main Street handicap spaces.

Councilor Mulcahey felt the problems were settled in that area and noticed there were no handicapped parking spaces. She told the Traffic Commission to find the appropriate place for it, and they did. These are her constituents and she was looking out for them. The chair car could not access that area for the handicapped citizens.

Councilor Whynott felt they put handicapped parking spaces in different neighborhoods. Downtown handicapped parking spaces he did take issue with. He agreed with Councilor Ciolino that Main Street handicapped parking spaces should be a two hour limit.

Councilor Verga thought it was a good idea for a two hour limit. It would be the same at the meters with a placard. Technically every space is a handicapped spot with a placard.

Mr. Ryan confirmed that.

Councilor Theken agreed the Main Street two hour limit was fine and had no objection. She wanted this so that chair vans can have access to the area.

Mr. Ryan thought that would be a good idea for all handicapped parking for all of Main Street.

Councilor Curcuru supported the two hour limit.

Councilor Hardy stated they didn't advertise for a two hour limit. This would be combining two ordinances and wondered if they should advertise for public hearing for the two hour limit. She recommended they should send this back to the O&A Committee without objection.

Councilor Whycott asked that this also be sent also to the Legal Department to see if a two hour time limit was able to be done for handicapped parking.

This public hearing was continued to November 23, 2010 and was referred back to the O&A Committee.

12. PH2010-104: Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: adding Main Street #287

This public hearing is opened.

Councilor Hardy recommended they should send this back to the O&A Committee without objection and also be sent also to the Legal Department to see if a two hour time limit for handicapped parking was able to be done.

This public hearing was continued to November 23, 2010

13. PH2010-105: Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: Summer Street #26

This public hearing is opened.

Those speaking in favor:

Mr. Ryan stated at the Traffic Commission meeting of October 14, 2010 the order was approved. The requestor was there and presented her plaque and met all the criteria.

Those speaking in opposition:

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinance & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by ADDING "one (1) handicapped parking space, at #26 Summer Street".

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by ADDING "one (1) handicapped parking space, at #26 Summer Street".

14. PH2010-106: Amend GCO Sec. 22-270 "Parking Prohibited at all Times re: Summer Street

15. PH2010-107: Amend GCO Sec. 22-291 "Tow Away Zones" re: Summer Street.

These public hearings are opened.

Those speaking in favor:

Mr. Ryan stated at the Traffic Commission meeting of October 14, 2010 the order was approved unanimously to prohibit parking on the westerly side of Summer Street from Granite Street in a northerly direction to Orchard Street.

Those speaking in opposition: None.

Communications: None.

Questions: None.

These public hearings are closed.

This matter is tabled until such response is received from the MA Division of Standards.

- E) Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: adding Main Street #46
(Cont'd from 11/09/10 City Council meeting for clarification by the O&A Committee)

Councilor Theken stated this matter was brought back regarding two hour parking for handicapped parking spaces. This matter was duly posted for O&A, discussed in their Committee, and advertised appropriately and brought to a public hearing which opened at the Council meeting on November 9th, and was continued. They had gone through the process and that there was ample time for comment. She thanked Mr. Ryan and the Traffic Commission for his work. She understood there was conflict on the issue. The order submitted by Councilor Mulcahey will either be withdrawn this evening or "die" at City Council. She and her fellow Councilors are advocates for everyone; and that there were no ulterior motives. They need handicapped parking downtown. She told of parking difficulty during St. Peter's Fiesta; and she had also received a complaint from a quadriplegic that used a handicapped van for transportation as well.

Councilor Tobey asked for the pros and cons from Mr. Ryan.

Mr. Ryan noted the need for a handicapped parking in the West End of which they all agreed. He showed a street map of the downtown (on file) showing the seven handicapped parking on Main Street; there was none from Flanagan Square to Manuel F. Lewis Street; and none on Main Street from Hancock Street to the intersection of Washington Street leaving the West End bereft of handicapped spaces. He further noted anyone with a handicapped plate or placard can park in any metered space and not pay the meter and cannot be ticketed which is a City ordinance/State law.

Councilor Tobey clarified that this then was the pro statement, that there isn't enough handicapped parking spaces from Hancock Street to Main Street's intersection with Washington Street. He asked Mr. Ryan for the "con".

Mr. Ryan did not have a "con".

Councilor Theken stated that the proposer has to delete the whole amendment and eliminate #46.

Mr. Ryan stated on Saturday, November 13th, he spoke with the Mr. and Mrs. Vaughan Hawley at #46/#48 Main Street, owners of a gallery there. They expressed to him they would rather not have the handicapped spot there. He stated they had already spoken with the owner of the building of Valentino's Restaurant several months ago; and lastly, he spoke to John Wright, the owner of Fisherman's Outfitters who has 20 parking spaces in his lot, which is next to Valentino's (pictures submitted and on file) who told him they could put a spot in front of his parking lot which is #20 Main Street. Meter #6 would have to be removed. There are two driveways on either side of the now proposed space making it easy to pull in and out of the space.

Councilor Mulcahey reviewed for the Committee that the gallery owners at #46/48 Main Street had previously complained that big trucks were in front of their building unloading, and recounted they took care of it with only allowing smaller trucks. She stated that when the handicapped space at #46 would go in no trucks would be in front of their gallery and thought that would be satisfactory.

Councilor Theken stated this was about a compromise and approved of the new location for the space, at #20 Main Street.

Councilor Ciolino stated parking is tight and one of the unusual things about this request, when a handicapped person wants a handicapped parking space they come before the Traffic Commission but noted in this case it was arbitrary. He stated again, as he had at Council that he has never voted against the creation of a handicapped parking space. But there is a loading zone in front of La Trattoria Restaurant; now another handicapped space, and there is a loading zone in front of Virgilio's. Handicapped persons always have the option go into any space and park as long as they have a placard or license plate in any parking space. A handicapped van can park in a loading zone for access. He believed the area was adequately served.

Councilor Theken reiterated for the record that handicapped people with appropriate placards and/or license plates can park at any meter free of charge. She also reiterated she wanted handicapped parking in

the West End and urged her fellow Councilors to take a broader view of the matter, and not a personal focus. She exclaimed she would never support two hour parking in a handicapped space. Further, she believed it was a "win-win situation" to put the space at #20 Main Street.

Councilor Tobey asked Mr. Ryan if the Traffic Commission recommend time limits on handicapped spaces.

Mr. Ryan stated they have never discussed the concept but personally he did not like the idea.

Councilor Tobey summarized that the Traffic Commission's position is that there should be an open ended time limit on handicapped parking spaces. Further, that the proposal for the new handicapped parking space is now in the vicinity of the Wright building, #20 Main Street.

Mr. Ryan noted the Commission had not had a meeting since the last City Council meeting so they were not able to have a full discussion on possible handicapped parking space time limits.

Councilor Ciolino made clear to the Committee that if one person uses the new handicapped parking space as their exclusive parking space, he will move to withdraw the handicapped space they propose to create now at #20 Main Street.

Councilor Mulcahey stated she tries to do what her ward wants and in the best interest of everyone. "Handicapped trumps everything".

Councilor Tobey asked Mr. Ryan if the Traffic Commission would conduct an inventory of the uses of the handicapped spaces and loading zones in the downtown business district so they look at all of it at once.

By unanimous consent, the O&A Committee referred the matter of an inventory of the uses of handicapped spaces and loading zones in the downtown business district to the Traffic Commission. Upon the Commission's completion of such an inventory, the matter will be placed on the O&A Agenda.

Further, it was recommended in discussion with a property owner of a building in the West End that the owners of the properties, not the tenants' of the buildings, be asked regarding parking issues when an area is being canvassed for opinions on such matters.

Councilor Theken thanked the Traffic Commission for their work on the matter and felt this was a good compromise.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council to withdraw Council Order CC2010-054 for "one (1) handicapped parking space at Main Street #46 (formerly #21) under GCO Sec. 22-287 (Disabled Veteran, Handicapped Parking)" AND to Amend the same Council Order CC2010-054, GCO Sec. 22-287 (Disabled Veteran, handicapped parking) by ADDING "one (1) handicapped parking space at Main Street #20" AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

F) Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: adding Main Street #287 (Cont'd from 11/09/10 City Council meeting for clarification by the O&A Committee)

The Committee tabled this matter to give the Traffic Commission the opportunity to speak with Gorton's, Inc. as a courtesy to discuss with them about the proposed handicapped parking space.

This matter will be continued to the Special O&A Meeting of November 22, 2010.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:39 p.m.

Respectfully submitted,



GLOUCESTER CITY COUNCIL 2010 PUBLIC HEARING

PUBLIC HEARING NUMBER: PH2010-122
SUBJECT: Amend GCO Sec. 22-287 "Disabled veteran, handicapped parking"
re: Main Street #20

DATE OPENED: 12/07/10
CONTINUED TO:
CONTINUED FROM:
COMMITTEE MEETING O&A 11/15/10

TRAFFIC & MOTOR VEHICLES
LEGAL NOTICE
NOTICE OF PUBLIC HEARINGS

The Gloucester City Council will hold public hearings on **Tuesday, December 7, 2010, at 7:00 PM** in the Kyrouz Auditorium, City Hall, relative to the following proposed amendments to the Gloucester Code of Ordinances, Chapter 22 Traffic and Motor Vehicles:

Sec.22-269. Stop Intersections

Amend by ADDING "a stop sign at Bass Rocks Road at its intersection with Atlantic Road northerly end "

Sec.22-287. Disabled Veteran. Handicapped Parking

Amend by ADDING "One (1) handicapped parking space at 20 Main Street"

Sec.22-287. Disabled Veteran Handicapped Parking

Amend by ADDING "Two (2) handicapped parking spaces at 267 E. Main Street in front of the Gloucester Stage Co. to be utilized only during events held at Gloucester Stage Co. Signs will be official city signs created by and provided by City's DPW Director pursuant to Code of Ordinances sec.22-125 and 22-130 of this Traffic Ordinance."

At the public hearings, all interested persons will have the opportunity to be heard.

By Vote of the City Council
Linda T. Lowe, City Clerk

AD#12400705
Cape Ann Beacon 11/26/10

This matter is tabled until such response is received from the MA Division of Standards.

- E) Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: adding Main Street #46
(Cont'd from 11/09/10 City Council meeting for clarification by the O&A Committee)

Councilor Theken stated this matter was brought back regarding two hour parking for handicapped parking spaces. This matter was duly posted for O&A, discussed in their Committee, and advertised appropriately and brought to a public hearing which opened at the Council meeting on November 9th, and was continued. They had gone through the process and that there was ample time for comment. She thanked Mr. Ryan and the Traffic Commission for his work. She understood there was conflict on the issue. The order submitted by Councilor Mulcahey will either be withdrawn this evening or "die" at City Council. She and her fellow Councilors are advocates for everyone; and that there were no ulterior motives. They need handicapped parking downtown. She told of parking difficulty during St. Peter's Fiesta; and she had also received a complaint from a quadriplegic that used a handicapped van for transportation as well.

Councilor Tobey asked for the pros and cons from Mr. Ryan.

Mr. Ryan noted the need for a handicapped parking in the West End of which they all agreed. He showed a street map of the downtown (on file) showing the seven handicapped parking on Main Street; there was none from Flanagan Square to Manuel F. Lewis Street; and none on Main Street from Hancock Street to the intersection of Washington Street leaving the West End bereft of handicapped spaces. He further noted anyone with a handicapped plate or placard can park in any metered space and not pay the meter and cannot be ticketed which is a City ordinance/State law.

Councilor Tobey clarified that this then was the pro statement, that there isn't enough handicapped parking spaces from Hancock Street to Main Street's intersection with Washington Street. He asked Mr. Ryan for the "con".

Mr. Ryan did not have a "con".

Councilor Theken stated that the proposer has to delete the whole amendment and eliminate #46.

Mr. Ryan stated on Saturday, November 13th, he spoke with the Mr. and Mrs. Vaughan Hawley at #46/#48 Main Street, owners of a gallery there. They expressed to him they would rather not have the handicapped spot there. He stated they had already spoken with the owner of the building of Valentino's Restaurant several months ago; and lastly, he spoke to John Wright, the owner of Fisherman's Outfitters who has 20 parking spaces in his lot, which is next to Valentino's (pictures submitted and on file) who told him they could put a spot in front of his parking lot which is #20 Main Street. Meter #6 would have to be removed. There are two driveways on either side of the now proposed space making it easy to pull in and out of the space.

Councilor Mulcahey reviewed for the Committee that the gallery owners at #46/48 Main Street had previously complained that big trucks were in front of their building unloading, and recounted they took care of it with only allowing smaller trucks. She stated that when the handicapped space at #46 would go in no trucks would be in front of their gallery and thought that would be satisfactory.

Councilor Theken stated this was about a compromise and approved of the new location for the space, at #20 Main Street.

Councilor Ciolino stated parking is tight and one of the unusual things about this request, when a handicapped person wants a handicapped parking space they come before the Traffic Commission but noted in this case it was arbitrary. He stated again, as he had at Council that he has never voted against the creation of a handicapped parking space. But there is a loading zone in front of La Trattoria Restaurant; now another handicapped space, and there is a loading zone in front of Virgilio's. Handicapped persons always have the option go into any space and park as long as they have a placard or license plate in any parking space. A handicapped van can park in a loading zone for access. He believed the area was adequately served.

Councilor Theken reiterated for the record that handicapped people with appropriate placards and/or license plates can park at any meter free of charge. She also reiterated she wanted handicapped parking in

the West End and urged her fellow Councilors to take a broader view of the matter, and not a personal focus. She exclaimed she would never support two hour parking in a handicapped space. Further, she believed it was a "win-win situation" to put the space at #20 Main Street.

Councilor Tobey asked Mr. Ryan if the Traffic Commission recommend time limits on handicapped spaces.

Mr. Ryan stated they have never discussed the concept but personally he did not like the idea.

Councilor Tobey summarized that the Traffic Commission's position is that there should be an open ended time limit on handicapped parking spaces. Further, that the proposal for the new handicapped parking space is now in the vicinity of the Wright building, #20 Main Street.

Mr. Ryan noted the Commission had not had a meeting since the last City Council meeting so they were not able to have a full discussion on possible handicapped parking space time limits.

Councilor Ciolino made clear to the Committee that if one person uses the new handicapped parking space as their exclusive parking space, he will move to withdraw the handicapped space they propose to create now at #20 Main Street.

Councilor Mulcahey stated she tries to do what her ward wants and in the best interest of everyone. "Handicapped trumps everything".

Councilor Tobey asked Mr. Ryan if the Traffic Commission would conduct an inventory of the uses of the handicapped spaces and loading zones in the downtown business district so they look at all of it at once.

By unanimous consent, the O&A Committee referred the matter of an inventory of the uses of handicapped spaces and loading zones in the downtown business district to the Traffic Commission. Upon the Commission's completion of such an inventory, the matter will be placed on the O&A Agenda.

Further, it was recommended in discussion with a property owner of a building in the West End that the owners of the properties, not the tenants' of the buildings, be asked regarding parking issues when an area is being canvassed for opinions on such matters.

Councilor Theken thanked the Traffic Commission for their work on the matter and felt this was a good compromise.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council to withdraw Council Order CC2010-054 for "one (1) handicapped parking space at Main Street #46 (formerly #21) under GCO Sec. 22-287 (Disabled Veteran, Handicapped Parking)" AND to Amend the same Council Order CC2010-054, GCO Sec. 22-287 (Disabled Veteran, handicapped parking) by ADDING "one (1) handicapped parking space at Main Street #20" AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

F) Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: adding Main Street #287 (Cont'd from 11/09/10 City Council meeting for clarification by the O&A Committee)

The Committee tabled this matter to give the Traffic Commission the opportunity to speak with Gorton's, Inc. as a courtesy to discuss with them about the proposed handicapped parking space.

This matter will be continued to the Special O&A Meeting of November 22, 2010.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:39 p.m.

Respectfully submitted,



GLOUCESTER CITY COUNCIL 2010 PUBLIC HEARING

PUBLIC HEARING NUMBER: PH2010-104
SUBJECT: Amend GCO Chapter 22 entitled "Traffic and Motor Vehicles"
Sec. 22-287 "Disabled Veteran, handicapped parking"
re: Main Street #287
DATE OPENED: 12/07/10
CONTINUED TO:
CONTINUED FROM: O&A 09/20/10
COMMITTEE: O&A 10/18/2010, CC 11/09/10, O&A 11/15/10

TRAFFIC & MOTOR VEHICLES LEGAL NOTICE NOTICE OF PUBLIC HEARINGS

The Gloucester City Council will hold public hearings on Tuesday, November 9, 2010, at 7:00 PM in the Kyrouz Auditorium, City Hall relative to the following proposed amendments to the Gloucester Code of Ordinances, Chapter 22 entitled "Traffic and Motor Vehicles" as follows:

Sec. 22-287 "Disabled Veteran - Handicapped Parking"

- . Amend by ADDING "Main Street # 46, one (1) handicapped parking space to be placed on the northerly side of Main Street"
- . Amend by ADDING "Main Street #287, one (1) handicapped parking space approximately 20 feet in an easterly direction on the southerly side of Main Street before the entrance of Gorton's satellite parking lot"
- . Amend by ADDING "Harvard Street #2, one (1) handicapped parking space in front of #2 Harvard Street"
- . Amend by ADDING "Summer Street #26, one (1) handicapped parking space at #26 Summer Street"
- . Amend by DELETING "Addison Street, opposite # 28, one (1) handicapped parking space"

Sec. 22-270 "Parking Prohibited at all Times"

- . Amend by DELETING "Hesperus Avenue at Rafe's Chasm" subsection (4), "Parking prohibited between 9:00 p.m. to 9:00 a.m." and ADDING "Parking prohibited between 7:00 p.m. to 9:00 a.m."
- . Amend by ADDING "Maple Street, northerly side, from Warner Street to Mt. Vernon Street"
- . Amend by ADDING "Oak Street, southerly side from Warner Street to Mt. Vernon Street"
- . Amend by ADDING "Summer Street, westerly side from Granite Street in a northerly direction to Orchard Street"
- . Amend by ADDING "Centennial Avenue, westerly side, in a northerly direction from Perkins Road to Leslie O.

Johnson Road"

Sec. 22-291 "Tow Away Zones"

Amend by ADDING "Summer Street, westerly side from Granite Street in a northerly direction to Orchard Street"

Amend by ADDING "Centennial Avenue, westerly side, in a northerly direction from Perkins Road to Leslie O. Johnson Road"

Amend by DELETING "Hesperus Avenue at Rafe's Chasm" subsection (4), Parking Prohibited between 9:00 p.m. and 9:00 a.m. and by ADDING "Hesperus Avenue at Rafe's Chasm" subsection (4), Parking Prohibited between 7:00 p.m. and 9:00 a.m.

At the public hearings, all interested persons will have the opportunity to be heard.

By Vote of the City Council
Linda T. Lowe, City Clerk

AD#12380677
Cape Ann Beacon 10/29/10

suggested the space be in front of Valentino's Restaurant. There was a concern raised of not having it too close to the former St. Peter's Club.

The Councilors asked Mr. Ingersoll to look more carefully at the area, particularly to the way that is to the side of Virgilio's. This would be a possible place for a handicapped parking space at the top of the way. There was a question as to whether the way was owned by the City; and the Committee also asked that the information as to that way's ownership be clarified.

This matter was continued to the October 18, 2010 meeting of O&A.

- G) CC2010-055 (Mulcahey) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: 287 Main St.

Mr. Ingersoll noted that at the August 26, 2010 meeting of the Traffic Commission amended the order to read: Main Street, one (1) handicapped parking space in the vicinity of #287. The Commission expressed their concern about the number of meters that are being eliminated with every handicap space and loading zone that is requested and approved for the downtown area.

The Committee felt this matter should be tabled to have another look taken at the immediate area, in particular the Main Street lot in that area. The City Clerk would look into the ownership of that lot. It was suggested this lot would help alleviate parking issues in that area.

The matter was continued to the October 18, 2010 meeting of O&A.

- H) CC2010-056 Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: Arnold Way

Mr. Ingersoll noted that the requestor or their representative for this handicapped space was unable to attend their August 26th meeting. At the request of Councilor McGeary the matter was tabled by the Traffic Commission to their September 23, 2010 meeting.

The matter was continued to the October 18, 2010 meeting of O&A.

Councilor Mulcahey entered the meeting at 6:16 p.m. Councilor Verga stepped away as an acting alternate.

- I) CC2010-057 Amend GCO Sec. 22-273f (Parking prohibited between certain hours on certain days) and Sec. 22-270.1 (Resident sticker parking only) re: Haskell Street

Mr. Ingersoll stated at the August 26, 2010 meeting of the Traffic Commission that the order was amended to be more reflective of what Councilor McGeary was intent upon accomplishing for his constituents in that area. Therefore, the order was amended and the motions before the Committee were what they came up with to satisfy all parties.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend GCO Sec. 22-273f (Parking Prohibited between certain hours on certain days) by DELETING Haskell Street, on the southerly side from its intersection with Rocky Pasture Road between May 1 and September 15, annually from 9:00 a.m. to 5:00 p.m. on Saturdays, Sundays and Holidays AND TO ADVERTISE FOR PUBLIC HEARING.

study and gave Mr. Ryan, Co-Chair of the Commission some parameters and would email him the information and would like to do a neighborhood meeting on it with him.

This matter is continued to November 29, 2010.

- C) CC2010-054 (Mulcahey) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: 21 Main Street (Cont'd from 09/20/10)

Councilor Theken thought this was wasteful to continue having public hearings at the Council level for handicapped parking; and wondered why it can't be done at a Committee level, especially when it is legitimate with all the appropriate documentation filed and having had a review by the Traffic Committee.

Councilor Tobey stated they just need to change the ordinance on how they enact such an ordinance.

Councilor Hardy added she believed it was allowed for in the City Charter that the City Council can vote to designate any standing committee to do the work of the Council.

Councilor Tobey likened the process to that of Pole/Conduit petitions now heard at the P&D level.

Ms. Lowe noted that every ordinance amendment on handicapped parking must be advertised according to the Charter. The Traffic ordinances just keep growing exponentially. Maybe, this major change, as has been done in other towns, is to have traffic regulations rather than traffic ordinances and then would not be necessarily is bound by the advertising requirements that come out of the Charter or by State law. As it stands now, the Code of Ordinances and the Charter says you must advertise and is specific as to the venue, a newspaper, where it must be placed.

Councilor Theken asked Ms. Lowe if it could be checked into further because she'd like to see this idea go forward.

Mr. Ryan stated with respect to handicapped spaces, the requestors are asked to come in to the Traffic Commission, then they many times come to O&A when the matter comes to them, and then to the Council when they have the public hearing. He pointed out that is three trips for the requestor. He could see no problem take up the matter at the Traffic Commission and making the recommendation to O&A.

Councilor Tobey recalled when Councilor Foote was on the Committee was anxious that this kind of matter stay with the Council. But he would welcome the opportunity to shift this kind of thing off the Council give it to the Traffic Commission; and perhaps they could use this as a test case to do it legally and delegate it completely to the Traffic Commission. Further, he thought many of the traffic issues could be done collaboratively with the Committee and the Commission, especially in the case of handicapped parking.

The Committee further discussed the concept agreed there were traffic issues that could be consolidated into a regulations situation and would look to do so after some research as to how it could be accomplished.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinance & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by ADDING "Main Street, #46, one (1) handicapped parking space to be placed on the northerly side of Main Street" AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- D) CC2010-055 (Mulcahey) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: 287 Main St. (Cont'd from 09/20/10)

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinance & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by ADDING "Main Street #287, one (1) handicapped parking space approximately 20 feet in an easterly direction on the southerly side of Main Street, just before the entrance of the Gorton's satellite lot" AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

Councilor Hardy stated they didn't advertise for a two hour limit. This would be combining two ordinances and wondered if they should advertise for public hearing for the two hour limit. She recommended they should send this back to the O&A Committee without objection.

Councilor Whynot asked that this also be sent also to the Legal Department to see if a two hour time limit was able to be done for handicapped parking.

This public hearing was continued to November 23, 2010 and was referred back to the O&A Committee.

12. PH2010-104: Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: adding Main Street #287

This public hearing is opened.

Councilor Hardy recommended they should send this back to the O&A Committee without objection and also be sent also to the Legal Department to see if a two hour time limit for handicapped parking was able to be done.

This public hearing was continued to November 23, 2010

13. PH2010-105: Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: Summer Street #26

This public hearing is opened.

Those speaking in favor:

Mr. Ryan stated at the Traffic Commission meeting of October 14, 2010 the order was approved. The requestor was there and presented her plaque and met all the criteria.

Those speaking in opposition:

Communications: None.

Questions: None.

This public hearing is closed.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinance & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by ADDING "one (1) handicapped parking space, at #26 Summer Street".

MOTION: On motion by Councilor Theken, seconded by Councilor Ciolino, the City Council voted BY ROLL CALL 9 in favor, 0 opposed to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by ADDING "one (1) handicapped parking space, at #26 Summer Street".

14. PH2010-106: Amend GCO Sec. 22-270 "Parking Prohibited at all Times re: Summer Street

15. PH2010-107: Amend GCO Sec. 22-291 "Tow Away Zones" re: Summer Street.

These public hearings are opened.

Those speaking in favor:

Mr. Ryan stated at the Traffic Commission meeting of October 14, 2010 the order was approved unanimously to prohibit parking on the westerly side of Summer Street from Granite Street in a northerly direction to Orchard Street.

Those speaking in opposition: None.

Communications: None.

Questions: None.

These public hearings are closed.

the West End and urged her fellow Councilors to take a broader view of the matter, and not a personal focus. She exclaimed she would never support two hour parking in a handicapped space. Further, she believed it was a "win-win situation" to put the space at #20 Main Street.

Councilor Tobey asked Mr. Ryan if the Traffic Commission recommend time limits on handicapped spaces.

Mr. Ryan stated they have never discussed the concept but personally he did not like the idea.

Councilor Tobey summarized that the Traffic Commission's position is that there should be an open ended time limit on handicapped parking spaces. Further, that the proposal for the new handicapped parking space is now in the vicinity of the Wright building, #20 Main Street.

Mr. Ryan noted the Commission had not had a meeting since the last City Council meeting so they were not able to have a full discussion on possible handicapped parking space time limits.

Councilor Ciolino made clear to the Committee that if one person uses the new handicapped parking space as their exclusive parking space, he will move to withdraw the handicapped space they propose to create now at #20 Main Street.

Councilor Mulcahey stated she tries to do what her ward wants and in the best interest of everyone. "Handicapped trumps everything".

Councilor Tobey asked Mr. Ryan if the Traffic Commission would conduct an inventory of the uses of the handicapped spaces and loading zones in the downtown business district so they look at all of it at once.

By unanimous consent, the O&A Committee referred the matter of an inventory of the uses of handicapped spaces and loading zones in the downtown business district to the Traffic Commission. Upon the Commission's completion of such an inventory, the matter will be placed on the O&A Agenda.

Further, it was recommended in discussion with a property owner of a building in the West End that the owners of the properties, not the tenants' of the buildings, be asked regarding parking issues when an area is being canvassed for opinions on such matters.

Councilor Theken thanked the Traffic Commission for their work on the matter and felt this was a good compromise.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council to withdraw Council Order CC2010-054 for "one (1) handicapped parking space at Main Street #46 (formerly #21) under GCO Sec. 22-287 (Disabled Veteran, Handicapped Parking)" AND to Amend the same Council Order CC2010-054, GCO Sec. 22-287 (Disabled Veteran, handicapped parking) by ADDING "one (1) handicapped parking space at Main Street #20" AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- F) Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: adding Main Street #287 (Cont'd from 11/09/10 City Council meeting for clarification by the O&A Committee)

The Committee tabled this matter to give the Traffic Commission the opportunity to speak with Gorton's, Inc. as a courtesy to discuss with them about the proposed handicapped parking space.

This matter will be continued to the Special O&A Meeting of November 22, 2010.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:39 p.m.

Respectfully submitted,

Dana Jorgensson

CITY CLERK
GLOUCESTER, MA

From: Bob Ryan [robertbruce1947@verizon.net]

Sent: Wednesday, November 17, 2010 6:12 AM

10 NOV 22 PM 12:17

To: 'Dana Jorgensson'; Sefatia Romeo; tobeybruce@aim.com; acmulcahey@comcast.net

Subject: Handicapped Parking Space next to Gorton's

To All:

I spoke with both Dave Webber, Operations Manager, and Judson Reis, President of Gorton's, and there is no problem putting a handicapped parking space on Main Street adjacent to their satellite parking lot.

Respectfully,

Bob

11/22/2010



GLOUCESTER CITY COUNCIL 2010 PUBLIC HEARING

PUBLIC HEARING NUMBER: PH2010-123
SUBJECT: Amend GCO Sec. 22-287 "Disabled veteran, handicapped parking"
two (2) spaces re: East Main Street #267

DATE OPENED: 12/07/10
CONTINUED TO:
CONTINUED FROM:
COMMITTEE MEETING O&A 11/01/10, 11/15/10

**TRAFFIC & MOTOR VEHICLES
LEGAL NOTICE
NOTICE OF PUBLIC HEARINGS**

The Gloucester City Council will hold public hearings on **Tuesday, December 7, 2010, at 7:00 PM** in the Kyrouz Auditorium, City Hall, relative to the following proposed amendments to the Gloucester Code of Ordinances, Chapter 22 **Traffic and Motor Vehicles:**

Sec.22-269. Stop Intersections.

Amend by ADDING "a stop sign at Bass Rocks Road at its intersection with Atlantic Road northerly end"

Sec.22-287. Disabled Veteran, Handicapped Parking

Amend by ADDING "One (1) handicapped parking space at 20 Main Street"

Sec.22-287. Disabled Veteran, Handicapped Parking

Amend by ADDING "Two (2) handicapped parking spaces at 267 E. Main Street in front of the Gloucester Stage Co. to be utilized only during events held at Gloucester Stage Co. Signs will be official city signs created by and provided by City's DPW Director pursuant to Code of Ordinances sec.22-125 and 22-130 of this Traffic Ordinance."

At the public hearings, all interested persons will have the opportunity to be heard.

By Vote of the City Council
Linda T. Lowe, City Clerk

AD#12400705
Cape Ann Beacon 11/26/10

CITY COUNCIL STANDING COMMITTEE

Ordinances & Administration

Monday, November 1, 2010 – 6:30 p.m.

1st Fl. Council Conference Room – City Hall

-- MINUTES --

Present: Chair, Sefatia Theken; Vice Chair, Ann Mulcahey; Councilor Bruce Tobey

Absent: None.

Also Present: Linda T. Lowe; Jim Duggan; Mark Cole; Donna Compton; Bill Goulart; Barbara Markell; Hans Pundt; Samuel Calomo; Joe Guzzo; Dick Wilson; Mike Carrigan; Dr. Bill Goodwin, J.D. MacEachern; Bill Sanborn

The meeting was called to order at 6:34 p.m. Items were taken out of order. Councilor Tobey arrived at 6:35 p.m.

1. Continued Business

- A) CC2010-075 (Ciolino/Mulcahey) Amend GCO Chapter 11, Hawkers And Peddlers, And Transient Vendors (Cont'd from 10/18/10)

Councilor Theken explained after discussing the matter with Councilor Ciolino, she now understood that the second portion of the order relates to a stationary site, not transient vendors. By friendly amendment, the Committee passed the following motion:

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Chapter 11-6, Hawkers And Peddlers, and Transient Vendors Conduct of Business. subsection (2) By ADDING to after the second sentence: "All vendors shall operate from carts which are neat and clean and do not leak" the following: *No vendor shall pitch a tent in addition to their cart or vehicle for the purpose of selling their wares at fixed vendor site.*"; **AND FURTHER FOR PUBLIC HEARING.**"

- B) CC2010-070 (McGeary) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) Re: East Main Street

This matter is continued to November 15, 2010.

- C) CC2010-072 (McGeary) Amend GCO Sec. 22-269 (Stop Intersections) Re: Bass Rocks Road at its intersection with Atlantic Road

This matter is continued to November 15, 2010.

- D) CC2010-048 (Verga) Amend 22-270.1 (Resident Sticker Parking Only) re: areas at Lexington Avenue/Shore Road (Cont'd from City Council Meeting of October 26, 2010)

Councilor Theken reviewed for the Committee the sequence of events leading up to the public hearings PH2010-085, PH2010-086 and PH2010-099 which opened and continued at the October 26, 2010 City Council meeting to the November 9, 2010 meeting. They discussed the confusion as to what was being put forward for voting by the City Council. She made note of an email (on file) received just prior to the meeting from City Solicitor, Suzanne Egan, City Solicitor assisting in clarification on the issue.

CITY COUNCIL STANDING COMMITTEE

Ordinances & Administration

Monday, November 15, 2010 – 6:30 p.m.

1st Fl. Council Conference Room – City Hall

- MINUTES -

Present: Chair, Sefatia Theken; Vice Chair, Ann Mulcahey; Councilor Bruce Tobey

Absent: None.

Also Present: Councilor Ciolino; Linda T. Lowe; Suzanne Egan; Robert Ryan; Donna Compton; Mike Fonzo; Jane Fonzo; Andrew Burgreen; Ann Hawley; Vaughan Hawley

The meeting was called to order at 6:35 p.m. Items were taken out of order.

1. Continued Business:

- A) CC2010-070 (McGeary) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking)
Re: East Main Street #267 (Cont'd from 11/01/10)

Councilor Theken advised the Committee that Councilor McGeary had communicated via email to her his support of the creation of the handicapped parking spaces in front of the Gloucester Stage Company and asked his fellow Councilors to support it as well.

Robert Ryan, Chair of the Traffic Commission stated at their November 4, 2010 meeting the Commission recommended and approved to amend the ordinance for two handicapped parking spaces in front of the Gloucester Stage Company, #267 East Main Street to be utilized during events held at the Gloucester Stage Company only with temporary, portable signage to be kept and maintained by the Stage Company. He noted that precedent has been set to do temporary handicapped spaces in the City previously; pointing out the example of the Baptist Church has two spaces during services only.

Andrew Burgreen, Gloucester Stage Company stated their season is May 15 to November 15 each year, but they also have special events from time to time throughout the year. There are 190 seats in the theater. He would put out the portable signs and remove them.

Linda T. Lowe, City Clerk commented that traffic signage on public streets must be public signs.

Councilor Tobey asked Ms. Lowe about her observation she made regarding private removable signs.

Ms. Lowe referred to the GCO, Article IV Traffic Control Devices, Sec. 22-125, "Duty of Director of Public Works to place and maintain; conformity to State standards"; and Sec. 22-130 "Unauthorized signs, signals and markings" that the DPW Director is in charge of signage and that there is no such thing as privately created and maintained signs on public streets.

Mr. Ryan noted that Suzanne Egan commented that the DPW makes the signs so that they comply with regulations and then would give them to the Gloucester Stage Company for use during their theater season and for special events.

Ms. Lowe confirmed that also if the DPW Director creates and maintains the signs this is permissible.

Councilor Tobey asked that the General Counsel and City Clerk collaborate on the precise wording to capture the sense of the motion for the advertisement for public hearing, and if that were the case, he could then support the motion to add the temporary handicapped parking spaces.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by ADDING "two (2) handicapped parking spaces in front of the Gloucester Stage Company, East Main Street #267, to be utilized during events held at the Gloucester Stage Company only. Temporary, portable signage to be

provided by the Department of Public Works to be kept and maintained by the Gloucester Stage Company; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.”

By unanimous consent, the O&A Committee asked General Counsel and the City Clerk to collaborate on the precise wording to capture the sense of the motion for the advertisement for public hearing for the temporary handicapped parking spaces at Main Street #267.

- B) CC2010-072 (McGeary) Amend GCO Sec. 22-269 (Stop Intersections) Re: Bass Rocks Road at Its intersection with Atlantic Road (Cont'd from 11/01/10)

Mr. Ryan stated at the Traffic Commission's November 4th meeting they unanimously recommended the stop sign be placed at Bass Rocks Road. Also after speaking with the requestor, the Commission recommended that the City trim the collection of bushes at the intersection to provide better sight lines for oncoming traffic.

The Committee, Councilor Ciolino and Mr. Ryan discussed the two places where Bass Rocks Road intersects with Atlantic Road and clarified it would be at the northerly end of Bass Rocks Road where it intersects with Atlantic Road.

Councilor Theken noted Councilor McGeary had communicated via email to her his support of the creation of the stop sign at this location.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-269 (Stop Intersections) be Amended by ADDING “a stop sign at Bass Rocks Road and Atlantic Road, northerly end”; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- C) CC2010-076 (Mulcahey) Amend GCO Chapter 11 “Hawkers and Peddlers, and Transient Vendors”, Article II, Sec. 11.5 “Fixed Vending: site specific locations (6) to allow a 20% Rebate to Disabled Veterans on fixed permit bid (Cont'd from 11/01/10)

Councilor Tobey felt “this is not broken and nothing needs to be fixed.” He contented if someone came forward and showed demonstrable harm then the matter should be revisited and that the matter be tabled.

Councilor Mulcahey disagreed with the Councilor and wished to see it go to the City Council.

Ms. Lowe presented to the Committee the GCO Chapter 11. She noted that she and Ms. Compton and Mr. Duggan met several times, and then she had drafted language for the Committee to review (on file). Councilor Mulcahey stated she had received from Suzanne Egan an email which stated that the State does recognize a discount of up to 20% discount for disabled veterans.

Councilor Theken did not want a preference and the discount. She would prefer a preference without a discount.

Ms. Compton stated if the highest bidder was a disabled Gloucester veteran they would get 10% off. If there was a tie, then they would give the tie to the disabled Gloucester veteran.

Councilor Tobey asked about the tie breaker concept. The rest, he felt, was unnecessary; that it was all about the tie break.

Councilor Mulcahey stated she would agree that the disabled veteran would be the tie breaker.

Councilor Tobey objected to the discount as did Councilor Theken.

Ms. Egan expressed that they would have an issue on a constitutional basis to limit it to just “Gloucester” veterans.

Councilor Theken summarized that they will leave it as a disabled veteran only, not to a “Gloucester” disabled veteran.

Councilor Mulcahey agreed.



GLOUCESTER CITY COUNCIL 2010 PUBLIC HEARING

PUBLIC HEARING NUMBER: PH2010-124
SUBJECT: Amend GCO Sec. 22-269 "Stop Intersection" re: Stop sign at Bass
Rocks Road at its intersection with Atlantic Road northerly end

DATE OPENED: 12/07/10
CONTINUED TO:
CONTINUED FROM:
COMMITTEE MEETING O&A 11/01/10, 11/15/10

TRAFFIC & MOTOR VEHICLES
LEGAL NOTICE
NOTICE OF PUBLIC HEARINGS

The Gloucester City Council will hold public hearings on **Tuesday, December 7, 2010, at 7:00 PM** in the Kyrouz Auditorium, City Hall, relative to the following proposed amendments to the Gloucester Code of Ordinances, Chapter 22 **Traffic and Motor Vehicles**:

Sec.22-269. Stop Intersections.

Amend by ADDING "a stop sign at Bass Rocks Road at its intersection with Atlantic Road northerly end"

Sec.22-287. Disabled Veteran, Handicapped Parking

Amend by ADDING "One (1) handicapped parking space at 20 Main Street"

Sec.22-287. Disabled Veteran, Handicapped Parking

Amend by ADDING "Two (2) handicapped parking spaces at 267 E. Main Street in front of the Gloucester Stage Co. to be utilized only during events held at Gloucester Stage Co. Signs will be official city signs created by and provided by City's DPW Director pursuant to Code of Ordinances sec.22-125 and 22-130 of this Traffic Ordinance."

At the public hearings, all interested persons will have the opportunity to be heard.

By Vote of the City Council
Linda T. Lowe, City Clerk

AD#12400705
Cape Ann Beacon 11/26/10

CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration
Monday, November 1, 2010 – 6:30 p.m.
1st Fl. Council Conference Room – City Hall

-- MINUTES --

Present: Chair, Sefatia Theken; Vice Chair, Ann Mulcahey; Councilor Bruce Tobey

Absent: None.

Also Present: Linda T. Lowe; Jim Duggan; Mark Cole; Donna Compton; Bill Goulart; Barbara Markell; Hans Pundt; Samuel Calomo; Joe Guzzo; Dick Wilson; Mike Carrigan; Dr. Bill Goodwin, J.D. MacEachern; Bill Sanborn

The meeting was called to order at 6:34 p.m. Items were taken out of order. Councilor Tobey arrived at 6:35 p.m.

1. Continued Business

- A) CC2010-075 (Ciolino/Mulcahey) Amend GCO Chapter 11, Hawkers And Peddlers, And Transient Vendors (Cont'd from 10/18/10)

Councilor Theken explained after discussing the matter with Councilor Ciolino, she now understood that the second portion of the order relates to a stationary site, not transient vendors. By friendly amendment, the Committee passed the following motion:

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Chapter 11-6, Hawkers And Peddlers, and Transient Vendors Conduct of Business. subsection (2) By ADDING to after the second sentence: "All vendors shall operate from carts which are neat and clean and do not leak" the following: *No vendor shall pitch a tent in addition to their cart or vehicle for the purpose of selling their wares at fixed vendor site.*; AND FURTHER FOR PUBLIC HEARING."

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This matter is continued to November 15, 2010.

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The Committee, Councilor Ciolino and Mr. Ryan discussed the two places where Bass Rocks Road intersects with Atlantic Road and clarified it would be at the northerly end of Bass Rocks Road where it intersects with Atlantic Road.

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- C) CC2010-076 (Mulcahey) Amend GCO Chapter 11 “Hawkers and Peddlers, and Transient Vendors”, Article II, Sec. 11.5 “Fixed Vending: site specific locations (6) to allow a 20% Rebate to Disabled Veterans on fixed permit bid (Cont'd from 11/01/10)

Councilor Tobey felt “this is not broken and nothing needs to be fixed.” He contented if someone came forward and showed demonstrable harm then the matter should be revisited and that the matter be tabled.

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Ms. Lowe presented to the Committee the GCO Chapter 11. She noted that she and Ms. Compton and Mr. Duggan met several times, and then she had drafted language for the Committee to review (on file). Councilor Mulcahey stated she had received from Suzanne Egan an email which stated that the State does recognize a discount of up to 20% discount for disabled veterans.

Councilor Theken did not want a preference and the discount. She would prefer a preference without a discount.

Ms. Compton stated if the highest bidder was a disabled Gloucester veteran they would get 10% off. If there was a tie, then they would give the tie to the disabled Gloucester veteran.

Councilor Tobey asked about the tie breaker concept. The rest, he felt, was unnecessary; that it was all about the tie break.

Councilor Mulcahey stated she would agree that the disabled veteran would be the tie breaker.

Councilor Tobey objected to the discount as did Councilor Theken.

Ms. Egan expressed that they would have an issue on a constitutional basis to limit it to just “Gloucester” veterans.

Councilor Theken summarized that they will leave it as a disabled veteran only, not to a “Gloucester” disabled veteran.

Councilor Mulcahey agreed.



GLOUCESTER CITY COUNCIL 2010 PUBLIC HEARING

PUBLIC HEARING NUMBER: PH2010-125
SUBJECT: Amendments to GCO Chapter 11 entitled "Hawkers and Peddlers and Transient Vendors" Sec. 11.1 "Definitions", Sec. 11-3(b) "Local license/permit requirement for fixed vending locations; procedure to obtain, Sec. 11-2(c) "Sealed bid procedures", Sec. 11-5 "Fixed vending site specific locations (6) – subsection (1), Sec. 11-6(2) "Conduct of business"
DATE OPENED: 12/07/10
CONTINUED TO:
CONTINUED FROM:
COMMITTEE: O&A 10/18/10, 11/01/10, 11/15/10

PROPOSED AMENDMENTS
LEGAL NOTICE
NOTICE OF PUBLIC HEARING

The Gloucester City Council will hold a public hearing on **Tuesday, December 7, 2010, at 7:00 PM** in the Kyrouz Auditorium, City Hall, relative to the following proposed amendments to the Gloucester Code of Ordinances, Chapter 11 entitled "Hawkers and Peddlers and Transient Vendors" as follows –

Sec. 11-1. "Definitions": Amend by **ADDING** "disabled veteran" shall mean the same as defined in MGL Ch. 31, Sec. 1.

Sec. 11-3(b). "Local license/permit requirement for fixed vending locations; procedure to obtain: Amend by **ADDING** at line 5, "up to" before the words "seven (7)"; And by **ADDING** at 3(b) (1) after the word "license", "and proof that they are a disabled veteran as defined in sec.11-1"

Sec. 11-3(c). "Sealed bid procedures": Amend by **DELETING** "should there be a duplicate bid and duplicate date and time of submission there will be a rebidding procedure among duplicate bidders within seven (7) days" and by **ADDING** "If there is a tie between two or more vendors on the bid amount, then the bidder/vendor, who is a disabled veteran, shall be given preference over all other bidders provided they meet all other bid requirements "

Sec. 11-5. "Fixed Vending: site specific locations (6) – subsection(1): Amend by **ADDING** after "Washington Street" – "Ten (10) feet north from its intersection with Poplar Street"

Sec. 11-6(2). "Conduct of business": Amend by **ADDING** after the second sentence which reads "All vendors shall operate from carts which are neat and clean and do not leak" the following: "No vendor shall pitch a tent in addition to their cart or vehicle for the purpose of selling their wares at fixed vendor site."

At the public hearing, all interested persons will have the opportunity to be heard.

By Vote of the City Council
Linda T. Lowe, City Clerk

and the administration kept renewing his contract, was that OK? She stated yes. If he or she leaves that position, the Mayor declares it vacant, and then the new ordinance falls into place.

Councilor Theken asked to receive that opinion in writing.

Mr. Duggan stated there was one other issue in the event that a new Chief hired under the new ordinance becomes sick and unable to perform their duties of their job, and a Lieutenant moves up in the interim is he or she out of Civil Service protection; they are not because the position has not been vacated yet.

The Committee will wait to hear from Mr. Duggan and the Administration before bringing the matter back to their agenda.

11. CC2010-075 (Ciolino/Mulcahey) Amend GCO Chapter 11, Hawkers And Peddlers, And Transient Vendors

[**Note:** At the October 12, 2010 City Council Meeting under Consent Agenda, the order listed above was amended to include Councilor Mulcahey as well as by friendly amendment to amend Sec. 11-5, (6) (2) by deleting the St. Peter's Park/Rogers Street vending location altogether.]

Councilor Mulcahey stated she was interested in exploring possible rebates to Gloucester citizens of a certain percentage if they are successful for bidding on a vending location, which would be advantageous to Gloucesterites.

Ms. Lowe recommended obtaining a legal opinion from Ms. Egan if it is feasible for the City to restrict and/or rebate monies from successful bids for vendor locations by local citizens, and also can they do it under the State procurement laws.

Councilor Theken reminded Councilor Mulcahey that the matter she just spoke of is not before them and is not attached to this order.

Councilor Mulcahey understood and agreed. She stated with regard to Councilor Ciolino's order that for the last two summers the Rogers Street fixed vending location, 10 ft. east of the intersection with Commercial and Washington Streets is a safety hazard and for that reason asked the Committee to endorse the motion.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend the GCO, Chapter 11, Hawkers And Peddlers, And Transient Vendors of the GCO, Sec. 11-5 Fixed vending: site specific locations "(2) to DELETE "Rogers Street – Ten (10) feet east of its intersection with Commercial and Washington Streets, with the exception of St. Peter's Fiesta weekend and renumber accordingly" AND TO ADVERTISE FOR PUBLIC HEARING.

The second section of Councilor Ciolino's order would be continued to November 1, 2010 when the Councilor could be in attendance to discuss the mater with the Committee.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:11 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Memo from Mark Cole, Operations Manager, DPW to Councilor Theken re: Parking Issues Green Street Field, dated 10/18/2010

CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration
Monday, November 1, 2010 – 6:30 p.m.
1st Fl. Council Conference Room – City Hall

-- MINUTES --

Present: Chair, Sefatia Theken; Vice Chair, Ann Mulcahey; Councilor Bruce Tobey

Absent: None.

Also Present: Linda T. Lowe; Jim Duggan; Mark Cole; Donna Compton; Bill Goulart; Barbara Markell; Hans Pundt; Samuel Calomo; Joe Guzzo; Dick Wilson; Mike Carrigan; Dr. Bill Goodwin, J.D. MacEachern; Bill Sanborn

The meeting was called to order at 6:34 p.m. Items were taken out of order. Councilor Tobey arrived at 6:35 p.m.

1. Continued Business

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AMEND Sec. 11-5(1) "Fixed vending; site specific locations (6) by ADDING: "After Washington Street: "Ten (10) feet north from its intersection with Poplar Street"; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- D) Memorandum from Charles H. Carroll, Director MA Division of Standards re: Adoption of Amended M.G.L. Chapter 101 by requiring "Promoters", as defined, to be licensed under the Acts of 2010, Chapter 308 (By Direction of the City Council President (Cont'd from 11/01/10)

Suzanne Egan, General Counsel stated she was asked if the Act of 2010, Chapter 308 if it left anything for the City of Gloucester to regulate with regard to transient vendors and peddlers. The act, essentially, is for promoters who are licensed vendors; in order to regulate flea markets. She noted the City regulates individual vendors, hawkers and peddlers. It also says that municipalities may continue to charge such fees that they have in place, which the City has at this time.

The Committee, Councilor Ciolino Ms. Egan or Ms. Lowe discussed the matter and the difference of a festival, using the Waterfront Festival as an example, versus vendors simply selling tangible goods; that the definition in the Act points towards a flea market definition not to festivals.

Councilor Tobey wondered if it would be helpful to send to the MA Division of Standards to the attention of Mr. Carroll the City's current body of ordinances to share it with him and ask him how we would revise it to comply with this Act in order that the Division would tell the City how it should be written. He felt it was wasteful to unravel 28 years of an arcane body of Massachusetts law. It was "a mess because Councils keep putting their hands on it" [the ordinance] and dealing with it piecemeal. He further suggested that the Waterfront Festival should be on I4-C2 and up to the Harbor Loop as far as the entrance to the Heritage Center instead of Stage Fort Park.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey the Ordinances & Administration Committee voted 3 in favor, 0 opposed that the matter of Adoption of Amended M.G.L. Chapter 101 by requiring "Promoters", as defined, to be licensed under the Acts of 2010, Chapter 308 be sent back to the General Counsel and in collaboration with the City Clerk in order to send the City ordinances to Charles Carroll, Director of the MA Division of Standards to seek guidance as to how the City should proceed.