

Planning & Development Committee
Wednesday, February 5, 2020 – 5:30 p.m.
Kyrouz Auditorium – City Hall
-Minutes-

Present: Chair, Councilor Valerie Gilman; Vice Chair, Councilor Jen Holmgren; Councilor Barry Pett
Absent: None.

Also Present: Councilor McCarthy; Councilor LeBlanc; Councilor Cox; Councilor O'Hara; Chip Payson; John Dunn; Gregg Cademartori; Jill Cahill; Vanessa Krawczyk; Adam Curcuru; School Committee members: Jonathan Pope; Melissa Teixeira; Kathy Clancy; Laura Weissen; Samantha Watson; Joel Favazza; Superintendent, Dr. Richard Safier

The meeting was called to order at 5:32 p.m. There was a quorum of the School Committee and City Council present. At the call for a recess at 6:30 p.m. Councilors Cox and O'Hara left the room as did all members of the School Committee.

Councilor Gilman welcomed the members of the public, city staff and Elected Officials in attendance. She reviewed the agenda and referencing Agenda Item #3, a matter related to a request for petition to the state legislature regarding Article 97 and Mattos Field, she advised there will be a public hearing when there is a land transfer but that the land transfer is not before the Council tonight. She announced that for the matter tonight, Article 97, the Committee would address written questions submitted through the Clerk of Committees (to be placed on file).

1. *PP2020-001: Request by Comcast to install 340' +/- of 4" PVC Conduit and a 17"x30" vault over conduit located in the sidewalk at Rogers Street #102 – To be held as an advertised public hearing*

This public hearing is opened at 5:37 p.m.

Those speaking in favor:

R. Alan Rugman, GRB Regional Utility Coordinator, representing Comcast, explained that Comcast has been asked to provide service to Rogers Street #102 as follows: Comcast is proposing locating from the existing Comcast conduit on the sidewalk at the rear of the First Ipswich Bank and placing a 17" x 30" vault over the conduit. From the newly placed vault excavating in the street in an easterly direction to place one (1) 4" PVC conduit 340' +/- to a proposed 17" x30" vault located in the sidewalk at Rogers Street #102. Excavation from the vault continues onto private property to service the new Santander Bank location.

Those speaking in opposition: None.

Communications: None.

Councilor Questions: None.

Councilor Gilman noted a memo from the DPW Director in support of the project (on file)

This public hearing is closed at 5:39 p.m.

MOTION: On a motion by Councilor Holmgren, seconded by Councilor Pett, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit Comcast locating from the existing Comcast conduit on the sidewalk at the rear of the First Ipswich Bank and placing a 17" x 30" vault over the conduit. From the newly placed vault excavating in the street in an easterly direction to place one (1) 4" PVC conduit 340' +/- to a proposed 17" x30" vault located in the sidewalk at Rogers Street #102. Excavation from the vault continues onto private property to service the Santander Bank located at Rogers Street #102, Gloucester, MA including the necessary sustaining and protecting fixtures as shown on a plan, "Proposed Comcast Underground Conduit Plan to service 102 Rogers Street, Gloucester, MA" dated January 3, 2020, with the following conditions:

1. Notification to the Department of Public Works 72 hours in advance of the proposed work. A construction schedule will be prepared by the applicant for review and acceptance by the Department of Public Works.
2. Proposed excavation may only occur during accepted road opening and construction season, 15 March - 15 November. No winter construction shall be allowed without the permission of the Director of Public Works.

3. **In the absence of a detailed construction plan, the Department of Public Works requests: all proposed conduits and appurtenances shall be placed so as to cause minimum conflict with existing underground utility services.**
 4. **All excavated trenches shall be patched flush with the surrounding asphalt using hot mix asphalt binder at the end of each work day to minimize pedestrian hazards. Asphalt shall be applied in two lifts of 2 (two) inches, totaling 4 (four) inches.**
 5. **All final paving shall be done in consultation with the Department of Public Works and an agreed upon final paving plan executed by the applicant.**
2. ***Special Events Application: request to hold the Lone Gull 10K Road Race on September 20, 2020***

Attorney Leonard F. Femino, Race Director of the Lone Gull 10K Race, now in its fourteenth year benefitting the Children’s Center for Communications noted the course was altered two years and this year’s route will be the same as last year’s route (on file). Nautilus Road is closed for two hours only. He noted the police details and signage to indicate that fact. There are no changes regarding any aspect of the 2020 race, he assured. **Councilor Gilman** added that there is a memo from the City Clerk indicated that all department sign offs are in hand and that the event was approved by the Special Event Advisory Committee.

MOTION: On a motion by Councilor Pett, seconded by Councilor Holmgren, the Planning & Development Committee voted 3 in favor, 0 opposed, to permit the Lone Gull 10K Road Race sponsored by the Children’s Center for Communication to be held Sunday, September 20, 2020 with a rain date of September 27, 2020, with the following conditions:

1. **A Certificate of Insurance naming the City of Gloucester as an additional insured party has been filed with the City Clerk’s office.**
2. **Road Closure Plan:**
Approvals of the Special Events Advisory Committee giving approval of the plans for the Lone Gull 10K Road Race have been given. Roads to be closed on the Back Shore are to be marked with signage directing the public as to the duration of the closure and alternate routes. Traffic and parking plan and police detail information by the Police Chief or his designee is to be filed with the City Clerk and the DPW Director or his designee on or before September 11, 2020.
3. **Refuse and Comfort Stations:**
All event refuse and recycling must be removed by the organizer. If any portable toilets (with two handicapped accessible) are to be provided and maintained by the organizer, they are to be placed the evening before the day of the event or early in the morning of the day of the event removed by 1:00 p.m., Sunday, September 20, 2020.
4. **Emergency Services:**
Any EMS requirements of the City EMS Director must be met.
5. **Staffing:**
Event staff is to have cell phones and be identified by the public with distinct shirts. A list of event staff and their cell phone numbers is to be submitted to the Police, Fire, or DPW Departments.
6. **Notification of Immediate Abutters and Businesses to Race Route:**
Notice shall be made by the event organizer by hand or by mail no later than 7 (seven) days in advance of the event to any function halls, motels and hotels, and other businesses along the race route.
7. **Responsibility of the Children’s Center for Communication:**
It is the sole responsibility of the Children’s Center for Communication to ensure that all required documentation is timely filed with the appropriate City departments as indicated. Failure to comply with any conditions precedent may result in permit revocation. Any changes to the route must receive prior approval from the Police and Fire Departments.

3. ***Memorandum from General Counsel re: request Article 97 Petition to the Massachusetts Legislature to dispose of Mattos Playground for the combined school project***

Councilor Pett declared under MGL Ch. 268A that when the original fundraising for Light Up Mattos Field was done, it was through the Gloucester Fund, and he is the Fund’s president. There was thousands of dollars raised for

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3. ***Memorandum from General Counsel re: request Article 97 Petition to the Massachusetts Legislature to dispose of Mattos Playground for the combined school project***

Councilor Pett declared under MGL Ch. 268A that when the original fundraising for Light Up Mattos Field was done, it was through the Gloucester Fund, and he is the Fund's president. There was \$1,000 raised for which he had

no financial interest but was only assisting that group to raise funds which was turned over to the Gloucester Fishermen's Athletic Association. He reiterated he has no financial interest or conflict and can discuss and vote on the request Article 97 Petition to the Massachusetts Legislature to dispose of Mattos Playground for the combined school project.

Councilor Gilman disclosed under MGL Ch. 268A, §23(b)(3) that she is a volunteer with the Gloucester Education Foundation Community Council and has no financial interest or conflict on the matter before the Committee.

She then reviewed that the selection process of the (combined school) site was recommended by the School Building Committee and approved by the School Committee. She indicated that there are four ways in which the City Council weighs in on the MSBA elementary school: 1) The financing of the feasibility study; 2) the request for an Article 97 Petition for Mattos Field to the state Legislature (outlined under Step 4 in the P&D Packet on file); 3) Outlined under Step 10 that the city will vote on the transfer of care, custody, management and control from the DPW to the School Committee per MGL 40, §15a. It was noted there will be a public hearing in front of the full City Council on this matter when members of the public can speak to the Council; and 4) review and vote on the proposed wording for the debt exclusion override ballot questions with the proposed yes and no description, recommended to the Council by General Council, Chip Payson as outlined in the Dept. of Revenue guidelines and the Mass. Secretary of State. That will be referred to the Ordinances & Administration Committee. This review of the wording will occur prior to August 1, 2020. Everything else is the responsibility of the Building Committee. If something arises based on Mr. Payson's presentation she encouraged those in attendance to write their questions down and submit them through the Clerk of Committees for the Committee. After the Committee asks their questions they will review those questions and ask them on behalf of the submitters. She noted that everything that Mr. Payson displays on the screen is on file and contained in the P&D Committee's Agenda Packet available through the city's website.

Chip Payson, General Counsel, reviewed the request of the city's Administration for an Article 97 Petition to the Massachusetts Legislature to dispose of Mattos Playground for the combined school project as follows:

Late last year the East Gloucester School Building Committee selected Veterans Memorial School and Mattos Field as the preferred site for the new combined school building project. As part of that selection process some questions arose to be addressed. They are:

1. Are there any deed restrictions on the Mattos Field property that would prohibit it from being used for school purposes: According to MapGeo on the city's website, the property is located at 11 Webster Street. While it appears as one piece of property now but it didn't start that way. In 1924 the city purchased a parcel of land, including the area known as "Webster's Pond" from Cape Pond Ice with no encumbrances as shown on the deed (on file) – there were no deed restrictions on that property (plan shown that was with the deed on file), and the plan was briefly described. In 1930 the city purchased another parcel comprised of 42,000 sq. ft. from Cape Pond Ice (plan of land on file). This 1930 property had a deed restriction that the property was to be used as a public playground and recreational center. In 1934 the City Council voted to name the playground after WWI veteran, Joseph Mattos which became Mattos Playground and in the packet, Mattos 1. About 1954 the city petitioned the Legislature for approval of the transfer of the 1930 property and a portion of the 1924 property to the School Committee (plan on file). Different aspects of the property were pointed out. Chapter 322 Acts of 1954 was noted as the description of the plan was made. The Legislature approved the petition and as such, the deed restriction on the 1930 was extinguished. Webster's Pond was filled in on the 1924 property and Veterans Memorial School was built on the 1930 property which included Mattos Playground and the southern portion of the 1924 property. At some point in time after 1954 and the Veterans School had been built, Mattos Field or shown as Mattos Field (2) in the packet came into being in the northern part of the 1924 property. There is no evidence of any deed restriction of the 1924 property that includes the current Mattos Field. It was noted that once the Veterans School is the under care and control of School Committee; Mattos Field is under the care and control of the city through the Department of Public Works (DPW), pointed out on the on file plan.

2. Are there any other restrictions on the use of property that would apply: There may be Article 97 protection on the property. Article 97 of the Mass. Constitution was ratified in 1972 providing for the protection of open space from changes in use and development without the approval of a 2/3 vote each branch of the State Legislature. The Courts, as of 2017 have interpreted this protection broadly. In this case, a b an argument could be made that the current Mattos Field is currently protected under Art. 97. If a legal challenge was made, it may take several years' time to go through the Courts, time. And while the city may be in the end successful, it would take time that the School Building Committee doesn't have. Mattos Field is not deed restricted but may be deed restricted by Art. 97.

3. How should the city proceed: It isn't out of the ordinary to petition the Legislature to change the use of Art. 97 piece of protected property. In any Art. 97 process, the office of the Executive Office of Environmental Energy Affairs (EEA) is the agency on point. On February 19, 1998, the EEA issued an Art. 97 land disposition policy that

stated that in order for the city to use any property that had Art. 97 protection, the city would need to replace it with a comparable piece of property of equal or greater fair market value and significantly greater resource value, or known as a “no net loss policy.” In order for an Art. 97 petition to be successful, the city would have to offer another piece of property to be used in place of Mattos Field so there is no net loss of open space in Gloucester. **Mr. Payson** reported that in discussions with the EEA, they indicated that such a land swap doesn’t need to be instantaneous. The city has identified the East Gloucester School site as a property of similar size and value to Mattos Field. The city would recommend that the East Gloucester School site be protected and designated open space in place of Mattos Field so as to satisfy the requirements of Art. 97.

In conclusion, **Mr. Payson** explained that Mattos Field doesn’t appear to be deed restricted. Mattos Field may have Art. 97 protection. The city controls Mattos Field, not the School Committee, and it’s necessary that the city petition the Legislature to allow it to use Mattos Field for a different purpose, to build a school on it before deciding whether to transfer the property to the School Committee for a combined school project. This is an administrative action of this process. The site has already been selected by the School Building Committee. Before the Committee is a petition that is asking for the flexibility to choose whether or not to transfer Mattos Field to the School Committee, a choice that comes later. The Committee is being asked to ask for that choice to give the community a chance to weigh in on the transfer at a later date. At that later date that’s when the Council has to and then the City Council has to decide whether to transfer the care and custody of Mattos Field over to the School Committee. That’s when there will a lot of relevant questions that will need to be asked, he added.

QUESTIONS FROM THE COMMITTEE:

Councilor Holmgren asked how the deed restriction was extinguished in 1954. **Mr. Payson** explained that when the Legislature takes action it authorized the city to build a school on top of a previously restricted property. If it wasn’t extinguished it wouldn’t have been able to move forward. He said that in his opinion the legislative action and the fact that a building has been there for 60+ years is evidence that it has been extinguished. He pointed out that the deed on the 1930 property is not the location of the current Mattos Field -- that was the bottom right (on plan) of the paper way. The 1930 property of 42,000 sq. ft. had the deed restriction, he noted.

Councilor Pett indicated he was making a time process inquiry: 1) As to Mattos Field, or Mattos Playground: **Mr. Payson** advised that in the 1930 deed and in the dedication in 1934, was referencing the property was to be used, “as a public playground and recreational center. It appears in 1934 in the City Council minutes it was dedicated as “Mattos Playground.” **Councilor Pett** expressed his understanding that if the Art. 97 is approved and the school built, there will be a larger playground there. Given that fact, he asked if the Council has the authority or ability to make a recommendation to name a playground or ballfield and to make it part of a deed. **Jonathan Pope**, Chair School Committee and Chair of the School Building Committee advised that the ability to name anything related to a school rests with the School Committee. He pointed out that with the new West Parish School, they rededicated the playground to Sgt. Becker, a WWII soldier. He suggested something of that nature could be done again.

Councilor Holmgren asked about traffic issues for the new combined school and where they are in that process and what they could expect in the coming months. **Mr. Pope** advised that Dore & Whittier has conducted a traffic study through an independent contractor. This was done for purpose of helping them understand the traffic flow in the area, and the need for off-street parking. He conveyed they are in the process of developing the site plan which is not yet been presented to the School Building Committee, but is expected at the next School Committee meeting on Thursday, Feb. 13th at 5:00 p.m. at the Veterans School. He noted that the Traffic Study is not yet published, and that they don’t publish the minutes and studies until they go through the School Committee. **Councilor Gilman** conveyed having viewed the website, that the website does state that the traffic study has been completed and will be turned over to them for analysis which was from the January 14, 2020 meeting but doesn’t show the study. The analysis will be done by Dore & Whittier, **Mr. Pope** noted. **Mr. Payson** noted the validity of the questions put forward, but that this petition before the Committee is only for the Art. 97 matter. The traffic and the timing of the building, financing are excellent questions but more appropriate of the question whether the Council allows the care and custody of the property over to the School Committee.

Councilor Gilman expressed that understanding that the state Legislature, both House and Senate, are off this summer, or go out of session. **Mr. Payson** explained that the Legislative Session -- Year 1 starts in early January and Year 2 ends at the end of July. **Councilor Gilman** asked what the anticipated timeline is to move the petition forward. **Mr. Payson** advised the petition needs to move forward tonight to the Council and be decided on by the Council next week. The petition then goes to Sen. Tarr and Rep. Ferrante, saying that he’s received assurances that it wouldn’t be too much of an issue but they want to give as much time as possible to move this through (the Legislature).

Councilor Gilman, calling this process a type of land swap, and asked how this works in terms of the East Gloucester open space. **John Dunn**, CFO, and member of the School Building Committee, explained that in general as the Building Committee has looked at the project it's been recognized that there are multiple components tied together. There is the actual design, management and construction of the school on the chosen site. Because there is a land swap on a current school site, the East Gloucester, that's going to be abandoned. That will require, whether they do to that site or not, that building will be demolished, and presuming the land swap with that property, then there will be some mitigation of the site to be useable for recreation and open space. As to relocating of Mattos Field to another site in the city, one suggested site was Green Street. He indicated they are in the planning stages and the plan would be taking as much of the Mattos Field infrastructure to the new site. He pointed out they can't demolish the East Gloucester School and site remediation until they move the faculty, staff and students out of that school into the new school. He conveyed it would take a while to go through this, with the idea that it will all be packaged as one overarching project with the various components and as one loan order. There are a number of things within this entire package that aren't eligible for MSBA reimbursement which is understood, but that doesn't mean they can't package it as one project with one loan order, he added.

WRITTEN QUESTIONS RECEIVED & PLACED ON FILE FROM MEMBERS OF THE PUBLIC NOT YET ANSWERED BY EITHER THE P&D COMMITTEE DISCUSSION OR BY GENERAL COUNSEL'S STATEMENTS:

Question from: **Mary Ann Boucher**, 93 Mt. Pleasant Avenue

Question: In regard to the East Gloucester School Property, what piece of land would the city use as a replacement for Mattos Field?: Please note in your packet (Enclosure #9) that the gray area is an "overlay" on the Lt. Arthur Maxwell Parsons' Playground. Does the city intend to use that land as part of the Article 97 trade for the disposal of Mattos (attached also to question document). Also, if intending to use the property that extends beyond the front teacher's parking lot into the wooded area heading towards East Main Street, is the city going to test that area for environmental purposes due to Environmental Protection Act that protects species of wildlife.

Response from **Gregg Cademartori**, Planning Director: When this moved to the discussion of whether or not the entire site on Webster Street was needed for the school building project, the area that will be the building and unrestricted now at East Gloucester Elementary was tallied as compensation. It isn't the existing playground at the East Gloucester School. As to the issue of the EPA protection of wildlife, Councilor Gilman indicated that was getting ahead of what the Committee had before it. **Mr. Payson** advised that if the Committee wants him to look into that he can but this is about a much defined piece of property, and only a portion of it.

Question from: **Patti Amaral**, 14 Myrtle Square

Question: The City of Gloucester states that they will give the East Gloucester property due to the disposal of Mattos Field. But that doesn't answer the question of losing a valuable ballfield. How do you account for this?

Response from **Councilor Gilman**: They are going to do the land transfer after this occurs, and there will be a public hearing and have that discussion. They're dealing with a technical introduction before they will discuss this in greater detail at the public hearing of the land transfer.

Question from: **Pam Steele**, 10 Pilots Hill

Question: Will the citizens be able to review the brief that the City is presenting to the state regarding Art. 97. I am confused as to how this is one to one swap as part of Mattos is deeded already as well as part of East Gloucester is deeded. What documents are you submitting (maps) etc. Where can the public see traffic and environmental studies don on the Mattos site?

Response from **Councilor Gilman**: All the material gone through this evening is on the city's website and she suggested they (the public) go through it in order to understand it. She suggested citizens talk to their Ward Councilor and the School Committee. **Mr. Payson** advised that the packet that is seen in the Mayor's Report will be sent to Sen. Tarr and Rep. Ferrante. The next step in that process, he indicated, working with them to draft the appropriate legislation to achieve the goal that is approved by the City Council which is Art. 97 relief. He suggested that built into that is a reference to the land swap which will all be public in legislation that will be filed. Noting the statement of Mr. Dunn, **Mr. Payson** conveyed that the land swap has to be conditional. There are a lot of steps – there is one piece of property of the East Gloucester School in the care, custody and control of the School Committee; Mattos Field is in the care, custody and control of the DPW. The School Committee isn't going to relinquish their property until everything goes through with the Mattos Field property, he pointed out, saying that Sen. Tarr's legal counsel and he have worked on these things before and will work with Rep. Ferrante's office as well.

Councilor Holmgren clarified that sked that the Council has to decide whether to send it (the Art. 97 petition) to the legislature to decide on the Art. 97 before they can talk about the technicalities being brought up as items of concern. **Mr. Payson** conveyed he was suggesting a proactive action to protect against an Art. 97 challenge. He pointed out they could disregard the Art. 97 petition that he's suggesting that they pass, and then they may fac. Referencing a case from 2017, with a legal challenge took seven years. This is covering the bases, **Councilor Holmgren** pointed out, and there will still be an opportunity for the public to weigh in. **Mr. Payson** agreed saying this was a protective measure. He put forward that it was his opinion the substance of this is when the Council has to decide whether to transfer the property – that's when there needs to be a discussion on the merits of the project and whether they want to do it because if they don't transfer the property they can't move the project forward.

Question from: **Katie Mione**, 6 Davis Street Extension:

Question: If the city did a land swap to the East Gloucester School site, would that land be protected forever?

Response from **Mr. Payson**: That has been proposed. The East Gloucester School will be demolished regrading and landscaping and at some point they will deed restrict it as Open Space. It is in perpetuity and is the plan.

Question from: **Jessica Geisel**, 15 Steep Hill Drive

Question: How responsible is it to move forward with a vote without a finished traffic study.

Response from **Councilor Gilman**: There is a process in place. There are two paths going forward – one is the Council's and the other is the School Building Committee/School Committee's path, she noted. There are procedural steps that both boards have to go through. The traffic issues will be brought forward as a School Building Committee matter that will be discussed most likely at the Feb. 13th School Committee meeting. They will meet together when there will be a public hearing when the land transfer issue comes forward. There will be a conversation if that is what the Council wants to do and would listen to everyone who steps forward, she advised. **Mr. Payson** expressed his agreement. Work is being done on the School side, he pointed out. He noted that on this side is the Art. 97 petition to give the Council the choice, and then the Council can decide for themselves if they can do this. If the Council votes this through next week, they're looking at May/June to get this through and during that time a lot is happening on the School side on two parallel tracks.

Councilor Pett expressed his understanding that people think they have the cart before the horse. He indicated this is a complex issue that involves not only the Council, and School Committee, but every citizen. There will be hearings as things come before the Council. He pointed out that they will continue conversations, listen to commentary at the appropriate stages, and then the citizens will then take a vote.

Question from: **Laurel Tarantino**, 16 Commonwealth Avenue

Question: Is it true that there is no option on the table for leaving our neighborhood schools and spending less money in fixing them. If not, why? Thus avoiding request that Article 97 be disposed.

Response by **Councilor Gilman**: The matter of school options isn't on the agenda this evening. There are two parallel paths, and an opportunity to hear from the public. When this gets to the debt exclusion override every registered voter will get the opportunity to weigh in by voting on that matter. Everyone will have the same chance to weigh in. The decision will be made by the people.

Question from: **Suzanne Blake/Patti Amaral**, 14 Myrtle Square

Question: Can the attorney show us a copy of both the 1924 and 1930 deeds, and point out which deed pertains to which parcel on the one with the deed restriction on the map. Can he also read the verbiage that describes how the land was transferred to the city for \$1 with the restriction of it being used for recreation/playground? Has that requirement been resolved? Has the attorney/city done a complete title search on all of the parcels that will be included in the building of the new school and are they clear? If so, is the title search available to the public?

Response from **Mr. Payson**: This information is in the packet with the recorded maps and each of the deeds. In the minutes of the Council there was talk about transferring a piece of property for some money but it was never mentioned in the deed, and the deed is the controlling document. He noted the 1924 plan filed with the deed. The deed is free of all encumbrances. A document submitted (placed on file with question) by Ms. Blake from Assessors' records was not previously submitted and so Mr. Payson or the Chair were unable to comment. **Councilor Gilman** advised they would look at it and at the next meeting there would be a further explanation.

Question from **Lara Jarrullo**, 2 Ocean Avenue

Question: Will there be more than one option in vote? 1-School 2-No School 3-Fix existing schools.

Response from **Councilor Gilman**: As this moves forward, and the land transfer is approved and it moves forward to the debt exclusion, there will be a question crafted by General Counsel based on the DOR and Secretary of State's language, very technical, with a short yes or no answer.

FINAL COMMENTS BY THE COMMITTEE:

Councilor Holmgren advised her support to ensure that as a community they have the ability to weigh in on the matter for or against, saying she didn't want to delay the process.

Councilor Pett voiced his support for the reason of moving forward for providing the best education they can for children across the city. He noted that also based on the time restrictions that this vote needs to move forward to continue to try to make this come to the fruition if it is the will of the citizens. He conveyed that to get to that point they need to move this process forward.

Councilor Gilman added her support for the Art. 97 petition. She highlighted the Council will have a public hearing at the transfer of land and will hear from those in favor and opposed. She pointed out that every member of the community (registered voters) will be able to go to the ballot box and weigh in.

COMMITTEE RECOMMENDATION: On a motion by Councilor Holmgren, seconded by Councilor Pett, the Planning & Development Committee voted 3 in favor, 0 opposed, to recommend that the City Council request that the State Legislators file a petition on behalf of the City of Gloucester requesting that the General Court authorize the City of Gloucester to use certain land, known and numbered as 11 Webster Street, which includes Mattos Field, and is held by the City pursuant to deeds recorded at Book 2599, Page 151 and Book 2867, Page 34 in the Southern Essex District Registry of Deeds, for municipal school purposes, without Article 97 restrictions on such use, provided that the Legislature may reasonably vary the form and substance of the requested legislation within the scope of the general public objectives of this petition.

The Committee recessed at 6:30 p.m. and reconvened at 6:49 p.m.

4. SCP2020-001: *Wingaersheek Road #105, Map 261, Lot 31, GZO Sec. 3.1.6(b) "Building Heights in Excess of 35 Feet" in the R-20 Low/Medium Density Residential District*

Councilor Pett declared under MGL Ch. 268A, §23(b)(3) that this was discussed with the State Ethics Commission and filed notice that 30+ years ago he worked with the Applicant, Lawrence Costa, and at this time has no financial interest or connection with the Applicant and can participate in this process going forward.

Councilor Gilman reviewed that the following:

- The Special Council Permit application was signed off by the Building Inspector and Planning Director on January 22, 2020.
- Abutters to the parcel known as Map 261, Lot 31 have been noticed of this public meeting by the Applicant.
- The Applicant is Lawrence Costa and owners are William Hathaway, Craig Hawley, Virginia Rayleen, Manager of 1928 Coffin's Beach Cottage LLC.
- Applicant is asking for, in accordance with GZO Sec. 1.8.3 and requests a Special Council Permit pursuant to Sec. 3.1.6(b) for a building height over 35 feet.

She advised the Committee doesn't plan to vote on the matter this evening and will schedule a site visit prior to the next regularly scheduled meeting of the Committee on Wednesday, Feb. 19th.

Attorney Wilhelmina Sheedy, 76 Main Street, Rockport, representing the Applicant, Lawrence Costa reviewed as follows:

- The Applicant, Lawrence Costa is a native of Gloucester having graduated Gloucester High School with family here wanting to return to Gloucester and build his phone.
- The Applicant appeared before the Council three years ago, March 2017 on the same application where the P&D Committee recommended that the Council approve this project and did approve it, issuing a Special Permit to build the house in excess of 35 feet. The decision was appealed to the Superior Court by two abutters. A Special Permit under GZO Sec. 3.1.6(b) must contain written findings that the increase over the allowable height is consistent with neighborhood character and will not be substantially detrimental to the neighborhood because of obstruction of views, overshadowing of other properties, impairment of utilities or other adverse impacts. The judge on the appeal stated that he was forced to agree that the Special Council

Permit decision didn't contain these written findings; therefore, the Applicant is back and hopeful to receive those approvals and the required written findings will be contained in the Council decision.

- This neighborhood begins at the guardhouse and extends to the end of Wingersheek Road beyond the Castle. Similar neighborhoods are Eastern Point and Annisquam, having one way in and out. There's a mix of contemporary and traditional homes of various sizes -- small cottages to large homes, both castles and contemporary; and like this project classic New England shingle-style homes.
- The neighborhood is mainly in a flood zone. Environmental regulations require now that any homes that are built or substantially repaired or renovated must be raised on pilings. Therefore, the height of this new dwelling is consistent with the neighborhood character. There are several homes in the immediate area that the Council has given permission to exceed 35 feet - 25 and 132 Wingersheek Road.
- This home is consistent to the neighborhood character when looking at the entire neighborhood not just the immediate properties. Many were fortunate to be able to build their homes before these fairly recent regulations went into effect.
- The property is in R-20 zoning district. The lot dimensions require 20,000 sq. ft. of land; 80 ft. of frontage; and a 100 ft. lot width. This lot has 90,000 sq. ft. of land; 200 ft. of frontage and 200 ft. lot width. The yard dimensions are: 30 ft. front yard setback, and this would have 232 ft. front yard. Side yard is 25 ft. on each side; 30 ft. rear yard setback is required, this will be 66 feet. As to the 30 ft. building height, this house is proposed to be 39 ft., 6 inches. As to lot coverage, up to 25% lot coverage is allowed. This home will cover 7.5% of the lot. The land at 105 Wingersheek Road is two times the size and of ZO and is about 2 acres of land.
- A plan of 25% of lot coverage was shown - A-1 and A-2 dated 1/27/20 by Robert Gulla Architecture illustrate what can be built as matter of right as to lot coverage and setbacks compared to proposed building at 7.5% lot coverage. This oversized lot could be potentially be divided and a building could cover 25% of each lot. The Applicant feels to subdivide the property would be more detrimental not only to neighborhood with twice the number of driveways, cars, septic systems, etc., but more detrimental to the environment in this conservation area. The design of home is situated across center of lot so future subdivision isn't possible.
- The home is designed to lessen any potential impact on the abutters' views with its wings facing back rather than directly along the boundary. The home is being designed to use geothermal, solar, green initiatives and numerous consideration for the environment including planting 13,000 sq. ft. of dune grasses and an elevated walkway to the beach in order to protect the vegetation along the beach for its protection.
- The proposed structure meet all dimensional requirements of the Zoning Ordinance except height because of FEMA regulations which require that the building be raised 9.5 ft. above average grade. By building a 30 ft. home the height will be 39.5 feet because it has to be built on 9.5 ft. pilings. If no pilings were needed, this would be a 30 ft. home. It doesn't matter how large or small the home is, it would have to be 39.5 ft. to meet FEMA regulations.
- The site has a bowl in the middle of it, and a good portion of the proposed home will be situated in it. There will be no overshadowing of other properties. The Applicant has received all the approvals necessary for this proposed home from the city's Engineering Dept. for grading and drainage Board of Health approval for the septic system, and for the siting of the house from the Conservation Commission an Order Conditions. All those departments have issued extensions on the original approvals, meaning the approvals remain current and in place.
- Included with the application was a diagram of the west elevation of the street side (on file) for which the pilings were pointed out. The 9.5 feet represents the height of the pilings, then it shows the 30 foot house. At the top the 9.5 ft. that matches at the portion raised up on pilings, driving up the roof line. Instead of a 30 ft. high home with a flat roof, the proposed roof line would be in keeping with the area and designed to fit the character of the neighborhood instead of a flat roof and this is more of a traditional home. The increase of the 9.5 ft. roof of the home won't obstruct any views or overshadow any other properties. Due to the topography of the site, and the location of the property in a flood zone, it is consistent with the character of the neighborhood and not substantially detrimental to it. There is no impairment of utilities – city water is already serving the single-family home on the site and no other adverse impacts for this proposal.
- Brief review of GZO Sec. 1.8.3:
Social, economic, and community needs served by the proposal: The applicant proposes to demolish and reconstruct a pre-existing single-family structure at 105 Wingersheek Road. The new structure will be in excess of 35 ft. in height and thus a Special Council Permit is requested. The project is consistent with

neighborhood character in that the property is located in an area of homes which are now required under FEMA regulations to be built on pilings. The new home will not be substantially more detrimental to the neighborhood, and has been designed so that it will not obstruct views or overshadow other properties. There will be no impairment of utilities or other adverse impacts. An Order of Conditions for the project has been issued, and the Title 5 septic system design has been approved.

Traffic flow and safety: There are no traffic flow and safety concerns as the building will be replacing an existing single-family home.

Adequacy of utilities and other public services: There is no additional burden on services;

Neighborhood character and social structure: The project is consistent with the character of the surrounding neighborhood and social structure.

Qualities of the natural environment: There will be no impact to the natural environment. There is an Order of Conditions from the Conservation Commission.

Potential fiscal impact: The construction of this house will not adversely impact schools or public safety and will provide tax revenue to the city.

- As to shadowing and the view under GZO 3.1.6(b): This is for 9.5 ft. on the top of the building. There is greater than 25 ft. of side yard setbacks. The home is located in a bowl on the site so the building is lower. The home is designed so that the wings of the house were oriented to not overshadow other properties and she noted that to the east faces Coffin Beach; west is towards Wingersheek Road and south is the Archer property and north is the Kinsey property. The way the property is structured, southeast and northwest are the sight lines that are not impacted by the construction.

COUNCILOR QUESTIONS:

Councilor Pett asked that at the site visit that the height of the proposed home be delineated by either balloons or posts and that the outline of the house will be staked.

Councilors Holmgren had no questions pending the site visit.

Councilor Gilman reconfirmed that the abutters to the parcel noted as Map 26, Lot 31 that all abutters on the Certified Abutters List were noticed of this meeting. There has been no neighborhood meeting conducted by the Applicant but Ms. Sheedy confirmed that she is available for any questions the neighbors may have.

A site visit will be conducted on Thursday, February 13, 2020 at 3:30 p.m. at 105 Wingersheek Road with a storm date of Tuesday, February 18th at 8:00 a.m. meeting in the driveway of that property, determined after a brief discussion of the Chair with Ms. Sheedy of the parameters of the site visit with input of the Committee.

This matter is continued to February 19, 2020.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:21 p.m.

Respectfully submitted,

Dana C. Jorgensson

Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

Written questions submitted re: Agenda Item #3: Memorandum from General Counsel re: request Art. 97 Petition to Massachusetts Legislature to dispose of Mattos Playground for the combined school project:

- Mary Ann Albert Boucher, 93 Mt. Pleasant Avenue with attachments
- Patti Amaral, 14 Myrtle Square
- Pam Steele, 10 Pilot's Hill
- Kaitey Mione, 6 Davis Street Extension
- Jessica Geisel, 15 Steep Hill Drive
- Laurel Tarantino, 16 Commonwealth Avenue
- Suzanne Blake (Rockport)/Patti Amaral, 14 Myrtle Square with copy of city Assessor's Office document (submitted separately)
- Laura Jarrullo, 2 Ocean Avenue
- Kimberly Pascucci, 20A Birch Grove Heights