

CITY COUNCIL STANDING COMMITTEE
Planning & Development Committee
Wednesday, January 16, 2013 – 5:30 p.m.
Friend Room at the Sawyer Free Public Library
-Minutes-

Present: Chair, Councilor Bruce Tobey; Vice Chair, Councilor Greg Verga; Councilor Joseph Ciolino (Alternate); at the time of Councilor Tobey's departure from the meeting Councilor McGeary as Alternate
Absent: Councilor Hardy
Also Present: Councilor McGeary; Councilor Cox; Councilor Steven LeBlanc; Councilor Theken; Linda T. Lowe; Jim Duggan; Gregg Cademartori; Sarah Garcia; Suzanne Egan; Mike Hale; Paul Keane; Donna Compton; Gary Johnstone

The meeting was called to order at 5:30 p.m. There was a quorum of the City Council.

Councilor Tobey left the meeting at 7:52 p.m. At that time Councilor McGeary stepped in as the second alternate for the Committee.

1. Memorandum from Mayor and revised RFP re: 65 Rogers Street (I4-C2)

Sarah Garcia, Harbor Planning Director explained to the Committee that the revised RFP for 65 Rogers Street differs slightly from the original RFP of a year ago. She said additional interest has come forward for the parcel and so the Administration proposed to reissue the RFP. The only change from the original RFP is a much longer period (180 days) between pre-development and final signing of an agreement to allow the City to give more concentrated technical assistance and work with a proposed developer. **Councilor Tobey** added that for accuracy's sake, there is now also a provision for sale of the property as opposed to just a lease to which **Ms. Garcia** agreed.

Councilor Verga said with regard to potential environmental issues on the parcel, and testing; and handing that responsibility off to a buyer or a leaser, he asked how that is possible, commenting that in real estate, almost 99 percent of the time, a buyer will not take a chance under those conditions. He asked how this process would work for the City. **Ms. Garcia** stated it is addressed in the RFP by allowing a proponent to sign a pre-development agreement with the City, giving that proponent a 180 day minimum window to do that kind of testing and have it on the table when the City goes into the final negotiations with a proponent. **Councilor Verga** asked why the City wouldn't want to address this up front. Whether the proponent does it, he said, or the City does it, it would be the same results and suggested it would be better if the City did the testing. **Ms. Garcia** said the City has always been lucky when a private developer is willing to spearhead a cooperative effort, like with the wind turbines being owned by a private developer and the City partnered with them. She said the City would rather be in a supporting partnership role rather than acting as the lead development proponent. She suggested the City is more skilled with bringing together the partners than being a developer. The Administration's conversations with potential partners have shown proponents are willing to do that work, and the City will help them, she said. The RFP has a 30 day window. The City has very little to lose, she said other than gaining a partner with financing and value added capabilities to the team. **Councilor Verga** said it would be worth more if the City were to demonstrate what the issues are with the property. It could also work against the City if they have a proponent who discovers problems. **Ms. Garcia** said Legal Counsel suggested an initial minimum bid is the assessed value which is to see if someone is willing to say that with the assessed value the proponent would take on six months of pre-development work on the parcel; give \$10,000 down payment; put money into the LSP, do the borings and testing; and at end of 180 day period the City would get another assessed value based on a fully permitted site. That assessed value would take into account what the value of return is for the site and how the City would partner in a fair way that lets the development happen but also gives the best return to the City. The Administrative team has the experience to work with this situation to get this kind of agreement.

Councilor Tobey asked how much the City paid for the parcel. **Ms. Garcia** said the City paid \$700,000 and the State put in \$800,000. It was \$1.5 million in total. **Councilor Tobey** asked what had changed and why the parcel is no longer worth \$1.5 million. **Ms. Garcia** deferred to General Counsel. **Councilor Tobey** asked if an outside real estate consultant was working with the team in putting together the revised RFP to which **Ms. Garcia** responded, "No". **Councilor Tobey** asked what the collective real estate experience within the team was. **Ms. Garcia** said that feedback from developers from the first RFP was that it was a well written RFP.

Councilor Tobey asked what expertise in capturing the dynamics of the real estate market has been brought to bear in this process. **Suzanne Egan**, General Counsel said the RFP has a minimum bid price of the assessed value. Referring to her memo dated 1/15/13 (on file) to the Committee, the minimum bid is a place holder. Under the Code of Ordinances it is up to the City Council to establish the minimum bid price. The Administration is “absolutely” deferring to the Council to put in the minimum bid that they see fit for the parcel. During the negotiations to take the parcel by the City, there was a 21E LSP consultant. There was an initial investigation done by the City during the taking. There was a packet submitted to the Council on that information (on file) during the taking process. The City has that initial information – public records were examined to see if there was any contamination on the property and there was not. **Councilor Verga** said there will be a need for full fledged borings for a proponent to be financed. **Ms. Egan** said while that may be true, the City submitted their initial due diligence on that issue that was to the City’s satisfaction.

Councilor Verga asked about the Harbor Walk and how a potential buyer in this process could impact anything to do with it. **Ms. Egan** said the process is that a bid proposal would be submitted and be reviewed under the (RFP) criteria. If there are any negative impacts to the Harbor Walk, she said, the bid can be rejected. The City Council is authorizing the sale or lease of the property under very strict criteria; she said and reiterated the sale or lease of the parcel is under very strict criteria and that should any negative impact outweigh the benefit to the community, it will likely cause a rejection of a bid.

Councilor Ciolino referred to a “worst-case scenario” saying that if a bidder came in at the minimum, the City would “take a bath” on what the cost is. **Ms. Egan** said the City could reject that bid. **Councilor Ciolino** said in looking to the bidder with regard to the jobs they would generate, minimum wage jobs; and if this was a non-profit how does the City deal with it, if it is the only bid. **Ms. Egan** said if that is the worst-case scenario and it is determined to be so, the City can reject that bidder based on the criteria of the RFP which gives the City the ability to reject the bid. The RFP has the input of the community planning and visioning and says it can be rejected on that basis. **Ms. Egan** added that all the input from the community planning and visioning laid it out specifically and can be rejected by that criteria. **Councilor Ciolino** asked who would do the rejecting. **Ms. Egan** said the reviewing committee would look at the responses to the RFP and rejects or okay’s a bidder. **Councilor Ciolino** asked where the Council fits into that process because the review committee could say it is the first proposal in forty years and is viable, but the City is taking a bath on the price; it doesn’t provide jobs or taxes. The Council is looking out for the best interest of the City, he said, and may feel it is not such a great idea to accept such a bid. **Ms. Egan** responded if it was a proposal that didn’t fit the criteria of the RFP, it would be rejected. The RFP is specific of what the benefits to the City have to be. The bids have to meet the requirements from the visioning events that took place. Something like that would not meet the criteria such as it is a non-profit with a minimum bid price or doesn’t create jobs and doesn’t have any of the benefits that the City was looking for.

Councilor Ciolino asked where in the RFP it says that the entity has to pay taxes – what happens if it is a non-profit. **Ms. Egan** didn’t think the RFP had that within its scope. She did say there is an ability to negotiate. She said if a non-profit comes in with the best proposal and met all the other criteria there is an ability to negotiate a PILOT with that entity. A non-profit doesn’t mean it doesn’t have any money. She pointed out examples of extremely well-funded non-profits and said that if the City prohibits non-profits, it is prohibiting a large number of companies. **Councilor Ciolino** pointed out that the Council agreed to the taking to put this property on the tax role. **Ms. Egan** said a provision could be placed in the RFP that if a successful bidder is a non-profit, they have too enter into a PILOT (Payment In Lieu Of Taxes) agreement with the City. She said it could be done easily. **Councilor Tobey** mentioned that the City Auditor obtained an opinion from the Department of Revenue, Director of Local Services, Attorney Gary Blau (on file). He reminded the Committee that on January 2, 1984, a PILOT was signed a similar agreement with the Unification Church on constitutional litigation brought against the City by that organization. Part of the settlement was that the proprietries they owned as a non-profit religious organization would not be liable to municipal taxation but agreed to a PILOT payment. It went on for a number of years and then one day they stopped paying it. A PILOT is an obligation that can be terminated which is a right under Mass. Law of a non-profit. He expressed concern and asked Ms. Egan to reflect on the possibility of precluding non-profits from bidding. **Ms. Egan** said by precluding non-profit entities, the Council would limit receipt of a viable proposal. She suggested the Council can put criteria in the RFP that is limiting. She said they don’t want to necessarily say that they don’t want a non-profit because the Council is concerned about lack of tax generation from use of the property. If the Council deals with that issue, she said, the Council will leave more options open. She asked they deal with specific issue versus excluding all non-profit entities from bidding. **Councilor Tobey** said it raises a substantial public policy question that a municipal government made a commitment, the Mayor and the then sitting City Council, that when the Council agreed to taking the parcel by friendly taking and paid \$1.5 million to the owner with taxpayer funds, and said they would turn it into productive, tax paying, job-creating engine on the edge of the

harbor. He said he would not approve an RFP being released unless it was “ironclad” that the entity that might be successful pay taxes based on the parcel’s real value so long as it owns it. **Ms. Garcia** said that community schematic design meetings were held over six months and 22 groups came in with ideas for uses for that property. Out of that process, the Administration came up with six development objectives. The RFP is clear, she said, about what the community wants to see back from this parcel. I4-C2 has not only been vacant for 45 years but sits in a key location in the downtown. It is the M/I district but next to the Gloucester House Restaurant and Building Center. The parcel is in a unique spot and yet is a complex property. She said from a public policy point of view, the Council is taking it down to taxes versus no taxes is simplifying the fact that the City wants to generate jobs and diversity of uses on the working waterfront. She said she didn’t think there was a team that would accept a proposal that wouldn’t create jobs or taxes and do nothing for the City. The RFP is not written that way, she said adding that when the Council approved the RFP the first time it was acknowledging that the City is a complex community with diverse needs. **Councilor Tobey** said many of the 22 proposals weren’t allowed in the DPA. **Ms. Garcia** expressed agreement, and that those were schematic. **Councilor Tobey** said his commitment in voting for the acquisition of the parcel was to create jobs, be consistent with the DPA; they had a failed RFP with no responses. Tax paying return on the parcel seems fundamental, he said.

Councilor Tobey then asked what the Administration’s position would be if price was set at \$1.5 million. **Jim Dugan**, CAO said if it is the wish of the Council, the Administration would move forward with that number as the purchase price. They do not, he said, recommend it (\$1.5 million price) adding that the Administration feel it is in the best interest to go for the purchase price. They talked with the City’s principal assessor and convened the internal development team. He said the proposed minimum bid is good starting point and placeholder. If the Council wants to go as high as \$1.5 million they will do that. The Administration doesn’t think that there will be overwhelming responses to the RFP at that price, he said; rather, the City will get more bids at \$681,400 than at \$1.5 million. He said as minor as the changes are now in the RFP process and examining a for-profit versus a non-profit, and said he understood the non-profit is a more complicated process; but said the changes implemented will stimulate further interest.

Councilor Verga asked how they came to \$1.5 million for a total purchase price. He said he thought the City hired real estate appraisers to do a report on the value of the parcel. **Ms. Egan** said there were appraisals and the Council has a copy of them. **Councilor Verga** said the market “is what it is,” and if the parcel is not worth \$1.5 million, the City wouldn’t get it. If no real estate professionals came up with the current price, he asked if it wasn’t fair to ask the City reach out to pay for a proper appraisal so that the Council would know where the number should be. **Ms. Egan** said there is a provision in the RFP that says that the minimum bid will be the assessed value and at a later point, the purchase price will be negotiated based on the appraised value of the permitted project minus the development costs. That, she said, is when the City would get a real estate professional to come in and take a look at what has been permitted for the parcel and be built and get an appraisal on that and then start the negotiations from there. She said an appraisal could be done now on the undeveloped, unpermitted parcel or go through the process to the pre-development agreement, let the due diligence be done by the proponent, get the permits in place, and then come up with the final price. **Councilor Verga** said that until there is a real estate professional who looks at the “comps” something is missing. **Ms. Egan** said the Administration didn’t have a real estate professional look at this RFP but when they came up with the first RFP with the lease; they did have a real estate economic development consultant work with them on that RFP. **Councilor Verga** asked why not this time. **Ms. Egan** said there is not much of a change. **Councilor Tobey** pointed out it has been three years and the market dynamic has changed. **Councilor Ciolino** asked for a comparison of what the land value of 65 Rogers Street is and what is the land value owned by the adjoining parcels without the buildings. He said he believes the City is “low balling” the price.

Councilor Tobey said the last municipal venture of sales of any industrial land of consequence was the expansion of the Blackburn Industrial Park. It was land on a low basis that had been acquired and developed for economic development. Even in that situation, he said, where valuation was less of an issue, they brought an accomplished real estate consultant to handling pricing and negotiations. He said this is a marker for when they next meet. He said he would like to know why the community should be confident that they have the “relevant degree” of real estate professional expertise being brought to bear on the RFP. The Committee, he said, would like to know how it would be assured that no matter the entity that might acquire the property by sale, that it be bound in legally enforceable ways to pay real estate taxes so long as it is the owner and added that the valuation issues are fundamental to the matter. He suggested also that perhaps if the Inspector General would have any guidance on this process as to how the City might capture the public value in the best possible way. He said there is \$800,000 of tax payer money being “left on the table.” **Ms. Egan** said the RFP was put forward to have the Council to put the price in the RFP. She reiterated the Administration put the assessed value of the parcel in as a placeholder. It is the

Council's authority to put the price in the RFP not the Administration. **Councilor Tobey** asked if that is the best way to set the minimum bid price. He wants the best price and what is the best way to set the price as he wants the best price. **Councilor Verga** said the Council has to look out for the best interest for the City and use of taxpayer's money. **Ms. Egan** said they're at a point of putting out the RFP; at this point the Administration wants the RFP issued. She said with this process, people respond to the RFP, pay the \$10,000, do the due diligence, and once they get past the pre-development, then the City would bring in all the expertise to evaluate a proposal. They may be evaluating the land and RFP but no one has responded. If there is no interest, nothing happens. The City is not bound by anything. **Councilor Ciolino** said the Council has to look at the worst case of a minimum bid, of the minimum bidder not paying taxes and not creating many jobs. It should be all up front, he said, so the person bidding knows what they are getting into. **Councilor Tobey** asked if there was any update on the making of the parcel to make it a parking lot temporarily. **Ms. Garcia** said the DEP has said it is an eligible parcel for that temporary use, and the City will know in three to six months. The submission was done at the end of 2012.

This matter is to be continued to February 6, 2013.

2. SCP2012-010: Application of Beauport Gloucester LLC under Sec. 5.25 Hotel Overlay District; GZO Sec. 5.5.4 Lowlands; Sec. 5.7 Major Project (Cont'd from 12/19/12)

Gregg Cademartori, Acting Community Development Director said when this matter was last before P&D the Committee was "on the heels" of having the first round of the Peer Review from the City's consultants to review the City Council special permit application, the Planning Board Site Plan Review application, and the Conservation Commission (ConCom) Notice of Intent. BETA filed that report on November 14, 2012, also supplied to the applicant, he said. The applicant then submitted figures and supporting materials, a revised set of plans consisting of a new stormwater management plan, a stormwater operation and maintenance plan, a new plan set, most dated December 14, 2012. It was filed with the City Council in the first week of January. It has been transmitted to BETA Group (BETA) and Vine GZA (City consultants). Those two entities are working on reviewing those responses. He said it is a large amount of material which is posted on the City's web site (and on file). This second round will be completed, he said, in the next week or so to have a "robust" discussion with the City's consultants present towards the end of this month or the beginning of next month. **Councilor Tobey** said the Committee is charged to report back to the Council using the criteria of the zoning ordinance, and that they began with a set of differences far apart and are now going through a review process with substantial assistance from City staff and the City's consultants, seeking to resolve those concerns and differences and narrow them. **Mr. Cademartori** added that this was also supposed to be on ConCom's agenda this evening but needed to be continued. The applicant asked it be continued also for the benefit of the City, he said, and noted one of the prime reviewers of the City consultant team had a death in the family that morning. Additionally, this will be on the agenda on the Planning Board tomorrow to bring the Board up to date on what is new and how the applicant has responded to the initial review, he said. There may be the opportunity towards the end of the month to hold a special meeting with a focused agenda of the Planning Board which P&D could attend at a joint meeting to hear from BETA, suggesting Thursday January 31st. **Councilor Tobey** suggested they get the briefing from the applicant on supplemental materials. He would also want to hear about a timeline along which this will proceed.

Attorney John Cunningham representing the applicant, Beauport Gloucester LLC ("Beauport") introduced Sherrie DeLorenzo, Lee Dellicker, Windover Construction (builder) and Todd Morey, Beals Associate. Since the initial joint meeting of the Planning Board & P&D in September 2012, noting it had been quite some time since that initial presentation, Mr. Cunningham then reviewed images presented at that time, some of which have been revised (A power presentation submitted and on file).

Power Point Presentation: The first photo* shown is a site plan imposed on an aerial photograph of the project site. The same photo next showed the hotel and its parking lot superimposed. The next zoomed in on just the site with the parking lot, the hotel fronting on Pavilion Beach. There was then a diagram shows the existing footprint of the (Birdseye) building. The next a diagram of the parking garage which is being modified coming from the Peer Review process. The entry is on the left-hand side of the slide. Mr. Cunningham described cars entering at the closest point on Commercial Street, and circle to the drop off area to a point where guests enter into the lobby. Underneath the hotel is parking and parking in an exterior lot. There were three slides showing the level one, level two and level three layout of each level's floor plans. **Mr. Cunningham** noted on a slide the six factors of a Special Council Permit in GZO Sec. 1.8.3. The Peer Review, he said, focused on the adequacy of utilities, quality of the natural environment and traffic flow and safety. At the time of the original submission, he said that Beauport recognized the need for updated sewer and stormwater drainage for Commercial Street in front of the hotel. The

City, he said, as discussions proceeded, indicated it wanted to design and construct these public works improvements since the City bears the ultimate responsibility for them. The applicant, he said, agreed this was sensible; and to accelerate that process and facilitate a MassWorks grant, Beauport contributed \$600,000 to the City to the infrastructure design process. The City has been awarded a \$3 million MassWorks Grant for the infrastructure work. **Mr. Cunningham** said that Beauport has agreed to put \$1.4 million more towards the entire off site improvements that are around the project. He added that all the funding is conditional on receipt by the applicant of the permits to build and operate a hotel. On inquiry by **Councilor Tobey**, **Mr. Cunningham** said the applicant has submitted to the City Attorney an agreement proposing the staging of the payments be one third upon the issue of a building permit one-third six months from the issuance of the building permit; and one-third upon receipt by the applicant of a Certificate of Occupancy. The City and the engineers are proceeding with a final review of the applicant's submission, he said. AECOM and DPW and engineers are proceeding completing with the infrastructure design, he reported. Beauport's engineers and builders are meeting with AECOM and the DPW in order to coordinate the work.

Councilor Tobey said he understood the intent of the Administration is to front the costs not covered by MassWorks grant for the infrastructure project are to be treated as reimbursements. **Mr. Duggan** said it was the City's intent. **Mr. Cunningham** said that once the legal agreement is finalized it will be submitted to Council for their review.

Adequacy of utilities and other public services: The sheets in the original submission, **Mr. Cunningham** said, related to infrastructure off site have been removed from the plan set dated December 14th. Beauport, he said, feels with that infrastructure project funded and underway, that it successfully addresses this factor in Sec. 1.8.3.

Qualities of the natural environment: **Mr. Cunningham** explained that the BETA Group looked at stormwater management and the seawall. The applicant were going to meet this evening with ConCom, which was postponed and will meet the next evening with the Planning Board on the same subject. He pointed out that all of the work on the seawall, if they were to look at site today, the seawall, the 10 foot public walkway, the ramps, stairs would all constructed inside the existing building (or behind the line of the present building) which plans now make it clear.

Todd Morey, Beals Associates, Inc. Senior Engineer reviewed the revised parking plans, the stormwater drain systems and seawall configuration with the Committee (submitted in the revised plans previously). Through the first round of Peer Review, the overall site changed in minor ways, he said. The first slide he showed, he said the engineers looked at comments made by BETA. Pedestrian crosswalks were added at the entrance points on Commercial Street from the proposed parking lot, and another crosswalk that comes across from the garage exit.

The most significant change, **Mr. Morey** said, as to how the site is laid out has to do with the parking inside the parking garage. Concerns were expressed by BETA on the southerly opening of the garage where cars enter and for the vehicular circulation. The center aisle had a dead end. They have looked at the circulation through the garage, compared it to others in other cities, garages located under hotels, and revised the two handicap spaces and slid them back for easier access. He also pointed out that Instead of the middle aisle being dead end; they created a short slip lane.

Mr. Morey showed a slide depicting a grading and drainage plan for the site. The original plans featured a large subsurface infiltration area on the southwest corner of the parking lot which took all the runoff from the rooftop and decks, brought it into the system and infiltrated it into the ground. The exit drive and the loading dock were served by two slot trench drains on Commercial Street featured two slotted trench drains that directed the runoff right into the City system untreated. The two catch basins in the parking lot on the westerly side remain in place which collects the runoff through a sediment removal chamber and into the municipal system. The overflow prior to the subsurface infiltration system was directed towards Commercial Street as well, he said. Based on comments from BETA, Beals looked at the groundwater mounding created by the larger infiltration system and looked to rerouting the stormwater that overflows from the infiltration system and route it towards Fort Square. They found the groundwater mound under the system did come up to the bottom of the system. In a high storm event (originally designed for a 25 year storm in excess of 5 inches of rain over 24 hours), and groundwater is seeping through the system into the soil below, it artificially elevates portions of the ground water. He said that if that storm event coincided with a high tide, there is no room in the ground water mound. It would all overflow and discharge into the Commercial Street system. To maintain water quality to the project system and remove sediment before discharge, they resized the overflow structure to accommodate one inch of rainfall and reduced groundwater mound that would be produced underneath. He also noted they have directed overflow (any flows in excess of the water quality storm) to Fort Square at the request of BETA. The only flow, he said, that would go untreated to Fort Square are rooftop flows which do not receive the sediment loading that parking lot and street flow do. Beals has shared their drainage plans and calculations with AECOM so they can accommodate the infrastructure upgrades.

The erosion control plan has been modified in the plan set, **Mr. Morey** said. The seawall, in the original

presentation, conceptually, had a vertical element with two different stages of slope, and the front and the toe of the seawall was to be covered in armor stone. Based on Coastal Zone Management office (CZM) in Gloucester, he said CZM had concerns for potential for scour on the beach. The actual design they included in the final plans and construction designs, they collected data for potential scour and found was "very different" than CZM indications. They have mapping dating back to 1834. Pavilion Beach has always had, on this end of it, a rounded shape and remained "remarkably consistent" through the years. For final design of the seawall, he said, in the past 80-100 years there has been a building wall from Birdseye and other structures in that general area. They wanted to replicate that vertical wall, he explained. They eliminated the sloped portions and relocated the armor stone to below grade. At the end, there will be sand coming to a vertical wall which will go to up to elevation 13 which is above about one foot of the FEMA velocity zone, he said. The original seawall, the westerly access ramp and the stairs would all be built within the existing parking lot footprint. He said they had an easterly ramp that came up off of Fort Square that was at an angle. This new wall design allows them to rotate the easterly ramp parallel to the wall and put it completely behind the where the building wall is today. The seawall, 10 foot walkway, access ramps, stairway all takes place behind the existing building wall. It has allowed for an increase of 3,900 feet of new beach that doesn't exist today, he added.

Councilor Tobey noted in the previous package it gave good representations of what the seawall would look like and asked to see a slide of the vertical wall. **Mr. Morey** showed the marine engineer design (on file) which was a three-faceted rendering. It showed the wave pattern typical demonstration of what could be done on a flat concrete face. The view above it is a concrete cap showing the sheet pile wall forming the foundation of the seawall. The upper left corner shows a typical cross-section with the location of the armor stone about 2 feet below the surface of the existing beach area. It also shows the various FEMA still water elevations and velocity wave height elevations. **Councilor Tobey** asked what is the height of the piece of wall that will be exposed above the surface of the beach. **Mr. Morey** said it will vary depending where on the beach one is; a maximum height is 7.5 feet to a minimum height of 2.5 feet. There will be two ramps and an access walkway he said. The ramps are constructed on the face of the wall. **Councilor Tobey** asked if the concrete would be visible. **Mr. Morey** said that they will see concrete, and that the wave pattern indicates that it will not be a flat concrete surface. **Councilor Ciolino** commented the texture and design needs to be something rather than flat. **Mr. Morey** said the designers will look at options and let the Committee know in order to put it on the record. **Councilor Tobey** said the seawall originally was going to be vertical and transition to a 45 degree slope and 35 degree slope and got flatter. **Mr. Morey** said it was to replicate the conditions there now. Based on the data he said that they have, it shows the beach has been remarkably stable. The originally proposed in the wall would change the beach, and they don't want to change it, he said. It is a vertical wall today and altering its design is not necessary.

Councilor Ciolino asked if what they are proposing for the drainage will contribute to recent flooding of Commercial Street experienced in a storm. **Councilor Tobey** asked if AECOM will be speaking at joint meeting on January 31st or Feb 6 P&D meeting. **Mr. Cademartori** said they do have to address adequacy of utilities. They will have report from the DPW. **Mr. Morey** said today the site is almost 100 percent paved. They are adding some landscaped areas and islands, and buffer strips open to the front of the project and infiltration areas to take the rooftop and deck area drainage. **Councilor Ciolino** spoke of a drainage pipe on the right side of the beach and that when it is high tide with torrential rains the water has no where to go, would they depend on the outfall. **Mr. Morey** said that the AECOM system coming up Fort Square and Commercial Street will be what the hotel ties into. He said there are two additional features on their site to protect against backwater. He explained at the outlet to their sediment removal chamber they have a rubber check valve which takes very little water pressure to allow water to flow out to the system. In the event water comes up to try and back charge the system, the valve closes and will stop that from happening. They've included a similar valve on the outlet to the infiltration system, he said. They are relying on that system and the outfall. They have, **Mr. Morey** said, taken precautions to protect the site. AECOM is designing the Fort Square and Commercial Street infrastructure stormwater drain. The applicant is working with them to see it is improved.

Pavilion Beach: **Councilor Tobey** asked what the status is on the discussions for the long term future of the beach. **Mr. Cunningham** said Beauport Gloucester supports the public's use of Pavilion Beach in front of the hotel and submitted a written agreement under review with the City's attorney dealing with the process of deeding the beach in fee simple to the City. In that agreement which he said the applicant anticipates might be incorporated into the terms of the Special Council Permit, Beauport agrees to execute a deed to all of the beach outside of the HOD and to give the public beach rights on the remaining portion so that the executed deed would be placed into escrow with the City upon the hotel receiving its Special Permit. He said the agreement would provide that the deed could be recorded on the issue of a final Certificate of Occupancy of the hotel. **Mr. Cunningham** said the public would continue to have use of Pavilion Beach for all events and beach purposes. Nothing would change but the actual

conveyance of deed would be assured, he said, by a condition in the permit, as well as executing the deed and giving it to the City in escrow at the time of the special permit recording. **Councilor Tobey** said he recalled the HOD extends from the existing structure 10 feet onto the beach which **Mr. Cunningham** confirmed. **Councilor Tobey** asked why that 10 foot piece would be excluded from the proposed resolution. **Mr. Cunningham** said they are in the beginning of the permit process. They have no permits. They've made a proposal of how the applicant wants the seawall to be built. They are going to ConCom and other regulatory agencies. One or more of those agencies may have some thoughts, he said about how it is to be done, and he said that through this process the applicant has made an effort to keep the improvements back behind the building line. He said the applicant has a substantial investment in this parcel and in the permitting, and it is not reasonable, he said, or feasible to make a commitment that doesn't give them the flexibility of extending stone abutments in front of a wall that could skew the way the ramps need to go. That is the reason behind their position, he said, that they are willing to deed in fee all the beach that is not in the HOD. **Councilor Tobey** asked why the intrusions couldn't be dealt with by license or easement. **Mr. Cunningham** said they have to finance the project which is where it gets "hard." Also, he said that is one of the things that is very important to people lending money to build substantial projects that they are certain that permitted improvements can be built on the land they have a mortgage on. He said he understood the Councilor's point, but they need to maintain that flexibility in case they need it with regard to improvements. **Councilor Tobey** commented that not everyone agrees with the attorney's assertions. **Mr. Cunningham** said no one has found a deed to the City of Pavillion Beach. The parcel owner's deed shows a parcel in the center of that beach area that has been historically deeded with this parcel and portions to the right and left of it which belong under the accepted principal of law, to the upland owner who owns out to the low water mark. **Councilor Tobey** said another map shows the middle segment with a piece on the improved portion of the site having been abandoned by the City but not the balance which would imply ownership of the fee from the existing structure line to low water. He said he contended at best those maps create confusion and a patchwork. He said he is not satisfied to the extent of the 10 foot piece that is in the HOD not being part of the conveyance. There are ways, he said, to accommodate the things Mr. Cunningham spoke of. **Mr. Cunningham** said they are working with the City Attorney on that. When it is in a form that is acceptable to his client and the City it will be forwarded to the Council. He said there is a lot of confusion about the beach as there is not "careful conveyance" of it. The applicant feels they have title to the beach and the City hasn't been able to establish it has title to the beach. The applicant has been supportive, he said, of public use and public ownership of the beach to the degree they can do that in front of the parcel. **Councilor Tobey** expressed disagreement that it is where the burden should be placed. **Councilor Tobey** asked when Mr. Cunningham saw the permitting being done, assuming the applicant were to get these permits, and ConCom approval when would they have the other State regulatory "pronouncements" that would indicate the extent there are going to be intrusions on the 10 foot zone of the beach. **Mr. Cunningham** said it is dependant on how the permitting process proceeds and if there are any appeals. **Councilor Ciolino** pointed out the beach is a main issue. Unless it is settled in a proper way, he suggested, Beauport could be in a bind. **Mr. Cunningham** said the applicant has always understood the City's position [about the beach]. They came in the last year to the City to have a perpetual easement over this land. They are working on it but he asked the Councilors to recognize the owner has a substantial investment in the land and in the permitting process; the hotel is going to be a substantial investment in its own right. He said the owner has to be able to protect the land, the investment and its financability. **Mr. Cunningham** understood the Councilor's position, and that he is working with the City attorney. **Councilor Tobey** said it is not up to the City attorney; she advises them; and asked Mr. Cunningham to see his client understands that the Committee saying that, "it's not good enough." The City Attorney advises them.

Mr. Cunningham then spoke to traffic flow and safety saying there are four components to that aspect under the GZO Sec. 1.8.3: on-site traffic flow and parking, off-site traffic flow, traffic on Commercial Street and construction methods. He noted all the dimensions shown for the size of parking spaces and width of travel paths between them meet or exceed zoning ordinances. The number of spaces provided for the hotel exceeds the number laid out in the HOD section of the ordinance. At peak times, there may be greater demand for parking than is on the site, he said. As part of the response to the comments of BETA, they developed a parking management plan submitted with a sketch attached showing 30 additional vehicles can be accommodated in the garage, leaving the travel lanes free for passage, by use of valet parking, commonly used in hotels in downtown areas. Important to note, he said, all the parking will be supervised and managed and staffed by hotel staff at the entrance. They found that off-site parking is routinely used by downtown hotels. They were urged to look at comparable hotels, he said. The two hotels, he said, in downtown Salem near its harbor present comparable situations, the Waterfront Hotel and Hawthorne Hotel. **Mr. Cunningham** said it is reasonable to expect 50 or more spaces off-site for employee parking or overflow parking and would be something they would be amenable to a condition in the permit that prior to a

Certificate of Occupancy, they would establish with the Building Inspector they would have ownership or firm legal rights to 50 or more off-site parking spaces.

Off-site Traffic Flow: **Mr. Cunningham** said the Vanesse Brustlin traffic study reviewed by BETA concurred that proper standard methodologies were used. The finding showed there is not a significant increase in traffic due to the hotel. The hours where the hotel is at its busiest offsets the other commercial traffic on Commercial Street. Traffic flow through the West End intersection was also looked at, he said. Suggestions were made for some potential revisions there. Similar to the infrastructure, the control of the West End intersection, he said, lies with the City; that they cannot change that intersection but only make suggestions. The applicant's contribution of \$1.4 million for off-site improvements is to be used by the City for infrastructure and any improvements to that intersection. As a result, the revised plans no longer contain any proposals for changes at the West End intersection, and, **Mr. Cunningham** said they are willing to work with the City and its advisors on the matter.

Councilor Tobey said there are a lot of moving parts in urban design. He expressed his concern about Fuller School surplus but an MOU that says "maybe not," because the City might need it in the short term as a school. The notion now being widely discussed, as a matter of public record, a radio interview recently conducted with the Mayor talks about what a "swell" site the YMCA [on Middle Street] would make for a downtown parking garage which fits into discussions of the YMCA potentially moving to Fuller. He said he wanted to "put the question out there" of municipal policy-making to the extent there is link to that kind of conversation and this project going forward because if that garage were built, it would enable the applicant to meet the applicant's off-site parking needs. **Mr. Cunningham** commented they would need to look at the site, and have considered many sites and possible solutions, but that it is a question of which is the best one and timing.

Sidewalks & ADA ramps: **Mr. Cunningham** continued on traffic flow and safety by noting sidewalks and ADA ramps have been incorporated into the hotel plans. He said adjustments have been made to the plans. After discussions with Fire Department and BETA, he said matters of safety and design are on-going as is the cooperation and is an important factor in addressing safety. Sidewalks, he said, are another component for significant public access improvements. There is an 8 foot walkway from where this parcel abuts the Chamber parcel (33 Commercial Street) and runs to the beach. He said there will be a 10 foot walkway from the end of the 8 foot walkway across the face of hotel to Fort Square as well as two handicap-accessible ramps to get to Pavilion Beach which is a substantial improvement. There will be new sidewalks going around the entire building. Because the building is stepped back 10 feet back from the face of the building right on Commercial Street, there is room for a generous sidewalk there.

Building Height: The request, **Mr. Cunningham** said is to authorize a 61 feet height. For 101 room hotel with adequate parking, a building is needed with a height greater than 40 feet, and he said that architects prepared a series of views of the site with the existing building and hotel building to compare it. **Mr. Cunningham** showed an illustration that the average grade and the ridge of the hotel roof are at 61 feet and the tower is allowed in the HOD is 21 feet greater than the ridge height. A series of photos from around the site shows coming into Commercial Street what is seen today and another with how the hotel would look from the same view. Another showed the current Birdseye building and the proposed hotel. Another view shows the other end of Commercial Street looking at the cold store portion of the building and what it would look like with the hotel. At the end of the playground, it shows existing buildings now and with the hotel. Another view is from the boulevard; from the inner harbor looking across. One photo was from around Duncan Street looking across the harbor.

Mr. Cunningham noted a Councilor had asked for a drawing that would show the section of the proposed hotel building and an approximation of what the existing building looks like. He explained that the existing building extends closer to the harbor and 10 feet closer to Commercial Street. The projected building is stepped back 10 feet from the water. Due to the existing elevations at the site, the hotel functions need to be above flood elevations. That accounts for a three-story hotel but is further in the air because of the site conditions and the parking garage underneath, he said. The goal was to design the building reflecting the community with the peaked roofs. They reduced the height of the building by incorporating part of the third floor to an area under the roof. The peaked roof allows mechanicals off of the ground into a location integrated into the roof, a mechanical penthouse. **Mr. Cunningham** showed shadow study slides. He said that in response to neighborhood meetings shadow studies were done. Summer solstice and winter solstice were used. The top row show of the slide the Committee viewed showed the proposed hotel at 9 a.m., 12 p.m. and 3 p.m. The middle row showed the existing building at those same hours; the third row shows what a 40 foot building look like if located at this height. Summer solstice indicates very little shadowing. Winter solstice (Dec. 21st) shows the shadowing, for the proposed and existing and simulated 40 foot building. He said the advantages of the sloped roof minimize the shadows created. **Mr. Cunningham** said the hotel doesn't substantially overshadow this neighborhood. There is little effect for most of the year and no shadow on the beach and little or none to the neighborhood with little shadowing during the winter months.

Demolition of the Birdseye Building: **Lee Dellicker**, President of Windover Construction pointed out that prior to his last 16 years on Cape Ann he had much experience in constructing and destructing waterfront buildings in Portland, Maine. Addressing the issue of asbestos abatement on the site, he said the abatement process is heavily regulated. His company will make sure that negative pressure is maintained inside the building during the process. Most the abatement is inside the building. There is some on the roof and side of building, but, he said, it is isolated and can be contained “very easily.” The contaminants will all be encapsulated and sealed and disposed off site. He said it is a “relatively easy and safe process.” As to the demolition, **Mr. Dellicker** said dust is controlled by keeping the site wet. Because of the proximity to the water, there will be a water control system where they will build temporary basins. The water will be either controlled and filtered back into the ground or they will use a “frack” tank to capture contaminated water and then move the contaminated water off site, depending on what stage of demolition they are in which will dictate what method they use, he said. **Councilor Tobey** asked what would become of the water for dust control. **Mr. Dellicker** responded they will build sedimentation basins with a hay bale system; and if it is filled with a lot of dust, they will use frack tanks, where they take the dirty water to dispose it off site in a proper facility. They will have a lot of surface water. Clean water will go through the natural sedimentation process. The Birdseye building will be demolished leaving the existing foundation to elevation 12 and leaving about six feet of the floor slab back. They will take the building down behind the wall now facing the beach. With that in place, he said, they will put in the sheet wall piling in the ground behind that existing foundation. They will leave that temporarily high during construction at elevation 14. When it comes time to cap it and build the cap wall, it will be cut down to elevation 12. He noted there are a variety of oil form liners they can use to imprint a decorative pattern for the wall. Windover is looking at foundation types, and are at this time leaning towards a concrete piling system. He explained that because that has a higher capacity, there are less pilings and the installation of driving the piles into the ground will cause less disruption to the neighborhood. In general, the site will be fenced in. There will be a complete construction management plan on “exactly” how deliveries will be handled – how they come and go to the site, where construction workers will park, who is allowed to park on- and off-site. Windover will shuttle workers to the site from an off-site location, and try to minimize on site parking, he said. He said the construction management plan is physically attached to all the subcontractor’s contracts so that all the rules and any special conditions through the permitting process put on the construction methods, noise, and work hours, etc., all become a part of the construction management plan this is attached to any subcontract. It will be mandatory for every trade.

As to the question of a rat population in the building and on the site, **Mr. Delliker** said there are a variety of services that come in and do a survey. Windover will go through a 15-30 day inspection period where they will bait for the rats and monitor the stations. The rats are usually gone within 10 days, and typically, he said, they take about 30 days to make sure vermin are not on the site. **Councilor Ciolino** commented that once the street is started to be torn up rats will vacate and look to go to surrounding buildings in the neighborhood. He said there will have to be communication with the surrounding homeowners, and a plan will need to be in place. **Mr. Dellicker** assured he has built under similar conditions on Gloucester harbor, and that the plans do take care of the rat problem. Throughout the process there will be a series of communications with the neighborhood, with a goal of trying to minimize the issue. They will be on site full time and have ways to ameliorate the situation. He said he gives his commitment to cooperate and do their best to eliminate any rat problem.

Councilor Tobey noted there are two phases of the demolition, one where there will be negative pressure which is where there are more concerns for hazardous materials. **Mr. Dellicker** said that was the hazardous abatement piece he referred to earlier. **Councilor Tobey** asked what are the checks and balances; what regulators are looking at as Windover moves forward in this process. **Mr. Delliker** said the process is monitored by the Mass. Department of Environmental Protection (MDEP). The construction company has to submit all their procedures to the State who come out and inspect before Windover starts and DEP monitors the project on a regular basis. **Councilor Tobey** asked when the actual demolition occurs to what extent would the hazardous materials is removed. **Mr. Dellicker** said there has been an “extensive” study and report on where the [hazardous] materials are. Most is on pip insulation and tanks wrapped with asbestos material. It has all been located and is identified. It is not “rampant” on the roof in the roofing material itself. Mostly it is in caulking and sealants, he said. They will abate all of it. The State will contract an industrial hygienist who will have read the report and will re-inspect to “make sure they have it all” before the building comes down. The expectation, **Councilor Tobey** said, was that all the contaminants will be removed prior to demolition, and the only expected issue during demolition is the issue of dust, which **Mr. Dellicker** confirmed.

Councilor Ciolino asked about the bypass road. **Mr. Dellicker** said he attended his first meeting with AECOM just recently and said that the bypass road is the City’s project. They have agreed to cooperate with the City as much as possible. Whether or not the bypass road is part of that plan depends on when the building comes down. There are extensive discussions about traffic and public safety. **Mr. Cademartori** said he didn’t have the level of

detail that AECOM will have when they go to bid this project. But, he said, there are issues of overhead utilities, relocation of utilities, dealing with night work, ensuring of a public safety presence in the area. They are operating under the assumption the bypass road would not be available during the work on the site.

Councilor Tobey said the best checkpoint on those concerns, if and when the B&F Committee is approached to recommend a bond authorization request for a sewer project, is the expectation [of the infrastructure project] to be “shovel in the ground” right after the 2013 Fiesta. He said he assumed it was still the case. **Mr. Cademartori** said a bid package will come with potential sequencing without a bypass road which should be out in March or April. **Councilor Tobey** said it would be useful to know when the bond authorization would be coming forward suggesting it could be done at B&F simultaneously with P&D’s deliberations.

Councilor Ciolino asked about shadowing saying that neighbors are concerned about it and further asked how it will affect the houses across from the Mortillaro tin building. **Mr. Cunningham** said shadow is directed to the north. The hotel doesn’t cause shadow on the homes in the Fort.

Three further factors under Sec. 1.8.3:

Social, economic community needs served by the project. **Mr. Cunningham** said the hotel project plans and designs are supportive of the goals of the HOD and the underlying City planning documents. The hotel will serve the businesses and the downtown substantially. The hotel, he said, would be an “important” economic engine for tourism and existing businesses and help development of marine technology and scientific uses of the harbor, a goal of the City.

Neighborhood social structure. The sites in the downtown, **Mr. Cunningham** said, are characterized by mixed uses. The hotel will replace a deteriorating and unused business with a high-quality hotel on a beachfront site. Public use of Pavilion Beach will be “assured” and the [Birdseye] tower will be retained as part of the design.

Potential Fiscal Impact. He said that there would be “significant” real estate taxes, “significant” jobs, room and meal tax revenue that will be new, and this project has agreed to contribute \$2 million to the City in support of off-site improvements which helped to leverage a Mass Works \$3 million grant.

Permitting schedule. **Mr. Cunningham** explained there are three processes going on simultaneously: the Planning Board under the zoning ordinance reviews the project and gives a written report to the Planning & Development Committee and City Council and also independently make a determination under the Site Plan Review. ConCom is reviewing the Notice of Intent focusing on the seawall, the effect on the beach, and on the stormwater management. The applicant’s team has a meeting with the Planning Board the following evening to review many of same matters. There is a discussion of a proposed joint meeting with P&D and the Planning Board on January 31st. At that time BETA and GZA Vine should have their reports in. On February 7th, it could be a date for the Planning Board to make a recommendation to P&D, and issue its site plan review. ConCom may have a special meeting on January 30th. ConCom’s next regularly scheduled meeting is on February 6th and at that time the applicant, he said, hopes for an Order of Conditions depending on the review and schedule. **Mr. Cunningham** said he hoped by February 20th P&D would be able to make a recommendation to the Council (The public hearing was continued to January 22nd). **Mr. Cunningham** suggested that the public hearing should be continued now to February 26th. **Mr. Cademartori** said if there is a recommendation from the Planning Board out of the first week of February, it would be consistent to opening the hearing at the second Council meeting in February. **Councilor Tobey** said it would more likely be the first Council meeting in March, but added there could potentially be a special Council meeting of a one item agenda on March 5th.

This matter is continued to February 6, 2013.

[*Note: All photos, slides, and diagrams referenced herein are on file with the Planning & Development Committee and the City Council.]

3. Memorandum from Mayor re: Request for Referendum Question on Designated Port Area (DPA)

Councilor Tobey said that the Committee is in receipt of a memo from the Mayor that proposes a broad range of possible questions regarding the City’s DPA. As he knew Councilor Hardy would wish to participate in this conversation, he asked the Committee to continue this matter to their next regularly scheduled meeting.

This matter is continued to February 6, 2013.

4. *Application for Further Modification for a Special Council Permit previously modified 12/7/10 originally granted July 7, 2010 re: Rogers Street #9-11 (Cape Ann Brewing Company, GZO Sec. 2.3.4(8) and Sec. 2.3.4 (9)(Cont'd from 07/18/12)*

Councilor Verga said that a vote had already been taken by the P&D Committee on October 15, 2012 on this matter forwarding it to the Council. However, it would not be taken up by the Council until it had the written Mass. Department of Environmental Protection (DEP) ruling on the applicant's request for modifications to their Chapter 91 license. It is known that modifications were granted and that the appeal period is in progress with the DEP. This matter, he said, would be continued pending receipt of the DEP decision.

This matter is continued to February 6, 2013.

5. SCP2012-014: Mansfield Street #3/Washington Street #24, Map 6, Lots 36 & 37 re: GZO Sec. 1.8.1 and Sec. 2.3.1(7) Conversion to or new multi-family or apartment dwelling, four to six dwelling units

Attorney Thomas Murphy, Shea, Murphy, & Gulde, Burlington, MA representing the applicant, James Santo who accompanied Mr. Murphy who said that Mr. Santo is a local business owner. He owns the property at the corner of Mansfield and Washington Streets. His bagel shop was located there and there were three residential units as a component of that building. Immediately adjacent to it was 3 Mansfield Street which also had three residential units. Early last year there was a fire there. Mr. Santo's building was burned as was 3 Mansfield Street. Mr. Santo's building was removed. The Mansfield Street building is a shell but still there. Mr. Santo bought the 3 Mansfield Street property and now owns both lots. Mr. Murphy said Mr. Santo is looking to reconstruct what was there to contain six residential units, with a commercial unit fronting Washington Street. The six residential units would front on Mansfield Street in a townhouse type of development, comprised of two bedrooms each. Five units will have parking at the ground level inside a parking garage with room for two cars per unit. He made reference to the plans that were submitted with the permit (on file) as well as an "Artist's rendering" which shows what the building could look like. He said Mr. Santo appeared before the ZBA in September and received needed variances. The footprint of the new building is similar to what was there. There is a little area behind his former building that was a parking area with a dumpster that will be part of the project. This project will be the same number of residential units as were there previously. There will be parking to get tenant vehicles off the street. He added that the new structures will be to code.

Councilor Ciolino asked for a locus plan and if there was a driveway. **Mr. Murphy** said there is an 8 foot driveway. **Councilor Ciolino** asked for a better set of plans certified by engineers (plans are on file with the Special Council Permit application but were not available at the dais). **Councilor Verga** asked if the lots are combined which **James Santo**, owner of both properties confirmed. **Mr. Murphy** added that Mr. Santo has two separate deeds. **Councilor Verga** said they need to schedule a site visit. Another question, he said, will be about the placement of a dumpster. There is no curbside trash pick up for a multi-family over four units. There will be a need for private trash removal. The City will not take the trash. **Councilor Ciolino** wanted a locus plan that showed the driveways with curb cuts and wants to see how many parking spaces will be lost on Mansfield Street. He said the Committee needs to know what exactly is going to be built there. The Committee also needs to know if there is to be a dumpster that has to be screened in. **Councilor Verga** urged the applicant to contact the recycling coordinator at the DPW. **Councilor Ciolino** reminded the applicant that what the Council approves and stamps is what has to be built. Plans must show all aspects of the project so there are no questions. They may also wish to see what they will put on the buildings for siding. **Councilor Verga** asked for a rendering of the materials that will be used on the exterior of the building and the colors they would use.

The Committee set a date for a site visit for Saturday, January 26, 2013 at 9 a.m.

This matter is continued to February 6, 2013.

6. PP2012-003: Application by National Grid for the installation of underground electric conduits located substantially at Atlantic Road #149 – Public Hearing (Cont'd from 12/19/12)

This public hearing is opened. This public hearing was continued at the point of Councilor Questions. Proponents in attendance were: Peter Glynn, representing National Glynn, 44 River Street, Beverly and Ralph DiGiorgio, owner of 149 Atlantic Road were in attendance

Speaking in Opposition: None.
Councilor Questions: None.
This public hearing is closed.

MOTION: On motion by Councilor Ciolino, seconded by Councilor McGeary, the Planning & Development Committee voted 3 in favor, 0 opposed to GRANT the petition of National Grid to excavate the public way in the vicinity of Atlantic Road, #149 and shown on Assessors Map 73, Lot 34, for the installation of underground electric conduits, including necessary sustaining and protecting fixtures, under and across the public way or ways herein named for the purpose of transmission of electricity which also include the installation by CUSTOMER (Ralph DiGiorgio & Robert Ladd, Atlantic Road LLC) of approximately 850' of 2-3" conduit and also two (2) heavy duty Hand Holes. National Grid will take ownership after installation. Said underground conduits to be located substantially in accordance with the plan filed and marked National Grid, #12350270 and dated 3/29/2012 with the following conditions:

1. Notification to the Department of Public Works 72 hours in advance of the proposed work. A construction schedule will be prepared by the applicant for review and acceptance by the Department of Public Works.
2. Proposed excavation may only occur during accepted road opening and construction season, 15 March – 15 November. No winter construction shall be permitted.
3. In the absence of a detailed construction plan, the Department of Public Works requests: all proposed conduits and appurtenances shall be placed so as to cause minimum conflict with existing underground utilities and utility services. A minimum horizontal separation of 10-feet shall be made for the entire length of the project. The only acceptable utility conflicts shall occur where the conduit enters the public way at 129 Atlantic Road and where the conduit enters the property to be served at 149 Atlantic Road.
4. All excavated trenches shall be patched flush with the surrounding asphalt using hot mix asphalt binder at the end of each work day. Asphalt shall be applied in two lifts of 2-inches, totaling 4-inches.
5. The entire length of excavation, curb line to curb line shall be cold planed to a depth of 2-inches. A keyway cut shall be made to the north and south side of the excavation in Atlantic Road to accept top course of asphalt.
6. Install 2-inch hot mix asphalt top course pavement with emulsion sprayed on prepared surfaces, including the sealing of all joints.

Mr. DiGiorgio was given a copy of the DPW Director's memo on the need to set six conditions dated November 30, 2012 by Acting Chair, Councilor Verga.

7. *Essex County Velo Gloucester Grand Prix Cyclo Cross Race held on September 29-30, 2012 at Stage Fort Park (Cont'd from 11/07/12)*

Councilor Verga commented that a report received by the Committee this afternoon from proponents and objectors to the event is not an acceptable lead time in order for the Committee to review such documentation and speak cogently on them. He asked in future the parties take that into consideration in making any further submissions.

Paul Boudreau, representing Essex County Velo said that in the report submitted this afternoon (on file), and the last time they met they viewed 14 color photos submitted by Mr. Roark of Gloucester. He went through each of the photographs Mr. Roark had submitted (Photos 1-14) and discussed with the Committee the reparations made related to what was shown in the photographs then, and what the reparations looked like as of January 9th as shown in his report. Christopher McKernan, Vice President of Essex County Velo and Operations Director, Gran Prix of Gloucester said he was on site the first day when Wolf Hill did the work at the park. A power brush Bobcat scrubbed the entire course, aerating the ground and backfilled with seed mixed with topsoil. It is a far more thorough job than the Committee's first impression, he said. The second round of repairs was a more superficial seeding which was why the photographs taken on January 9th look as if there is still damage because of the varying lengths of grass. Councilor Verga said the goal is to make sure what is done post race, should another event be permitted in the future, it should not result in complaints being heard. This is a culmination of these complaints from the 2012 event.

Mr. Boudreau addressed the issues with the ball field area, the reparations to the Lucy Davis Brown pathway, areas around Half Moon Beach, Cressy's Beach and the Garden Club plot area (which he said the next course would avoid completely).

Mr. Boudreau talked about the direct financial impact of the race, saying that ECV spent \$20,000 between paying elements of the City and local businesses which is itemized in the submitted report. ECV paid \$4,812 to the City directly in 2012. They spent \$20,612.48 in the City in total. That includes repairs to date which will be added in the spring. **Councilor Ciolino** commented that once the cost of repairs is removed from the total, it doesn't come to much. Mr. Boudreau also noted that five of the six vendors at the event in the park were local.

Mark Cole, Assistant DPW Director walked the course last week. There is some significant growth from the grass. There is still some work to be done detailed in his memo dated January 14, 2013 (on file) that will need to be done in late March, early April. The department also needs to get the ConCom Agent involved as far as recommending plantings on the hillside. He said he, too, took a lot of pictures. There are some ruts still, but there are sections of the park that shows little evidence the event was ever there. The work done was more because of the weather conditions than severe damage. He outlined considerations for another permit also contained in his memo.

Councilor Ciolino said the reason carnivals are no longer allowed as they once were in the park is because the park "was wrecked." He said he didn't understand why the City lets the park be destroyed and then it takes six months to come back and then be destroyed once again. The park, he said, can't be used once the event goes off and this happens every year. **Mr. Cole** said the weather had a big impact on how much damage is done. Over 14 years, the complaints have only been over the last three years. **Councilor Verga** said they did go back and address the problems, but it has not been satisfactory, and has to be addressed. **Mr. Boudreau** said the event now hosts 1,100 competitors over two days versus when it started with 150-200 competitors and was over one day.

Councilor Verga said there are two distinct camps - one thinks the park is destroyed but the other says the Cyclo-cross should go on but won't admit it is a problem. Perhaps, he said, the scope should be limited and be specific as to the areas it can take place within the park. **Mr. Cole** said a map of the proposed course submitted during the permitting process will allow for the course itself to be approved and is a suggestion contained in his January 14th memo (on file). **Councilor McGeary** said the weather caused significant issues from this past event. He asked did they collect fees from their club reserve spots and if so how much and did any of those proceeds go to local charities. **Mr. Boudreau** said half the funds go to local charities. Last year it was the Gloucester's Writer's Center. He added this is only hundreds, not thousands of dollars they're speaking of after expenses were paid. **Councilor Verga** asked why the DPW does not charge for parking, as they can under regulations. **Mr. Cole** said it is outside of the season. The DPW would have to obtain Council permission to charge for parking outside of the season. **Mr. McKernan** added there is precedent for that at other events they run. **Councilor Verga** asked why Essex County Velo was not charged each day for use of the park. **Mr. Cole** said they do charge for each day, although one day was a half of a day which they weren't charged for.

Councilor Ciolino said they have to cap the number of participants at whatever they were the previous year. The Council needs this in writing. They need a plan of the track and a solid plan of how the park will be maintained and repaired. With that in place he could support it. **Mr. Boudreau** said the organization would likely come forward in March for a new permit. **Councilor McGeary** asked they delay a request for a new permit until the final repairs are made. **Mr. Boudreau** said his organization needs to know if the race is not going to be permitted as there are practical reasons, that go with the denial should that happen, for his organization. **Councilor Verga** said this meeting was to get issues in the open and resolved. He said there seems to be an admission on ECV's part the repairs were not done the best way they could. **Councilor Ciolino** said he would like to hear a report from a third party review suggesting Mr. Roark and Mr. Dow could give their opinion.

George Roark, 15 Beauport Avenue suggested looking at the specifications of the pathway put in at 1934. It outlines what was put in specifically. That involves more than what ECV recommends and objects to the use of the Lucy Brown pathway. Mr. Boudreau respectfully disagreed. He will look for expert opinion on it. Councilor Verga suggested they may have to exclude the pathway from their race course in the next race. Mr. Boudreau urged the Committee to read his submitted report. **Councilor Verga** said there is a problem and disconnect between the economic impact and the environmental impact to the park. He urged compromise between the parties.

8. Agreement for Judgment in the matter Susan Taorimina, et al vs. Jackie Hardy, et al re: Special City Council Permit

Ms. Egan said that Susan Taorimina, et al vs. Jackie Hardy, et al which involves the appeal of a Special Council Permit granted by the Council for a hotel on Essex Avenue has been settled. The Special Permit will be annulled. Because the Council is a "special permit granting authority," and a defendant, the Council is a party to the

settlement. The Special Council Permit will no longer exist. The applicant no longer has an interest in the hotel project. Attorney Mark Nestor said the plaintiff has already signed the judgment. The Committee, she said, needs to refer the proposed judgment back to the Council so that may approve the document. **Councilor Tobey** said the hotel proposal was a good one and would have voted for it again, but that this is now finished.

MOTION: On motion by Councilor Tobey, seconded by Councilor Ciolino, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend that the City Council approve and join the Agreement for Judgment in the matter Susan Taorimina, et al vs. Jackie Hardy, et al thereby terminating and voiding a Special Council Permit given to Gloucester Hotel LLC for property located at 79-99 Essex Avenue.

9. *Special Events Applications re: Request by YuKanSports LLC re: "Fools" Dual Road Races, April 7, 2013 and to hold Triple Threat Road Races on August 3, 2013*

Rich Morrell, Jr. of YuKanSports LLC, 43 Stockholm Avenue, Rockport described to the Committee the two races his organization proposes to run on Sunday, April 7, 2013 which benefit the O'Maley Middle School and the Gloucester Cool Kids Club. The start and finish will be at the O'Maley School for both races which will be run simultaneously. This is a new event this year. He will meet with the Fire Department and CAARA tomorrow to work on completing communication plans. He has received approvals (on file) via email from the Gloucester EMS Coordinator, Chief of Police Leonard Campanello and Mark Cole, DPW Assistant Director. No Certificate of Insurance naming the City of Gloucester as the certificate holder is on file to date, and he has not met with the Licensing Commission yet either (which Mr. Morrell must do before either event). The Certificate of Insurance is forthcoming.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the full City Council to permit YuKanSports LLC to hold "Fools" Dual Road Races (5K and 13.1 mile) on Sunday, April 7, 2013 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 March 29, 2013.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the YuKanSports April 7, 2013 Road Race must be on file with the City Clerks office on or before March 29, 2013. 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 March 29, 2013. 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 2:00 PM, April 7, 2013.

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 staffs are 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 by March 29, 2013.

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 YuKan Sports, LLC:

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 YuKan Sports LLC 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.

Mr. Morrell then described the particulars of the “Triple Threat” Road Races, 1 mile, 5K and 13.1 miles respectively which take place on Saturday, August 3, 2013 starting off from Rockport High School and also finishing there starting at 7 a.m. with the expectation that all runners will be off the race course by 12 noon. This is the third year for this event. They expect about 500 runners this year. These road races, he said, benefit the Open Door Food Pantry and the Rockport Public Schools. The 13.1 mile race is the one that crosses over onto city roadways (affected roadways from Thatcher to Atlantic Road to High Popples Road and back to Rockport are included in the race documentation on file.). As with YuKanSports LLC’s application for two simultaneously run road races on April 7, 2013, he said these three races will also run simultaneously and commence at 7 a.m. He has also submitted emails from the City’s EMS Coordinator, Sander Schultz; Police Chief Leonard Campanello and Mark Cole, DPW Assistant Director all supporting YuKanSports LLC’s road race plans for August 3rd. **Councilor McGeary** asked if roads will be closed in East Gloucester. **Mr. Morrell** said from the entrance to Good Harbor Beach to the footbridge is difficult and so he is hiring three police details hired at the request of the Police Chief to control traffic.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the full City Council to permit YuKanSports LLC to hold a Triple Threat Road Races (1 mi., 5K and 13.1 mile) starting at 7 a.m. on Saturday, August 3, 2013 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 July 5, 2013.

2. Road Closure Plans:

Memoranda from the Police Department and Fire Department giving approval of the plans for the YuKanSports August 3, 2013 Road Race must be on file with the City Clerks office on or before July 5, 2013. 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 July 5, 2013. 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 2:00 PM, August 3, 2013.

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 staffs are 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 by July 5, 2013.

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 YuKan Sports, LLC:

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 YuKan Sports LLC 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.

9. Discussion on possible creation of Planning & Development Advisory Committee re: Special Events permitting, etc. pursuant to City Charter Sec. 2-9(c) (Cont'd from 10/17/12)

Ms. Lowe reviewed with the Committee the current status of their on-going discussion to create a P&D Advisory Committee to assist it with the many special events that come forward for permitting by the City Council. The applications come into the Clerk's office but have a long way to go with better controls so that there are more answers to questions. She asked they formally say they want to have this advisory committee. Instead of an application coming to the Clerk's office bare boned, people have to go to the advisory committee made up of her, the Police Chief, the Fire Chief, the DPW Director, the Health Department Director or their designees. At the same time they may get improvements to the vending ordinance because special events utilize vendors, particularly at Stage Fort Park. If they would tell her, she would get started right away, the application would go through that advisory committee before coming to P&D. **Councilor Ciolino** said they're adding another layer to the process. **Ms. Lowe** said she had already tried to set meetings up to get the process going. She asked the Committee to approve to use the advisory committee. It is the same people already being asked one at a time to approve applicant's coming forward for a permit, and said this would set standards; perhaps a requirement would always have to have a route approved by the Council. **Councilor Ciolino** commented that the advisory committee is still yet another layer and that the advisory committee would likely meet once a month. An event coordinator would put these things together. He reiterated it is creating another layer. These things have to be taken on an individual basis. **Ms. Lowe** said her experience has been that while it was thought the new application would help applicants be better organized as well as assisting the Committee process, permit applicants frequently come in front of the Council with incomplete information which makes the process more difficult. **Councilor McGeary** likened this to a "site plan review". This way if all of the information is in place, he thought it is worth trying. As to the membership of the advisory committee, these are the people who are already doing the review on the applications. It will give it more structure. **Ms. Lowe** said in an initial meeting there would be a discussion as to what would work best. **Councilor Ciolino** said he would hold out for an events coordinator. **Councilor Verga** agreed an event coordinator is the best way to go but does not preclude doing this now. He seconded the motion to allow the process to move forward for the sake of discussion only. **Councilor Theken** said an event coordinator is separate from this process. She still has to go through these people to get the permitting done. What the City Clerk wants to do is a step to help the Council. If a committee is already set, then the coordinator would assist the applicant through the process. These are two separate issues.

MOTION: On motion by Councilor McGeary, seconded by Councilor Ciolino, the Planning & Development Committee voted 2 in favor, 1 (Ciolino) opposed to charge the City Clerk to create an advisory committee to the Planning & Development Committee for events in the City with procedures to follow.

Ms. Lowe thanked the Committee and said she would make reports back to the Committee as she drafts the procedures.

A motion was made, seconded and voted unanimously to adjourn the meeting at 9:20 p.m.

**Respectfully submitted,
Dana C. Jorgenson, Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Power point Presentation by Beauport Gloucester LLC dated 01/16/2013 from Attorney John Cunningham**
- **Transcript of presentation made to the Committee by Attorney John Cunningham submitted by Attorney John Cunningham**

- **Report by Essex County Velo on current conditions and reparations at Stage Fort Park dated January 16, 2013**
- **Informational document on Stage Fort Park submitted by George Roark date stamped January 16, 2013**