

CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration
Monday, May 16, 2011 – 7:00 p.m.
1st Fl. Council Conference Room – City Hall
-Minutes-

Present: Chair, Councilor Sefatia Theken; Vice Chair, Councilor Anne Mulcahey; Councilor Bruce Tobey
Absent: None.

Also Present: Councilor Hardy; Councilor Greg Verga; Linda T. Lowe, Suzanne Egan Deputy Fire Chief
Stephen Aiello; Larry Ingersoll; Cate Banks; Tony Gross; Mike Hale; Mark Cole

The meeting was called to order at 7:00 p.m. Items were taken out of order. Councilor Verga acted as alternate until the arrival of Councilor Tobey at 6:02 p.m. There was a quorum of the City Council.

1. Continued Business: [Note: All matters under “Continued Business” were from 5/2/11]

A) CC2011-009 (Mulcahey) Amend GCO 22-287 (Disabled Veteran, handicapped parking) re: 6 Oak Street

Larry Ingersoll, member of the Traffic Commission stated that after speaking to the family of the requestor at their April 21, 2011 meeting, the Commission voted to approve the order for one handicapped parking space at 6 Oak Street as requested. They informed the requestor it is not their personal space and that it is open to anyone who has a handicapped placard. There is no other handicapped parking on that street. **Councilor Mulcahey** felt it was an absolute necessity but that the requestor understands the parameters. **Councilor Hardy** asked if the street is one way which Mr. Ingersoll confirmed it was made that way recently.

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 to AMEND the GCO §22-287 (Disabled Veteran, handicapped parking) BY “ADDING one (1) handicapped parking space at #6 Oak Street” AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

B) CC2011-011 (Verga) Traffic Commission to review traffic flow of four (4) way traffic areas of Lexington Avenue, Fuller Street and Flume Road and amend GCO Sec .22-269 and/or Sec. 22-269.1

Councilor Verga expressed that this came through a resident request, and he asked the Traffic Commission to look into it. **Mr. Ingersoll** explained the Commission at their April 21st meeting, after a review of the four-way intersections in the area of Lexington Avenue, Fuller Street and Flume Road, recommends that the following be considered: that the new stop signs at the northeast corner of Fuller Street where it meets Norman Avenue and at the southwest corner of Raymond Street where it meets Shore Road would replace the current Yield signs at these intersections. This is in the Magnolia Square intersection that currently has two stop signs and two Yield intersections. Lexington Avenue and Hesperus Avenue, they felt a four way stop would be less confusing and that would be appropriate to install. The Commission felt that a four-way stop would make for a safer intersection. **Councilor Verga** agreed with the findings of the Traffic Commission. **Thom Falzarano**, 7 Flume Road stated that it would make the street safer by inhibiting speeding vehicles.

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 to AMEND the GCO §22-269 (Stop Intersections) by ADDING a stop sign to the northeast corner of Fuller Street where it meets Norman Avenue AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

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 to AMEND the GCO §22-269 (Stop Intersections) by ADDING a stop sign to the southwest corner of Raymond Street where it meets Shore Road AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

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 to AMEND the

GCO §22-269 (Stop Intersections) by ADDING a stop sign to the northeast corner of Lexington Avenue where it meets Hesperus Avenue AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

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 to AMEND the GCO §22-269 (Stop Intersections) by ADDING a stop sign to the southwest corner of Hesperus Avenue and Lexington Avenue AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

AND for all of the referenced intersections DELETE “Yield” signs as necessary under GCO §22-269.1.

C) CC2011-015 (Mulcahey) Amend GCO Sec. 22-293 “Bus Stops and Taxi Stands” re: Railroad Avenue

Councilor Mulcahey stated originally this was put in place as an emergency order and is now expired. Currently, there is a handicapped drop off, not for parking. **Mr. Ingersoll** stated this will be in addition to the handicapped drop off. He did not believe the drop off was covered by an ordinance. **Mark Cole**, DPW Operations Manager stated there was a curb cut there for the drop off area.

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 to AMEND the GCO §22-283 (Bus Stops & Taxi Stands) be amended by adding Railroad Avenue, northerly side, three spaces at a point beginning at the east entrance to 33 Railroad Avenue, for a distance of 80 feet AND one space at a point 200 feet in an easterly direction for a distance of 30 feet adjacent to the MBTA train platform AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

D) CC2011-016 (Hardy) Amend GCO Sec. 22-292 “Fire Lanes” re: Munsey Lane

Councilor Hardy asked that the agenda and minutes be amended to reflect this was her order which was so noted and corrected as shown above. She stated this matter at the Traffic Commission needed further study and asked the Committee to continue it to allow time to gather more information.

This matter is continued to June 6, 2011.

E) CC2011-017 (Mulcahey) Amend GCO Sec. 22-287 “Disabled Veteran, handicapped parking” re: Perkins Street #25

Councilor Mulcahey withdrew the order with the assent of the Committee.

F) CC2011-018 (Hardy) Amend GCO Sec. 22-287 “Disabled Veteran, handicapped parking” re: Mt. Vernon Street #39

Councilor Hardy stated this was also her order and asked it be reflected in the record which was so noted and shown corrected above. **Mr. Ingersoll** stated the Traffic Commission at their April 21st meeting endorsed the creation of a handicapped parking space in front of Mt. Vernon Street #39 and that the sign can be placed in front of that location. **Councilor Mulcahey** stated this was at the request of former City Councilor Gus Foote through the Council Order; and that Councilor Foote, of course, knows the space is not “personal”.

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 to AMEND the GCO §22-287 (Disabled veteran, handicapped parking) by ADDING one (1) handicapped parking space in front of Mt. Vernon Street, #39 AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

Mr. Ingersoll informed the Committee that the JAMAR equipment is allowing for speed limit studies to proceed and Mr. Ryan, Chair of the Traffic Commission is using this to complete all outstanding studies. **Councilor Theken** directed the Clerk of Committees to advise the City Council of this information.

G) Memorandum and Information regarding proposed changes to Gloucester City Ordinance Chapter 10-

Waterways Administration Sections 10-1 and 10-2

Jim Duggan, CAO stated the original request by the Administration was asking for the replacement of two people on the Waterways Board and would like to amend that request to add two people onto the Board with economic development specialties to give their perspective on harbor property development. Before the Committee is General Counsel's submission amending the ordinance to make the Waterways Board nine members. **Tony Gross** is the new chair of the Waterways Board stated he understood the amendment presented by the Administration. Mr. Duggan came to their special meeting to discuss the matter. It never became clear of the purpose of the two additional members to their Board. He believed the ordinance has all the necessary language for harbor economic development and didn't think there was a need to change the ordinance; as he believed there was an opportunity to put economic development people on the Board within the current framework; further, that the At-Large positions on the Board were the vehicle by which such individuals could become members of the Board. They understood the need for a global look at the harbor economy. There is an overriding theme in both harbor plans that commercial fisheries is the number one economic development piece in the harbor in both the Economic Plan and the 2009 Plan. The top priority in both those plans is for dockage is the commercial fishing dockage. With the DPA restrictions with both plans referenced often and if they're going to increase recreational boating within the harbor, they need to change regulations. There is a harbor coordinator position in the City, but that person does not attend their meetings feeling that administrative person should be there. While he didn't see any reason these two additional people to the Board would not be helpful, he didn't understand why the current framework would not be appropriate. **Councilor Theken** spoke of the minor changes to amend Sec. 10-4(c) and (d) affecting the public facilities committee of the Waterways Board reducing its members to three and the same with their operations and finance committee, reducing that membership from four to three. **Attorney Egan** confirmed the Councilor's assessment. **Councilor Tobey** asked when they say two persons directly involved with the economic development of the City, would that be City staff. **Mr. Duggan** explained it would be two independent individuals who have a demonstrated record of experience professionally in economic development initiatives coming from within the community. **Councilor Tobey** asked who qualifies categorically as being directly involved with the economic development of the City; it might be someone from the banking community, the EDIC, the Director of the Chamber of Commerce, etc. **Mr. Duggan** thought it was something they would like to work with the Board and their Chair to better define – what are the roles and responsibilities for these individuals. They don't want to shape those roles without the Board input in defining the roles before anyone is appointed by the Mayor and confirmed by the City Council. It was noted that Cate Banks and Phil Cusamano are the designated At-Large members of the Board. There is an advisory member of the Fisheries Commission. **Councilor Tobey** could not distinguish the At-Large members apart from the recreational boaters on the Board or At-Large from fisheries. **Mr. Gross** stated they have to look at who is on the Board, most of who have been there a long time and are highly experienced. They have been doing a concerted effort to square away the moorings and deal with other large issues that haven't been approached recently. In surveying the upcoming reappointments for the next two years, three people are coming up. He suggested the At-large members can convert to recreational and the recreational person could be changed to At Large. The process is in place if they feel this is a highly necessary area to be in. The At Large positions can be used. **Councilor Tobey** asked how their work on economic development integrates with the work the City's doing to achieve economic growth. He believed former harbor coordinators did they attend their meetings which Ms. Banks and Mr. Gross confirmed they did not. **Councilor Tobey** noted that Sarah Garcia (Community Development Director) when she came up from reappointment in front of O&A, it was said that as of July 1st she would be solely a Community Development Director, funded by the City; and that her role as Harbor Coordinator would end. Until that change, he thought she should be attending the Board's meetings now. **Mr. Duggan** thought that was fair, "yes". It seemed to **Councilor Tobey** there was value in the Board's focus but it needed to expand now and the way to do it is with carefully selected people with a larger capacity to integrate the plan for harbor growth and economic development. While Mr. Gross felt that was the purpose of the At-Large members, the Councilor believed it hadn't worked out that way, specific to the salt water area. **Councilor Hardy** noting the new chair of the Board and asked for him to have a chance to have the time to reshape that Board and work with them; they wish to relook at the division of who represents what within the Board structure at this time instead of increasing the membership to 9 members. She suggested that they bring the matter forward later in the summer to see how it worked out. **Councilor Theken** had requested to the Mayor the addition of people to the Board rather than deleting two members and replacing them with two repurposed members. With the new initiatives on the harbor, and with the Fisheries Commission coming alive again, she didn't want to see the loss of a fisherman on the Waterways Board. If there are going to be two economic development people on the Board it was a win-win, in her view, with no loss of personnel. **Councilor Mulcahey** had the same concerns as Councilor Theken because when the Mayor started speaking of the harbor plan

they were looking at the dockage and loss of commercial dockage, that fishermen don't have enough of it, stressing the importance of having the fishermen on the Waterways Board so that their views may be heard. **Councilor Tobey** asked where they have lost dockage. **Councilor Mulcahey** stated wharves are being used for something other than commercial fishing boats and in different ways. **Mr. Gross** expressed concern that Ms. Garcia has been wearing a lot of hats which dilute efforts; that they do need a dedicated harbor coordinator with expertise in DPA. **Councilor Theken** asked if this was in the budget. **Mr. Duggan** stated it is not. **Councilor Tobey** disagreed, that the position of harbor coordinator is in the budget, one half. He expressed the temptation to move to rescind Ms. Garcia's confirmation based on that fact. He recalled at her reconfirmation before the Committee they asked Ms. Garcia what her mission would be going forward; and she noted "jobs"; and it was as the Community Development Director. He expressed the need for a full time dedicated person on the matter of economic development for the City; further, it is a charter mandate. Using the grant for someone singularly focused on the harbor is appropriate, feeling it needs to be revisited during the budget review. **Mr. Duggan**, citing the tremendous financial challenges faced by the City in FY12, he would be prepared to discuss that during the budget review. **Councilor Theken** asked if the Administration wanted the committee to go forward (with the ordinance changes) or to give the new chair 60 days. **Mr. Duggan**, in his opinion, responded Mr. Gross had been on the Board four years and is acclimated to the Board; and asked the Committee to go forward. **Councilor Tobey** expressed his support of the ordinance changes. **Councilor Theken** asked Mr. Gross that when they do harbor development, to be aware everyone is concerned about this matter and wants to know is really behind these actions. She didn't want to see this issue come back to haunt them. She believed in a working, vibrant waterfront. There are some things they can do; and that can coexist with other sectors of the harbor and land economy.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administration Committee voted in favor, opposed to recommend to the City Council to AMEND the GCO Chapter 10, Waterways Administration, Article I Management, §1-2 (a) BY ADDING as follows:

(a) Composition: The Gloucester Waterways Board shall consist of nine (9) citizens of Gloucester, appointed by the Mayor and confirmed by the City Council. The appointees shall include three (3) persons who are directly involved with the fishing industry, two (2) persons who are recreational boaters, two (2) persons who are involved in harbor economic development and two (2) persons at large who need not be involved with any marine-related activity AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

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 to AMEND the GCO Chapter 10, Waterways Administration, Article I Management §10-4(c) Public facilities committee by DELETING the second sentence in its entirety and ADDING the following:

(c) Public facilities committee. 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 as needed AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

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 to AMEND the GCO Chapter 10, Waterways Administration, Article I Management §10-4(d) Operations and finance/Safety committee by DELETING it in its entirety and ADDING the following:

d) Operations and finance/Safety committee. This committee shall consist of: three (3) members of the board; a member of the fisheries commission and a member of the City Council as needed for matters concerning operations and finance AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

H) CC2011-008 (Hardy) Creation of language for ballot question re: recently enacted Water Ordinance and Pending Home Rule Petition related to same

Councilor Hardy noted they are not very pressed for time; they do have to move forward to accomplish the ballot question language. The forwarded language did not show the question in the proposal; and what a yes and no vote meant. **Suzanne Egan**, City Solicitor explained the Committee asked for ballot language. There is a water ordinance and a Home Rule Petition to amend the Charter and a City Council vote. Initially she went to the State legislature to

view the proposed special act and took the home rule petition and turned it into the question to be consistent, ergo the first version. Then she received comment from Councilor Tobey that questioned the language looking for more specificity. She then took the language from the City Council's Certificate of Vote which was the second version. She then got a call from Mr. Maki of WHO DECIDES who questioned the language of why the two-thirds vote was not in the ballot question. She then put that back into the ballot question. **Councilor Tobey** asked if the ballot question was by a vote of two-thirds of those voting (in the election) whatever the percentage of those voting; or was it the total eligible electorate expressing it was confusing and should be tightened up. Typically it is of those voting, and they probably should say so. Did the ordinance say half the voters plus one or is it 2/3 of the voters plus one. He recounted the Council would do an ordinance, but they knew it wouldn't necessarily "stick" because a future Council could repeal it. So they wanted to give it the extra protection of being in the charter. **Attorney Egan** didn't believe the ordinance spoke of the 2/3 vote at all. The 2/3 vote is in the request of the petition. She believed the ordinance said 50% of the voters plus one. **Linda T. Lowe**, City Clerk confirmed the ordinance says nothing of the 2/3 vote or the referendum; and the second step, the Certificate of Vote has the 2/3 vote and the senate apparently took it out without giving a reason. **Attorney Egan** confirmed the ordinance is silent on the vote. **Councilor Tobey** recounted the Council did an ordinance, but they knew it wouldn't necessarily "stick" because a future Council could repeal it. So they wanted to give the water ordinance the extra protection of being in the charter. He wanted to know what the ordinance said, as there is nothing in the ordinance on the referendum. Then the Council asked the legislature to do a referendum with a 2/3 vote. Did the legislature do that? **Attorney Egan** stated the referendum language for Bill S01059 includes, "pursuant to the provisions of §23-64 the City of Gloucester Code of Ordinances ("Gloucester Public Water Systems Ordinance") the City of Gloucester's water supply and distribution system shall be owned by the City and shall not be sold, leased or otherwise transferred unless and until the City Council, pursuant to the provisions of City Charter, §9-5 ("Submission of Proposed Measure to Voters"), submits the question of a sale, lease or transfer of ownership to a referendum vote of the voters for adoption or rejection, as provided in the applicable subsections of Article 9 of the City Charter." She stated her referendum language originally was essentially the same as the legislature's. It just says for approval. **Councilor Tobey** stated they have a potential problem because it won't be the 2/3 they asked for. With the ballot question, what will that effect of it would be? **Attorney Egan** noted the purpose at the Council meeting through discussion was to take a three pronged approach, this being the third which was a commitment the Council made to WHO DECIDES. **Councilor Tobey** commented the only number is the 2/3 requirement to the legislature. **Councilor Hardy** asked as relates to 2/3 of the voters who actually participate at the ballot box – is it the yeas and nays or all those who pull the ballots that day. What 2/3 are they looking for? **Attorney Egan** stated the language specifically states on a referendum of 2/3 having to vote in favor – that is two thirds of who actually vote on the question. **Councilor Theken** understood that it was 2/3 of the people in favor. That is what they voted on at the Council. If they feel they have to clarify it, it could be done. **Councilor Hardy** thought the ballot language was hard to read and felt it should be posed as a question and simplified. **Councilor Tobey** noted that is the purpose of the summary. There was a discussion then between **the Committee, Attorney Egan, Councilor Hardy** and **Russell Hobbs** representing WHO DECIDES with regard to the language the Committee would craft to vote on. **Councilor Hardy** clarified for the record their intent is that 2/3 means it is 2/3 of the voters who vote on the question and not 2/3 of the voters voting in an election. Upon coming to a consensus, the Committee voted as follows:

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration voted 3 in favor, 0 opposed to recommend to the City Council to place the following question on the November 8, 2011 local election ballot as follows AND TO ADVERTISE FOR PUBLIC HEARING:

Ballot Question

Shall it be unlawful for the mayor and the City Council to sell, lease, transfer or alienate the City of Gloucester's public water systems and/or public water system infrastructure unless two-thirds of the participating voters approve that action through a referendum question.

Ms. Lowe noted, concerning a status report on the pending request for a special act, the letter from Senator Tarr dated May 9, 2011 to the Joint Committee on Municipalities and Regional Government and that she had emailed his office and got an email reply from his legislative aide that did say the Senator is promoting the home rule petition and is trying to get a hearing date as soon as possible (letter submitted for the record and on file).

- I) Letter and documentation from Deputy Fire Chief Aiello re: enactment of ordinance to bill for Certain Fire

Dept. responses

Councilor Theken informed the Committee that the matter of the Letter and documentation from Deputy Fire Chief Aiello re: enactment of ordinance to bill for Certain Fire Department responses has been withdrawn verbally by Deputy Chief Stephen Aiello in a conversation prior to the start of the meeting this evening which he would put in writing to the Committee the following day.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey the Ordinances & Administration Committee voted 3 in favor, 0 opposed to permit the withdrawal of the Letter and documentation from Deputy Fire Chief Aiello re: enactment of ordinance to bill for Certain Fire Dept. responses.

This matter is closed.

2. New Appointments:

The Committee questioned the two appointees to their respective Commission and Committee 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. They were asked also if they had any possible conflicts if they were on another Board, Committee or Commission in the City. 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.

Fisheries Commission

TTE 02/14/14

Francesco Paolo Vitale (Cont'd from 5/2/11)

Mr. Vitale, a tugboat crew member and fisherman stated he wished to volunteer for the Commission because he believed in the future of the fishing industry and the waterfront as a whole. **Councilor Theken** personally thanked Mr. Vitale for stepping forward and asked if fishermen and tourists can co-exist. **Mr. Vitale** asked, "why not". He believed in a working waterfront. There is tourism, fishing and manufacturing side of the City. He wished to keep fishing in Gloucester and not to see the infrastructure disappear. **Councilor Mulcahey** mentioned she knew Mr. Vitale a long time and endorsed his candidacy as did **Councilor Tobey**.

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 to appoint Francesco Paolo Vitale to the Fisheries Commission, TTE 02/14/14.

City Hall Restoration Committee

TTE 02/14/14

Craig W. Herrmann

Mr. Herrmann explained he has sat in on the City Hall Restoration Committee meetings. He is in the building and architectural industry. He recently received his professional bachelor's degree and is in the process of becoming a licensed architect. Since he has completed his schooling it is now possible for him to give back to the community. He was admiring of the City Hall as a significant local icon and historic building. Responding to a question from **Councilor Theken** as the future use of City Hall she indicated there were two uses for City Hall – to continue to use it as is (as City offices) or to sell it; which **Mr. Herrmann** commented he did not see the building being restored and then sold; he would prefer City Hall used for municipal purposes and for more community activities to happen there with more revenues coming in from them for the City. **Councilor Verga** noted a third choice is to keep City Hall and finds another public use for it but not for City offices.

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 to appoint Craig W. Herrmann to the City Hall Restoration Committee, TTE 02/14/14.

3. Layoffs/Dismissals from the City Clerk's Office (referred from 5/5/11 B&F Committee Meeting)

For disclosure purposes, **Councilor Theken** noted that she has a sister-in-law that works in the City Clerk's office and that, therefore, **Councilor Mulcahey** would chair the meeting while the Committee undertook this matter.

Councilor Tobey asked how Ms. Egan perceived the two part time clerks dismissal in the City Clerk's office; if the City Council has the jurisdiction to consider the reinstatement; and were the part-time clerks similar to the Assistant City Clerk.

Suzanne Egan, City Solicitor whose written opinion was received earlier in day and on file, stated she looked at how they were appointed, and all that was within the personnel ordinance which also has a provision. Those positions are controlled and regulated by the Personnel Director, the Department Head and the Mayor. This is different where there is no ordinance as to how these positions are appointed. The Assistant City Clerk and the City Clerk are appointed by the Council; again, this is different. The part-time positions in the City Clerk's office are appointed by the department head (City Clerk) and approved by the Administration. These positions are not appointed by the City Council. **Councilor Hardy** asked if the Assistant Registrar in the City Clerk's office is a legislative appointment and referenced the Board of Registrars and their appointments to that Board. **Attorney Egan** had not researched that position. **Ms. Lowe** stated the Board of Registrars is statutory and is appointed by the Mayor and the Assistant Registrar is to carry out the election. It stands on its own as unique. It is not a person on that board. **Councilor Tobey** did not think that it is not legislative appointment. **Attorney Egan** stated she thought it is an appointment of the Mayor. **Ms. Lowe** added it is a separate department within the City Clerk's office. **Councilor Tobey** noted the Administration would be putting in transfers for the money that paid for these laid off employees; he assumed the layoffs are to pay off other things. **Mr. Duggan** stated there is already an amount to cover a portion of the Snow and Ice deficit; but he believed they would have to transfer some into that line item to cover any unemployment insurance.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 2 in favor, 0 opposed, 1 (Theken) present to recommend to the City Council that the Committee report to the full City Council that on advice of City Solicitor Suzanne Egan that the City Council has no jurisdiction over the two City Clerk employees who were laid off.

4. *Emergency Order (Tobey) Amend GCO §22-242 "Parking Prohibition, Towing, Immobilization, Signs" by ADDING sub-part (14) re: Magnolia Woods*

Councilor Theken noted some emails received by her on the matter. She also had a map received in an email of the area. She thanked Mike Hale, DPW Director and Mark Cole, DPW Operations Manager for attending this evening on short notice. **Councilor Verga** forwarded to the Councilor email which she read to the Committee (documents received at meeting and on file). **Councilor Tobey** stated there is a capped landfill and covered with soil, and they can't decide this evening whether any area of it will or will not get paved for parking which will get worked out for parking. **Mr. Hale** stated they have to look at how to accommodate all the athletic field needs for parking. There needs to be a close look as to how to expand parking. They are under contract with Wesson & Sampson for landfill monitoring. They will complete the closure certification and alternatives for parking and how to put additional parking and Jane Porter (advocate for the protection of Magnolia Woods) will also participate. He expressed this is an on going process. The monitoring is up to date and in compliance. They are exploring options for parking and looking at a facilities management document to manage testing and fields and parking. **Councilor Theken** noted that there was a group who were given a special permission to fly model airplanes. **Mr. Duggan** responded the Flying Seagulls had permission to fly the model planes away from the fields. **Councilor Mulcahey** read another email related to this issue of the model airplane group using the Magnolia Woods from Jack Hill, a member of the club who was present at the meeting. It claimed the problem was on the north face parking by soccer organizations. **Councilor Theken** read a letter by Mayor Bell that gave permission for the Cape Ann Flying Seagulls to use the softball field on Sunday mornings from 9 a.m. to 12 noon. **Mr. Hill** stated that most of their members do drive to the area, park at the area and take their equipment out and do no damage there to the property. However, there are several members who are handicapped and do park at the softball field. Dogs are not allowed on athletic fields yet he has to police that area because of that constantly being violated. On inquiry from **Councilor Theken, Ms. Porter** felt it would be nice to sit down with Mark Cole to discuss where there would be access for these people so they could get one or two disabled people up there. Her concern is if they open one area up for one group it opens it up for all. Everybody wants to do the right thing. They don't want any pressure on the cap or water from a pipe that isn't working to flow through that area. If you break the cap you will release bad contaminates. The City spent a great amount to cap it the right way. She didn't want to lose the fields for the kids because people sit in their cars and watch their children from them. The groups are trying to police themselves with the parking but didn't want to lose what they have. **Councilor Mulcahey** noted this past season all the parents seem to be parking on the fields. She felt the taxpayers put a lot of money into these fields and then people drive on them. They have a carry in and

carry out policy that has to be adhered to and it is not being enforced as well as the dog waste issue. **Mr. Cole** was asked about emergency access of vehicles and parking by the model airplane group. He stated that when the model airplane group first started there were a couple of elderly gentlemen; and it was not that it was not that the whole group could park up on the softball field. It was that the majority would drop off and park in the parking areas. He noted they had been 'booted' out of every other place. Only soccer was there at the time of the 2004 letter and that the softball field was the only one available. **Councilor Theken** didn't want to take anyone's access away. **Mr. Hale** noted as they develop the facilities plan they will work with these groups. They drive their tractors to mow it every two weeks. It is a flexible liner. He explained it will not become compacted by a passing vehicle, but they don't want parking on the fields. The groups recognize that the area doesn't drain well. **Mr. Duggan** stated they've continued to support the activity of the model airplane group and as the youth sports teams have expanded over the years there have been two complaints in seven years. The sports groups have had a good relationship with the model airplane group. He made clear to both groups that if they can't get along there would be no flying there at all. **Councilor Theken** noted there should be no parking on the fields unless there is an emergency or it is the DPW. **James Cook**, 622 Western Avenue stated he agreed the model airplane group have done virtually zero damage in their area. The concern is the parents whose children participate in sports. He disagreed with **Mr. Hale** that there isn't damage at Magnolia Woods. They put in wheelchair accessible ramp up the north face if in the future the City needed to apply for federal grants on accessibility. Everyone is driving on the pedestrian walkways now. The ramp on the north face is slumping now. These areas are in constant use, and they were not designed for it. As to whether more parking can be found, he and Ms. Porter believed that there is and will help with that. He stressed they have to pay attention to this matter; that the primary concern is to halt any deterioration on the cap and maintain it properly. Trees growing on the sides – they can't have them. They are in danger of destroying the membrane. The issue of parking has to be taken care of right away. They can come to an agreement to allow handicapped access. But there has to be a ban on casual parking use. **Thom Falzarano**, 7 Flume Road who participates with a youth sports program that uses the fields at Magnolia Woods noted they have no issues with the airplanes, since his program has been moved from the O'Maley School fields. He agreed from an organization perspective he wants to work to find the parking solution and to maintain the fields for the use of the children to play. **Dean Sidell**, Starknought Heights, representing another co-existing youth sports group agreed with Mr. Falzarano. Their budgets support the maintenance on the fields there; and they have been talking with the DPW regularly. He agreed that enforcement by ticketing will help. They do what they can to encourage trash containment by their teams and have added recycling bins in the area. **Councilor Mulcahey** agreed that there was a safety issue with the cars all around the playing fields. **Councilor Theken** thanked Mr. Sidell and Mr. Falzarano for their efforts. **Councilor Hardy** noted there was conversation that fence and netting recently erected may have compromised the cap and that the DPW drives on the walkways. **Mr. Hale** stated there are many capped landfills which allow vehicles on the caps. If they drive on the cap to pick up barrels and mow fields, it is not a threat to the cap. The walkways are deteriorating because of the underpinning. The fence and netting were not causing any deterioration to the cap; the fence had been removed. **Councilor Tobey** recalled the design process for the pathways that were paved for pedestrians and for the occasional service vehicles, and emergency vehicles, transient occasional use only. The emergency ordinance prohibiting parking on the landfill cap is in place for 60 days and urged the Flying Seagulls to work with it as best they can. As the maker of the emergency ordinance, he had no interest in raising money through parking fines by doing this. This is about protecting the City's investment. He felt they should leave it alone for 60 days and give it another 30 to continue this permanently for all the reasons they just talked about. They don't need to decide to advertise it for public hearing now, but would revisit this in a month and asked for an interim report from Wesson & Sampson about parking. **Mr. Cole** stated it used to be that one particular individual and others would lock Magnolia Woods at night or during season the DPW would come over early to unlock it. But it was hard to do. They now leave it open all the time. **Mr. Cook** felt that he has never seen anything that the Seagulls caused damage. **Mr. Duggan** relayed he had spoken with the police three years ago to lock the gate there, and that he will speak with the police department again. **Mr. Falzarano** stated parking on the main roadway into the Magnolia Woods is on both sides. **Mr. Hale** noted it is a public park. He can do what is needed in order to allow for tag and tow. **Mr. Falzarano** felt it was critical there be emergency access. He pointed out the DPW has been wonderful to work with stating they'll do what it takes to make it work with the parking and access. **Councilor Tobey** noted the vision was that the Magnolia Woods would be used by so many teams and children as it is now. **Mr. Cook** contended that the Council has not done enough or much at all over the last forty years for the landfill and Magnolia Woods. He spoke to the big picture issues of maintenance, drainage issues and that these matters are not being addressed. He had pointed matters out in a letter to the Council a year ago. He enumerated some of the problems to the Committee. **Mr. Hale** stated in response to Mr. Cook that they are in compliance with the testing. They did a lot of brush clearing last year. There is a lot going on but have done a fairly good job of what he inherited three years ago when

he became DPW Director. **Ms. Porter** stated they wish for them to move forward now to fix it. **Councilor Tobey** asked if there was any money left in the landfill bond can they use to monitor the landfill cap. **Mr. Hale** stated that the Certificate of Closure is needed which they are working to complete. **Councilor Verga** suggested that this be referred to P&D or to whoever would be able to follow the matter up on the parking. **Councilor Hardy** stated it is a park; and therefore, falls under the jurisdiction of the DPW. **Councilor Theken** stated the Committee will do their own site visit; Mr. Cook and Ms. Porter will bring their list and invited Mr. Sidell, Mr. Falzarano, and Mr. Hill to join them. **Councilor Tobey** thought they may not need a permanent ordinance and that; and they (the DPW) could check with the City Solicitor as to whether DPW regulations would be sufficient. There was a discussion whether cars could be towed/ticketed based only on regulations vs. ordinance. **Mr. Hale** thought they would bring a parking plan to O&A and then look at an ordinance. **Councilor Verga** stated he did put in a Council order to ask for follow up in response to Mr. Cook's letter. Perhaps this is a venue to do that follow up. **Councilor Tobey** asked Mr. Hale to see if a representative from Wesson & Sampson could also be available at the site visit.

The O&A Committee site visit is to take place on June 4, 2011 at 8:45 a.m. meeting at the entrance of Magnolia Woods, 555 Western Avenue. This matter is continued to June 6, 2011.

[Note: The following items are continued to June 6, 2011]

5. **CC2011-021 (McGeary) Amend GCO Sec. 22-270 "Parking Prohibited at all times" re: Eastern Ave.**
6. **CC2011-022 (McGeary) Amend GCO Sec. 22-291 "Tow-away zones" re: Eastern Ave.**

A motion was made, seconded and voted unanimously to adjourn the meeting at 9:27 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Motion language for Waterways Board GCO amendments from Legal Department by Suzanne Egan**
- **Language worksheet for Referendum regarding City's public water system**
- **Letter by State Sen. Bruce Tarr to Chairs of Joint Committee on Municipalities and Regional Government concerning Special Act (dated 05/19/11)**
- **Memorandum from Suzanne Egan, City Solicitor re: Lay off of part time clerks in City Clerk's Office and attachments (dated 05/16/11)**
- **Emails regarding Magnolia Woods from: Steve Celetano dated May 11 and 12, 2011; Jack Hill dated May 16, 2011 (528 Essex Avenue), member of Cape Ann Flying Seagulls model airplane group**
- **Copy of letter signed by former Mayor John Bell dated August 13, 2004 to the Cape Ann Flying Seagulls for permission and parameters to use the softball field area on Sunday mornings between 9 am and noon.**