

CITY COUNCIL STANDING COMMITTEE  
**Ordinances & Administration**  
**Monday, June 28, 2010 – 6:30 p.m.**  
**1<sup>st</sup> Fl. Council Conference Rm. – City Hall**

**Present:** Chair, Councilor Sefatia Theken; Vice Chair, Councilor Ann Mulcahey; Councilor Bruce Tobey

**Absent:** None

**Also Present:** Linda T. Lowe; Jim Duggan; Sarah Garcia; Bill Sanborn; Susan St. Pierre; Mary Rudolph Black; Marvin Kushner; Sam Cleaves; Jill Buchanan; Linda Stout-Saunders; Linda Brayton; Thomas Balf

**The meeting was called to order at 6:31 p.m. Items were taken out of order.**

**1. Continued Business:**

- A) CC2010-023 (Tobey) Amend 22-289 re: Main Street Parking Meter Time Limits (Continued from 06/14/2010)

**Councilor Tobey** reviewed that this topic of Main Street Parking Meter Time Limits was a three-part proposal: 1) that the City get rid of Main Street Parking meters [from Flanagan Square to the intersection with Washington Street]; 2) Main Street is to become two hour parking for free; and 3) a Main Street anti-shuffling ordinance to be adopted; the effect would be to prohibit people from parking for two hours in one spot; then move across the street; then park in another spot, and so on. Since this came forward, they've learned that the City on July 1<sup>st</sup> will have new technology to monitor traffic and issue tickets with hand-held hardware that will be very in tune with what he had proposed. In a further email at the Councilor's request, Mr. Towne was asked for how many parking tickets were issued for the same period. They didn't know in the first place that the City wasn't tracking meters on a street-by-street basis, meter-by-meter revenue generation basis. He felt it wasn't a good sign as to how much they cared about the revenue that is generated in particular sectors. The total revenue over a three week period was \$15,660.65. He noted the memorandum and email from Jeff Towne, CFO (on file) regarding the coinage collected from the Main Street meters from the weeks of May 20, 27 and June 3, 2010 totaling \$9,050.65. In a further email at the Councilor's request, Mr. Towne stated there were 435 parking tickets issued from May 17 through June 3, 2010 totaling \$6,610.00. The revenue showed there was about a 60/40 split between coins and tickets, as it has been in the past. The meters are only a piece of it. The Council in a small way can make a contribution by helping to revitalize Main Street by making it more inviting through effective management of parking resources of which is what parking meters started out being for. But over time it's become about the money, not about the managing the resource with an addiction to a revenue source. It's not about enhancing the downtown. The City can make Main Street more inviting, user friendly, by encouraging folks to go downtown; encouraging turnover through parking regulation. Values of Main Street properties will rise, bringing in more tax revenues. In the long-term this will not continue to create holes in the City's revenue stream. The Councilor suggested one more meeting on the matter, inviting the DDC, the Chamber of Commerce, the DMO, the Tourism Commission and merchants so they can have a dialog with the Committee.

**Councilor Mulcahey** felt two hours was not enough for some folks who come to Main Street for some service-based businesses. She agrees with the concept, however, with regard to the anti-shuffling ordinance proposal. Taking the meters out or free for two hours, she didn't agree. There have been added taxes created over the past six months. To give money away or do something that would counteractive to cash flow was not workable to her. There are logistics to be worked out and altered.

**Councilor Tobey** stated there is longer term parking on Rogers Street.

**Councilor Theken** stated she agreed there should be another meeting. She wanted to invite the groups to O&A for the discussion. There is a shuffling law. But it is 500 feet. She gave the example that if she parked in front of one of the salons, she would have to go out and move her vehicle 500 feet or more to avoid getting a ticket. They're working on a shuffling ordinance from Flanagan Square to Washington Street intersection with Main Street. That would mean there is no '500 feet.' With the new hand-held system for parking enforcement, they can measure how long you've been in a parking space. If they find you then across the street after that, it would be considered shuffling; and you will get a ticket. If you know you're going to be somewhere three, four hours, longer-term parking is available on Rogers Street. When she asked the store owners if they wanted no meters, they were against that. She wanted to hear once and for all; what it is the merchants want. Most of the complaints about shuffling, they're parked behind West End establishments. She believed the anti-shuffling ordinance would go forward at the least.

**Councilor Tobey** stated he'd oppose that in and of itself because the idea was to do something comprehensive, that's different. One person he would want to hear was from the Executive Director of the Chamber of Commerce who has 'lived' this in previous jobs and has seen what a powerful change as he has proposed can make when instituted all at once

**Councilor Theken** stated she would break it up. She didn't want to see it all go down because of one aspect or the other. The shuffling has to stop.

**Councilor Tobey** asked his committee to keep an open mind.

**Councilor Theken** assured she would not pull it apart. If they all want two hours free, there goes your shuffling. If you have the first two hours free, she didn't understand how it would be managed. She asked that Mr. Towne also be included in this discussion to speak to the new system being put in place.

**Councilor Mulcahey** noted that the new system allows enforcement to put in the time and the vehicle registration into the hand-held device so that when they return, they again input the time, and it shows if there is a violation. If there is a violation, the ticket is written and that violation is automatically uploaded into the City system.

**Councilor Theken** wondered if there were no meters would enforcement still be able do the same process if the first two hours were free. They still have to know how it would work.

**Councilor Tobey** wanted all the merchants from Flanagan Square to Washington Street who are on Main Street to receive notice of their next meeting.

**Councilor Mulcahey** volunteered to distribute flyers to merchants inviting their participation in the dialog.

The matter was continued to July 12, 2010.

- B) CC2010-011 (Hardy) Order that City Council review the current Roles of Procedure in order to bring them up to date (Continued from 5/17/2010)

This matter is continued to July 12, 2010.

- C) CC2010-047 (Tobey) (a) Rescinding for FY12 Budget Cycle the CSO debt Shift enacted on May 25, 2010 and (b) instituting a stormwater fee system pursuant to the ordinance enacted September 2009

**Councilor Tobey** noted last fall after months of meetings the previous O&A recommended an ordinance to the Council for a Stormwater Management Utility which was adopted on a 6 to 3 vote of the City Council and signed by the Mayor. It calls for stormwater utility fee to be set up as opposed to the City Council voting for a "Prop 2-1/2 override", noting he and Councilors Theken and Mulcahey voted against it. He felt the Administration should have had someone there to discuss the matter. He asked they continue the matter to a date certain; that the Principal Assessor, the DPW Director, the CFO, the Mayor and/or her Administrative Assistant to the Mayor join the Committee to speak about where this stands and figure out a work plan by putting everyone in the same room.

**Councilor Theken** felt this should be a one-item ‘workshop’ with **Councilor Mulcahey** also agreeing.

The matter was continued to August 9, 2010.

D) CC2010-022 (Hardy) Amend GCO Sec. 2-44 re: Listing Special Municipal Employees to add Boards and Commissions (Continued from 05/03/2010)

**Ms. Lowe** presented to the Committee the section of code which has a listing and speaks of special municipal employees and her memo (on file). She noted her concern regarding a person on the Historical Commission who is also on the Historical Museum Board and needed to go before the Historic District Commission and that the Ethics Commission advised him there was a need to name his Board “special municipal employees.” She noted the five defunct groups listed and 12 that were created and not contained in the current ordinance. This status provides protection to the Board, Commissions and Committee (BCC) members and should be extended to all BCC’s equally.

**Councilor Mulcahey** asked how do they know that when someone has a conflict of interest.

**Ms. Lowe** stated that person is supposed to call the State Ethics Commission or consult with the City attorney. You wouldn’t necessarily always know. This person was told he would be in a more secure position by being made a special municipal employee. She noted the definition could be included in the ordinance. A municipal employee includes those who are by appointment whether serving with or without compensation. No benefits, like medical insurance are given to them for this consideration. This would put them on equal footing and protect them in their volunteer positions and is a positive for the City.

**Councilor Tobey** expressed his gratitude to the City Clerk for her work on these ethics matters. It is important to get good quality assistance to make changes that are important to the City.

**MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to amend the Gloucester Code of Ordinance, §2-44(a) by DELETING the following boards, committees and commissions:**

- **Dog Control Board;**
- **City Forester;**
- **City Veterinarian;**
- **Superintendent of Insect and Pest Control;**
- **Armory Commission;**

**and by ADDING the following boards, committees and commissions:**

- **Affordable Housing Trust;**
- **Cable TV Advisory Commission;**
- **Clean Energy Commission;**
- **Committee for the Arts;**
- **Community Preservation Committee;**
- **Gloucester Cultural Council;**
- **Historical Commission;**
- **Historic District Commission**
- **Licensing Board**
- **Open Space Committee**
- **Plan Implementation Review Committee**
- **Waterways Board**

**and ADDING the definition of a special municipal employee as a person performing services for or holding an office, position, employment or membership in a municipal agency, whether by election, appointment, contract of hire or engagement, whether serving with or without compensation on a full, regular, part-time, intermittent, or consultant basis; and further, TO ADVERTISE FOR PUBLIC HEARING.**

- E) CC2010-019 (Verga/Whynott) City Council to investigate the possibility and procedure to consolidate polling locations (Continued from 05/03/2010)

This matter was continued to July 12, 2010; and the City Clerk will send a reminder to the Councilors to please report on any Ward meetings.

## **2. Reappointments**

**Councilor Theken** informed the Committee that the reappointment of Henry McCarl to the Planning Board would be taken up at the next meeting of O&A on July 12<sup>th</sup> at Mr. McCarl's request as he was unavailable for this meeting.

Both Ms. Black and Mr. Kushner were questioned regarding the Open Meeting Law about to go into effect and that they had taken the State Ethics online test.

**Councilor Mulcahey** asked Ms. Black what she liked about serving on the Planning Board.

**Ms. Black** stated she is an attorney and years ago did real estate. It is much different than the probate, domestic relations and child custody side of her legal practice now. She felt the Planning Board balanced out her interest; she enjoyed the administrative aspect; the criteria with which they function; the site visits; and the folks who serve with her on the Board. The Board was a good group of dedicated people. She felt it was nice to have the continuity and to feel you have input into local issues. They've tried to make the Board user friendly and create an environment where people feel welcome and comfortable. She noted there are two open positions on the Board.

**Councilor Tobey** stated he held Ms. Black in highest regard, as a smart, passionate and appreciated her enthusiasm along with her sharp input as a member of the Board. He was grateful for her participation.

**Councilor Theken** inquired if there were any open seats on the Board.

**Ms. Black** responded there were two.

**Councilor Theken** stated Ms. Black was a breath of fresh air. Attorneys appreciate Ms. Black when they come before the Planning Board. She has heard it is user friendly and appreciated the efforts of the Board to make it more accessible to the public. She thanked her for her continued commitment to the City.

**MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Mary Rudolph Black to the Planning Board, TTE 02/14/2015.**

**Councilor Theken** asked if all the Planning Board had taken their State Ethics Test and the minutes posted.

**Ms. Lowe** stated they had received them into the Clerk's Office and confirmed the entire Board had done so as well. Their minutes are always submitted in a timely manner.

**Councilor Tobey** thanked Mr. Kushner for his service.

**Councilors Theken and Mulcahey** concurred.

**Mr. Kushner** stated it was a 'labor of love'; that if one doesn't participate; one doesn't have the right to gripe. Their Board treats others the way they would wish to be treated.

**Councilor Theken** held Mr. Kushner in the highest regard and thanked him for his continuing service to the community.

**MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council the reappointment of Marvin Kushner to the Planning Board, TTE 02/14/2015.**

**3. Memo from Com. Dev. Director regarding the adoption of “Stretch Code”**

**Sam Cleaves**, Chair of the Clean Energy Commission presented his Committee to the Councilors reviewed their activities for the past year. They were recently awarded a \$50,000 grant for a feasibility study for wind at Blackburn Industrial Park on City land there. He then presented the proposal to adopt the Stretch Energy Code for the purpose of regulating the design and construction of buildings for the effective use of energy, which is pursuant to Appendix 120 AA of the MA Building Code, 780 CMR. By adopting the Stretch Code, the City would then be able to be designated an official Green Community and be eligible for receipt of grants from a state Green Communities fund, currently capped at \$1 million each. Secondly they are working with the Community Development Department to find out what they do have out there. In addition to feasibility studies, they are seeking assessment for a couple of other City properties at Magnolia Woods and Bond Hill. They’ll pursue feasibility studies for those sites. Hopefully this will someday give them a clearer picture of where the City stands in terms of being able to look at the pros and cons of a wind turbine site within the City, in some way producing revenue for the City of Gloucester. Mr. Cleaves submitted a fact sheet (on file) regarding the Stretch Code to the Committee, noting the Commission had workshops in November and February to speak with contractors and builders, with a representative from the Green Communities group with good attendance in looking to build support for the adoption of the new code. The Stretch Code is an addition to the State Building Code that came on board this year. It is a 20% energy efficiency increase over the existing State code. The Stretch Code is an option. It is one of the requirements that the City must meet and the City Council must adopt this as one of the five criteria if the City is to become designated a green community. If you are designated a “green community” you can apply for grants.

**Councilor Theken** stated if they adopt this and she’s building a home, she has to comply with this.

**Mr. Cleaves** stated for the first six months, if the City were to adopt the Stretch Code, you could follow either or. There is a six month transitional period. It depends of the size of the renovation or the type of the renovation you’re looking to do.

**Councilor Theken** stated if she were to put on an addition, it would be up to the contractor who has to follow the code. More and more ‘green’ supplies are not as expensive.

**Mr. Sanborn** stated it does increase the cost of construction. The payback is large; insulation, energy savings. This code is a new step to educate contractors how to insulate buildings properly. Insulation only became popular since the late 1960’s. As houses got tighter it created moisture problems which created mold and rot problems. This is a step to correct a lot of problems in how to do things correctly. Insulation is a main portion but it ties into everything to do with the construction. This is making a breathing house that takes the moisture out with tight insulation. It’s going to reduce the overall cost of using home heating fuels.

**Mr. Cleaves** added there are substantial subsidies from the Federal government if you do use the Stretch Code on a per-unit basis, \$1,250.00 to \$2,000.00 per unit as well as utility incentives for using appliances and lighting that are energy efficient. These will probably not be around in another two years. As Mr. Sanborn said, even though there is more of a layout up front, of 1%-4% that you have to mortgage, there is still a positive cash flow even at today’s energy prices with the kinds of insulation and systems now available.

**Councilor Tobey** asked if there was a period of payback that you can typically look to.

**Mr. Cleaves** stated there’s a positive cash flow right away across a 30 year mortgage of about \$600.00.

**Councilor Tobey** stated then there is value up front to the homeowner and guaranteed payback.

**Mr. Cleaves** stated yes there is.

**Councilor Mulcahey** asked if the Stretch Energy Code is adopted and folks don't have that kind of money to build, and they're already having a large mortgage, are they going to be mandated to build this. Is it also applicable to commercial properties; and is this retroactive

**Mr. Sanborn** stated it only affects new construction. One of the key things is that when you look at the energy components during construction which is when these things are done. You can't go back and retrofit.

**Mr. Cleaves** responded after the beginning of the six month period from January 1, 2011 (when the State Stretch Code becomes effective) is over, and then from July 1, 2011 they would have to comply with the Stretch Energy Code if the City adopted it.

**Councilor Mulcahey** asked if a list of smaller things people can do for energy conservation be made available to the public.

**Mr. Sanborn** stated that they're available now through the utility companies who have programs and will come to your house to do an energy audit to tell you what you need to correct to have a more energy efficient home. Action, Inc. has a similar program.

**Councilor Mulcahey** asked regarding Energy Star and a controversy that appliances with that designation aren't really energy saving.

**Mr. Cleaves** stated you're allowed to go with Energy Star builders packages. He'd heard that this is really on appliances. As relates to building packages there's no issues he'd heard of.

**Councilor Mulcahey** felt it was untrue that there was this idea of saving energy through the designated Energy Star appliances.

Mr. Cleaves stated all the builders packages are rated, and that Mr. Sanborn still has to go out and inspect the homes. He will look to see if it's done properly, and if it's tight.

**Mr. Sanborn** stated if you come in he will look to an energy audit. They'll look at all the components and see if your house passes the code. It does not stop at the insulation. It will look at the whole picture. You will pass this one level to bring your energy costs down.

**Councilor Theken** stated this is for new renovations and new construction.

**Mr. Cleaves** responded yes, and the Stretch Code doesn't apply to:

- Historic structures listed in any recognized historic register-local, state or national;
- Residential projects where the exterior building envelope or shell is not included as part of the project. *In other words, if a homeowner is not modifying or opening exterior walls, or replacing doors, windows, etc., the Stretch Code would typically not apply.;*
- Commercial renovations;
- Commercial structures with under 5,000 square feet of conditioned floor area;
- Commercial facilities with unusual energy usage requirements such as supermarkets, laboratories, and warehouses up to 40,000 square feet;

and further noted that any one who is replacing windows or doors now; a good window or a good solid door easily meets the Stretch Code, for instance.

**Councilor Theken** noted 1% is a bit of money. She felt this is wonderful though and wished this was in place when she built her home. She also felt that this gives the chance for folks who have no idea of construction or what was behind their walls to really begin to understand the process.

**Mr. Sanborn** felt it was important factor that codes are set up for the long term, not just for you at the time. They want to make the house safe and to last so that whoever buys it knows they're buying a safe, energy efficient place to live.

**Councilor Mulcahey** asked about contractors and builders who come in from out of town.

**Mr. Sanborn** stated building inspectors spent years to get universal building codes across the state which came out in the '70's. A contractor may need to do the Stretch Code here but not Essex. When someone comes for a building permit, they'll be told about the Stretch Code, if adopted, and educate them on it. They're going to need the paperwork to show they've complied as well. It's not him coming back after the fact. If they change anything, the permit will have to be amended.

**Councilor Theken** stated it would include appliances, heating, cooling, insulation; but why appliances.

**Mr. Sanborn** responded because they use a lot of energy. You can use whatever you wish, but you have to meet the standards. You can build what you want, but you still have to pass.

**Ms. St. Pierre** stated that you may have to add more insulation around the appliance, for instance, if the appliances don't comply.

**Mr. Sanborn** stated you can have what you want but you must comply with the code.

**Ms. Lowe** stated her concern regarding the amendments that the City would be locally adopting 780 CMR, Appendix 120 AA. That is the State Stretch Energy Code which is also an international energy code. They would be adopting that. That, however, would not be going into the Code of Ordinances. How and when will they know the CMR's are amended? Because it also says it's on file in the City Clerk's office thereby making it the Clerk's office's duty to make sure they have up-to-date CMR on file; how is that handled in other municipalities.

**Mr. Sanborn** stated 780 CMR, Appendix 120 AA refers to the Stretch Code, and one section refers you to the international energy code, two different things. If you don't adopt the Stretch Energy Code, you must use the international energy code. The state building code is based on the International Building Code. They want you to do it this way so every time there is a change, every time the international code is updated, the State must adopt it within six months automatically. In order to make this work you need it to refer to that State building code.

**Ms. Lowe** stated that practically if it says that it's on file in the City Clerk's office, they need to know what it is. This is your amendment. There is no meat on it. We are adopting this in the form presented.

**Mr. Cleaves** added the State has shifted away from doing its own code and adopted the international code.

**Ms. Lowe** stated she can go on line and see at any time the CMR updates.

**Mr. Cleaves** agreed.

**Mr. Sanborn** noted that the changes can only happen on January 1st and July 1st.

**Ms. Lowe** stated every ordinance amendment becomes effective after 30 days. With this stretch code adoption, it appears to mandate an effective date of January 1, 2011.

**Mr. Cleaves** responded that the first six months (January 1, 2011 to July 1, 2011) gives the leeway to those projects already under way. Then July 1, 2011, the Gloucester adoption of the Code comes into affect. Communities can chose to or not to adopt the Stretch Code.

**Councilor Tobey** stated that they would have to amend the ordinance to state when it is to be locally adopted.

**Mr. Cleaves** stated if the Council adopts the Stretch Code, it would become exclusively the only code on July 1, 2011 but January 1, 2011 it would still be optional for local property owners.

**Councilor Theken** stated right now what a house would be built under.

**Mr. Sanborn** stated the 2009 State Code. He further stated the motion should say this local adoption will take effect January 1, 2011. At that time that will give options for six months for the International Code or the Stretch Code to be a choice. It is a 6 month transition period (until July 1, 2011).

**Ms. St. Pierre** stated that's how the State Code is written.

**Councilor Tobey** stated if its voluntary why bother.

**Mr. Cleaves** responded that's how the State has constructed it.

**Councilor Mulcahey** asked if this might be retroactive – if your house doesn't meet this regulation that you won't be able to sell it.

**Mr. Sanborn** assured the Committee that would not be the case.

**MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to enact Chapter 5, Article II Division 3, section 5-30 through 5-34 of the City of Gloucester Code of Ordinances, entitled "Stretch Energy Code" for the purpose of regulating the design and construction of buildings for the effective use of energy, by locally adopting the Massachusetts Building Code, 780 CMR Appendix 120 AA, "Stretch Energy Code", including all amendments or modifications thereto, a copy of which is on file with the City Clerk:**

**Article II Building Regulations  
Division 3. STRETCH ENERGY CODE**

***§5-30 Definitions:***

**International Energy Conservation Code (IECC) 2009 – The international Energy Conservation Code (IECC) is a building code created by the International Code Council. It is a model code adopted by many state and municipal governments in the United States for the establishment of minimum design and construction requirements for energy efficiency. Commencing January 1, 2011 the baseline energy conservation requirements of the MA State Building Code will default to IECC 2009 and MA amendments.**

**Stretch Energy Code – Codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, the Stretch Energy Code is the international Energy Conservation Code (IECC) 2009 with amendments contained herein.**

**§5-31 Purpose**

**The purpose of 780 CMR 120 AA is to provide a more energy efficient alternative to the base energy code applicable to the relevant sections of the building code for both new construction and existing buildings.**

**§5-32 Applicability**

**On July 1, 2011 and thereafter, the Stretch Energy Code applies to residential and commercial buildings. Buildings not included in this scope shall comply with 780 CMR 13, 34, 61 or 93, as applicable.**

**§5-34 Authority**

**A municipality seeking to ensure that construction within its boundaries is designed and built above the energy efficiency requirements of 780 CMR may mandate adherence to this appendix.**

**780 CMR 120 AA may be adopted or rescinded by any municipality in the Commonwealth in the manner prescribed by law.**

**§5-34 Stretch Code**

**The Stretch Code, as codified by the Board of Building Regulations and Standards as 780 CMR Appendix 120 AA, including any amendments or modifications, is herein incorporated by reference into the City of Gloucester Code of Ordinances, Chapter 5-30.**

**The Stretch Code is enforceable by the Inspector of Buildings; AND TO ADVERTISE FOR PUBLIC HEARING.**

**4. CC2011-041 (Hardy) Amend GCO Sec. 22-270 “Parking Prohibited at all times” re: Holly Street**

This matter was continued to the July 26, 2010 meeting awaiting the recommendations of the Traffic Commission.

**5. CC2010-042 (Hardy) Amend GCO Sec. 22-291 "Tow Away Zones" re: Holly Street**

This matter was continued to the July 26, 2010 meeting awaiting the recommendations of the Traffic Commission.

**6. CC2010-043 (Hardy) Set Speed Limit for Holly Street from its intersection with Dennison Street**

This matter was continued to the July 26, 2010 meeting awaiting the recommendations of the Traffic Commission.

**A motion was made, seconded and voted unanimously to adjourn the meeting at 7:43 p.m.**

**Respectfully submitted**

**Dana C. Jorgenson  
Clerk of Committees**