

CITY COUNCIL

AND

CITY COUNCIL STANDING COMMITTEE

Ordinances & Administration

January 11, 2010– 7:00 PM

Council Conference Room-1<sup>st</sup> Fl., City Hall

Present: Chair, Sefatia Theken; Vice Chair, Ann Mulcahey, Councilor Steven Curcuru (alternate)

Absent: Councilor Bruce Tobey

Also Present: Councilor Jackie Hardy, Councilor Joseph Ciolino, Councilor Greg Verga, Jim Duggan, Linda T. Lowe, Kathy Leahy, J. Michael Faherty, Esq., Mona Faherty, Rick Noonan, Bill Sanborn

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

Councilor Theken announced there was a quorum of City Council present, noting Councilors Hardy, Ciolino and Verga presence.

1. Appointment: Katherine W. Leahy, Open Space Committee (TTE 02/14/2012)

Councilor Theken asked Ms. Leahy to come forward and tell the Committee why she wanted to be appointed to the Open Space Committee.

Ms. Leahy stated she understood what the committee does and as a 30 year resident has enjoyed all aspects of open space in Gloucester. She touched upon her qualifications through her volunteer work with the City as well as her professional experiences, to the satisfaction of the Councilors on the Committee (Letter of Interest and Resume on file).

MOTION: On motion by Councilor Curcuro, seconded by Councilor Mulcahey, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the appointment of Katherine W. Leahy to the Open Space Committee (TTE 02/14/2012).

## 2. Unfinished Business

### a) Hotel/Motel Tax (Continued from November 11, 2009)

Jim Duggan stated the Administration is in support of this local option tax. The potential revenue funds would not be earmarked.

Councilor Theken briefed the new Councilors that this local option tax was contended when last before the O&A Committee due to the earmarks placed on the potential funds to the City by the Administration. This was then separated from the meals tax [at a joint meeting of the Ordinances and Administration Committee and the Budget and Finance Committee on November 9, 2009; the matter was bound over to the first meeting of 2010 for the Committee. The matter of the local meals tax was sent out of Committee for public hearing on November 16, 2009.] She then asked Mr. Duggan if the City Council voted to impose a hotel/motel local option tax at their next meeting, would it start at the same time as the new meals tax.

Mr. Duggan said this would come back at the same time. It will hit on April 1, 2010. He explained that the meals tax will generate approximately \$85,000 per quarter.

With regard to the hotel/motel local option excise tax, he said the projected funds to the City are per percentage point. The options to the Committee are: not at all, 1% or 2%. The income to

the City would be estimated at \$15,300 per quarter per percentage point. Tax in place is 4% to hotels and motels for a room tax.

Councilor Curcuro said if the City Council opts for 2%, as an example, this would increase the bill on a room per night by how much.

Mr. Duggan said it would be \$2 on a \$100 bill. He doesn't have statistic at this point.

Councilor Curcuro said then it would be about \$120,000 annually at 2%.

Mr. Duggan said whenever you start it is adopted 30 days before a fiscal quarter.

Attorney Michael Faherty, 83 Mt. Pleasant Avenue, owner of two hotel/motel operations. He stated their two sites have 40 rooms approximately in all. He noted under the state law if you have three or less room in a B&B you re not subject to room tax or if you have guests who stay longer than 90 days. For shorter term rentals a room tax is collected. There is a state wide tax on room occupancy which is 9.7%. 5.7% goes back to the City, 4% goes to the City. The effective rate would be just under 12% per night per room. He thought the end game of the discussion in November that the matter was taken off the table because it was a combined room and meals tax. Then it came back simply as a meals tax. He would like to see the minutes, as he doesn't believe this is unfinished business. The feeling was the room tax was off the board for the time being. If the new council wishes to take this up at the time, then bring it up separately.

Councilor Theken said it was separated.

Councilor Curcuro said this discussion was a continuance. It was separated.

Mr. Duggan stated the Administration was notified that it was brought forward as unfinished business.

Councilor Mulcahey said she remembers it being separated as well.

Councilor Ciolino said that it was to be brought forward in the New Year for the new council. It was put in as a specific date as the first meeting of the Committee.

Councilor Hardy said it was properly referred out by the City Council to the Standing Committee where it was separated. However, the Standing Committee hotel/motel local option excise tax stays in Committee and must be referred back to the City Council for disposition. It was still up to the Committee to decide whether or not they are doing this, and what the rate is.

Councilor Curcuru said it is an option for a public hearing but not necessary.

Councilor Theken said that she wants a public hearing. She feels it is the only fair thing to do.

Attorney Faherty asked Mr. Duggan as to how many communities has the hotel/motel tax before going forward to the City Council. This tax on hotels/motels in a large portion of rooms, these are summer people only within a 2-2-1/2 month window going for more than \$100 per night. You have to look at 6.0% total on that room in tax is going to the City. What is the City doing for that percentage per night per room. There isn't any logical connection. He said do not fund tourism; we fund ourselves for advertising. Now you're charging these people that these private enterprises are bringing to the City. You're not doing anything to help to generate more people into the City.

Councilor Curcuru said we can't earmark these funds until after it is passed.

Mr. Duggan said it is a special act of the legislature to earmark funds after it is passed.

Councilor Theken said she asked would the Administration be willing to earmark a percentage and the Mayor said yes. But then it became convoluted, and it was taken off the table.

Councilor Curcuro and Councilor Theken discussed the merits of earmarking.

Ms. Mona Faherty, 83 Mt. Pleasant Avenue and co-owner of two hotel/motel operations in the City said that folks who come in one night she gives the price and a solid percentage of those folks that say, does that include tax? People already care about how much they are paying. Those that don't initially - when they look at their bill and see what the tax is they are shocked. She explains as an across the board tax by the State. People might stay one night and move on to where there is less tax. People are getting very savvy now. If you change this to be higher you are putting this

Councilor Curcuro wanted to know if Ms. Faherty's room rates were in line with fees per room as surrounding communities.

Ms. Faherty said that their rates are on the lower side. This year they don't have the advanced reservations as in other years. Last year it was last minute reservations or walk-ins. Her rates are in line to the lower side.

Councilor Curcuro said say the rate is \$200. You're going to tell a customer who stayed at your hotel with an increase in tax of \$4 per night, and now they're not going to stay with you.

Ms. Faherty said you're almost up to \$23 per night per room, at her venues, in tax. Will they stay; probably. Will they come back; maybe, maybe not. Some people won't care. Some people will. Some will ask for a discount. But it's all in the perception. People will stay for two weeks they'll look at the hundreds of dollars and ask if they pay in cash and if they do, do they have to pay the tax.

Councilor Theken said what do the hotels and motels get from the City. They get any discounts on beach parking or other services from the City.

Ms. Faherty said they get coupons for beach parking that gives them \$5 off on peak hours. She has sent several people to the beach but the lots are generally full and their guests can't park there.

Councilor Theken said she knows there are issues with parking at the beach and wondered what the City is doing in this regard.

Councilor Curcuru agreed it is a problem, and there is a need to do something to alleviate the situation.

Councilor Theken said the hotel/motel tax is 4.0% already. She said there are other things coming to promote the City. There is a need for something to be directed at the hotels/motels for their benefit.

Mr. Duggan said they're doing the best they can make an investment in tourism to promote the City. Ms. Faherty, for instance, is on the Tourism Commission. The RFP "To Provide Public Relations, Communications and Media Support for the City, came out for the Tourism Commission. They are looking to move forward. They do need to continue the investment in the tourism area. They're not going to see effects right away. It will come slowly, year after year. It is the intention of the Administration to invest in Tourism. It is going to be part of the general fund. It will be an on-going investment to tourism to the best of their ability.

Councilor Hardy pointed out that you can amend the tax once a year.

Mr. Duggan said yes you can.

Councilor Ciolino suggested that the O&A Committee take a vote tonight for a percentage.

Councilor Curcuru said the State gives the option to local communities to go up to an additional 2 percent.

Councilor Theken said she won't vote for an additional 2% increase. She said she might consider 1%. She believes the Mayor when she said she made a commitment.

A motion was made and withdrawn to amend the local room occupancy excise tax at a rate of a 2% increase.

**MOTION:** On motion by Councilor Curcuru, seconded by Councilor Mulcahey, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to accept the provision of Massachusetts General Laws, Chapter 64G, Section 3A to impose the local room occupancy excise at a rate of 5 percent and to advertise for public hearing.

b) Orders: CC2009-046 (Grow) Amend Sec. 17 of GCO re: Civil Service Ballot

Measure & Procedure for Selection of Chief of Police (Continued from November 23, 2009)

Councilor Ciolino asked that the Committee hear what City Clerk, Linda T. Lowe had gathered for information.

Mr. Duggan suggested that General Council for the City be asked to draft an ordinance.

Linda T. Lowe, City Clerk reported to the Committee that she gave the Committee the last time she was here information about Somerville. She did on line research and a lot of municipalities don't have much accessibility. In conversation with David Bain, Personnel Director for the City, he suggested a few communities where she could contact to get more information. She asked to report at the next meeting of O&A if she could give the Committee more information on several more communities. That would be then a good stage for General Counsel to start drafting an ordinance.

Councilor Theken said it would be continued until January 25<sup>th</sup> at the next meeting of O&A.

Councilor Ciolino said this is something they need to take time on and doesn't wish see the matter rushed.

Councilor Theken said many member of the community have expressed to her that they didn't understand the vote itself and were confused. She said she agrees there's not reason to rush. She asked that the new Councilors on the Committee to receive the information on Somerville.

Councilor Hardy took exception that the ballot question was not worded properly. An explicit explanation to the voters of the City making the issue very clear in a variety of media was done appropriately and the vote was conducted correctly as well.

c) Update by General Counsel on Commercial/Non-Commercial Plates in a Loading Zone (Continued from December 7, 2009)

Suzanne Egan, General Counsel submitted a memo (a copy is on file).

Ms. Lowe said on a separate traffic issue, Mike Hale, DPW Director was in her office earlier in the day and said that the traffic item taken up at City Council on the 5<sup>th</sup>, that the measurements that were provided by the Traffic Commission on 62-64 Main Street are incorrect. This will have to go back to the City Council on February 2<sup>nd</sup> to amend the motion to be sure there are accurate measurements since this is a change in ordinance. Ms. Lowe will send out the information. She suggested that it could go on the 25<sup>th</sup> agenda.

Councilor Theken stated they would put the matter of the Order: CC2009-47 (Theken) Amend GCO Sec. 22-284 "Service or Loading Zones" Re: 62-64 Main Street on the agenda for the next O&A meeting of January 25, 2010.



- d) COM2009-037: Letter from Sandulli Grace, PC re: Gloucester Superior Officers Association Attempt to Remove Chief from Civil Service (Continued from December 7, 2009)

Ms. Egan submitted a memo (a copy is on file) stating there had been no word back from the State's Human Resources Department of a decision.

- e) Letter from Inspector General re: Timekeeping Practices Police Department: Update from City Auditor, Marcia McInnis (Continued from December 7, 2009)

Ms. McInnis was unable to make the meeting. This issue is continued to the next O&A meeting on January 25, 2010 meeting.

3. CC2010-001 (Tobey/Ciolino) Order that the City Council continue to consider becoming a member of Essex North Shore Agricultural and Technical School District

Councilor Ciolino said he and Councilor Tobey want to keep the issue alive but since there is a joint workshop to consider this specific matter with the School Committee on Tuesday, January 19, 2010 he'd appreciate it if the matter was continued to the at the next O&A Meeting.

Councilor Theken stated the matter would be continued to the next O&A meeting on January 25, 2010

4. CC2010-002 (Tobey) Enact Ordinance re: Citizen Participation and Public Infor-

mation Committee (CPPI)

Councilor Theken noted that Councilor Tobey was traveling and could not be at the meeting this evening. He did, however, submit a statement which she read into the minutes as follows:

“1. The Council should align itself with the Administration’s desire to encourage volunteerism and open communication by enacting an ordinance giving the CPPI standing and definition.

2. The CPPI itself needs to be open and transparent, which an ordinance with a clear statement of membership and roles will provide.

3. Both the Council and School Committee have an interest in encouraging volunteerism; and each should, therefore, have a voice on it, with members serving stated terms and being subject to Council confirmation.

I propose that the O&A Committee ask the City Clerk to meet with the current CPPI so she can gather their insights and information and then prepare a draft ordinance (that also captures the concerns I’ve stated above) for presentation to the committee by mid-February.”

Councilor Theken proposed that based on Councilor Tobey’s request the O&A Committee asks that the City Clerk to meet with the current CPPI as stated for the record.

She then spoke of the process of creating Committees and Commissions being in the City for the benefit of the new Councilors and that they want to do this within a framework of the protocol. The City can’t just create a Committee or Commission. There is a process.

Councilor Mulcahey asked who the people currently on the Committee are.

Mr. Duggan said that Betsy Works, Roz Frontiero and Erica Hanson are on the Committee. They are all equals on the Committee. The Mayor agreed to this, and they came before O&A.

The Councilors discussed as to how the Committee was created and noted that this Committee has not come back to the Committee since their formation as to what their process is.

Mr. Duggan said they were going to have outreach to get more citizens to have a voice in government and have transparency.

Councilor Curcuru said what specifically this group is doing.

Councilor Mulcahey asked what exactly do they want to do in government. They want say – they're citizens. They have a say. If they have a specific job, she'd understand. But they can't do anything other than as a citizen.

Councilor Theken said because the City needed so many volunteers, that these people were sort of a clearinghouse for City volunteers.

Councilor Ciolino said there's really no mechanism for volunteering within the city. And people taking early retirements, for instance, may want to come forward to volunteer. They should change the name so it is meaningful and a mission statement and rules and procedures as to how they would absorb these volunteers, an application to volunteers, a CORI check, etc. Then it needs to come back to this Committee.

Councilor Theken said they're (CPPI) helping out the Mayor to get the word out about certain issues.

Councilor Verga said we need to find out from this group what they are here for. He's not sure if these three individuals know what their mission is.

Councilor Hardy suggested that the Administration be involved in the mission statement for this Committee.

The Councilors agree that there needs to be a clearinghouse for volunteers for the City and this could be a good mechanism.

Councilor Theken asked the City Clerk, Linda T. Lowe to report back to the O&A Committee at the second meeting of O&A in February meeting as per the suggestion of Councilor Tobey.

5. Memo from Building Inspector re: Parking Meter Bags

Bill Sanborn, Building Inspector showed the Committee the new disposable bags being proposed. He explained that the canvas bags don't seem to come back to Building Inspector's office. Because there was a retrieval problem, and having issues with people about what they owed when they came back months later bringing back the bag, they looked at other communities and what they did. They put an end date for expiration. It would be \$5 for the bag; \$5 per day; and you pay for how many days you want to use the parking space. The sticker reflects that. Parking enforcement can look at this and write the tickets if needed. It is supposed to be done for people who are doing construction. The reason there is a trial period is that there are dumpsters on the street. Now they have the bags, and if a dumpster is put out where the bags are they will be able to get the dumpsters removed when the expiration date is over-reached. He said the canvas bags cost \$25 to purchase by the City.

Councilor Mulcahey noted the canvas bags cost about \$25. If the City is charging \$5 per bag, and were getting \$5 back. A \$5.00 charge doesn't seem to be enough.

Mr. Sanborn said that he agrees, and that's why they were running after people. They don't want to argue with people, or have to deal with the consequences of individuals claiming the bags were lost or stolen. They are hoping that this will be less of a management problem. He noted that 500 bags purchased through the Police Department cost \$175.

Councilor Theken said we can change how much we charge for these bags.

Several Councilors suggested a recommendation to amend the ordinance for the cost of the bags.

Mr. Sanborn said that they wanted to do the 90 day trial period and not change the ordinance now.

Ms. Lowe said if you want the process changed you have to change the ordinance. She said you can do a sunset change.

Mr. Sanborn said that that's why they want to have the 90 day trial period to see if this would work.

Ms. Lowe reiterated by making this a sunset provision it would then return to the Committee for the addendum

Councilor Hardy noted that since the matter had come to O&A through the appropriate process, this Committee can recommend an ordinance change and send to City Council for a change to amend the ordinance with a motion at the end to advertise to a public hearing.

The Councilors discussed examples of potential problems if bags are stolen or lost.

Mr. Duggan said with regard to parking enforcement that the date is on the bag. And if it's down the street from where it is supposed to be, they'll be able to see it.

Mr. Sanborn said that placing a specific meter number could be a problem.

Councilor Theken said that the bags are numbered then if they're lost or stolen they could be identified.

**MOTION: On motion by Councilor Curcuru, seconded by Councilor Mulcahey, the Ordinances and Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council whether Sec. 22-229, Parking Meter Control Devices, of the Gloucester Code of Ordinances be amended to require the use of disposable meter bags in place of canvas bags currently and to advertise for public hearing with the following terms to be included in the amendment:**

**1. Bags are to be issued with expiration date inscribed.**

**2. A fee is to be charged of \$10.00 per day for the parking fee and a one time fee of \$5.00 will be charged for the disposable bag.**

**The Legal Department was directed by the O&A Committee to provide proper language for the amendment to the ordinance before the City Council meeting of February 2, 2010.**

**7. Memo from CAO and RFP "To Provide Public Relations, Communications and Media Support for the City**

**Jim Duggan, Chief Administrative Officer** told the Committee that this is from the Tourism Commission voted \$10,000 and a donation coming forward to the City Council of \$20,000 for a total of \$30,000 for this RFP under Chapter 30B of M.G.L. The process will be followed, and then the recommendation will be made to the Tourism Commission and then they will vote on which vendor. The Tourism Commission will make a recommendation then to the Administration.

**Councilor Ciolino** said that Tracey Mullen is making the donation.

**Councilor Curcuru** said what is going to be expected of this company who is successful under the RFP.

**Mr. Duggan** said the scope of services is very specific. It was written by Sharon DuBois, Grants Coordinator for the City from a draft from Bob Hastings of the Cape Ann Chamber of Commerce. Ms. DuBois is on the subcommittee of the Tourism Commission just for this RFP because of her public relations experience and as a City employee.

**Councilor Hardy** said when people who are serving on a Committee that are donating the money and are the same people who are a part of the process, there is a perception of a conflict of interest.

**Mr. Duggan** said there is no conflict of interest. Donna Compton, Purchasing Agent, said it is a 30B, whereas first there is a proposal portion. They are ranked, scored, and after ranked by the Committee, then the bids are opened up; then a decision is made; and then a recommendation of the subcommittee makes that to the Tourism Commission.

**Councilor Ciolino** expressed his concern similar to Councilor Hardy's.

**Mr. Duggan** said that the process protects this issue that the City goes through.

**Councilor Hardy** said she felt that they [the members of the Commission] should not be voting, if they are contributing the money.

**Ms. Lowe** said the 30 B process is when you review the proposals and that what she hears is that you don't want stakeholders on the Committee. If you call the Inspector General's office and send him the proposal and ask the question of their office to verify process is OK. If they say it's not then you have legal issues.

**Councilor Theken** agreed that this is would be appropriate action.

**Mr. Duggan** said that he will look into this per Councilor Theken taking Ms. Lowe's suggestion.

**Councilor Verga** asked who would the successful bidding firm answer to.

**Mr. Duggan** said that the Tourism Commission is responsible for that. He said he speaks with the Chair of the Tourism Commission regularly. He specifically asked Donna Compton today was any type of misperception out there is there an issue of conflict of interest of certain individuals. She stated firmly that the process protects this.

**Councilor Theken** suggested getting three people who have nothing to do with the current Tourism Commission who are not currently involved with the City. So they are neutral, to make the decision(s).

**Mr. Duggan** said the subcommittee looking at the RFP and vetting process is Sharon DuBois, Mona Faherty and Ronn Garry and makes a recommendation to the full Tourism Commission. In turn, the Tourism Commission will make a recommendation to the Mayor, and then the Mayor has the final decision.

**Mr. Sanborn** noted that Mr. Duggan will be the contract administrator. That way there can't be a conflict.

**Councilor Hardy** said there should be a conflict of interest clause regarding collusion

**Councilor Mulcahey** noted is in the RFP.



**Mr. Duggan** said this was for information only. This has been advertised. The bids are due next Tuesday.

**Councilor Hardy** asked if Mr. Duggan has final say on the wording of the advertising in showing Gloucester in a good light, and stressed that the advertising dollars be spent promoting “Gloucester” and not Cape Ann.

**Mr. Duggan** assured the Committee that this is strictly for Gloucester public relations. What you are doing is getting special interest in stimulating stories to be written about Gloucester, and gave several examples of potential stories such as on the subject of the working waterfront.

**Councilor Theken** said the promotion of the City needs to be fresh and doesn’t want to see the same thing done for years. The City needs to emphasize these wonderful stories of Gloucester. We have amazing stories, but no one to tell you about it. There’s so much that can be done.

**Mr. Duggan** asked what would you like him to do to allay concerns of the Council.

Councilors said that knowing that Mr. Duggan being the contract administrator is very reassuring.

**Councilor Theken** asked Mr. Duggan to take the suggestion to contact the Inspector General’s office regarding the possible conflict of interest and send the Committee of the memo of the result of the inquiry.

## 8. Other Business

None.

**It was moved, seconded, and voted UNANIMOUSLY to adjourn the meeting at 9:05 p.m.**

**Respectfully submitted,**

**Dana C. Jorgenson**

**Clerk of the Committees**