

CITY COUNCIL STANDING COMMITTEE
Planning & Development Committee
Wednesday, June 6, 2012 – 7:00 p.m.
SCHOOL COMMITTEE CHAMBERS – FULLER SCHOOL
-MINUTES-

Present: Chair, Councilor Bruce Tobey; Vice Chair, Councilor Greg Verga; Councilor Jackie Hardy

Absent: None.

Also Present: Councilor Whynott; Councilor McGeary; Councilor LeBlanc; Councilor Cox; Linda T. Lowe; Jim Hafey; Alan Hagstrom; Bill Bramhall; Gregg Cademartori; Jim Duggan

The meeting was called to order at 7:06 p.m. There was a quorum of the City Council.

1. *Update & final documents “Fuller School Site Reuse Study” and “Fuller School Highest & Best Use Study” Reports which conclude project with MassDevelopment (to include tour of Fuller School Building)*

Councilor Tobey stated in the aftermath of the MSBA feasibility study loan authorization at the City Council meeting of May 22nd, the Fuller School property could well be left for the City to use as an educational back up facility should they move forward with the reconstruction or construction of a new school at West Parish. **Jim Duggan**, CAO agreed that the feasibility study may identify the Fuller School as a facility to house West Parish students during the building of a new school. **Councilor Hardy** understood this building is also a sheltering building for the Red Cross and wished to view that area also, as well as the Emergency Operation Center (EOC). **Jim Hafey**, Facilities Manager stated the DPW does not have keys to the EOC; only Deputy Fire Chief Schlichte does. **Councilor Hardy** asked additional keys should be obtained immediately for use by the City Facilities Director.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga the Planning & Development Committee voted 3 in favor, 0 opposed to request the Mayor to obtain keys to every City building and every area within each building.

Note: A walking tour of the Fuller School was conducted by Jim Hafey, Facilities Manager, and Councilor Verga, former School Committee chair, with Councilors Tobey, Cox, LeBlanc, McGeary and Whynott, other City staff and members of the public leaving the meeting room at 7:20 p.m. and returning at 8:04 p.m.

Councilor Tobey stated that he has asked Councilor Verga to process the tour and supplement the minutes with his views from a real estate perspective for the City Council meeting of June 12th City Council meeting.

2. *CC2012-012 (Tobey) General Counsel & Planning Director re: legal constraints governing the redevelopment of the I4-C2 parcel and measures Council would need to initiate to seek lifting those constraints*

Councilor Tobey explained this has been modified now to whether and how a new RFP could be issued that would be consistent with the M/I and DPA parameters on the parcel. He spoke to the Mayor Mitchell of New Bedford and Matthew Morrissey, Executive Director of the New England Development Council. Mr. Morrissey is reviewing both the City's Harbor Plan and the specifications on the first RFP the City issued for I4-C2; and is being joined in that by the Port Director for New Bedford as well. A second RFP might differ from the first and might offer a deed instead of a long-term lease; and noted the minimum financial considerations to the City also may have been a barrier to potential developers. **Mr. Duggan** stated the Mayor expressed when they were going forward with the original RFP, with the City Council support, in its development for I4-C2, that if they didn't get any good proposals, the City would go back to the drawing board. The Councilor's points are open for discussion to develop a new RFP. The information from New Bedford will be a driving force. Once they're able to make a determination from that receipt of information and the differences Mr. Morrissey identifies, they'll start drafting a new RFP.

This matter is continued to June 20, 2012

3. CC2012-009 (Tobey) The Administration, P&D and the EDIC prepare an inventory of vacant commercial buildings (Cont'd from 05/16/12)

Alan Hagstrom, EDIC Director explained to the Committee the progress he had made in his solicitation of commercial property owners and the creation of the inventory of vacant commercial properties. He also informed the Committee on the status of updating this information on their website and what other outreach efforts were planned to encourage commercial occupancy in the City. He gave the Committee a document that indicated 115 commercial accounts of which he personally contacted 40 of them. From those contacts he drew the conclusions that most people would be interested in having a “do-it-yourself” website as a part of the City website; but only a few respondents expressed a need to use it continually. He also received feedback that the business development area is difficult to find on the City’s website. He suggested an overhaul of the City website to make it easier, and that someone needs to email these businesses to remind them that this service is available. **Councilor Verga** asked for further information about the do-it-yourself website. **Mr. Hagstrom** explained that this would be open for those who wish to list vacant commercial properties and amend it as needed. **Gregg Cademartori**, Community Development and Planning Director stated this was set up with some funding from the Economic Development Plan completed last year. Part of the recommendations and funding for development of a website is more focused on the harbor and the downtown; but that could be expanded. It has a mapping tool built off the same platform of the City’s website main page to search for parcels of property. It is limited because of what it was originally built for. But it has the functionality of someone being able to input information. It may be better to have someone identify a site and have it link to a multiple listing. Right now if someone is interested in the area and wishes to familiarize themselves with the physical geography of the downtown, it would highlight opportunities. It has been available; but to get to it, it is buried on the business development portion of the web site. **Councilor Tobey** asked if the EDIC website could host this and **Councilor Verga** suggested the City website could have a link to the EDIC web site. **Mr. Cademartori** stated they have the full ability to re-engineer the site. There is a page now developed to look like the City web site, same frame, so the user feels it is seamless, but hosted somewhere else. **Councilor Verga** expressed it was a great idea. There is a need for a plan, to deal with site security, etc. **Mr. Cademartori** noted any information that a third party wishes to put on the web site; the City does review the information before allowing it to be posted. **Councilor Verga** suggested they reach out to the Chamber of Commerce, and asked what the recommendation is to piece it together. **Mr. Cademartori** noted the main web page has a tab for business development. Some of it is the heading, and some of it is positioning. How you get to this business opportunity needs to be more prominent. **Councilor Tobey** asked how they get folks off Cape to get to this page. **Mr. Hagstrom** felt someone needed to guide this and to promote this. **Councilor Tobey** expressed this needs to be out to the world beyond Cape Ann to which **Councilor Verga** agreed. **Councilor Tobey** suggested as a next step the Committee would have a joint meeting with the EDIC and the Administration to see if they can develop an action plan to get resources in place to drive this effort forward. They will have this joint meeting as soon as it can be arranged.

4. Memorandum from Planning Director re: recommendation for land disposition requests

A. Marsh Street – Action Inc. – Request for Purchase (Cont'd from 05/02/12)

Councilor Tobey stated the Marsh Street parcel is not yet ready for disposition.

This matter is continued to June 20, 2012.

5. SCP2012-006: Pleasant Street #14, GZO Sec. 3.1.6 increase in building height over 35’ and Sec. 3.2.2(a) For reduction in dimensional requirements (Cont'd from 5/16/12)

Attorney Catherine Schlichte representing the applicant requested in writing (on file) this matter is continued to the Committee’s June 20, 2012 meeting because the applicant is currently revising their plans which would be submitted to the Committee shortly (Chairman Tobey had given the approval for the matter’s continuance prior to this meeting). **Councilor Hardy** stated that she would formally request a new application be submitted to the City Council to start the Special Council Permit process over so that they will go forward in an organized manner; with the fee waived; which would be in the best interest of the City. This possibility had been discussed at the previous P&D meeting. **Councilor Tobey** noted conclusions from the site visit made clear there was a substantial need of refashioning the construction plan regarding the proposed third story, and was all the more reason to refile the

application. **Ms. Lowe** confirmed to the Committee she had a conversation with Attorney Schlichte who had informed her the applicant would be significantly revising the plans as a result of the Committee's site visit.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga the Planning & Development Committee voted 3 in favor, 0 opposed to permit the applicant of SCP2012-006: Pleasant Street #14 to file a new Special Council Permit application and to request withdrawal on the previous amended application; and that with this vote the Planning & Development Committee so waives the filing fee. Notice will now need to be sent out for this new application upon receipt of it in the City Clerk's office; and that the applicant will agree to pay for the publication of an advertisement of public hearing in a locally circulated newspaper.

This matter is continued to June 20, 2012.

6. *Application for Further Modification for a Special Council Permit previously modified 12/7/10 originally granted July 7, 2010 re: Rogers Street #9-11, GZO Sec. 2.3.4(8) and Sec. 2.3.4 (9)(Cont'd from 05/16/12)*

The Committee acknowledged receipt of the Affidavit of Notice to Abutters from the applicant. **Jeremy Goldberg**, owner of the Cape Ann Brewing Company explained that he is requesting a Special Council Permit (SCP) modification to have an enclosed awning on the Brewery's outdoor deck as well as a covered bar on the harbor side of the building. Their outdoor deck has an awning which would be enclosed in the center; the bar would be on the St. Peter's Square side of the building. He expressed their situation is much like the Seaport Grill and their outdoor deck issue - they didn't know they had to get permission to erect the awning. The Building Department told them they needed to get permission. They have been permitted by the Licensing Board to serve beer on the deck. **Councilor Tobey** asked if the space in question will be for year round use. **Mr. Goldberg** stated they are allowed by the Licensing Board to use it from April to November. The enclosed awning will be used during colder or rainy weather. **Councilor Hardy** asked if the awning extends over City property. **Mr. Goldberg** stated it would be on their property. Their deck is fenced in. Access is only through their building. **Councilor Hardy** asked if the construction has already begun. **Mr. Goldberg** stated the awning has already been put in. The bar is already in. They did not put in a structure to cover the bar yet. They had to get the bar out from its previous location which is why it is installed on the deck now. On inquiry by **Councilor Verga**, **Mr. Goldberg** admitted they don't have approval to erect an awning; but he explained when he first inquired of the Building Inspector it was not clear. The fixed structure is the roof top, and the awning is affixed to that. **Councilor Tobey** asked if there any communications from the Building Inspector and was informed by the Clerk of Committees there were not. He then read into the record portions of a letter to the P&D Committee (on file) from Ms. Patti Page, dated June 4, 2012 expressing her concern regarding the continuing modifications to the Cape Ann Brewing Company which indicate possible Chapter 91 violations. **Councilor Tobey** remarked there are Chapter 91 issues that have to be addressed. He won't vote for this modification until he sees something from the State that the awning is an allowable use under Chapter 91 and under the DPA; and doesn't infringe upon the M/I use. **Ms. Lowe** pointed out that Mr. Goldberg had to file the SCP application; and before a SCP is filed, even if it is a modification, the applicant has to go to the Building Inspector; and that it is the Building Inspector's obligation to review the application and sign off on it. The Building Inspector did sign this application. **Councilor Tobey** wanted the Building Inspector before them to discuss the irregularities. **Mr. Goldberg** stated he did not feel he was in violation of Chapter 91. The silo is not in violation. He expressed he was unsure if the outdoor awning over the deck affected the Chapter 91 license. **Councilor Tobey** stated this modification requested amplifies the use of the premises. The grain silo is done and permitted. He suggested Mr. Goldberg may wish to come back represented by Counsel. He also wished for feedback on the Harbor Plan. **Councilor Hardy** asked the Building Inspector to obtain a copy of the original Special City Council permit to see if there are any violations of the conditions: the dumpsters were to be screened. She understood that has never been done; and the dumpster is exposed to public view and asked why it was not screened to date. **Mr. Goldberg** stated it was not physically feasible. There were different plans for the use of that part of the property at the time they applied for the original SCP for the 9-11 Rogers Street location. Upon permitting and trying to comply with that condition, it was found that none of those options were possible. He admitted he didn't know what process he needed to follow to appeal that particular condition when he realized he couldn't fulfill that obligation of the SCP. **Councilor Hardy** stated she would not approve any modification before the Committee at this time until this matter is resolved. **Councilor Verga** gave Mr. Goldberg a copy of Patti Page's letter to the P&D Committee for his records. **Councilor Hardy** asked if Mr. Goldberg had been before ConCom for this change to the premises. This is a proposal to put a permanent enclosed structure and an awning onto the

building, and wished to receive a legal opinion on that as well. **Ms. Lowe** stated application shows the deck is already on the ground and approved as part of the footprint of the building. **Councilor Tobey** didn't wish to guess. Commenting the Cape Ann Brewery is a good business and that the Committee will continue to work with Mr. Goldberg, this matter will need to be continued. They Committee needs to get clear statements from State regulators regarding the Chapter 91 license; as well as clear statements from General Counsel, and from the Building Inspector at their next meeting; and that the applicant appears to have some violations of the original permit. The Councilor asked to have the following issues answered by General Counsel:

- 1) Does the proposed permanent overhang extend the actual footprint of the building?
- 2) How would it affect zoning ordinance requirements as applied to the original project for seating, and parking?
- 3) Does this alteration of the premises fall within the jurisdiction of the wetlands ordinance (ConCom) and if so do these alterations then trigger a review?

The Committee suggested that the applicant consider legal counsel as the questions will not be easy to answer for his part. **Sunny Robinson**, 2 Harvard Street suggested at looking at the original conditions as there was a condition that there be a public posting of always accessible public bathrooms. She suggested there were no signs. She pointed out another issue raised in Ms. Page's letter was the square footage to have been set aside for Marine/Industrial use which is nearly 5,000 sq. feet. Some of that space is now being reformatted into gardens; it now appears there are two small pockets of the property for MI use only. There is also the issue of the parking scheme with a certain percentage for 10 year temporary parking. The silo takes up some of that space. Further, she suggested that this business already has started building onto the structure. The Committee directed that Ms. Page's remarks be shared with the Building Inspector and General Counsel who are requested to report back in writing by the close of business, June 22, 2012 to the Committee. Copies of their replies are to be forwarded to Mr. Goldberg.

This matter is continued to June 20, 2012.

7. SCP2012-007: New Way Lane #50, GZO Sec. 5.13.7 (PWSF) Modification

David Archambault, Network Building & Consulting of Narragansett, RI representing Sprint Spectrum, LP explained that they wish to modify an existing wireless communication facility housed on a tower at New Way Lane #50 by removing three existing antennas and in their place install three newer technology antennas together with related equipment and six remote radio head units and adding a new equipment shelter and replacing two older cabinets for a total of three equipment shelters at the base of the communications tower. This does not differ from other applications they have brought before the Council in recent months. The system they're putting in is designed to increase the capacity of the current site. These updates will prevent them from coming back to ask for permitting of new sites. These upgrades will handle more information at a better, faster rate. **Councilor Hardy** noted having at many previous meetings regarding this particular site and been on many site visits at this location, she asked that the conditions from the original SCP and every other permit modification that has come forward continue to be enforced as to what the applicant is doing at that site. She asked if Sprint is increasing the on-the-ground shelters and changing what they have on the tower. **Mr. Archambault** stated they are staying within the fenced in area and are adding one more cabinet with the two already there being switched out and replaced with new cabinets, and will not exceed their small leased space. **Councilor Hardy** asked that they send out someone to be sure the fencing goes directly into the ground so that no small children can get under the fence due to soil erosion and to be sure that the signage is adequate from all sides on the equipment shelters. She also asked about the trees overhanging the fencing which she had seen at the site. **Mr. Archambault** would inform the tower owners; Sprint leases the space on the tower only. **Councilor Verga** asked if these upgrades are just to increase data speed. **Mr. Archambault** stated they were; this is a capacity upgrade. **Councilor Hardy** asked for a friendly amendment so that the motion will incorporate the original five Special Council Permit conditions for Sprint Spectrum LP from this site from March 6, 2007. The amendment was accepted by the Committee.

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 to grant Sprint Spectrum, LP a Special Council Permit (SCP2012-007) for modification of an existing Wireless Communications Facility pursuant to Section 5.13.7 to remove three (3) existing antennas and to install three (3) newer technology antennas, together with six (6) remote radio head units, and other associated antenna equipment such as

cabling, surge arrestors and global positioning system antennas, for new network service upgrades with associated electronic equipment within a new additional Sprint Spectrum LP equipment shelter and replacing two (2) older cabinets for a total of (3) at the base of the tower compound owned by Pasquale Barletta Tower Co., located at New Way Lane #50, Gloucester, MA (Assessors Map #221, Lot #46) zoning classification R-30 with the following conditions to continue to apply as set forth in the original Special Council Permit:

- 1) **Removal of two trees as noted at the original site visit (one dead and one dying;**
- 2) **Planting of shrubbery around the perimeter of the site;**
- 3) **Caution signs installed on all four sides of the fence and the main panel to be secured with locks;**
- 4) **That the fencing be brought down towards the ground to prevent access underneath;**
- 5) **That an independent review of radio frequency levels and sound emissions be conducted on behalf of the City of Gloucester [by Nextel, Inc.] Personal Wireless Service Facility at 50 New Way Lane, and that the applicant be responsible for the cost of such reviews, which shall be completed and filed with the city Council within 180 days form the date of the issuance of the permit; and provided further, that if the results of that study do not comply with the FCCC/RF guidelines, this permit will be null and void [end of original permitted conditions];**
- 6) **and, that Sprint Spectrum LP is not to impede use of the communication tower located at New Way Lane #50 by Gloucester public safety organizations when maintaining and installing hardware necessary to their communications systems; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.**

[Note: Chair, Councilor Tobey agreed to the applicant submitting on 6/7/12 a copy of the Affidavit of Notice to Abutters. The applicant discovered proper notification had not yet taken place. The P&D Committee, therefore, will await proper notification of abutters and receipt of an affidavit from the applicant at their next regularly scheduled Committee meeting. The City Council public hearing will be continued from 6/12/12.]

**8. For Council Referral: Memorandum from City Clerk: Group Free Petition under City Charter Sec. 9-1(b)
Re: Commercial Street HOD**

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to make no recommendation other than to schedule a hearing as required by the City Charter Sec. 9-1(b) to the City Council regarding the Group Free Petition under City Charter Sec. 9-1(b) re: Commercial Street Hotel Overlay District; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

Other Business on 6/6/12:

Councilor Hardy received a call from Jonathan Pope in his role with the GFAA asking about the process to modify their permit for the GFAA's 7 Mile Road Race on August 18th as they are now requesting to move their start and end to the race to St. Peter's Park in anticipation of 1,000 to 1,500 participants. In addition, they wish to run an additional 5K road race the same day. These changes were deemed substantial enough that the Committee would hear the application anew when it is forwarded through the Consent Agenda by the City Council to them.

A motion was made, seconded and voted unanimously to adjourn at 8:40 p.m.

Respectfully submitted,

**Dana C. Jorgenson
Clerk of Committees**

DOCUMENTS/ITEMS RECEIVED AT MEETING:

- Contact List of business owners and managers from EDIC by Alan Hagstrom