

CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration Committee
Monday, October 3, 2011 – 7:00 p.m.
1st Fl. Council Committee Rm. – City Hall
-MINUTES-

Present: Chair, Councilor Sefatia Theken; Vice Chair, Councilor Anne Mulcahey; Councilor Steven Curcuru

Absent: Councilor Tobey

Also Present: Councilor Verga; Linda T. Lowe; Mike Hale; Mark Cole; Deputy Fire Chief Miles Schlichte
The meeting was called to order at 7:00 p.m. Items were taken out of order.

1. Continued Business:

- A) Vehicle Traffic Speed Rates on Woodward Avenue (ref'd from 7/26/11 City Council Mtg. (Cont'd from 8/1/11) and CC2011-041 (Verga) Speed Limit for Woodward Avenue area (Cont'd from 09/19/11)

At the September 29, 2011 Traffic Commission meeting, after a discussion and review of the JAMAR Radar Recorder speed study for Woodward Avenue, the Commission voted unanimously to recommend that the speed limit be set at 20 mph. The speed report showed that the 85th percentile speed on Woodward Avenue is 23 mph and the mean (average) speed is 17 mph. In addition, Woodward Avenue is extremely narrow and has many curves. **Councilor Verga** was at the Commission Meeting, it will go to the State, and they'll do their study. Right now it is officially 30 mph. He was pleased with the Commission's recommendation.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration voted 3 in favor, 0 opposed to recommend to the City Council to forward a recommendation to MASS DOT that a speed limit be established for Woodward Avenue at a rate of 20 m.p.h. accompanied by the attendant JAMAR speed study documentation.

- B) CC2011-033 (Mulcahey) Speed Study re: Taylor Street & Friend Street (Cont'd from 09/19/11)

This matter is to be combined with Items #3 and #4, (see below) which are continued to the October 17, 2011 meeting.

- C) CC2011-039 (Mulcahey) Amend GCO §22-270 (Parking Prohibited at All Times) re: Green & Perkins Sts. (Cont'd from 09/19/11)

At the September 29, 2011 Traffic Commission meeting, the Commission voted unanimously to recommend the order. Councilor Mulcahey commented that on the corner of Green Street there is a sign saying "No Parking"; the Police Department can't enforce it as it is positioned because it is on a curve. Other signage was incorrect. This is a housekeeping matter.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration voted 3 in favor, 0 opposed to recommend to the City Council to AMEND GCO §22-270 (Parking Prohibited at All Times) BY DELETING: Green Street, northeasterly side, beginning at a point 163 feet from its intersection with Perkins Street in a northwesterly direction thence in a northeasterly direction for a distance of 50 feet; and ADDING "Green Street, northeasterly side, beginning at a point 113 feet from its intersection with Perkins Street for a distance of 100 feet, AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- D) CC2011-040 (Mulcahey) Amend GCO§22-291 (Tow Away Zones) Green & Perkins Sts. (Cont'd from 09/19/11)

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Curcuru, the Ordinances & Administration voted 3 in favor, 0 opposed to recommend to the City Council to AMEND GCO §22-291 (Tow Away Zone) BY DELETING Green Street, northeasterly side, beginning at a point 163 feet from its

intersection with Perkins Street in a northwesterly direction thence in a northeasterly direction for a distance of 50 feet; ADDING “Green Street, northeasterly side, beginning at a point 113 feet from its intersection with Perkins Street for a distance of 100 feet, AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- E) CC2011-042 (Verga) Revisit of 4-way stop signs at intersection of Magnolia Avenue, Shore Road and Raymond Street (Cont'd from 09/19/11)

At the Traffic Commission meeting of September 29, 2011, after a lengthy discussion with Magnolia area residents the Commission recommended that under GCO §22-269 (Stop Intersections) be amended by deleting Raymond Street where it meets Shore Road and amend GCO §22-269.1 (Yield Intersections) by adding Raymond Street on the southwest corner at its intersection with Shore Road.

Councilor Verga stated several months ago the Council amended the GCO to create three different 4-way stops in Magnolia. After they were in place, it was clear they weren't in the best positions, judging from constituent feedback. At his request the Traffic Commission went back and reviewed the area (where the package store is coming up from Manchester) because it is such a wide curve, the placement of one of the stop sign was a distance from the actual stop. The Commission determined it would be better served to make it a yield sign and have the word “SLOW” painted on the roadway. Across the street on the opposite side, the stop sign was a little bit too far back, hidden in the bushes. That stop sign needs to be changed as well. The neighbors who attended the Commission meeting who complained of the placements were in agreement with the Commission's proposed changes. The Councilor also agreed with the recommendations.

(NOTE: The Commission thought it important to note at their September 29th meeting also that subsequent to a Stop sign being approved and installed back in April of this year at the intersection of Raymond Street and Shore Road, it has been determined that a Yield sign at the intersection best serves the safety of the area. They further recommended that the word “SLOW” be painted on Raymond Street just before the crosswalk.)

MOTION: On motion by Councilor , seconded by Councilor , the Ordinances & Administration voted 3 in favor, 0 opposed to recommend to the City Council to AMEND GCO §22-269 (Stop Intersections) by DELETING Raymond Street where it meets Shore Road AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

Councilor Theken pointed out to Councilor Verga that Mike Hale, DPW Director was in attendance, was advised of the yield sign placement.

- F) Discussion only on Noise Factor at Stage Fort Park (Cont'd from 08/01/11)

Councilor Theken explained she had in hand email correspondence from Carol Ackerman, Susan Richardson and from Dr. John and Susannah Wolfe (all submitted at meeting and on file). Linda T. Lowe, City Clerk and Mike Hale, DPW Director came forward for a discussion with the Committee. **Ms. Lowe** stated that Mr. Hale reviewed park rules and regulations and she reviewed ordinances for Somerville, Cambridge, Brookline and Beverly, as well as Gloucester in comparison to look for possible improvements in approaches to the issue. Beverly has a provision addressed specifically to sound equipment. There is a \$100 fine attached. Brookline has a definition of noise pollution as an increase of dBA above background noise level and allows for enforcement for civil ticketing. The City has Sec. 1-14 civil ticketing but c. 13 “Noise” is not included. She felt there is an advantage when you do have people including police officers but not limited to them, who write can write a \$100 tickets. Somerville addresses the issue by their noise control standard includes considering level of noise, time of day, duration, whether the noise is recurrent, constant or intermittent which fine tunes what the sound is. In Cambridge they provide that non-measured noise disturbances are prohibited along with dBA disturbances, loud disturbing noises. They include various specific offenses resulting from plainly audible at 50 ft from the source. Finally, with the City's new events permit process to be put in place by the first of the year, once in place there are provisions within the application related to sound amplification which can be made more strict; and integrate that into the Code of Ordinances, c. 13; and put in stiffer fines for the infractions, which was Ms. Lowe's recommendation to the Committee. **Mike Hale**, DPW Director stated in looking at the rules and regulations specific to parks; very few had specific regulations; rather all were tied back to City ordinance. He didn't think changes should be specific to Stage Fort Park; any changes need to be City-wide. Permitted activity regulations had different slant. The public couldn't show up with a big boom box and play it loudly; but those who take out a permit, according to the GCO are exempt. They need to decide as a City whether they are looking at all activities or ones that aren't permitted; and no matter how good the

rules and regulations are, there has to be the enforcement piece. If they don't have someone on duty to enforce this, and the Building Inspector is currently in the books as being that sole enforcement officer who is only on duty 35 hours a week, he may not be around to do it. He suggested an amendment to the GCO that could give the Police Department enforcement rights which then allow police to ticket who are available 24/7. He contended it didn't matter how well crafted ordinances or rules and regulations are, if there is no teeth for enforcement, there is no serving the City's neighborhoods. **Councilor Theken** expressed she was pleased that many of these issues are now being addressed. They know this is the only large park for events. They've taken away events from many other areas in the City; and Stage Fort Park is one of the last great open public spaces in a beautiful waterfront setting. There are many events that do respect the ordinances and rules and regulations. **Councilor Curcuru** expressed that they don't want to stifle events in the City but did understand Dr. & Mrs. Wolfe's concerns they've brought forward. He noted their concerns are during the summer when there is increased boom box usage. The permitted bike races, road races, waterfront festival; these are at the discretion of the DPW Director. **Mr. Hale** stated the applicants do go before the Council for permits as well as DPW. Boom boxes are not allowed on the beaches. **Mr. Cole** stated on the beach they're allowed to play the music but if the lifeguards tell them to turn it down they must or be asked to leave the beach. **Ms. Lowe** stated the new event permit has the rules right up front. **Councilor Curcuru** stated some of the permitted events do have amplification and again understanding the concerns being raised, he reiterated that they must not stifle the City's ability to be open to events which residents and out-of-town guests enjoy and bring revenue into the City. **Councilor Theken** agreed with Councilor Curcuru. They make rules for these events; when they come before the Council they can put restrictions on them. **Councilor Curcuru** stated that the Cyclo-Cross bike race at Stage Fort Park this past weekend was there and permitted from 8 a.m. to 4 p.m. That one event generates quite a bit of revenue for the City. Here they're talking about restricting it. **Councilor Verga** believed the ordinance should be amended to have "teeth". To say it is permitted doesn't make the extremely loud sound right either. **Councilor Curcuru** has only one complaint from one constituent who is on Crowell Avenue in all the time he's been a City Councilor regarding noise emanating from Stage Fort Park. He understood the Wolfe's concerns but found it difficult that they would control events because of noise. He pointed out that the Little League has been at Stage Fort Park for many years; the Sunday night concerts; Cancer Walks; the about to be created dog park. **Councilor Mulcahey** lives in the Fort and heard singing group all the way from Stage Fort Park. The reason it carries is the wind direction and the water. It is very dependent on that. It isn't so much the permitted activities. She understood unpermitted noise was a big cause of public disturbance; and agreed that it has to be controlled. She didn't think there was that much affect on the whole area in general. **Dr. John Wolfe** stated this past Sunday there was amplified music which started at 7:40 a.m. The last time they spoke of Western and Hough Avenue. The announcing dBA was 60. Across Hough Avenue where the parking attendant collects money, the dBA there was 85. In today's newspaper there was an article which noted that 85 dBA sustained is harmful to hearing. At the intersection near Hesperus and Western Avenue people heard the announcing going on and are one mile from the speakers. They live 1,000 feet from the gazebo and have houses and trees between them and that location; at the peak of the announcing they were getting 52-54 dBA. Background noise is 48-50 dBA. There is a difference, he felt, between cars going by and the noise coming from speakers. He also felt there are ways of amplification that aren't so loud. **Mrs. Wolfe** stated that during the Farmers Market s she hears nothing from them even during their cook-off event. **Councilor Theken** stated it depends on the size of the event and kind of event that it is. Little League will be louder. She suggested that they can put in the ordinance to give the police to ticket when noise is excessive. **Mrs. Wolfe** stated they're looking for a middle road; a compromise that is mutually respectful. **Councilor Theken** pointed out the many folks who have complained about the ambulances; fire trucks; the Fiesta; the train horns; the Triathlon. There is compromise in order to let the City grow. They can concentrate on the unpermitted noise being generated in the public venues. They should allow the police to ticket these unpermitted situations. If they're putting in that no boom boxes are allowed then they need signage. **Councilor Mulcahey** stated it's about the actual amplification, speakers that they put in. She felt it should be on amplified equipment. **Mr. Hale** explained they need to amend Sec. 13. The administrator of this ordinance is the Building Inspector which he agreed must change. The ordinance has some fairly descriptive ranges; but it is not being enforced. They exempt (See Sec. 13-10 (6)) some events. If they want to cull out the permitted activities, they should realize that the ordinance already does that. **Mrs. Wolfe** felt that a cook out of 25 or more should have a permit. **Councilor Mulcahey** stated permitted private events are restricted. **Mr. Hale** added the rules and regulations can prohibit amplified sound. They want to make sure they can control that through DPW rules and regulations with minor changes to the ordinances. That, he believed, is a starting point; certainly the enforcement piece added will be a great help as well. He offered that the DPW can have a web-based calendar of events so they know who is permitted. That calendar would state who is permitted to have amplified sound or not. He pointed out there are already events being scheduled for next August; a blues festival anticipated to have a national draw. Sound can be

controlled by the DPW, by the Police. They have good regulations and ordinances in place now. **Councilor Theken** agreed. **Mr. Hale** stated bigger parks have a calendar of events on their website. He suggested they could have that on the City's website. It would be a starting point for citizens. **Councilor Verga** suggested the time to do this is when the applicants come through for a permit for controlling amplified sound. **Councilor Theken** stated the police don't have a calendar and have no rights to ticket currently. She urged that this calendar of events go on the website and applicants for events will be informed of it. **Councilor Verga** stated conversely, however, it is also what the taxpayers of the City pay for the quiet enjoyment of their home. **Councilor Theken** thought that the suggestions made by Mr. Hale and Ms. Lowe were an appropriate starting point. **Ms. Lowe** stated the next step is to amend the ordinance for Noise and specify who can do the enforcement. It doesn't have to just be the police. She would draft the amendments for the ordinance for the Committee's next meeting for their review. **Councilor Curcuro** stated if there is curtailment of the non-permitted use of amplified sound at Stage Fort Park it will be very helpful. **Councilor Theken** understood what brought this matter forward, and they can compromise. **Mrs. Wolfe** expressed her appreciation the work they've done. **Councilor Curcuro** understood Mrs. Wolfe's concern but reminded that there are conditions where the sound has to be louder for some public permitted events that are spread out over a larger area for larger groups also.

This matter is continued to October 17, 2011.

2. CC2011-044 (Verga) Amend GZO §1.5.3, §1.11 and §1.11.2(e), "Appendix A, Rule 25: Rules of Procedure: Special Permit Procedures" – Part I and Part II

Councilor Verga expressed to the Committee that the origins of this are when he picked up a huge City Council agenda packet. So the request was to save a tree procedure, one that follows the trail for the SCP, one for P&D and the rest come in digitally. **Ms. Lowe** stated procedural requirements are also in the Appendix of the zoning ordinance, Rule #25. If you change §1.5.3, that rule has to coincide. **Councilor Theken** expressed concern if computers weren't available. **Ms. Lowe** stated now the Zoning Ordinance asks 11 copies of everything submitted for a Special Council Permit and five sets of full-sized maps. There is still a need for the large maps but not five sets. There are storage issues as well after the fact. **Councilor Verga** pointed out that they do not need five sets of full sized copies and that some don't read all of the documentation that accompanies a Special Council Permit. **Councilor Theken** wanted to be sure that some paper copies are retained. And she thought that the Councilors on the P&D should all have original copies also. **Ms. Lowe** stated five at most of the actual Special Council Permit application would be all that is necessary, allowing for one copy for the SCP file, one for the Clerk of Committees, and three for the P&D Committee members. **Councilor Verga** thought the five copies would be a good compromise that they add "one original and four copies thereof" instead to the Council order.

This matter is continued to October 31, 2011 awaiting further Planning Board and P&D recommendations.

3. CC2011-049 (Mulcahey) Set speed limit re: Taylor Street

The Traffic Commission has not made their recommendation to the O&A Committee on this matter; therefore, this matter is continued to October 17, 2011.

This matter is continued to October 17, 2011.

4. CC2011-050 (Mulcahey) Set speed limit re: Friend Street

The Traffic Commission has not made their recommendation to the O&A Committee on this matter; therefore, this matter is continued to October 17, 2011.

This matter is continued to October 17, 2011.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:11 p.m.

Respectfully submitted,

Dana C. Jorgensson

Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Emails from Carol Ackerman, Susan Richardson, Dr. John & Susannah Wolfe all in favor of amending the City's noise ordinance by Councilor Sefatia Theken**