

CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration
Monday, February 28, 2011 – 6:30 p.m.
KYROUZ AUDITORIUM – City Hall
-Minutes-

Present: Chair, Councilor Sefatia Theken; Vice Chair, Councilor Anne Mulcahey; Councilor Steven Curcuru (Alternate)

Absent: Councilor Tobey

Also Present: Councilor Ciolino; Linda T. Lowe; Police Chief Michael Lane; Suzanne Egan; Rose LoPiccolo; David Bain; Cate Banks; Larry Ingersoll; Tony Gross

The meeting was called to order at 6:37 p.m. Items were taken out of order.

1. Old Business:

- A) Amending GCO Chap. 11 Hawkers and Peddlers and Transient Vendors Sec. 11-Fixed Vending; site specific locations (Cont'd from 02/14/11) (See #2 Continued Business A) below.)

2. Continued Business:

- A) CC2011-004 (Mulcahey) Traffic Commission be requested to investigate a new location for a vending site and make their Recommendation to the O&A Committee et. al. (Cont'd from 01/31/11)

Councilor Mulcahey briefly reviewed the suggested site locations in discussion with the Traffic Commission based on the 2/17/11 Traffic Commission minutes provided to O&A (on file). They were:

- The former 'Duck Boat' area on Rogers Street in front of the Fitz H. Lane parking lot and at the southwest corner of the east entrance to Harbor Loop.
- Main Street, southerly side, by the boatyard and in the area across from the area of Scott Street and 360 Main Street. (This area is sometimes used for vending now.)
- Rogers Street, southerly side, in a metered area (meter #2) that currently exists between the two entrances of St. Peter's Park. Some of the issues mentioned with the previous vending spot would not exist here as the location would force customers to use St. Peter's Park if they wanted to use the vendor. That would stop the traffic congestion in the area.

Larry Ingersoll of the Traffic Commission provided photos of the sites to the Committee and noted that the traffic issues in the area of the intersection of Rogers, Washington and Commercial Streets consist of heavy congestion, stop sign violations at the end of Commercial Street and large vehicles parked for long periods in the 'Loading Zone' along the north side of Commercial Street. These exist regardless of any specific vending site. The previous vending site added to this problem due to an extension of the vending area and vehicles double parking or parking in the crosswalk to speak to the vendor. The vendor was also discouraging other vehicles from parking in the metered space nearby, so as to increase his area. He reiterated the Rogers Street spot noted by them was a better location.

Councilor Ciolino thought the three vending location options were workable. They are taking out a meter, in one location. They may wish to think what the revenue would be lost from the meter taken out; they might want to make that lost revenue the minimum bid.

Councilor Curcuru believed there is no way to track a single meter.

Councilor Ciolino stated the municipal parking lot area at the Gloucester House which is rented by that businesses; the City is able to tell what the meters bring in and estimate revenue in order to set a rental rate.

Councilor Theken added they can forward a request to Jeff Towne, CFO to obtain revenue on that particular meter in question. She also noted they'd be removing one meter, but they would be putting back two, in a sense. She also reiterated this is not a personal matter. This issue is for a site location and not for one particular person.

Councilor Curcuru asked about the crosswalk on the Rogers Street location and would that be an issue. **Mr. Ingersoll** didn't think it would. The Commission felt the issues would be the same whether it was a vendor or a car there.

Councilor Theken stated if there is a complaint it can be taken up with the Police Department. If people are not compliant with the rules of the ordinance and/or contract, if they abuse the permit, after three warnings, they are out.

Councilor Ciolino thought they could review the matter in a year.

Councilor Theken asked if anything is in place to enable an eviction from a vending site.

Linda T. Lowe, City Clerk stated it is something that could be put in the vendors' bid or contract which would have to be for next year. (Vendor sites for 2011 have already been awarded.)

Howard Johnson, 73 Washington Street, former vendor at the corner of Washington and Rogers Streets stated if this spot is not put back that he has no business.

Councilor Theken expressed her understanding of Mr. Johnson's plight; but that spot is no longer available. She noted Councilor Tobey tried to bring it back, but it failed at the Council.

Mr. Johnson thought the whole business was unfair.

Ms. Lowe, on inquiry by **Councilor Curcuru**, stated the ordinance says the bids on vending sites are in January and that process is completed for this year.

Councilor Curcuru stated if they add additional spots why they could not have the process in place for these additional spots.

Suzanne Egan, City Solicitor stated that once the ordinance is put in place, the spots are put out to bid. Once the contracts are awarded for those vending sites, the permit holders have to comply with the terms of the contract. They can have the warnings, which can be written into the contracts; something to the effect that any permit holder can have it revoked for violations with three warnings, and then eviction with no recourse.

Mr. Ingersoll discussed the vending site opposite Main Street, southerly side, by the boatyard and in the area across from the area of Scott Street and 360 Main Street. (This area is sometimes used for vending now). The Councilors agreed with that spot. He then reviewed the former 'Duck Boat' area on Rogers Street in front of the Fitz H. Lane parking lot and at the southwest corner of the east entrance to Harbor Loop. He also stated there should be a yield sign installed at the northeast corner of Rogers Street where it intersects with Washington Street (on corner with Bank of America ATM) which the Committee agreed was appropriate to place the yield sign in that location.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Chapter 11 Sec. 11-5 BY ADDING Hawkers & Peddlers and Transient Vendors Sec. Fixed Vending; Site Specific Locations as follows:

- **The former 'Duck Boat' area on Rogers Street in front of the Fitz H. Lane parking lot and at the southwest corner of the east entrance to Harbor Loop.**
- **Main Street, southerly side, by the boatyard and in the area across from the area of Scott Street and 360 Main Street.**

- **Rogers Street, southerly side, in a metered area (meter #2) AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.**
- B) CC2011-002 (Theken) Amend GCO Sec. 22-270(Parking Prohibited at All Times) be amended
By ADDING Magnolia Avenue from under the train bridge to its intersection with Essex Avenue both sides (Cont'd from 01/31/11)

Mr. Ingersoll, of the Traffic Commission stated at their February 17, 2011 meeting the Commission after a discussion and review of an email from Councilor Theken, they approved the order as presented. In addition it was recommended that an amendment to the order be made in order to make the same affected area a tow zone as well.

Councilor Theken stated that there are trucks being left in that area, work trailers, etc; and that is the way to the industrial park. It is creating a dangerous situation. She has received many phone calls regarding this situation which is why she brought this order forward.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-270 (Parking Prohibited at all Times) by ADDING “Magnolia Avenue from under the train bridge to its intersection with Essex Avenue, both sides AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO to Amend Sec. 22-291 (Tow Zone) by ADDING “Magnolia Avenue from under the train bridge to its intersection with Essex Avenue, both sides AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- C) Memo from Recycling Coordinator re: revisions to GCO Sec. 9-1 and 9-2(a) (Trash & Recycling Containers) (Cont'd from 01/31/11)

Ms. LoPiccolo stated the intention of the proposed amendments was to match up the definitions with the new bag program and reworded the actual ordinance to include the PAYT bags. It is to clearly define the program and the rules.

Ms. Egan advised the Committee she did see the language put forward by Ms. LoPiccolo and submitted a memo to the City Council and that it is more consistent and easier to enforce.

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 Chapter 9 Trash Recycling and Litter, Sec. 9-1 Definitions and Sec. 9-2 Trash/recycling containers BY ADDING the following definitions:

1. **Household:** The single residential unit within a single or multi-family complex.
2. **Municipal Collection Program:** The program that collects solid waste and recyclable materials including yard waste, white goods (Freon, and non-Freon bearing), all televisions and all computers displays from all eligible residents, mixed use buildings, municipal facilities, locations and schools.
3. **Residential Unit:** A dwelling within the corporate limits of the city occupied by a person or group of persons comprising of not more than four (4) units.
4. **Solid Waste:** Household trash generated within the home and bulky items such as furniture, not including recyclable material, construction materials or hazardous waste material or construction and demo materials from remodeling.

5. **Pay As You Throw (PAYT) Program: The City's Pay As You Throw trash collection program whereby residential trash must be contained in an official PAYT trash bag or bear a bulky item sticker.**
6. **Bulk Item Sticker: Sticker required for curbside bulky item pick up.**
7. **Bulky Item: Furniture predominately non-metallic, weighing over 50 pounds not fitting into Official PAYT Bag.**

ADDITIONS to Sec. 9-1:

Plastic Containers shall mean PET polyethylene terephthalate, HDPE High Density Polyethylene, plastics #1 through #7, not including oil or any other hazardous materials with a chemical residue.

Recyclables shall mean glass containers, plastics #1 through #7, "junk mail" newspapers, clean corrugated cardboard, and tin/steel containers.

Section 9-2 Trash/recycling containers:

(a) All households who are eligible for the Municipal Collection Program are required to place solid waste in official Gloucester PAYT (Pay as You Throw) bags, either in or out of barrels. Any bag and/or barrel weighing more than fifty (50) pounds will not be picked up by the contractor who holds a permit for the collection of trash from the Board of Health. Any owner of a building with five (5) or more residential units, business, non-profit, and private school shall provide private trash collection. Official Gloucester PAYT bags, either in or out of a barrel shall be placed at the curb not later than 7 a.m. on the day of collection AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- D) CC2010-083 (Mulcahey) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) re: Vicinity of 4B Summit Street (Cont'd from 01/31/11)

Mr. Ingersoll of the Traffic Commission stated at their February 17, 2011 meeting the Commission after a discussion and speaking to the requestor approved one (1) handicapped parking space added at 4 Summit Street. He noted the sign can be placed in front of 4 Summit Street. They have all the appropriate paperwork. It was explained it is not a personal space. If a car is in the space without a placard, they can call the police. The requestor was present; and **Councilor Theken** asked him if he understood, and he said that he did.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru 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 one (1) handicapped parking space at 4 Summit Street AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- E) Memo from Police Chief and Fire Chief re: adoption of MGL Chap. 31 §58A pertaining to Hiring full-time Police and Firefighter positions (Cont'd from 02/14/11)

Police Chief Michael Lane stated they are asking the City to adopt MGL c.31 §58A. He and Chief Dench believe Police and Firefighting is a young person game. In the past they've had Police Department members who've come on at 44, 51 years old. They're looking for younger policemen and policewomen and firefighters. If there was anyone on the current police reserve list that would be affected by this; those people are considered already appointed and have already applied.

David Bain, Personnel Director stated this applies to entry level firefighters and police officers. The earliest it would take affect is the April 30th exam this year. He felt the City wants to set a trend for the

future. There are certain professions where you can keep personnel longer and that this is their career. Someone who is 50 may stay only relatively few years.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to adopt M.G.L. Chapter 31, Section 58A pertaining to age limitations in the hiring of Police and Fire personnel as presented in documentation dated February 14, 2011 in order to “Amend the Gloucester Code of Ordinances, Chapter 8 by ADDING new sub-section 8-21(b) “Appointment of Fire Fighter shall be subject to the age restrictions (32 years or Veterans of up to 36 years) of M.G.L. C. 31, Sec. 58A” AND TO AMEND Chapter 17, Art. 2, Sec. 17-20 “Appointment of Officers shall be subject to the age restrictions (32 years or Veterans of up to 36 years) M.G.L. C. 31, Sec. 58A”, AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- F) Memorandum and Information regarding proposed changes to Gloucester City Ordinance Chapter 10-Waterways Administration Sections 10-3 to end (Cont'd from 02/14/11)

Cate Banks, Waterways Board noted that Sec. 10-2 composition is going to be taken up by their Board at their March meeting.

Councilor Theken stated that the Waterways Board brought forward their changes and that the changes to the Composition and the terms would be discussed by them, since that was brought forward by the Administration, not the Board.

The Committee then did a final review on the red-line document presented to them of the changes they discussed at the previous O&A meeting. No further changes were made

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 the adoption of the Amendments to the Gloucester Code of Ordinances, Chapter 10-Waterways Administration, Sections 10-3 to 10-53 as presented and dated February 28, 2011 and as incorporated into these minutes and attached hereto AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- G) Stormwater Utility Fee Structure (referred from 02/15/11 City Council Meeting)

The Committee acknowledged the Public Hearing on the matter at Council March 8, 2011.

2. Re-Appointments:

The Committee questioned the new appointees to their respective Committees, Boards and Commissions on their experience, background, professional affiliations as well as asking them to be familiar with the Open Meeting Laws and to file their proof of having taken the State Ethics Commission test with the City Clerk's office. Further, they were all asked to be sure their Committees, Boards and Commissions were turning in the minutes of their meetings to the City Clerk's Office to be in compliance with the Open Meeting Law. In addition, candidates were asked regarding whether they were members of another Board, Commission or Committee.

The Committee expressed their appreciation at each of the appointees' willingness to step forward and volunteer on behalf of their City and thanked them for their commitment.

Councilor Theken stated minutes from many Boards, Committees and Commissions are not coming to the City Clerk's office in a timely fashion and must be turned in.

At the request by Councilor Theken, **Ms. Lowe** reiterated the online test for the State Ethics exam once completed that the certificate is printed by the appointee and then needs to be filed with the City Clerk's office.

Affordable Housing Trust

TTE 02/14/13 Ruth Pino, Michael Luster

Neither appeared, therefore the reappointments of Ruth Pino and Michael Luster are continued to March 14, 2011.

Board of Health

TTE 02/14/14 Claudia Schweitzer, Fred Cowan

Councilor Theken thanked Ms. Schweitzer for assisting children after a death of a peer in the City. **Ms. Schweitzer** felt her task was to broaden the mandate to bring mental health aspect to the Board of Health.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Claudia Schweitzer to the Board of Health, TTE 02/14/14.

The reappointment of Fred Cowan is continued to March 14, 2011 as he did not appear.

Board of Registrars

TTE 02/14/14 Lucia Sheehan

The reappointment of Lucia Sheehan was continued to March 14, 2011 as she did not appear.

Cable TV Advisory Committee

TTE 02/14/14 Margaret Lecco, Briggs Longbotham, Robert McGillivray

Councilor Theken advised that by the request of Margaret Lecco, her reappointment to the Cable TV Advisory Committee has been pulled at this time through the Mayor's office. This information was received via email today from the secretary to the Mayor, Chris Pantano.

Robert McGillivray

Councilor Ciolino lauded Mr. McGillivray's dedication to the City's seniors and asked what role did the Committee play with the cable contract

Councilor Theken requested that the Mayor be asked to explain the current role of the Committee.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Robert McGillivray to the Cable TV Advisory Committee, TTE 02/14/14.

The reappointment of Briggs Longbotham is continued to March 14, 2011 as he did not appear.

Conservation Commission

TTE 02/14/14 Arthur Socolow, Robert Gulla

The reappointments of Arthur Socolow and Robert Gulla are continued to March 14, 2011.

Downtown Development Comm. TTE 02/14/14 John Orlando, Douglas Cook, Katherine Cuddyer

The Committee discussed with John Orlando, Chair of the Downtown Development Commission their new proactive stance of the DDC and their current strides in being on the Mayor's Tourism "E-Board". **Councilor Curcuru** thought Mr. Orlando a good advocate for the downtown.

Councilor Ciolino thought the DDC was a good group; minutes are taken and filed. Much progress is being made downtown; and they are pleased with the progress. It is a well run board.

Councilor Mulcahey noted the strides made by the DDC over the years and thought it was “tremendous.”

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint John Orlando to the Downtown Development Commission, TTE 02/14/14.

Douglas Cook communicated to the Committee that with his planning background he brings a great deal to the DDC and wished to continue on it, stating the DDC is a consensus building commission which could be built upon.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Douglas Cook to the Downtown Development Commission, TTE 02/14/14.

Katherine Cuddyer stated her wish to continue with the DDC, appreciating the issues that come before them and the City. She feels she can make a great contribution. On inquiry from **Councilor Theken, Ms. Cuddyer** stated that the sidewalk bazaar was always run by the Chamber of Commerce. The retailers took it on. The times are changing, and the rules are changing with the times. When things have to be done, people step up to the plate.

Councilor Ciolino noted Bob Hastings of the Cape Ann Chamber of Commerce is also a member of the DDC.

Councilor Theken believed that the DDC should consider broadening their outlook to beyond the immediate Main Street area.

MOTION: On motion by Councilor Curcuru, seconded by Councilor Theken, the Ordinances & Administration Committee voted 2 in favor, 1 (Mulcahey) opposed to recommend to the City Council to reappoint Katherine Cuddyer to the Downtown Development Commission, TTE 02/14/14.

Jim Duggan, CAO stated volunteers do amazing work for the City, especially with the shortage of staff. They step up to do hours under all weather conditions, weekends and go to great lengths to help. He asked the Committee if there is an issue with any member of any board or commission that before the reappointment vote at a meeting, he asked that they come to the Administration first.

Historic District Commission TTE 02/14/14 David Porper, Nancy Goodick

David Porper informed the Committee he started with the Commission in 1978; and believed they’ve come a long way and are much more user-friendly now. He noted one member is out for three months in the winter because he goes to Florida. They are seven member board with two alternate members; and they need those two alternate member slots filled.

Councilor Theken asked a memo be sent to the Administration regarding the need for the two alternate slots to be filled.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint David Porper to the Historic District Commission, TTE 02/14/14.

The reappointment of Nancy Goodick's reappointment is continued to March 14, 2011 as she did not appear.

Historical Commission

TTE 02/14/14 David Rhinelander

Councilor Theken thanked Mr. Rhinelander for his volunteering so many hours dedicated to the City. **Councilor Curcuru** met Mr. Rhinelander during the CPA Funding process and appreciated his passion for the City and its history.

Councilor Ciolino thanked Mr. Rhinelander as did **Councilor Mulcahey**.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint David Rhinelander to the Historical Commission, TTE 02/14/14.

Mariners Medal Committee

TTE 02/14/14 Paul Frontiero

The reappointment of Paul Frontiero is continued to March 14, 2011 as he did not appear.

Open Space Committee

TTE 02/14/14 Charles Crowley, Susan Hedman

Charles Crowley gave a brief overview of the work of the Open Space Committee.

Councilor Theken thanked Mr. Crowley in his role as an advocate for the City.

Councilor Curcuru thanked Mr. Crowley as well.

Councilor Mulcahey noted her work with Stephen Winslow and the Open Space Committee on community gardens and thought they do a good job.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Charles Crowley to the Open Space Committee, TTE 02/14/14.

The reappointment of Susan Hedman is continued to March 14, 2011 as she did not appear.

Shellfish Advisory Commission

TTE 02/14/14 David Roach, Bruce Maki

Councilor Theken asked both Mr. Roach and Mr. Maki about their Commission work.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint David Roach to the Shellfish Advisory Commission, TTE 02/14/14.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Bruce Maki to the Shellfish Advisory Commission, TTE 02/14/14.

Tourism Commission

TTE 02/14/14 Lorre Anderson, William Samenfink, Peter Jenner,
Jeanne Boland

Councilor Theken questioned Mr. Jenner on about the work of the Tourism Commission and thanked him for his service.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Peter Jenner to the Tourism Commission, TTE 02/14/14.

Councilor Curcuru felt Ms. Boland was a great advocate for the City as did **Councilor Theken**.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Jeanne Boland to the Tourism Commission, TTE 02/14/14.

The reappointments of Lorre Anderson and William Samenfink were continued to March 14, 2011 as they did not appear.

Traffic Commission

TTE 02/14/14 Larry Ingersoll

Councilor Theken expressed her appreciation for Mr. Ingersoll's work with the Traffic Commission and his dedication.

Councilor Mulcahey asked that the Traffic Commission go as a group on a site visit and believed it would be much more helpful than individual site visits, especially to the Councilors. She felt the Commission does a great job.

Councilor Curcuru appreciated Mr. Ingersoll's detail-oriented work and thanked him.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Larry Ingersoll to the Traffic Commission, TTE 02/14/14.

Waterways Board

TTE 02/14/14 Anthony Gross

Councilor Theken asked Mr. Gross if there was a conflict of interest prohibition with his serving on the School Committee and the Waterways Board, to which he replied it was not.

Councilor Curcuru asked about what Mr. Gross thought of the "shaking out" of the Waterways Board by the Administration.

Mr. Gross thought the E-Commission [Board] would be a good fit for a member of the Waterways Board to be a part of.

Mr. Duggan explained what the "E Board" is, which is composed of executives of the tourist groups for marketing and tourism activities. The members are: Robert Hastings, representing the Cape Ann Chamber of Commerce; Sherry DeLorenzo of Cruiseport, President of DMO; Bob Ryan for CATA who assists in working out how to move the tourists around the community from the cruise lines. This is 90% land based work. They have John Orlando, Chair of the DDC who contributes how the merchants can get involved. They're looking at to have a coordinated effort to avoid redundancy. They're trying to build it up together. It is not a commission. It is a "gathering", a roundtable discussion to give the Mayor guidance to bring everyone to the table in tourism.

Councilor Theken thought someone from Waterways may be helpful. She noted several other members of the Waterways Board who might be a good fit for the E-Board.

Mr. Duggan thought that could be a good idea. They could be brought in as subject matter experts.

Councilor Ciolino asked Mr. Gross to advocate picking up in the areas surrounding the City landings and look towards increasing mooring spots.

Mr. Gross stated the Board was looking at the landings and moorings on an on-going basis. They are trying very hard for a mooring management system.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Anthony Gross to the Waterways Board, TTE 02/14/14.

Zoning Board of Appeals

TTE 02/14/14 Virginia Bergmann, David Gardner (Alternate) Francis Wright

Councilor Curcuru who asked Ms. Bergmann how long she'd served on the ZBA, noted she had been on it since 1984, and asked what she felt she could continue to add to the Board versus a new appointee.

Ms. Bergmann responded she could continue to add a great deal, more than perhaps a newcomer. She said if they wanted her to come off she would. She believed in the City and in the Board.

Councilor Ciolino stated that every Board needs someone with institutional memory; and the ZBA is a tough board to be a member of. He appreciated the good work they do.

Councilor Theken informed the Committee she had an email received that day from Bill Thoms regarding a 2008 decision of the ZBA. She then asked if Ms. Bergmann still felt she had an open mind on issues that come before the ZBA.

Ms. Bergmann stated she believed she did noting Cape Ann is a city of neighborhoods and that needs to be kept in mind at all times.

Councilor Theken asked in all these years did she feel she could be unbiased in her deliberations.

Ms. Bergmann replied an emphatic "yes".

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Virginia Bergmann to the Zoning Board of Appeals, TTE 02/14/14.

Councilor Theken asked a memo be sent to the Administration that an opening exists on the ZBA for a second alternate which needs to be filled.

Councilor Curcuru asked how long Mr. Gardner had been an alternate.

Mr. Gardner stated at least three years and that if a spot becomes available he would be interested in serving as a full member.

Councilor Ciolino recommended Mr. Gardner to the Committee and endorsed his reappointment.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint David Gardner (Alternate) to the Zoning Board of Appeals, TTE 02/14/14.

Francis Wright, also noting the City is made up of many neighborhoods, stated over the years he has gotten to know far more of the City than most that live here. To him it is one of the pleasures of being on the ZBA. More importantly, it is not an easy job. They see big cases and little cases. They are constantly dealing with very heavy matters of great impact on neighborhoods. They do the best they can in reconciling points of view and helping the "little folks"; to make the process as painless and comprehensible as possible.

Councilor Theken asked if Mr. Wright had an open mind.

Mr. Wright felt he did.

Councilor Ciolino asked his profession.

Mr. Wright replied he was a retired attorney.

Councilor Theken stated the matter of Mr. Thoms email was referred back to the City Clerk and the City Solicitor, and she was satisfied.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to reappoint Francis Wright to the Zoning Board of Appeals, TTE 02/14/14.

3. *CC2011-007 (Hardy) That O&A review the following City Ordinances: ARTICLE II. Chapter 8-16(b) FIRE DEPARTMENT and ARTICLE II. Chapter 17-16(b) POLICE DEPARTMENT (Referred from Special City Council Meeting of 02/15/11)*

Councilor Theken stated this matter at the request of Councilor Hardy who could not be at the meeting this evening would be continued to the next regularly scheduled meeting of O&A.

Mr. Duggan stated there will be a notification of vacancies, in August/September and another declared vacant in January regarding the positions of the Police and Fire Chiefs.

This matter is continued to March 14, 2011.

4. *CC2011-008 (Hardy) Creation of language for ballot question re: new Water Ordinance and pending Home Rule Petition related to same (Referred from Special City Council Meeting of 02/15/11)*

Councilor Theken asked the City Solicitor to create language for a ballot question that would appear on the November 2011 ballot relative to the recently enacted Water Ordinance and the pending Home Rule Petition related to same. That language and an encapsulated summary for the ballot are to be presented to the Ordinances & Administration Committee prior to their next regularly scheduled meeting of March 14, 2011.

This matter was continued to March 14, 2011.

5. *Group Petition for reconsideration and amendment of GCO Sec. 22-220(c) "Anti-Shuffling" Ordinance*

Councilor Theken announced that there was no action to be taken on this matter by the Committee at this time and that the City Council would go forward per the City Charter (Article 9. Free Petition; Initiative; Referendum, Section 9-1) to a public hearing on the petition.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration voted 3 in favor, 0 opposed TO ADVERTISE FOR PUBLIC HEARING for the group petition regarding GCO Sec. 22-220(C) "Anti-Shuffling" ordinance.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:45 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees

DOCUMENTATION/ITEMS RECEIVED AT MEETING:

- Photographs of Proposed Vending Locations by Larry Ingersoll, Traffic Commission
- General Laws: Chapter 31, Section 58A (1 page); document regarding Human Resources Division, Civil Service Unit: Police Departments Covered by Civil Service as of September 16, 2010; and MA Human Resources Division Fire Departments Covered by Civil Service as of October 13, 2010

FINAL VERSION:**Chapter 10 WATERWAYS ADMINISTRATION***

***Editor's note**--Ord. No. 17-1993, adopted Dec. 14, 1993, amended former Ch. 10, Arts. I--III, relative to the harbor and related waters, in its entirety to read as herein set out. The substantive provisions of former Ch. 10 derived from Code 1970. Sections 4-3, 10¹/₂-17--10¹/₂-25, 10¹/₂-27, 10¹/₂-29, 12-8, 12-18--12-21, 16-14, 16-16; and ordinances of Dec. 6, 1977; Jan. 10, 1978; Nov. 4, 1979; Feb. 3, 1983; Oct. 28, 1986; Aug. 4, 1987; Dec. 22, 1987; July 19, 1988; and April 4, 1989.

Cross reference(s)--Marshlands, Ch. 12; shellfish, seaworms and eels, Ch. 20.

State law reference(s)--Waterways, M.G.L.A. c. 91; provisions relating to Gloucester harbor, M.G.L.A. c. 102, §§ 3, 4; harbors and harbormasters, M.G.L.A. c. 102, § 17 et seq.

ARTICLE I. MANAGEMENT**Sec. 10-3. Authority and responsibilities.**

The Gloucester Waterways Board is hereby empowered, and authorized to:

- (a) Promote implementation of the City of Gloucester Harbor Plan, dated 1992, and, in cooperation with the appropriate city bodies, amend said plan from time-to-time as circumstances warrant;
- (b) Establish policies, rules and regulations for the use of Gloucester's waterways and waterfront facilities, including but not limited to, mooring areas, public launch ramps, public landings, and city owned commercial marinas;
- (c) Recommend to the city council fee schedules for moorings, launch ramps, slips at city owned commercial marinas, and other waterfront public facilities and a schedule of fines for violations of waterways rules and regulations;
- (d) Oversee the operation and maintenance of all public launch ramps and related facilities, the city owned commercial marinas, and public landings, floats or access ramps;
- (e) Review and oversee the work programs, budget, staffing, training, effectiveness, management techniques and policies of the harbormaster's office and related city staff;
- (f) Work cooperatively with the harbormaster's office and related city staff on harbor management issues, enforcement of waterways rules and regulations and waterways development projects;
- (g) Review all waterfront development projects or zoning changes and report its findings and recommendations to the mayor, city council or other relevant board. The waterways board may required drawings, plans or other supporting documentation from project proponents for its review;
- (h) Act as the policy liaison between the City of Gloucester and the Army Corps of Engineers, U.S. Coast Guard, the State Department of Environmental Protection, the Massachusetts Office of Coastal Zone Management and other government agencies concerned with waterways;
- (i) Work with the harbormaster's office and related city staff to plan, design and undertake new projects such as dredging, mooring fields and

access facilities;

(j) Plan and encourage the development of signage and facilities for transient boaters and promote Gloucester as a well-equipped and hospitable port-of-call;

(k) Work cooperatively with the harbormaster's office, police and fire departments, environmental police and other public safety agencies to ensure that Gloucester's waterways policies, rules and regulations and operating practices will protect the rights and property of waterways users and waterfront land owners, while maximizing public safety;

(l) Delegate any of its responsibilities to a standing committee, the harbormaster or other staff person assigned by the mayor;

(m) Investigate new sources of revenue for waterways management and development.

(Ord. No. 17-1993, 12-14-93)

Sec. 10-4. Standing committees.

(a) *Designation.* There shall be two (2) advisory standing committees of the waterways board, appointed by the chairman; a public facilities committee; and an operations and finance committee/safety committee. The committees shall review, research, investigate and make recommendations on matters referred to them by majority vote of the full board. The committees shall send their reports and recommendations only to the full board which shall review them and take appropriate action. The harbormaster shall be an ex-officio member of each committee. Every member of the board except the chairman shall be on at least one standing committee, and each committee shall elect its own chairman. The chairman of the board shall be an alternate member of all committees.

(b) *Public facilities committee.* This committee may be referred any matter dealing with moorings; public launch ramps, including Dun Fudgin; public landings; city owned commercial marinas, including St. Peter's Square and Harbor Cove; signage; public access, including but not limited to, walkways to the water, access ramps and floats and dinghy floats, sewage pump-out facilities, waste oil recycling facilities; harbormaster floats and offices; and any other matter deemed appropriate by the board. This committee shall consist of: three (3) members of the board; an advocate of public landings appointed by the mayor; the director of public works, or his designee; and a member of the tourist commission.

(c) *Operations and finance/Safety committee.* This committee may be referred any matter dealing with harbor planning, design, engineering or construction; budgets; intergovernmental relations; the harbormaster's office, including but not limited to, staffing, training, vessels and equipment, work and education programs; fees and fines. In matters of safety, the committee may be referred any matter dealing with enforcement of boating laws and regulations; other enforcement activities including the need and nature of police patrols during various times of the year and during special waterfront events; fire prevention and suppression needs; hazardous materials; emergency medical services; hazards to navigation; rules and regulations regarding use of the City's waterways; city ordinances dealing with the waterways or waterfront; and any other matter deemed appropriate by the board. This committee shall

consist of: three (3) members of the board; a member of the fisheries commission and a member of the city council for matters concerning operations and finance. For matters of safety, the three (3) board members shall be advised by the Chief of Police or his designee, the City Fire Chief or his designee, and by a representative of Coast Guard Station Gloucester.

(Ord. No. 17-1993, 12-14-93)

Sec. 10-5. Relationship to the harbormaster and city staff.

(a) The waterways board shall work cooperatively with the harbormaster and other assigned city staff to implement the City of Gloucester Harbor Plan, as amended, and pursue the policies and goals of the board. In addition, the harbormaster and the board shall work together closely to ensure that the harbormaster's office is efficient, effective, and fair to all waterway users through review of work programs, plans operating procedures and budgets.

(b) The waterways board shall work cooperatively with the harbormaster and other assigned city staff including police officers, such that the following duties are performed by the designated official or employee.

(1) *Harbormaster:*

- a. Operate, maintain, manage equipment and vessels assigned (harbormaster boat).
- b. Assign and oversee moorings.
- c. Coordinate with and report to waterways board--Meetings, staff, grants, etc.
- d. Operate and manage public launch ramps, landings, city owned commercial marinas and other public waterways facilities around the city.
- e. Gather information and make recommendations relative to the harbor--Commissioner's line, Chapter 91, permits, CZM regulations and other waterways issues.
- f. Promote Gloucester as a hospitable port of call--Provide information to visitors, provide water transport as directed by the mayor.
- g. Manage and maintain a harbormaster's office.
- h. Report to the mayor on administrative matters; report to board on policy matters.

(2) *Police department:*

- a. Enforce all Massachusetts Commonwealth laws while patrolling the city waterways.
- b. Operate, maintain and manage equipment and vessels assigned (police boat/fire boat).
- c. Investigate, prosecute criminal activity on waterways and waterfront in cooperation with other members of the Gloucester Police Department and other law enforcement agencies, USCG, etc.
- d. Make arrests on water.
- e. Report to the chief of police.
- f. Assist the fire department, US Coast Guard with fire prevention and suppression, law enforcement, hazardous

materials investigations and emergency medical services.

g. Check on lobster violations under the city ordinance and State Laws. Enforce MGL Chapter 130, Sections 31, 17, 18, 18a, 39, 41, 41a, 43, 44--Marine fisheries laws: Destruction of weir-fish trap; lobster and crab licenses; markings on buoys--exhibition of license; display of license numbers and buoy colors; hours of tending traps; taking of female lobsters with eggs; possession of short lobsters.

h. Check properties on islands not accessible from land.

(3) *Joint duties:*

a. Enforce waterways laws, ordinances and rules and regulations (MGL Chapter 40, Section 21D (Fines and Ticketing) and Gloucester Code section 1-15 and MGL Chapter 90B, Sections 1--19 (Motorboats and other vessels) and other enforcement per MGL Chapter 102, Sections 17--28 (Shipping and Seaman, Harbor and Harbormasters).

Police: Plus all other applicable city and state laws.

b. Patrol city waterways.

Police: Enforce all Massachusetts laws.

c. Respond to emergencies within scope, training and resources.

d. Operate, maintain and manage equipment and vessels assigned (police boat/fire boat--police; harbormaster boat--harbormaster).

e. Coordinate with other agencies and assist within scope, training and resources.

f. Observe water quality, assist appropriate agencies.

g. Assist in keeping navigation channels clear, keep harbor free of debris.

Harbormaster: Primary responsibility.

h. Patrol major events to promote and protect public safety--Fiesta, 4th of July, Schooner Races, etc.

Police: Other occasions as directed by chief of police.

i. Issue citations on water.

j. Enforce the BWI, make arrests and bring complaints to court.

(Ord. No. 17-1993, 12-14-93; Ord. No. 21-1995, § I, 3-7-95)

Cross reference(s)--Police duties and joint duties concerning harbor management, § 17-1.

Secs. 10-6--10-19. Reserved.

ARTICLE II. ENFORCEMENT

Sec. 10-20. Harbormaster appointment, qualifications and authority.

(a) Appointment. In accordance with M.G.L.A. c. 102, § 19, the harbormaster shall be appointed annually by the mayor after joint interviews and consultation with the waterways board, and confirmed by the city council. Ord. 02-50 Deleted 11/12/2002)

The mayor shall fix the compensation of the harbormaster after an annual

performance review conducted by the board and the mayor or his designee. The harbormaster shall report to the mayor on administrative matters and to the waterways board on policy matters.

(a) *Appointment.* In accordance with M.G.L.A. c. 102, § 19, the harbormaster shall be appointed for a term of three (3) years by the mayor after joint interviews and consultation with the waterways board, and confirmed by the city council.

(Ord. 02-50, 11/12/2002) The mayor shall fix the compensation of the harbormaster after an annual performance review conducted by the board and the mayor or his designee. The harbormaster shall report to the mayor on administrative matters and to the waterways board on policy matters.

(b) *Qualifications.* The harbormaster shall possess the following skills, knowledge or experience: small boat handling in heavy weather; navigation; rules of the road; waterways laws, rules and regulations and their enforcement; budget preparation; and staff management. Desirable skills or knowledge include water safety and life-saving; marine fire prevention and suppression; emergency medical care at the EMT level; waterfront construction techniques; the waterways permitting process; waterfront facilities management; water pollution control techniques and grant writing.

(c) *Authority.* The harbormaster shall have all authority set forth in: the Massachusetts General Laws, including but not limited to Chapters 102, 90B and 91; the Code of Massachusetts Regulations; applicable federal laws and regulations; and the City of Gloucester Code of Ordinances.

(Ord. No. 17-1993, 12-14-93)

Sec. 10-21. Fines.

The harbormaster and assistant harbormasters shall have the authority to enforce any section of this chapter by way of the ticketing procedures set forth in Massachusetts General Laws, c. 40, § 21D and Gloucester Code of Ordinances, Section

1-15. Each day of violation shall constitute a separate offense.

(Ord. No. 17-1993, 12-14-93)

Sec. 10-22. Responsibilities.

The harbormaster shall be responsible for the following tasks unless otherwise assigned by the mayor;

(a) Enforce all laws, ordinances and rules and regulations within the authority set forth above;

(b) Patrol all waterways within the city's jurisdiction during the entire year with more intense patrolling from May first to November first, and provide a continuous radio watch during patrol hours;

(c) Respond to all emergencies on Gloucester's waterways, and provide all reasonable assistance within the scope, training and resources provided;

(d) Operate, maintain and manage vessels and related equipment used for harbor patrols;

(e) Assign and oversee all moorings in the city's waterways;

(f) Cooperate with, and report to, the waterways board and its

committees by: attending all board meetings; providing staff, technical support and advice; preparing reports and other documents, including budget proposals and grant applications; representing the commission; and enforcing the board's policies, rules and regulations;

(g) Cooperate with other boards, commissions and other departments, including but not limited to, the Fisheries, Conservation, and Tourist Commissions, and the Community Development and Public Works Departments;

(h) Assist the Gloucester Fire Department, U.S. Coast Guard and other relevant agencies with fire prevention and suppression, law enforcement, hazardous materials, investigations and management, and emergency medical services by providing technical and staff assistance, sharing information, joint training, and the loaning of vessels and equipment for operations or investigations;

(i) Operate and manage the maintenance of all public launch ramps, public landings, city owned commercial marinas and other public waterways facilities owned by the City of Gloucester;

(j) Observe the water quality of all waterways, take immediate steps to stop or contain pollution on an emergency basis, notify appropriate government agencies, and enforce all relevant city ordinances;

(k) Monitor and clear navigation channels and prevent encroachments beyond the harbor commissioner's line;

(l) Promote Gloucester as a hospitable port-of-call for transient boaters by advertising the city's facilities, welcoming visiting boaters, and providing them with directions, technical assistance and advice as they operate on the city's waterways;

(m) Conduct educational programs that teach all boaters safe boating practices, rules of the road, hazardous areas of local waters, and the value of Gloucester's waterways.

(Ord. No. 17-1993, 12-14-93)

Sec. 10-23. Relocation of vessels.

(a) *Harbormaster's authority.* The harbormaster may station and regulate all vessels in Gloucester waterways and may remove any vessel to new location, or cause it to be so removed, if in his or her judgment any one of the following circumstances exists:

(1) If the vessel is improperly or illegally moored as described in section 10-51 herein;

(2) If a vessel occupying a berth at a wharf or pier is not removed within a reasonable period after notice from the owner of said wharf or pier to the master or owner of said vessel, and wharf or pier owner makes a complaint to the harbormaster; and

(3) If a vessel not discharging cargo or receiving cargo or services stands in the way of another vessel waiting to carry out any of these activities and the master or owner of the latter vessel complains to the harbormaster.

(b) *Removal at expense of owner.* The harbormaster may, at the expense of

the master or owner thereof, cause the removal of any vessel which is not moved when directed by him or her. Upon the neglect or refusal of any such master or owner to pay on demand the expense of such removal, the harbormaster may recover the same from the master or owner in contract for use of the city. If the master or owner of the vessel cannot be found or located within the jurisdiction of the harbormaster, the harbormaster may proceed in rem directly against the vessel.

(Ord. No. 17-1993, 12-14-93)

Sec. 10-24. Harbormaster's office.

(a) *General.* There shall be a division within the city named the harbormaster's office. It shall be managed by the harbormaster and assist in the carrying out of his or her duties as well as those of the waterways board. The harbormaster's office shall have an annual operating budget and shall prepare an annual report. The harbormaster shall ensure that all staff members are adequately trained for their jobs, especially those that include boat operation.

(b) *Permanent staff.* The harbormaster's office shall have a small, permanent staff to assist in the operation and maintenance of records, boats, equipment, and public facilities.

(c) *Seasonal staff.* The harbormaster's permanent staff may be augmented by seasonal personnel who may be used for such tasks as safety patrols, launch ramp operation, mooring fee collection, and maintenance and repairs.

(d) *Assistant harbormasters.* In accordance with M.G.L.A. c. 102, § 19, the mayor, upon the recommendation of the harbormaster, may appoint permanent or seasonal staff as assistant harbormasters. Such assistants shall be subject to the direction and control of the harbormaster and shall have all authority given to, and be subject to all the duties required of harbormasters, assistant harbormasters shall receive no stipends.

(Ord. No. 17-1993, 12-14-93)

Sec. 10-25. Budgeting.

The annual budget of the harbormaster's office shall include all operating expenses of the waterways board such as legal advertising. The budget shall be developed by the harbormaster in consultation with the operations and finance committee of the waterways board and shall be approved by the full board before it is transmitted to the mayor. The board shall assist the harbormaster at budget reviews by the mayor and city council. The budget shall not exceed the projected revenues of the Waterways Enterprise Fund.

The harbormaster, in consultation with the public facilities committee of the waterways board, shall prepare and submit project descriptions, justifications and budgets to the capital improvements advisory board for any applicable waterway project to be funded by the Waterways Enterprise Fund. The waterways board shall assist the harbormaster during project reviews.

(Ord. No. 17-1993, 12-14-93)

Secs. 10-26--10-39. Reserved.

ARTICLE III. WATERWAYS FUNDING

Sec. 10-40. Waterways enterprise fund.

(a) *Creation.* In accordance with M.G.L.A. §§ 5(72) and 39K, there shall be a Waterways Enterprise Fund. Said fund shall be used to support the operations of the waterways board and all waterways management and enforcement activities, including the purchase of equipment, the planning, design and construction of public waterways facilities, such as mooring fields, ramps, piers and pump-out facilities. The fund shall have two (2) distinct accounts each of which shall receive a portion of the receipts listed in section 10-40(d) herein.

(b) *Waterways management account.* Funds from this account shall be used for management and enforcement operating expenses as well as for equipment and repairs which do not have to be included in the city's capital improvements program. The funds from this account shall be managed by the mayor in cooperation with the waterways board and harbormaster.

(c) *Waterway improvements account.* Funds from this account shall be used for purchase of vessels, large equipment and the planning, design, construction or major repair of any public waterway facility. As required, expenditures from this account shall be included in the city's capital improvements program. This account shall be managed by the mayor in cooperation with the waterways board and harbormaster.

(d) *Receipts.* The Waterways Enterprise Fund shall receive the following receipts: mooring fees, both annual and transient; dockage and slip fees from city owned commercial marinas, launch ramp fees; all boat excise taxes; fines; and any other income derived from public waterways facilities including dedicated grants or gifts.

(Ord. No. 17-1993, 12-14-93)

Secs. 10-41--10-49. Reserved.

ARTICLE IV. MOORINGS, PUBLIC LANDINGS AND CITY OWNED COMMERCIAL MARINAS**Sec. 10-50. Definitions.**

In construing the provisions of this article, the following words shall have the meanings given below unless a contrary intention clearly applies:

(a) *Gloucester waterways:* All tidal waters within the boundaries of the city, its harbors, bays and coves, and the whole of the Annisquam River and its outlets, coves and bays;

(b) *Harbormaster:* That city official duly appointed in conformance with section 10-20, herein;

(c) *Public landing:* Any area including uplands, ramps, floats, wharfs, piers, parking areas and water that has been set aside by the city for the landing of vessels to discharge or take on passengers or supplies, or for the launching of vessels, and for public access and recreation as set forth in M.G.L.A. c. 88, § 14;

(d) *Mooring:* A relatively permanent arrangement of an anchor, chain and floating buoy to which a vessel may be tied for extended periods;

(e) *Permittee:* A person to whom a permit has been granted for

landing or mooring;

(f) *Public waters*: All waters beyond the mean low water mark;

(g) *Recreational vessel*: A vessel used for personal, non-commercial enjoyment, recreation or sport;

(h) *Recreational boater*: An individual who owns and/or operates a recreational vessel;

(i) *Vessel*: Shall include ships, boats, steamers, barges, or any other type of watercraft powered or under sail or tow, as well as such floating structures as buoys and rafts;

(j) *Vessel length*: for the purposes of determining the amount of the mooring fee, the length overall (LOA) of a vessel exclusive of bowsprits, main boom, and boomkins. For the purposes of mooring assignments, the length shall include bowsprits, main boom and boomkins.

(Ord. No. 17-1993, 12-14-93)

Sec. 10-51. Regulation of moorings.

(a) *Regulations*. The waterways board shall make regulations regarding the application process, size, type, construction and placement of all moorings within Gloucester waterways. All moorings shall be placed under the direction of the harbormaster and are subject to inspection by the harbormaster prior to their initial placement and at intervals of three (3) years.

(b) *Permits*. No person shall establish a mooring within Gloucester waterways without first obtaining a permit from the harbormaster to do so. Mooring permits shall be renewable each calendar year.

(c) *Applications*. Applications for new permits shall be submitted on forms provided by the Harbormaster. Applicants shall be placed on waiting lists by location preferred, in order of their receipt. The Harbormaster shall keep the waiting lists updated by requiring applicants who wish to maintain their position on the waiting list to file an annual renewal prior to the last business day of December of each year. The Harbormaster shall publicly post the waiting lists at the Harbormaster's office and shall file a copy of same with the City Clerk's office on April 30th of each year.

The fee for such renewals shall be \$10.00. Failure to timely file the annual renewal shall result in the applicant's removal from the waiting list, provided however that an applicant may, prior to the last business day of February of the following year, request reinstatement to his/her previous position on the waiting lists by filing with the Harbormaster a request for reinstatement together with a late fee of \$50.00 for a total of \$60.00.

(d) *Types of moorings*. The harbormaster may issue permits for three (3) types of moorings:

Personal moorings for sole use by the single vessel of an individual and his or her immediate family;

Municipal moorings which may be approved by the waterways board for public purposes; and

Transient moorings which may be used by waterfront businesses or yacht clubs for transient vessels.

(e) *Fees*. The fee for each type of mooring shall be established by the city

council. Fees for personal moorings shall be charged by the length of vessel at the rate of four dollars (\$4.00) per foot for Gloucester residents and taxpayers and at the rate of six dollars (\$6.00) per foot for non-residents. The fee for transient moorings shall be two hundred (\$200.00) each. A daily fee of twenty-five dollars (\$25.00) shall be charged every vessel that utilizes a municipal mooring, used for transient boats, operated by the harbormaster. Fee for 10A Float Permits shall be in the amount of \$50.00 per season. (Ord. 02-16 4/16/2002)

(f) A completed renewal application by each mooring permit holder, including the renewal fee and proof of ownership, shall be returned to the Harbormaster's office on or before the last business day in February of each year. After that time the mooring holder may renew the permit by filing a completed application, including the regular fee per foot, plus a late fee of \$50.00, prior to the last business day of May of that same year. Failure to do so will result in the mooring permit being revoked.

(g) New mooring areas. The waterways board may, after a public hearing, designate new mooring areas. Moorings in those areas may be installed, maintained and operated by the harbormaster's office or by private businesses under license from the waterways board. The selection process for private operators shall include requests for proposals by the waterways board, submission of proposals and bids in conformance with M.G.L.A. c. 30B, and review of proposals and bids consistent with that law.

(h) Public chart. The harbormaster shall maintain a chart which clearly indicates the location, permittee, LOA of each moored vessel, and number of moorings in Gloucester's waterways. A copy of this chart shall be publicly posted in the harbormaster's office and in the city clerk's office.

(i) Suspension and revocation. A mooring permit may be suspended or revoked by the harbormaster whenever, in his or her opinion, the vessel and/or mooring unduly threatens the safety of the mooring area or the reasonable use of that area by other vessels. Placing a mooring at a location other than that specified on the mooring permits will be grounds for revocation. Any person aggrieved by the action of the harbormaster in denying, revoking, suspending or imposing restrictions on a mooring permit may appeal the harbormaster's decision to the State Division of Waterways, provided the person files application for such appeal within thirty (30) days after receiving notice of the harbormaster's decision. Failure to fully pay vessel excise taxes for the previous fiscal year(s) shall be grounds for suspension or revocation;

(j) Violations. Whenever the harbormaster considers a mooring to be in violation of harbor regulations or to be a hazard to navigation, he or she may, after due notification of the owner, in person or by registered mail to the address of record, order the removal of the mooring, together with any vessel attached to it, to a new location. Such action may be taken without notification to or reply from an owner only, if in the determination of the harbormaster, the owner cannot be contacted within seventy-two (72) hours or if emergency conditions required immediate action. Any expenses incurred in the removal or relocation of such mooring or any damages resulting shall be the responsibility of the owner. Floats, rafts and moorings held by anchors or bottom moorings, if installed in the public waters of the city without permission from the harbormaster, shall be considered

a public nuisance, and may be removed by the harbormaster at the expense of the owner in the event he or she fails to remove same after notice in writing.

(Ord. No. 17-1993, 12-14-93)

Sec. 10-52. Use of public landings.

(a) *General use.* All public landings, along with the ramps and floats attached thereto, shall be used primarily for the landing of people from vessels, the docking of vessels while people are alighting or boarding, and by persons tying their vessel thereto while making purchases ashore. Public landings shall also provide public access for passive recreational activities. Where public landings have no floats, vessels may be pulled up on shore for the purposes set forth above. Parking areas at public landings shall be for the exclusive use of landing users unless otherwise designated by the waterways board.

(b) *Tie-up period.* No owner nor anyone else in charge of or operating a vessel of any description, shall use the head of any float moored or attached to any public landing for any greater period of time than ordinarily and reasonable required to load or unload the passengers or occupants of any such vessel, together with whatever merchandise might accompany or be in the possession of the persons or passengers alighting therefrom. In no case shall any vessel be tied to the head of a public landing float for more than thirty (30) minutes except by permission of the harbormaster. However, dinghies, tenders and other auxiliary vessels less than twelve (12) feet in length, used by mooring holders or transient boaters, may be tied up at the sides of undedicated floats at public landings for up to four (4) hours while the owners thereof are purchasing goods and services. No such auxiliary vessel shall block the head of a float or interfere with permitted activities.

The harbormaster may permit the seasonal tie-up of dinghies, tenders or other auxiliary vessels less than twelve (12) feet in length at portions of any public landing so designated by the waterways board, provided that the fee set forth below has been paid.

Such permitted vessel shall be marked by an official sticker on their transoms.

(c) *Conducting business or soliciting.* It shall be unlawful for any person to conduct any business, including vending on or from a public landing. The sale of tickets or the solicitation of passengers in any other manner for boat or fishing trips from any public landing is prohibited. However, any person operating a harbor sail, ferry, excursion vessel, vessel livery or party fishing vessel but maintaining a wharf headquarters or principal place of business elsewhere, may use a public landing as a point of call and may discharge or take on passengers. The vessels engaged in such ventures shall not lay at any float at a public landing longer than shall be ordinarily and reasonable necessary for their occupants, passengers or customers to board or alight therefrom, and shall not block or otherwise interfere with other permitted activities.

(d) *Other prohibited activities.* No person shall clean fish, or leave ropes, lobster pots, barrels, rocks, bricks, boards or any other material on any public landing, or launching ramps, floats or piers thereof, for longer than is reasonable necessary in the act of loading or unloading the same onto or from vessels, unless authorized by the harbormaster. No person shall load or unload lobster

pots, bait, or other gear on or from any public landing, or floats, wharfs or piers thereof, except those designated by the waterways board. No vessels, vehicles or trailers may be stored on any public landing.

(e) *Encroachment*. No person shall encroach upon a public landing in any way.

(f) *Restrictions on hours*. Stone Pier and Long Wharf shall be closed to prohibit all activities between the hours of 10:00 p.m. and 4:00 a.m. Any use of this area between the prohibited hours shall constitute trespassing, a violation of City of Gloucester, Code of Ordinances, section 14-6. Any person who violates said ordinance shall be subject to arrest under City of Gloucester, Code of Ordinances, section 14-6 and/or fined pursuant to section 1-14, City of Gloucester, Code of Ordinances. The city will use reasonable and practicable means to inform the public of such curfew. Further, this section is not intended to conflict with or supersede the authority of the conservation commission or any rules enacted by them under their Massachusetts General Laws Chapter 40, Section 8C, Powers.

(g) *Fees*. The annual fee for the seasonal tie-up of dinghies, tenders or other auxiliary vessels, less than twelve (12) feet in length, at designated areas of public landings shall be fifty (\$50.00) dollars.

(Ord. No. 17-1993, 12-14-93; Ord. No. 16-1996, § J, 5-28-96; Ord. No. 6-1999, § I, 6-22-99)

Sec. 10-53. Use of public ramp at Dun Fudgin.

(a) *Fees*. The fees for launching vessels at the Dun Fudgin public access ramp shall be as follows:

Daily fee for all users except commercial boat haulers, per vessel launched . . . \$ 5.00

Season pass for any vessel up to and including 18' in length, per season . . . 35.00

Season pass for any vessel more than 18' in length, per season . . . 50.00

(Daily fee for commercial boat haulers, per vessel launched . . . 25.00 Ord. 02-17 Delete 4/16/2002)

(Daily fee for commercial boat haulers, per vessel launched . . . 50.00 (Ord. 02-17 4/16/2002) Ord. 03-25, Delete, 6/10/2003)

Daily fee for commercial boat haulers, per vessel launched . . . 35.00 (Ord. 03-25, 6/10/2003)

(Season pass for commercial boat haulers, per season . . . 250.00 Ord. 02-17 Delete 4/16/2002)

(Season pass for commercial boat haulers, per season . . . 500.00 (Ord. 02-17 4/16/2002)

Ord. 03-25, Delete, 6/10/2003)

Season pass for commercial boat haulers, per season . . . 350.00 (Ord. 03-25, 6/10/2003)

(b) Failure to pay fee as posted shall result in the issuance of a violation as specified in Sec. 10-21 and Sec. 1-15. (Ord. 03-25, 6/10/2003)

(Ord. No. 31-1997, § I, 3-4-97)