

CITY COUNCIL STANDING COMMITTEE
Planning & Development Committee
Wednesday, March 21, 2012 – 7:00 p.m.
1st Fl. Council Conference Room – City Hall
-MINUTES-

(Items May be taken out of order at the discretion of the Committee)

Present: Chair, Councilor Bruce Tobey; Vice Chair, Councilor Greg Verga; Councilor Jacqueline Hardy
Absent: None.

Also Present: Councilor Cox; Councilor McGeary; Linda T. Lowe; Donna Compton; Suzanne Egan; Jim Hafey; Gary Johnstone; Fire Chief Aiello; Mark Cole

The meeting was called to order at 7:00 p.m. Councilor McGeary entered the meeting at 7:04 creating a quorum of the City Council.

1. Continued Business

A) Memorandum from General Counsel re: Pavilion Beach Easement (Cont'd from 03/07/12)

Suzanne Egan, General Counsel gave a status report regarding the grant of an easement from Beauport LLC. The easement would grant to the City of Gloucester the right of the public to use the property as a public beach. It would take the uncertainty and the questions out of the City's and public's right to use the beach. It is a property interest that is granted to the City [in the same manner as a deed would be]. The City keeps the rights to the public beach to assert its right to that piece of property. The easement has been revised effective 3/21/12. As the easement was set out earlier and presented to Council, the City had the right to use the beach; and the City was acknowledging the owner's rights to the upland. They have now included a paragraph with the landowner acknowledging the City's rights; what the City has the right to do with regard to their ownership interest in the beach. The revised new language says that the landowner acknowledges the City's right to use, maintain, permit and regulate the use of the property for all usual and reasonable purposes that public beaches are used in the City of Gloucester. Further the landowner acknowledges that the City may object and defend its right to use the property if it deems that the landowner's proposed use of the property is materially inconsistent with the general public's use of the property as a public beach. Further, the landowner acknowledges that by entering into this agreement, the City has not waived any interest or rights in its ability to assert or defend the public's right to use the property as it has been customarily used. This provision is what they would have understood was within the agreement, but they wanted to make sure that was there and everybody acknowledges that the City can assert that right and defend its right to the beach. **Councilor Tobey** asked what exactly did it mean as it relates to concerns that the City has the right to assert ownership through legal action. Has that been preserved or waived by this language and is it the equivalent of adverse possession. **Ms. Egan** responded prescriptive rights in terms of the City's and public's right to use the public beach are memorialized and acknowledged by this agreement. This also acknowledges and memorializes in a sense the City's right to object to any uses it deems inconsistent with that right to use it. At one point the Council had stated they need to make sure the City's right to public use the beach and the public's right is something that can be recorded at the Registry of Deeds. The easement can be recorded at the Registry of Deeds and sets out those rights in specific detail. Therefore, there is no need to go to court to establish the City's prescriptive rights. Once this is recorded, and if there were some activity at the beach the City said this is interfering with their ability to use the beach, this allows the City to file a lawsuit if they needed to or at least assert those rights and defend the right the right to use the beach. **Councilor Tobey** asked by signing this easement with the amended language, who is deemed to own this piece of beach? **Ms. Egan** stated the ownership interest of the easement lies with the City. The fee continues to lie with Beauport LLC. When you own a piece of property you have a bundle of rights: the right to use it, convey it, build on it; airspace and mineral rights. You can carve various specific rights in this bundle of rights. The bundle of rights, which is the fee, the part you own and use and can do anything you want with is the portion that Beauport owns. The bundle of rights that says the City can use it for specific purposes and can assert that right to use it forever; and is the right that the City has. It is a kind of parsing out. One can not materially interfere with the other's right to use. **Councilor Tobey** recalled that in the previous easement version they were expressly acknowledging the title. **Ms. Egan** confirmed they still are. **Councilor Verga** wondered why not go for "adverse possession". The City has been using the beach since 1830, open to use as a public beach; why not go in that direction. **Ms. Egan** responded they wouldn't for two reasons: if

they went to court to assert their prescriptive rights, this is what the court would give them. In existing case law she noted in the City Council memo (on file) asserting this City's legal basis for this, there was the Town of Swampscott case. That was the specific language the court gave to the town which was the right for the public to use the beach which is exactly what they have now with the easement. **Councilor Verga** commented this was "basically skipping to the end" to which **Ms. Egan** acknowledged affirmatively. He asked about the ownership – there is the Birdseye parcel and the parcel behind the Chamber of Commerce building; what are they talking in terms of real estate. **Ms. Egan** noted the plan attached to the easement document (on file). That portion of the land, that parcel that Beauport owns is what fronts the beach. It is only what Beauport has an ownership interest in. **Councilor Verga** then asked shouldn't the City be looking at further to the right (of the Beauport property) while they're "on the subject". **Ms. Egan** stated it wouldn't be relevant with this property owner. But as a part of this process she had an attorney do a title of all the parcels abutting Pavilion beach. The granting of the easement would help the City a lot to assert their rights to the entire beach. It is a precedent; it is an acknowledgement of one of the landowners that this is a public beach and has been established since 1830 as a public beach. It is part of the evidence and part of the record. **Councilor Verga** clarified that this is what is before them today, and they are in the process of tackling the rest to which **Ms. Egan** responded, "Yes".

Councilor Hardy expressed if they sign the document admitting that they're giving \$1 for the rights to use the beach, they admit Beauport LLC owns the beach even though the City for years has maintained the beach; and therefore, presumably has adverse possession. If they admit they don't have prescriptive rights in that property she believed they're admitting they don't have prescriptive rights in any property along the beach unless they can document it through deed which as far as she knew they weren't able to do that. She didn't view it as it helping the City but rather it's the opposite. If they admit that Beauport LLC should be paid \$1 to settle it, they're telling the other property owners the City knows they don't own it, but hopefully you'll come along one day and buy it from them for \$1. They've been maintaining the beach, employing lifeguards there for years; why is it good for one piece of property along the same stretch of beach and not for others. If they own the beach, they own it. **Ms. Egan** stated anyone can assert they own the beach, and can show you have used it, maintained it, regulated it done all that the Councilor has said. What they need is something in the chain of title; a piece of paper (within the real estate law) that establishes that to take to the Registry of Deeds and record it, putting everyone on notice that you own that parcel. You then have established ownership. You are not admitting anything by accepting this. **Councilor Hardy** asked if there was language they could place in the easement acknowledging prescriptive rights. **Ms. Egan** stated that language is in the third paragraph... "Whereas the residents of Gloucester and other members of the general public have historically made use of a beach situated on Gloucester Harbor known as Pavilion Beach ("Pavilion Beach"), a portion of which includes the Property; Whereas Pavilion Beach is one of the nation's first public beaches and has been used as a public beach since the 1830's;" the City's desire to formalize use of the property as a public beach through a formal grant of an easement. It states there it is one of the nation's first public beaches and has been there since 1830. That is not settling anything; they're saying, 'landowner', you're acknowledging that it was a public beach since 1830 and is one of the first public beaches. Because right now they don't have a piece of paper that states that.

Councilor Tobey stated the good news is they are "skipping to the end" and making definitive an acknowledgment of the public's right in perpetuity as a matter of recorded easement for the free and open use as it has always been used as a public beach. The bad news and unacceptable to him is that it should also say that the City is not waiving any right it may have to assert a claim by prescriptive use document to the future ownership of this piece of land if it should so choose in the future. He didn't think they needed to make that move now but didn't think they should be "closing the door" on it either. It could be with that language there and that option preserved that the City and its people may be comfortable after a couple of years of practice that the easement is enough or if it went awry the right would be there. He did not advocate the need to go to court to try to establish prescriptive rights because it likely involves the expense of many years of litigation and is needless with the easement in place, but didn't want to give up that option in case anything goes off track.

John Cunningham, attorney for Beauport Gloucester, 59 Main Street commented that there is a subtle legal difference between the legal concepts of prescriptive easements and adverse possession. Prescriptive easement is the establishing use of land which continues over 20 years adversely; and any court can agree, as they did in the Swampscott case, that the public had the right to use the beach. Adverse possession is where someone comes into full title to the fee by their continuous and open and "notorious" use. An adverse possession case might be one where there is a vacant piece of land next to your house; you put a fence around it and improve it and do so for 20 years. The court would likely grant the fee to the party in adverse possession to that. The City said they wanted to establish in perpetuity the public's right to use this beach. Beauport Gloucester LLC fully supports the continuation of that public beach and is trying to arrive at a document that does that and makes the City comfortable about it.

The fourth paragraph that was added talks about the City not waiving any rights that it has. If General Counsel and the City Council wanted to expand that to preserve that right to come back later on for additional prescriptive rights or even adverse position or they could do both. Prescriptive rights, the attorney stated, was in his estimation easier for the City to prove than adverse possession. **Councilor Tobey** commented if they go to court and put this before a judge, it is a risk. That is why the good news is the establishment of the easement right for full and open use for public enjoyment of this beach is “a great thing” and expressed his gratitude for that. However, 20 years from now he didn’t know who might own that property and what different ideas they may have for that beach; at that point folks might want to assert the right to ownership. He took they were willing to clarify the language to capture that notion. **Mr. Cunningham** stated “Yes.” There is a sentence in the fourth paragraph that deals with it and could include that. **Councilor Tobey** noted the possible language of “including but not limited to rights to assert prescriptive easement or adverse possession”. The **Councilor** clarified it is 180 years of exclusive use and control by the City; and he had never seen a private property owner assert any aspect of the kinds of indications of ownership of the beach they might expect. It has always been lifeguards, trucks to pick up trash; City employees cleaning the beach, being injured by items on the beach while in the City’s employ to maintain the beach, that he has seen first-hand during his 20 years of public service. He asked to see that captured which Mr. Cunningham expressed was fine with them. He and General Counsel would work on language for it. **Councilor Verga** commented as one who understood the complexity of the real estate issues, as it is his profession, he wished to see this language inserted in case they do have to come back to it. **Councilor Hardy** stated by adding that clause it would help protect the City for those in the future who will say they own the rights to the beach. It is a big beach, and they’re only looking at a portion of it. To put that clause in, it puts everyone on notice that the City never gave up their rights by signing the easement and would be beneficial to the City. She expressed her appreciation for the owners listening. **Mr. Cunningham** stated they are supportive of the public use of Pavilion Beach continuing forever which is why they are doing this and reiterated they will add the language.

Attorney Natalie Simon, 1 Bianchini Road pointed out it may be more advisable to put the language they are tweaking not necessarily in the “whereas” clauses but into one of the provisions where there is an agreement and acknowledgement. They also need to be careful of the language because to the extent one would want to assert adverse possession and/or prescriptive rights, it has to have been a notorious adverse possession; and to the extent you get permission to use a property, you kill the action altogether. The language has to be delicately put so that they’re continuing to use it in a way as they always have. **Councilor Tobey** expressed his agreement with Ms. Simon which was also the consensus of the Committee. **Sunny Robinson**, 20 Harvard Street asked about structures – what does this term mean as used in the easement language; and how do any structures that the owner wants to build get reviewed; who makes those decisions. Why would the City make an agreement with one landowner without having the entire beach secured in the same manner rather than doing it piecemeal? Since this is now a declaration of a private beach with public use, who maintains all the services. **Councilor Tobey** stated they have to start somewhere and saw this as “log rolling”; this being the first “log”. He assumed that General Counsel intends to pursue this with the other property owners, which **Ms. Egan** confirmed. It is a public beach and would remain an obligation to do all those things they spoke of to maintain it which **Ms. Egan** also agreed with. Further, **Ms. Egan** responding to the question to structures (seawalls, docks, outdoor restaurant space, cabanas, boardwalks, etc.) the process of review and permitting, stated this is an easement for the legal rights to the use of the beach. All of that permitting of structures is a zoning and permitting process which is in place. This easement doesn’t affect that [process]. The owners must come to the City for permission to do anything. **Councilor Tobey** added if the City feels any of those actions are materially inconsistent with the general public’s use of the property as a public beach, according to paragraph 4 that is their “trump card.” **Ms. Egan** expressed her agreement with the Councilor’s statement. **Ann Molloy** of Neptune’s Harvest placed email between herself and attorney Adam Hill regarding Pavilion Beach on file. **Keith Palazola**, 22 Mason Street stated while it is a risk to go to court, it is the City’s beach and in their best interest to take that risk because of all the years it has been in public use. **Councilor Tobey** stated it would be for a judge to decide. A judge could very quickly conclude something they don’t want, and then the City is left with nothing. **Mr. Palazola** expressed his opinion it is backwards to not fight for the right through the court because the history is there, this being the first public beach in the country. **Councilor Tobey** didn’t want the City attorney to be forced to be on record here as to why their case is weak. It would not be appropriate. **Ms. Egan** responded this is the first step. They have their prescriptive easement; they have their right to use the beach. The property owner is acknowledging that. This is the oldest public beach; you have the right to use it. This gives them the ability if there is interference, say 10 years from now, to go to court. Instead of going to court to have a judge give it to the City so they can record this at the Registry of Deeds, they have it now. They don’t need to go to court. If there is a need to go to court, they can do so and would. Currently (without the easement) there are no rights the

City has right now where there has been any injury to them at this moment that they would need to go and assert those rights for.

MOTION: On motion by Councilor Hardy seconded by Councilor Tobey the Planning & Development Committee voted 3 in favor, 0 opposed continued the matter of the Pavilion Beach Easement to their regularly scheduled meeting of April 4, 2012 to receive modified language from General Counsel and the Beauport Gloucester LLC attorney with the expectation of proceeding to place the matter before the City Council at their April 10, 2012 regularly scheduled meeting.

Councilor Tobey further noticed to those in attendance that this matter will be in front of City Council at the April 10, 2012 meeting to be addressed during Committee Reports.

This matter is continued to April 4, 2012.

The Committee recessed at 7:32 p.m.

Councilor McGeary left the meeting at 7:33 p.m. There was no longer a quorum of the City Council.

The Committee reconvened at 7:36 p.m.

- B) Recommendations for Disposition of real property re: Magnolia School House (aka Blynman School) (Cont'd from 02/22/12)

Jim Hafey, Facilities Manager stated there is an updated RFP for the Magnolia School House (placed on file prior to the meeting dated 3/21/12). The largest change is Sec. 3, paragraph 1 focusing the RFP towards an historical museum with programs. **Ms. Egan** added since this was last before the Committee, they received a letter from Attorney Mark Nestor representing the Magnolia Historical Society (MHS) who pointed out some discrepancies in RFP; so the one before the Committee now was amended to address some of those concerns. Also included is language to make this an "as is: sale. Anyone bidding has to research the issues and their ramifications and then put their bid in response to the RFP. The onus is on the buyer, not the seller, which is appropriate. **Councilor Hardy** commented a buyer would need to go to the ZBA like anyone else. **Ms. Egan** stated "Yes," the use of this building as a museum is allowed by special permit; and they would have to move forward with that. They need a variance from the ZBA for the footage. **Ms. Egan** added it is in the City's best interest when putting a property up for sale, to not make any representations other than to see that the property is put to the best use. They are putting it on the buyer. **Councilor Hardy** thought it important to make sure people know what they're getting into. She wanted to see this historic property come into good hands for the purpose it is intended; but they need to know these details now. **Councilor Verga** stated the buyer will do the due diligence. Once bought, they have to get their permits. If they can't get their permits, the property comes back to the City. **Councilor Hardy** asked was there a time limit as to when the property reverts back to the City due to inaction. **Ms. Egan** stated there was no time limit. On inquiry by **Councilor Tobey** as to why, **Ms. Egan** expressed the length of time for the permitting process can make that difficult. **Councilor Hardy** asked if taxes are paid in the interim by the new owner. **Councilor Verga** responded if it sells to entity X, and they are a non-profit, there would be no tax whether there is a permit or not. **Councilor Tobey** would assume they'd be taxed until it is an in-use property. **Gary Johnstone**, a City Assessor stated there is two years if they are moving in that direction that they would be exempt for the taxes. **Councilor Hardy** asked if this 501C3 is required to pay taxes. **Mr. Johnstone** stated they can be moving forward in the process, and it is better than a vacant property. On inquiry by **Councilor Tobey**, **Mr. Johnstone** stated it would be an assessment. He went out two weeks ago and adjusted the value down. The valuation will come to about \$312,000, adjusting it due to the property being in poor condition. They also made an adjustment to the lot size that it is 12,080 sq. ft. as opposed to 14,060 sq. ft. This is based on the only deed they have on record. **Councilor Hardy** stated based on the reduced size of lot she inquired regarding an easement. **Mr. Johnstone** stated there is a 40 ft. section of land that is not connected to the lot which the City owns. It is between the Blynman School lot and the nearest residential abutter. **Councilor Verga** stated it is not then an easement. **Mr. Hafey** confirmed it is separately owned land. **Mark Nestor**, 45 Middle Street the attorney representing the MHS, stated the new RFP addresses his concerns as stated in his letter (on file). He had tried today at the Registry of Deeds trying to identify what is next to the Blynman School. It has been represented as a 40 ft easement or Right of Way. At one time all that land was owned by a Rufus family. It subsequently got chopped up with a tax taking as part of it. The tax taking took 5.3 acres but

no specificity and no plan on record. He'll go to Land Court to see what was taken. This issue of either a 40 ft. right of way or an easement to the back of the property and a potential to another 40 ft easement is a concern. The 40 ft runs about 9 ft into what is used as a driveway and parking area of the Blynman School. If that is not part of what is being sold it will have an impact. That parking lot has been there for more than 20 years. **Councilor Tobey** stated that it is "trumped" by the City's deed. **Mr. Nestor** stated they may have to get the property resurveyed. They need to see which way the encroachment goes. Two other issues are because of the nature of the building. The RFP contains no requirement that the building can not be torn down which would destroy the purpose of keeping it a museum. Of greater concern, the R-30 zoning does not allow a museum and so they must get a special permit. He also expressed concern there was a potential conflict of interest that the City Council is the legislative body which approves the sale of the property. They are also the Special Permit granting authority. **Councilor Tobey** explained that the State Conflict of Interest statute does not apply to such a situation which **Ms. Egan** also agreed. **Mr. Nestor** stated the Purchase & Sale Agreement is subject to approval of the City Council. He confirmed if the MHS is the winning bidder they would quickly come forward for a special council permit. But he would like some time for due diligence. It is not in the RFP as to what the timeframe is from the signing of the Purchase & Sale agreement to closing on the property. His preference is to leave that open. On inquiry by **Councilor Tobey**, **Mr. Hafey** encouraged a "no tear down" clause also. **Mr. Nestor** spoke to a 501C3, the City will still own the property and that with a museum in the building the tax purposes is flipping from a City tax exempt entity to a 501C3. **Councilor Hardy** reiterated it has to be used for that purpose as a museum. **Mr. Nestor** disagreed if they are using it to bring the condition up, then it is using it for the intended purpose. The lot size they can do a search on. He didn't know what they will do about the driveway and parking area. **Councilor Verga** stated the land to the right of the front of the building is privately held. **Mr. Nestor** stated that is where the easement or right of way is. The neighbor starts 40 ft. from the Blynman School. The part in question is on the publicly owned side. It appears to be the 40 ft. right of way with 7ft. - 9 ft of pavement and parking on the right hand side of the school; and if that is true, how far into the parking lot do they now restrict. **Mr. Johnstone** stated they measured 40 ft. facing the school building from the right hand boundary from the abutting residential property; their boundary measurement took them to 40 ft to the pavement. **Mr. Hafey** added there was an obvious lot line by vegetation. **Mr. Nestor** pointed out that the City is now relying on the deed description. **Jim Cooke**, 622 Eastern Avenue a representative of the MHS stated they're talking about the house on the right and the Blynman school property. It appears that this passageway to the back of the property is part of what was a larger lot subdivided with the 40 ft. right of way/passage. With guiding drill holes he found, he measured 37 feet. When the City took the property in 1944 it should give an accurate description of the property and of that passageway. **Councilor Hardy** noted that the proper measurements of the lot have now been reflected in the amended RFP as submitted to the P&D Committee as of today's date, which **Mr. Johnstone** could confirm. **Ms. Egan** commented that would not stall the RFP. **Mr. Cooke** stated with the City retaining access it is whether they feel they need 40 ft or 37. **Ms. Egan** confirmed the RFP preserved that. **Councilor Verga** thought with the addition of the tear down clause it would be OK to vote the matter forward. **Councilor Tobey** expressed that those bidding should have a survey done as prospective buyers.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council that Request for Proposal #12093 for Disposition by Sale of Magnolia School House (also known as the Blynman School) as received by the Committee on 3/21/2012 pursuant to the terms and conditions of the RFP and pursuant to the Code of Ordinances Sec. 2-3(a) (2) and MGL c. 30B be authorized by the City Council (with a "no tear down clause" added).

2. Memorandum from Environmental Engineer re: National Grid Electrical Easement at the Water Pollution Control Facility

Ms. Egan understood this easement is necessary to complete the upgrades for the Waste Water Treatment Plant. It is extremely important and that she knew **Mr. Durkin** would also like this done quickly because the construction is on-going. **Councilor Tobey** stated there is a trend to run these plants by taking different approaches such as converting sludge into methane to run such facilities. He wanted to know if the City had looked at any of these alternatives. **Ms. Lowe** noted when this came forward it had not yet been to the Land Disposition Committee. The ordinance, Sec. 2-3, requires the Council to have that recommendation first. **Councilor Tobey** asked for a simultaneous assessment of the alternative energy options while this matter went before the Land Disposition Committee who would meet before the next P&D meeting and give their report on the easement at that time.

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to refer the matter of the National Grid request for electrical easement at the Water Pollution Control Facility to the City's Land Disposition Committee for their review with a request that review be done in time to be presented at the April 4, 2012 P&D Committee Meeting.

3. Special Events: Request and Application for road closures for the Downtown Gloucester Block Party Series on July 21, August 18 and September 15, 2012

Valerie Marclay, 45 Englewood Road representing the Downtown Block Party Committee explained to the Committee the road closures (as submitted in the Special Event application and on file). She expressed it is as had been done in years before, but this year they are expanding to some of the side streets. **Councilor Verga** stated there was a concern of creep for outdoor seating by the restaurants. **Ms. Marclay** stated they use ropes now and that the restaurants were reprimanded. They make sure the restaurants go before the proper boards. She didn't know if it would be extended to Rogers Street. The restaurants pay a fee to join as do businesses. This covers the committee's expenses. **Councilor Hardy** and Ms. Marclay discussed how it had been handled in the past at no cost to restaurants and merchants. Ms. Marclay is paid for her services to the Downtown Block Party Committee. **Councilor Cox** recalled her experience with the restaurants paying 'dues' to cover salaries and fees. Since last year they are now required to have insurance for the event and fees are to be paid to the City, etc. On inquiry by **Councilor Hardy**, **Chief Aiello** noted in the past they stay within the parking spaces. Everyone appeared to behave well last year. They've not had any problems. They're not blocking hydrants. **Mark Cole**, Assistant DPW Director stated they had no problems either. **Councilor Verga** pointed out that Rogers Street is precluded from this permit from the Council. If a Rogers Street establishment wishes to set up in front of their restaurant they have to get permission also. **Councilor Hardy** stated if other roads are to be blocked not listed on the plans on file, they have to come back to get permission. She wished them luck and looked forward to attending.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant special event permits to the Downtown Block Party Committee to temporarily close Main Street from the open driveway of Bank Gloucester to Washington Street for each date for three separate occasions between the hours of 5:00 p.m. and 11:00 p.m.: Saturday, July 21, 2012; Saturday, August 18, 2012; and Saturday, September 15, 2012 to hold three block parties with the following conditions:

1. No vendor/merchant set ups on the sidewalk blocking entrance ways to retail or residential units, hydrants, crosswalks or handicap ramps;
2. All vendor/merchant set ups in the street are to allow for no less than a 10 ft. unobstructed, drivable area along the entire route – slightly wider at the curve of Palazola's Sporting Goods to maintain adequate access for emergency vehicles. Failure to provide this 10' unobstructed margin of drivable area may necessitate the removal or relocation of the vendor/merchant at the discretion of the Fire Department, the Police Department or the Block Party Committee;
3. The organizers shall allow the Fire Department drive-through access with the fire engine at the convenience of the Fire Department;
4. Any restaurant/merchant set up of tables and chairs, tents or area enclosures should extend into the street no further than the lines painted on the street for vehicular parking;
5. That all of the side streets – Short, Porter, Center and Hancock Streets shall not be blocked by vendors, food establishments, tables, chairs, enclosures, equipment or vehicles, so emergency vehicles may enter and exit Main Street as needed;
6. Vendor/merchants shall be responsible for their own trash removal;
7. Signs indicating the location of comfort stations shall be the responsibility of the Committee;
8. Plumbing Codes and regulations shall be adhered to regarding use of restaurant bathroom facilities;
9. Special lighting and electrical requirements necessitate approval of the Inspector of Buildings and the Electrical Inspector;
10. The closure of the street at the intersection of Main and Short, Porter, Center, and Hancock Streets be by means of sawhorses or the like, as directed by Lt. Aiello of the Gloucester Police Department;
11. It is the responsibility of the Committee to procure other Federal, State and local permits and approvals associated with this event;

12. That the Committee makes reasonable notification to all residents and merchants along the route that will be affected by the closure;
 13. Restaurants or vendors wishing to serve food outside must notify the Board of Health 7 (seven) days in advance for approval and must obtain any necessary approval of event organizers;
 14. Conditions imposed by the Gloucester Liquor Licensing Board shall also apply and shall become incorporated herein;
 15. All other applicable laws, City ordinances and/or regulations are in full force.
4. *Requests and special event applications from YMCA for road closures for:*
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| <i>Backshore 5 Mile Road Race</i> | <i>May 11, 2012</i> |
| <i>St. Pieter's Fiesta Road Race</i> | <i>June 28, 2012</i> |
| <i>25K Around the Cape Road Race</i> | <i>September 3, 2012</i> |
| <i>7K Run the Goose Road Race</i> | <i>September 3, 2012</i> |

Courtney Milligan, 126 Derby Street, Salem representing the Cape Ann YMCA explained to the Committee the following four races are Gloucester traditions and that they have been before this Committee several times to permit the races. They have full authorization from the DPW, the Police Department and the Fire Department. All documentation is on file, including Certificates of Insurance naming the City of Gloucester as the Certificate Holder. There were no public safety concerns.

Backshore 5 Mile Road Race:

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the full City Council to permit the Cape Ann YMCA on Friday, May 11, 2012 to hold the Backshore 5 Mile Road Race with the following conditions:

1. Certificate of Insurance:

A Certificate of Insurance naming the City of Gloucester as an additional insured party is to be filed with the City Clerk's Office on or before May 4, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the Backshore 5 Mile Road Race on May 11, 2012 to be on file with the City Clerks office on or before May 4, 2012. Roads to be closed 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 May 4, 2012. Any substantial changes, as determined by either the Police or Fire Chief or their designees to the route or related to safety issues will require Council approval.

3. Refuse and Comfort Stations:

All refuse and recycling due to this event must be removed by the organizer. Any portable toilets (with two handicap accessible) are to be provided and maintained by the organizer, placed the evening before the event or early in the morning of the day of the event and removed by 8:30 PM, May 11, 2012.

4. Emergency Services:

A signed, visible and staffed first aid station must be in place in an accessible location in the area of the race course throughout the event.

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 to be submitted to the Police, Fire or DPW Departments.

6. Notification of Immediate Abutters and Businesses to Race Course:

Notice shall be made by the event organizer by hand or by mail no later than 7 days in advance of the event to function halls, motels and hotels, and other businesses along the race route.

7. Responsibility of the Cape Ann YMCA:

The applicant is also required to obtain any necessary approvals from the Licensing Board, the Board of Health and the Licensing Commission. It is the sole responsibility of the Cape Ann YMCA 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.

St. Peter's Fiesta Road Race:

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the full City Council to permit the Cape Ann YMCA on Thursday, June 28th, 2012 to hold the St. Peter's Fiesta Road Race with the following conditions:

1. Certificate of Insurance:

A Certificate of Insurance naming the City of Gloucester as an additional insured party is to be filed with the City Clerk's Office on or before June 21, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the St. Peter's Fiesta Road Race on June 28, 2012 to be on file with the City Clerks office on or before May 4, 2012. Roads to be closed 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 June 21, 2012. Any substantial changes, as determined by either the Police or Fire Chief or their designees to the route or related to safety issues will require Council approval.

3. Refuse and Comfort Stations:

All refuse and recycling due to this event must be removed by the organizer. Any portable toilets (with two handicap accessible) are to be provided and maintained by the organizer, placed the evening before the event or early in the morning of the day of the event and removed by 9:00 PM, June 28, 2012.

4. Emergency Services:

A signed, visible and staffed first aid station must be in place in an accessible location in the area of the race course throughout the event.

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 to be submitted to the Police, Fire or DPW Departments.

6. Notification of Immediate Abutters and Businesses to Race Course:

Notice shall be made by the event organizer by hand or by mail no later than 7 days in advance of the event to function halls, motels and hotels, and other businesses along the race route.

7. Responsibility of the Cape Ann YMCA:

The applicant is also required to obtain any necessary approvals from the Licensing Board, the Board of Health and the Licensing Commission. It is the sole responsibility of the Cape Ann YMCA 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.

25K Around the Cape Race

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the full City Council to permit the Cape Ann YMCA on Monday, September 3, 2012 to hold the 25K Around the Cape Road Race with the following conditions:

1. Certificate of Insurance:

A Certificate of Insurance naming the City of Gloucester as an additional insured party is to be filed with the City Clerk's Office on or before August 27, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the 25K Around the Cape Road Race on September 3, 2012 to be on file with the City Clerks office on or before August 27, 2012. Roads to be closed 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 August 27, 2012. Any substantial changes, as determined by either the Police or Fire Chief or their designees to the route or related to safety issues will require Council approval.

3. Refuse and Comfort Stations:

All refuse and recycling due to this event must be removed by the organizer. Any portable toilets (with two handicap accessible) are to be provided and maintained by the organizer, placed the evening before the event or early in the morning of the day of the event and removed by 9:00 PM, September 3, 2012.

4. Emergency Services:

A signed, visible and staffed first aid station must be in place in an accessible location in the area of the race course throughout the event.

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 to be submitted to the Police, Fire or DPW Departments.

6. Notification of Immediate Abutters and Businesses to Race Course:

Notice shall be made by the event organizer by hand or by mail no later than 7 days in advance of the event to function halls, motels and hotels, and other businesses along the race route.

7. Responsibility of the Cape Ann YMCA:

The applicant is also required to obtain any necessary approvals from the Licensing Board, the Board of Health and the Licensing Commission. It is the sole responsibility of the Cape Ann YMCA 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.

7K Run the Goose Race:

MOTION: On motion by Councilor Verga, seconded by Councilor Hardy, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the full City Council to permit the Cape Ann YMCA on Monday, September 3, 2012 to hold the 7K Run the Goose Road Race with the following conditions:

1. Certificate of Insurance:

A Certificate of Insurance naming the City of Gloucester as an additional insured party is to be filed with the City Clerk's Office on or before August 27, 2012.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the 7K Run the Goose Road Race on September 3, 2012 to be on file with the City Clerks office on or before August 27, 2012. Roads to be closed 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 August 27, 2012. Any substantial changes, as determined by either the Police or Fire Chief or their designees to the route or related to safety issues will require Council approval.

3. Refuse and Comfort Stations:

All refuse and recycling due to this event must be removed by the organizer. Any portable toilets (with two handicap accessible) are to be provided and maintained by the organizer, placed the evening before the event or early in the morning of the day of the event and removed by 9:00 PM, September 3, 2012.

4. Emergency Services:

A signed, visible and staffed first aid station must be in place in an accessible location in the area of the race course throughout the event.

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 to be submitted to the Police, Fire or DPW Departments.

6. Notification of Immediate Abutters and Businesses to Race Course:

Notice shall be made by the event organizer by hand or by mail no later than 7 days in advance of the event to function halls, motels and hotels, and other businesses along the race route.

7. Responsibility of the Cape Ann YMCA:

The applicant is also required to obtain any necessary approvals from the Licensing Board, the Board of Health and the Licensing Commission. It is the sole responsibility of the Cape Ann YMCA 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.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:20 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

ITEMS/DOCUMENTS SUBMITTED AT MEETING:

- Email from Ann Molloy regarding the Pavilion Beach Easement matter
- Press Release from the Downtown Block Party Committee submitted by Ann Marclay