

CITY COUNCIL STANDING COMMITTEE
Planning & Development
Tuesday, June 8, 2011 – 6:00 p.m.
1st Fl. Council Committee Rm. – City Hall
-Minutes-

Present: Chair, Councilor Joseph Ciolino; Vice Chair, Councilor Robert Whynott; Councilor Greg Verga

Absent: None.

Also Present: Gregg Cademartori;

The meeting was called to order at 6:00 p.m. Items were taken out of order.

1. *Continued Business: None.*

2. *Memorandum from Engineering Department re: proposed street naming for Pantry Way*

Councilor Ciolino noted a memo from Karen Andrews, Engineering Department to Fire Chief Dench (on file) regarding the naming of Pantry Way (a way situated on City-owned land) which he read aloud, and related he had a discussion with Councilor Curcu who had generated this request and noted there is a procedure in place under §21-3 of the GCO. Emerson Avenue is on the list of roadways to be paved. The DPW wants to pave here because the residents living in Lincoln Park elderly housing use this access road which is in very poor condition. But nothing can be done until it has a legitimate name with the City. He then noted Sec. 21-3 (a) through (f) Street Names of the Gloucester Code of Ordinances for the benefit of the Committee. They need to make a motion to have all these departments to come back to them within 14 days.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Whynott the Planning & Development Committee voted 3 in favor, 0 opposed to have the Fire, Police, Planning and Assessor's Departments respond in 14 days as outlined in GCO §21-3 subsections (a) through (f) to the Committee in writing in order to again take the matter up at the next regularly scheduled meeting of June 22, 2011.

3. *SCP2011-003: Dolliver's Neck #9, GZO §5.5.3 Lowlands (Note: §5.5.2 as appears on the P&D Agenda was incorrectly inserted)*

Councilor Ciolino noted that this application was received in the City Clerk's office on May 6, 2011 (SCP2011-003) and the fee was paid and that the latest the public hearing can be held is July 8th and asked for a letter from the applicant's representative of extension for the date of the public hearing due to the federal holiday which was assented to by Robert Griffin, P.E., Griffin Engineering Group LLC, the applicant's representative. The Special Council Permit type is Lowlands, §5.5, construction on land less than 10 ft. above USGS datum; 9 Dolliver's Neck, Assessor's Map 201, Lot 54 in the Coastal Residential (R-1) zoning district, zoning classification RC-40. The Building Inspector and Planning Director both signed off on the application as well. Affidavit of the Notice to Abutters was filed accordingly prior to the meeting.

Robert Griffin, P.E., Griffin Engineering Group LLC spoke for the applicants Albert Ellis and Betty N. Ellis; Trustee of 9 Dolliver's Neck Road Realty Trust regarding the application for a Special Council Permit stated the application is rather straightforward. The applicant is proposing to reconstruct an existing guest house within the existing footprint of a one story guest house behind the residence. The proposal is to tear down what is there, a one-story guest house built in approximately 1930 and replace it with a two-story guest house. Since a portion of the guest house is within land less than an elevation of 10 ft. a Special Council Permit is required in order to obtain a building permit. The elevation surrounding the existing guest house ranges from 11.1 ft. to 9.7 ft. One Hundred year flood zone in this area is at elevation 9 ft. It is proposed to put in a conventional concrete foundation with frost wall underneath the structure. They'll put a flood opening in this although not required. When the residence was damaged in the No Name Storm in 1991, in reconstructing the house they put these flood openings in the house and so this is precautionary in the foundation which allows water to flow in and out by itself. The first floor of the guest house is at an elevation of 13.7 ft., and has two stories above that. It has one bedroom and ¾ bath on the first floor and storage space on the second floor coming to approximately 450 square ft. footprint, with the top of the house approximately 25 ft. high for the second story and would preclude a height exception. There is an Order of Conditions approved by ConCom. **Councilor Ciolino** noted each of the Committee had viewed the current layout

and structure in person on their own prior to the meeting. **Councilor Verga** asked if the guest house meets set back requirements which **Mr. Griffin** assured it did. The reconstructed guest house will pose no hazard to the health or safety of the occupants as laid out in §5.5.3 of the zoning ordinance. The proposed reconstruction of the guest house meets all conditions as outlined in §1.8.3 as follows:

- 1) The reconstructed guest house serves no social, economic or community need since there is already a guest house on the property.
- 2) The site currently has adequate traffic flow and safety and the guest house will not affect existing conditions.
- 3) Existing utilities are adequate to serve the guest house. There is a Title V compliant septic system on site and has an adequate water supply which it shares with the main house. Its reconstruction won't affect the adequacy of such utilities.
- 4) The reconstructed guest house will have no effect on the neighborhood character and social structure. It will have complementary colonial architecture similar to the home on the site.
- 5) The reconstructed guest house will have no impact on the natural environment as it will occupy the existing footprint of the current guest house.
- 6) The guest house will have only minor potential fiscal impacts; as it will increase in the assessment of the property. The guest house is an accessory to the residence and doesn't have a kitchen in it and only has a bathroom. On inquiry from **Councilor Ciolino**, **Mr. Griffin** explained that the current guest house is tied into the main residence septic system as will the rebuilt guest house. Further, there is 3.3 acres of land and he understood there is not an intention to subdivide the property but that there could possibly be enough land to do so. **Councilor Verga** asked if they are making this guest house bigger. **Mr. Griffin** stated the existing guest house has a small bedroom and will be enlarged but they are not adding bedrooms and therefore the current septic system is adequate; and there will be storage on the second floor but is contained also in the original footprint. This structure was built in the 1930's and has been poorly maintained.

Councilor Ciolino expressed that the Committee finds that the first floor of the proposed guest house will be at an elevation of 12 ft. or greater. The guest house will be connected to the existing septic system which is at an elevation of 10 ft. or greater and therefore not subject to inundation during a 100 year storm event. The guest house will be connected to the municipal water system and will not be subject to interruption or contamination in the event of coastal flooding. Finally, the Committee finds that there will be no fill or excavation subject to displacement by coastal flooding. The project complies with the Wetlands Protection Act and is designed in such a way as to pose no risk to the health and safety of wildlife. It is also in compliance with §1.8.3 as shown by the applicant's representative and by determination of this Committee.

MOTION: On motion by Councilor Verga, seconded by Councilor Whycott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant a Special City Council (SCP2011-003) Lowlands Permit pursuant to §5.5.3 of the Gloucester Zoning Ordinances to Albert Ellis and Betty N. Ellis, Trustee for the property at 9 Dolliver's Neck as shown on Assessors Map 201, Lot 64 for the purpose of constructing a guest house within the footprint of the existing structure and complies with §1.8.3 as in the application submitted and as shown on Locus Plan by Griffin Engineering Group, LLC of Beverly, MA dated 5/5/11 and is in harmony with the general purpose and intent of the ordinance AND TO ADVERTISE FOR PUBLIC HEARING.

4. SCP2011-004: Gloucester Crossing #1, and #341, GZO §2.3.2(9) Animal Hospital and §2.3.4(6) Animal Grooming

Councilor Ciolino stated that the application was received in the City Clerk's office on May 18, 2011 and the fee was paid for Special Council Permit (SCP2011-004) for GZO §2.3.2(9) Animal Hospital and §2.3.4(6) Animal Grooming. The public hearing needs to be no later than July 22, 2011. The Building Inspector and Planning Director both signed off on the application as well. Affidavit of the Notice to Abutters was filed accordingly prior to the meeting. The applicant, Petco, has a signed lease agreement with Gloucester Commons, LLC- Sam Park, Manager. The location is 1 Gloucester Crossing, Map #252, Lot 13, zoning classification Extensive Business (EB). **Attorney Deborah Eliason**, 63 Middle Street who brought Ellen Davignon, District Manager for Petco, spoke as a representative of the applicant, Petco Animal Supplies Stores, Inc. She stated that Petco Animal Supplies Stores, Inc. ("Petco") has entered into a lease with Gloucester Commons, LLC for a portion of building #C located at the Gloucester Crossing Shopping Center, on the same side as Olympia Sports. The building is in place. The interior has changed slightly from the original Gloucester Crossing plan. No further zoning relief is required. They are before them simply for the Special Council permit for the grooming facility and the veterinary clinic. The grooming

facility will be open during store hours and will encompass only 685 sq. ft. of the store (7% gross sq. footage). The veterinary clinic will be held intermittently at the store. The veterinary clinic utilizes a portion of the existing store and does not have an exclusive space within the store and set generally at the back of the store for the clinic. The grooming area is completely separate from the retail area and only services dogs and cats. The animals that are waiting to be groomed are kept in a separate kennel area. There is a separate reception area for the pets and their owners; and owners do not go back into the grooming areas at all. Water is available for the animals at all times in the grooming area; and they are checked every fifteen minutes by the grooming staff. The store manager also does an extra check during his or her store check. The animals that are groomed there must be up to date on their vaccinations; and Petco notifies their customers if their animals are not up to date with them and not allow the animals to be groomed without them. They anticipate the clinic will take place once a month possibly increasing to once every two weeks if there is a need or more should the volume indicate that and will service only dogs and cats. At this store location they would expect to see 12-25 patrons per clinic with likely 8 or 9 patrons lined up waiting. There is an administrative table set up at the back of the store through the doors in the non-public area and two tables set up for vaccinations and set up outside of the retail area. Clinics are approximately one to two hours long and generally held on weekends. She explained the location of tables and the type of work that will be done as well as the pedestrian flow within the store. No emergency exists will be blocked by the clinic staff or patrons utilizing the clinic and aisles will remain open for passage. The vet services offered will be common vaccinations, diagnostic testing and micro-chipping. Petco's experience is that people who come to the clinic are not typically people who have a regular veterinarian and many times are not people who would otherwise get their pets vaccinated. It provides a service to the community in that it promotes health vaccinated animals to people who might not otherwise do so.

§1.8.3 criteria are: Social, economic and community needs are served by these uses proposed by Petco. They will offer a significant boost to the amenities available now at Gloucester Crossing. The veterinary clinic and grooming facility are an integral part of the Petco prototype for its stores throughout the country; and it will be useful for those people patronizing the shopping center and while the customers' pets are utilizing the grooming facilities, their owners can patronize other businesses there as well as perhaps downtown locations while waiting for their pet to be done. The closest full service Petco store is in Peabody. The local economy will benefit and will draw patrons from neighboring communities to Gloucester versus the one in Peabody, and will likely transact other business in the shopping center and other locations in Gloucester and on Cape Ann. The vet clinic will encourage the vaccination of pets on a routine basis. Petco expects to employ approximately 24 full- and part-time employees with approximately 40% of those employees will be full time. She explained providing opportunities for advancement is an important aspect of their business and one that will greatly benefit the citizens of Gloucester. Petco is already very involved in local community having already raised \$9,000 for Cape Ann Animal Aid since 2008. The Petco Foundation partners with about 7,000 non-profit animal groups to provide resources, monetary and otherwise to make a difference in pet lives, donating \$70 million over the years. Cape Ann Animal Aid also participates in an in-store adoption program from the local shelter; and this store will make it easier for them and their staff to bring the animals to the local store. Traffic issues: Those issues were comprehensively vetted during the Special Permit process for Gloucester Crossing. It was anticipated this type of retail store would be there. There are no additional traffic or safety concerns that are raised by the vet clinic or the grooming facilities. Utilities will be provided by Gloucester Crossing and were also comprehensively vetted during the Special Permit process for Gloucester Crossing. No additional demand is anticipated for the vet clinic and grooming facility. Neighborhood and social structure are appropriate for this proposed use. The vet clinic and the grooming facility will not affect the neighborhood or social structure in any way that was not anticipated when this was initially permitted as the services are entirely enclosed inside the store. The uses are compatible with the other uses in the shopping center. The qualities of the natural environment were looked at in detail. The vet clinic and grooming facility will not affect those qualities. Dogs are required to be leashed at all times and free waste clean up bags is available in locations throughout the store. The potential fiscal impact is positive. Petco retail store with the grooming facility and the vet clinic will add tax revenue to the City and bring increased economic activity to the City. There will be new employment opportunities and no increase for City services. Income from real estate and personal property taxes will increase at Gloucester Crossing as the shopping center becomes more tenanted. This is a good tenant for Gloucester Crossing and gives the shopping center a higher visibility. It is believed that the special permits under §2.3.2(9) (vet clinic) and §2.3.4(6) (grooming facility) are in harmony with the general purpose and intent of the ordinance and for those reasons stated above along with the six special criteria under §1.8.3, which have all been met as enumerated above, the applicant asks for the City Council's approval of their request for a Special Council Permit.

The Committee recessed at 6:22 p.m. and reconvened at 6:23 p.m.

Councilor Whynott asked if the grooming was by appointment or by walk in. **Ellen Davignon**, Petco District Manager stated grooming is by walk in and appointment. **Councilor Whynott** asked how long a dog would be in the holding kennel. **Ms. Davignon** stated a dog wouldn't be in the holding kennel any longer than the grooming; there is a process for each breed, larger dogs taking more time with regards to grooming and based on when the pet comes in and drying time. It could be several hours from start to finish. **Councilor Verga** asked for store hours. **Ms. Davignon** stated they're generally 9 a.m. to 9 p.m. Monday through Saturday; Sunday would be potentially 10 a.m. to 6:00 p.m. The store is about less than 8,600 sq. ft. They sell small animals, birds, reptiles and fish, no dogs and cats. On inquiry by **Councilor Whynott**, **Ms. Davignon** stated the veterinary clinic is by walk-in only and is once a month for micro-chipping and vaccinations only. There is no walk-in for health checks. **Councilor Ciolino** asked how Petco deals with dog waste. **Ms. Davignon** stated if a pet relieves itself in the store or the grooming facility; they dispose of it in the trash. **Councilor Ciolino** recounted that at Cape Ann Animal Aid they have a specific way of disposal of waste. He would ask at City Council for a specific disposal method and didn't believe putting animal waste in the trash was the answer. **Attorney Eliason** stated this is slightly different from Cape Ann Animal Aid in that the animals are coming in for grooming; animals are on leashes with their owners in the store so it is not the same volume of waste that would be found for a local animal shelter; and would consult with her client as to what the protocol is and didn't expect there to be a large volume. **Councilor Ciolino** thought they would need a sign off from the Board of Health on how the waste was disposed in order to make the Committee comfortable. He also noted the application talked about a job fair; they like to put a condition that Cape Ann residents have first choice with regards to hiring at the store. They would like to see that as a condition on that along with the condition of a job fair as had been done with other businesses. **Attorney Eliason** felt that with this store those are the people they would typically find seeking a job. The only concern was as to any possible legal impediments in doing that and that there are certain key positions that may not be able to be locally sourced. **Councilor Whynott** understood there is a career path Petco has in place. **Attorney Eliason** confirmed they do have such a career path and actively bring their employees through the ranks, pointing to Ms. Davignon's career who had started as an Assistant Manager with Petco and is now a District Manager after 15 years. **Councilor Ciolino** asked about the location of the dog groom facility. **Attorney Eliason** stated it has a separate entrance and is located within the retail store. **Ms. Davignon** noted the clinic is in a completely separate area off the sales floor with a cement floor and finished a wall which is a "pre-sales area", a supply room. The rest of the store has tiled floors. **Attorney Eliason** noted this area is quieter and safer for the animals to have the clinic off the main retail floor. She confirmed to the Committee's inquiry that there is no boarding at all in any of their stores, and none at this new store. **Councilor Ciolino** also explained that they only have the dog grooming and veterinary clinic before them for a Special Council Permit. The store can be built by right; they don't need any special permits for that which was all done years ago. **Dr. Ann Lewis**, 276 Main Street, "Cat Doctor of Gloucester" employs three people and is a Gloucester resident. She expressed her concern for the proposed veterinary clinic. She noted they would do some testing, common vaccinations and micro-chipping. She felt most pet owners of every socio-economic level do not understand the Petco business model which she believed put finances ahead of the health of the animal. She made the comparison of how she treats her client's pets versus that of Petco in that she does a thorough check of her charges. She felt the Petco model was inadequate and enumerated other reasons as well. Veterinarians do hold a low-cost rabies clinic each spring. She expressed that Petco's business model is a bad idea (written statement in full on file). **Christopher Lewis**, 35 Eastern Point Road read from the application that Petco will not have an adverse affect on the neighborhood. He felt this would not be good for the City of Gloucester believing the objective is to take business and employment away from people who live and work in Gloucester. They're here because their livelihood is at stake. He contended this is taking a way business from Main Street. This would affect 4 veterinarians, 3grooming businesses and pet stores already here in the City. He also believed the applicant has failed to demonstrate the need for these facilities. Veterinary business is down nation-wide. If they allow this big box retailer to come to Gloucester it could be what causes many businesses to close. He noted veterinarians have highly qualified employees to handle the animals in their care. He didn't believe this was worth the risk to satisfy a business that has no roots in the City. He urged them not to grant a special permit (written statement in full on file). **Robin McNair**, owner of Robin's Dog Grooming stated there are three groomers; they all struggle at certain times. To have a franchise like Petco and offer a low price to have grooming will make it tougher for them. She noted this is a small community, and it would not be good for them or the rest of the City or the veterinarians in the City. **Rosie Lourenco**, The Barking Lot on Main Street asked if there would be grooming at night. **Ms. Davignon** stated they would not groom all the way to the closing time but at night and on Sundays. **Ms. Lourenco** thought they would

not be unable to compete with Petco and felt they would lose their businesses. She didn't think this is a good thing for the community or for the veterinarians. She would like to know if the groomers are licensed. **Ms. Davignon** stated there is no license in Massachusetts but they do have certification and are trained. **Dr. Ray Cahill, DVM**, 100 Eastern Avenue stated the relationship with the groomers and the veterinarian who work hand in hand. He knew he could call Animal Crackers to get a food appropriate and medically necessary and is an invaluable network to him. Much of that relates to sick office visits. He thought Petco is more towards vaccines. His primary concern is on the medical side; out of experience that he has seen many times with animals who wound up with medical problems missed up the line within a week or two later are now with serious medical conditions. There was no information coming from them. When he tries to extract information from the large stores, there is no paper trail. The MA regulations are extremely clear about the need and requirement for a full exam in order to receive a vaccination except for rabies. He felt it is not OK when you have a 13 pound dog and he's removing a 3 lb. tumor that had a vaccine clinic at a large box store and did not recognize that issue. He didn't think that level of health care represents what they should be doing for these pets if they're concerned about cost. Nor can he get any medical records out of a situation such as that. As a veterinarian his profession is struggling to promote the quality of care; this will be a tempting option for folks and felt it is a disservice to the pets. He would be 'heartbroken' to see the small businesses suffer as well. He wished to see thorough medical records and that they participate in a high standard that the Cape Ann vets provide. He urged the Council to least set the bar high as to what the standards are and that they be met. **Councilor Ciolino** explained this is a discretionary permit. If they get complaints of the veterinary services or groomer they can go back. The permit can be pulled. **Ms. Lourenco** asked how many groomers on staff Petco would have. **Ms. Davignon** stated they would have at least several. Every store is different based on volume. **Attorney Eliason** noted anytime a new business comes into town there is competition. Petco provides a service different from others. It is not full service. She has a vet she goes to for 10 years because it is stressful thing when you take them to a vet and groomer. What the people who spoke provide is personal service. She takes her dog to Canine Cuts. Petco provides a different service. **Councilor Whynott** stated although this is discretionary to the Council they have to follow certain guidelines. They can't consider that is competition for another business. **Councilor Verga** asked about Dr. Cahill's question of records. **Attorney Eliason** stated Petco's vet clinic is not full service – it is purely for vaccinations. They've done this for many years. It is typically people who do not have a regular vet or don't go to one for different reasons. **Councilor Verga** asked if they give the certificate of rabies and do they keep records. **Ms. Davignon** stated they do. The company is accessible at all times who keeps these records. They can access at their store at any time for this information. **Councilor Whynott** noted he licensed dogs as City Clerk. They get copies of the rabies certificate. He would then like to require that a copy of that record for licensing of the dog in the City and be made as a condition. He also stated would not be using the services of Petco. He goes through Robin's Grooming service and goes to his veterinarian to take care of his dog. He felt this is a different type of business. No one likes competition but felt this was different. Most conscientious pet owners have a veterinarian. **Councilor Verga** asked if this is an "all or nothing" proposal. **Attorney Eliason** stated this is Petco's prototype. They would have to make a decision based on that if they would want to change that formula and that it is important to their prototype. **Dr. Cahill** noted with vaccines other than rabies do veterinarians give the animals an exam. **Ms. Davignon** stated they follow Mass law in their over 30 stores in Massachusetts. The company who employs the vets for their stores knows the law and follows it and they do a small check. **Councilor Verga** would like to see what the law is and would like to see the path the veterinarians employed by Petco follow in the vet clinic process, in writing, ahead of the public hearing. **Dr. Cahill** noted waives the exam for a dog receiving rabies vaccination.

Councilor Ciolino expressed that this Committee finds that the veterinary clinic meets the criteria set out in §1.8.3 of the Gloucester Zoning Ordinance in that the veterinary clinic will:

1. Meet the social, economic and community needs in that this will bring a viable business to Gloucester, create jobs and provide a service that will serve the needs of the pet-owning community;
2. Will not have an adverse impact on the traffic flow and safety as this will be located within the Gloucester Crossing Shopping Center which was designed and permitted to accommodate this type of retail service business;
3. The existing public utilities are sufficient to meet the needs of the business. The business is moving into a newly designed and constructed shopping center which was permitted and constructed to accommodate additional retail/service businesses;
4. The business will serve the needs of the neighborhood and benefit the social structure as it is located within an existing shopping center which will benefit from additional customer traffic;
5. The business will not have a negative impact on the qualities of the natural environment as it will be located in an existing shopping center; and

6. The business will have a positive fiscal impact as jobs and tax dollars will be generated from additional economic activity in the community.

Councilor Ciolino commented that he has a business on Main Street, and suffered through the dilemma when Gloucester Crossing went through. He asked they recall they heard the same thing about how it would affect local businesses. He sees Stop and Shop and Shaw's and DeMoulas' all still seeing patrons and fully in business. People will shop where they are comfortable. You build relationships and didn't think it would change. The only people Gloucester Crossing has hurt is the Liberty Tree Mall and Peabody Shopping Centers. He was concerned about it; but they can't favor one business over another. In fact small businesses may actually gain new customers.

Councilor Verga added that this has nothing to do with Petco selling pet food and pet products.

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant a Special Council Permit (SCP2011-004) pursuant to §1.8.3 and §2.3.2(9) to Petco Animal Supplies Stores, Inc. dba Petco Supplies and Fish at Gloucester Crossing Shopping Center, building C as shown on Assessors Map #226, Lot 13, to operate a veterinary clinic as shown on Site Plan #MP10-02.2 as rendered by LandStrategies, LLC of Boston MA dated 06.January.11 also shown as "SITE PLAN" and is in harmony with the general purpose and intent of the ordinance AND FURTHER TO ADVERTISE FOR PUBLIC HEARING with the following conditions:

1. A copy of the rabies shots given shall be sent to the City Clerk's office for all Gloucester dogs;
2. The applicant shall actively recruit on Cape Ann for all open staff positions;
3. The applicant shall make such efforts as advertising jobs in the local Gloucester newspapers and have a job fair in Gloucester for Cape Ann residents to be hired by this Petco store location;
4. The applicant shall have a Board of Health review for their sign off on the method by which animal waste is held and disposed of and completed review shall be filed in the City Clerk's office with the Special Council Permit.

Councilor Whynott stated those in attendance should put in writing their concerns and submit them to the City Clerk's office; and that **Councilor Verga** urged them to come to the public hearing to express their views to the Council.

Councilor Ciolino then stated the Committee further finds that the grooming facility meets the criteria in §1.8.3 of the Gloucester Zoning Ordinances for the same reasons as just enumerated for the veterinary clinic.

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant a Special Council Permit (SCP2011-004) pursuant to §1.8.3 and §2.3.4(6) to Petco Animal Supplies Stores, Inc. dba Petco Supplies and Fish at Gloucester Crossing Shopping Center, building C as shown on Assessors Map #226, Lot 13, to operate a grooming facility as shown on Site Plan #MP10-02.2 as rendered by LandStrategies, LLC of Boston MA dated 06.January.11 also shown as "SITE PLAN" and is in harmony with the general purpose and intent of the ordinance AND FURTHER TO ADVERTISE FOR PUBLIC HEARING with the following conditions:

1. A copy of the rabies shots given shall be sent to the City Clerk's office for all Gloucester dogs;
2. The applicant shall actively recruit on Cape Ann for all open staff positions;
3. The applicant shall make such efforts as advertising jobs in the local Gloucester newspapers and have a job fair in Gloucester for Cape Ann residents to be hired by this Petco store location;
4. The applicant shall have a Board of Health review for their sign off on the method by which animal waste is held and disposed of and completed review shall be filed in the City Clerk's office with the Special Council Permit.

5. *Findings of Asst. Atty. General re: OML complaint of M. Sunny Robinson vs. P&D Committee and the disclosure of November 15, 2010 emails related to same*

Councilor Ciolino made the following statement: "The Committee has received a decision from the Attorney General's office regarding the open meeting law complaint filed on January 25, 2011 regarding the proposed zoning amendment known as the Birds Eye Mixed Use Overlay District. The Attorney General found that the Committee did not meet outside of an open meeting to draft the zoning amendment; however, it did find that emails exchanged

on November 15, 2010 between members of the committee constituted a deliberation, and therefore the emails must be publicly disclosed at its next meeting. **Councilor Whynott** read the emails into the record with a preface that the ordinance came down to the Committee which had c.4.2 Birdseye property which he believed to be improper because he felt an ordinance should not have the name of a company on it on record and thought it should be named something else:

From: BobW Sent: Monday, November 15, 2010 1:36 PM To: Linda Lowe Subject: Re: BMOD 11 12 10 LLM No Red line: I can not believe that this ordinance is legal as written. At the very least it is like waving a red flaf (sp. as in email) at a bull. I have expressed by concerns to Suzanne Egan, and suggested that all references to a specific company be removed before Wednesday night. Suzanne is inclined to agree with me. I suggest you weigh in on this with her. I am not talking about substance, only about the presentation. From: Joseph Ciolino To: BobW Sent: Monday, November 15, 2010 2:15 PM Subject: Re: BMOD 11 12 10 LLOM No Red line Bob, this document is not new just revised, that's the way it has been presented from the very beginning. I believe now you understand why Birdseye has been so controversial. ...Joe From Bob W Sent Monday, November 15, 2010 3:33 PM To: Joseph Ciolino Subject: BMOD 11 12 10 LLM No Red line Joe, I have never seen it as an ordinance with a number and Birdseye in the heading. It WILL cause a problem.

Councilor Whynott expressed his opinion that he disagreed with the decision because it had nothing to do with the substance of the ordinance nor was it deliberation; he contended it was a presentation he believed that may not have been legal.

Councilor Ciolino announced that the emails are now entered into the record of this meeting and are publicly disclosed.

This matter is considered closed by the Planning & Development Committee.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:24 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Written statement from Dr. Ann Lewis, Veterinarian, 276 Main Street, Gloucester**
- **Written statement from Christopher Lewis, 35 Eastern Point Road**
- **Email from Donna Heaney, DVM, 7 Dr. Osman Babson Road, Gloucester to Councilor Jackie Hardy of her objections to the application for the veterinary clinic dated June 8, 2011 via Councilor Joseph Ciolino**