

CITY COUNCIL STANDING COMMITTEE
Planning & Development Committees
Wednesday, April 3, 2013 – 7 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

Present: Chair, Councilor Bruce Tobey; Vice Chair, Councilor Greg Verga; Councilor Joseph Ciolino (Alternate)

Absent: Councilor Hardy

Also Present: Councilor Steven LeBlanc; Linda T. Lowe; Jim Duggan; Tom Daniel

The meeting was called to order at 7:00 p.m.

1. *Communication from Attorney J. Michael Faherty to D.E.P. re: I4-C2 Temporary Permit*

Councilor Tobey said that he wished to gather background on this issue of a temporary permit for a potential term of 10 years (to use I4-C2 as a for-pay parking lot) and said he thought the Council may wish to weigh in on the matter. **Jim Duggan**, CAO said he knew of Councilor Tobey's concern expressed at the last City Council meeting about this matter triggered by Mr. Faherty's letter to the Massachusetts Department of Environmental Protection (MDEP), and noted that the permit allows for the 10 year term which was on the advice of the MDEP when the City was establishing a time within the permit application. **Mr. Duggan** said there were different ranges discussed at the subcommittee level as to how long the City wanted a temporary parking area for I4-C2. Some, he said, mentioned up to 5 years, 3 years. But Mr. Duggan reiterated that the Massachusetts Department of Environmental Protection (MDEP) advised the City that 10 years is the limit and suggested that the City apply for the maximum term. MDEP would then review the application and render a decision as to whether the temporary permit would be for a term of 10 years or less which, he added, was how it was presented. **Councilor Tobey** asked if a shorter duration permit with renewal options came through, would the City adhere to whatever the MDEP advises to which **Mr. Duggan** confirmed the City would adhere to whatever the MDEP comes back with for a term of the temporary permit adding that if it is shorter period of time, the City will comply with that as well.

Attorney J. Michael Faherty, whose letter to the MDEP during the comment period regarding the City's application for a temporary permit to allow the City to use I4-C2 as a for-pay parking lot was forwarded to the P&D Committee by the City Council, noted there was a public hearing held by the MDEP on this matter and said he was never in favor of this property being purchased by the City, and added this request for a temporary permit further complicates, in his opinion, the mistake of the purchase of I4-C2, and said there was an intention to gather revenue on this site. He said he did not have an issue with the gathering of revenue noting the City put itself in this position that the only present use for the property is as a parking lot. He added it was better to collect the revenue. He expressed his opinion that putting a ten year term on the lot would only ensure nothing will be done (to develop the property) until 9-½ years pass. Additionally, he said in his opinion the revenue that is to be collected, up to 50 percent should be apportioned so the City get two studies done that he said he believed are critical to any serious buyer on the condition of the property – a Phase II environmental study and a sub-surface soil analysis - so the City has them in hand when the serious bidder for the property comes along. He suggested using a portion of the revenue to reduce the City's debt for the purchase of I4-C2. He said this was promised that this would be taken care of before the debt went to an amortization period. He suggested this be handled like a revenue account; that a portion of the funds be used to pay down the debt so that when the City sells the property, there will be more return on the City's investment. He said those were the points he made to the MDEP in his letter. **Mr. Faherty** noted it is within the City Council's purview to put conditions on the property's use as a parking facility. The only reason, he said, for including the City Council in the mailing list was that it is a City Council decision.

Councilor Ciolino asked if the Council changes the length of the temporary parking permit from 10 to 5 years, would the City then have to go back to the MDEP and start the permitting process again which to get to this point has already been about six months; and he expressed concern that by the Council changing the term, the City would have to reapply to MDEP. **Mr. Duggan** said it is not the intent of the Administration to withdraw the existing application and will await the MDEP decision.

Councilor Tobey said based on the current filing, a shorter term could be put forward by MDEP. The City would not have to withdraw and start over the City's application for a lesser term. He said that given public comment, the MDEP could also choose to issue a permit of a lesser term or a lesser term with incremental options for renewal. **Councilor Tobey** said he thought that even if the Council were late, that the City Council could also

file its own letter of opinion and ask the City Clerk after the City Council vote at their meeting of April 9th, that it is the opinion of the Gloucester City Council believes the appropriate term for this temporary permit is initially some shorter period. He then proposed a three year term with annual increments of renewal allowed subject to showing some measureable degree of progress towards putting the property into Marine/Industrial use. Then, he said, the City Council is on the record.

Councilor Ciolino said he would prefer a five year term and would like to send the matter for further discussion to the Budget & Finance Committee about paying off the debt and where the money should go.

Councilor Tobey said the Committee could do that separately from sending the letter from the Council to MDEP.

Councilor Ciolino said he agreed it is a good idea to put aside the money to clean up the debt which would be the purview of B&F. He would agree to a five year term for the temporary permit as the Committee's recommendation to the Council.

Councilor Verga pointed out that regardless the action the State takes, the Council could impose local restrictions. If the P&D Committee wanted to adopt the memo and the MDEP rules for a ten year term, the City could place its own rules by saying it would be three years with annual follow up for Council review; and additionally the Council wants the revenue issues reviewed. He said rather than clouding the issue with MDEP, he would rather see the Council place restrictions. **Councilor Verga** said he would agree to a term of five years and would also want to see a review of the financial matters by B&F. **Councilor Tobey** said he agreed the Council could do supplemental rules for the permit. However, he expressed concern for a ten year term. **Councilor Ciolino** said moving forward if the money is allocated to paying down the debt; it is a bookkeeping procedure, and a wash. The City is paying down the debt in the budget regardless, if the revenue is being allocated to that debt. This would be dedicated funding to I4-C2. **Mr. Duggan** said the parking kiosk is already installed. The CFO would have to work out that the revenue generated from the temporary parking lot kiosk be dedicated to the debt service.

Mr. Faherty said the City pays off the debt service from whatever bond the City gets. Rather, he said 50 percent of the income that comes from the temporary use as a parking lot can be used to accelerate the payment and should be used to pay down the principal.

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the full City Council that the City Clerk prepare and file expeditiously on the City Council's behalf a comment on the matter of the temporary permit application under MGL Chapter 91 for 65 Rogers Street (I4-C2) that there be initially a term of five years with one year increments of renewal with a possible total of a ten year term.

Councilor Verga said regarding the revised RFP for I4-C2, when that came before P&D, he had expressed his concern that the City wasn't looking to do an environmental assessment; rather the City was asking a potential buyer to take that responsibility which he said was not the right way to handle the matter. He said he hoped B&F takes a serious look at that issue also of financing those tests by the revenue from the temporary parking lot.

MOTION: On motion by Councilor Verga, seconded by Councilor Ciolino, the Planning & Development Committee voted 3 in favor, 0 opposed to refer the balance of Attorney Faherty's letter to the Massachusetts Department of Environmental Protection as it relates to financial implications of the temporary parking lot at 65 Rogers Street (I4-C2) and the potential for directing monies as suggested by that letter be referred for review by the Budget & Finance Committee.

2. 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) Conversions to new or multi-family or apartment dwelling, four to six dwelling units (Cont'd from 03/20/13)

Attorney Robert Coakley, 64 Middle Street now representing Jim Santo (present), owner of Mansfield Street #3 and Washington Street #24 stated that Mr. Santo earlier this week had contacted him about this matter now before P&D. Mr. Santo explained to him about the difficulty he had with a prior engineer who is now no longer working for Mr. Santo. He said that Mr. Santo has a new engineer who has given an accurate site plan (filed on 4/2/13) showing the parking situation, access and egress on Mansfield Street from the project site's garages. That new plan was given to the Council by Mr. Santos this week and a copy has been given to DPW Director, Mike Hale. **Mr. Coakley** said he advised Mr. Santo, who is in agreement, that this matter should be continued by the P&D Committee to get all the ducks in a row and not waste any more of the Committee's time and move this Special Council Permit application forward expeditiously. He said Mr. Santo is under the gun in terms of the insurance

settlement on the property to proceed (with the project). **Mr. Coakley** asked the Committee to continue the matter for two meetings only. By going out for two P&D meetings he assured the Committee the applicant will then have everything he needs to make a final presentation on the Special Council Permits.

Councilor Tobey noted for the record that he received a letter dated April 3rd requesting a continuance at P&D to May 8th and the Council public hearing is requested to be continued to May 14th. At the request of **Councilor Tobey, Linda T. Lowe**, City Clerk confirmed the receipt of the letter at the meeting from Mr. Coakley requesting a continuance is adequate for the Committee's and Council's purposes. The Committee had no objection to the continuances requested by the applicant.

In a statement to the applicant, **Councilor Tobey** noted that Mr. Santo is a fine man, but that he has been in front of the Council before for a Special Council Permit with subsequent issues regarding Mr. Santo's Railroad Avenue business. He said he was pleased Mr. Santo had retained the services of Mr. Coakley. He confirmed to Mr. Santo that this is a quasi-judicial function the Council is doing which means there are rules that have to be observed. The only communications, therefore, that are to occur on this matter with Councilors will be regarding process through his attorney. He said outreach to individual Councilors on the substance of this matter needs to stop. He said he was hopeful with Attorney Coakley working for Mr. Santo that the Special Council Permit will be handled correctly. **Mr. Santo** indicated to the Committee his understanding of the Chair's instructions.

Councilor Ciolino said there is a need for a submission to the Council of a new plot plan and a foundation plan that is very clear. The applicant needs to take care of the drainage coming off the roofs and how it will be handled. He also wanted a plan showing how many curb cuts will be made and that the sidewalk on Mansfield Street must be handicapped accessible (ADA compliant). The plans he has seen, he said, have been unclear as to the way the building is sited on the property. He pointed out that the set of plans that is presented to this Committee is the set of plans of what is going to be built. He pointed out at past meetings there have been several different versions of the building plans. **Councilor Ciolino** reiterated that the Committee needs to know exactly what will be built on that site. When the applicant returns to the Committee it expects the information requested will be presented. **Councilor Ciolino** reiterated that the Mansfield Street side of the project is problematic pointing out that City is insistent upon ADA compliant sidewalks. Someone with a wheelchair should be able make their way easily in traversing the side of Mansfield Street that the project is sited on.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to continue the matter of 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) Conversions to new or multi-family or apartment dwelling, four to six dwelling units be continued to May 8, 2013.

This matter is continued to May 8, 2013

3. *Certificate of Vote from Planning Board recommending the appointment of Tom Daniel to the position of Community Development Director*

Councilor Tobey welcomed Mr. Daniel noting that he came highly recommended from the Administration and the Planning Board and from his appearance before the Ordinances & Administration Monday evening.

Councilor Ciolino asked for some highlights of Mr. Daniel's action plan and what could the Council expect from him and his department moving forward.

Mr. Daniel said this is about continuing the work that has been done; there is a policy and planning framework to build from. He said comes from an economic development background and will augment what is already happening in the Community Development Department but adding the economic development component. He noted he has had a warm welcome from the Council, City staff and the community. He said he has met with established business people in the City and folks looking to locate (their businesses) to the City. He said there is a plan for managing those contacts in a more systematic way for handling inquiries about bringing businesses to the City and to assist them through that process. He also said he was enjoying the opportunity to meet with different stakeholders, arts and cultural entities, the Chamber of Commerce. He noted he has a background in looking at arts and culture for economic development purposes as well.

Councilor Ciolino said he believed that in the City Charter it says the Community Development Director oversees boards and commissions, and no Community Development Director has done that. He pointed out there are a clutch of commissions involved with economic development – the Tourism Commission, the Downtown Development Commission as well as others. **Mr. Daniel** said Gregg Cademartori, the Planning Director is the staff that assists with the Planning Board; the Conservation Agent is the staff assigned to work with the Conservation

Commission. He said the Tourism Commission is on his list during this assessment phase to work with them. The staff resources they have to manage the boards that the department works with is about managing the resources at hand to assist the boards and commissions. **Councilor Ciolino** suggested that Mr. Daniel needs to visit the boards and commissions, such as the Waterways Board – to go to a meeting; it would be beneficial for **Mr. Daniel** to know about what the resources are in the City available to him whether it is the Downtown Development Commission or the Waterways Board. He asked he visit the boards about once a year and update the boards on the activities of the Community Development Department which hasn't been done in the past. **Mr. Daniel** said he appreciated the suggestion and was a great idea to develop a rapport. **Councilor Ciolino** also reminded Mr. Daniel the boards and commissions are all volunteers who do a tremendous job and are a resource to the community.

Councilor Verga discussed with Ms. Lowe Councilor Ciolino's reference to the City Charter that the Community Development Director works closely with the Boards and Commissions contained within his department, but that doesn't mean that is not a good idea to visit all of the boards and commissions and be familiar with them all; that the Charter does not indicate oversight of all boards and commissions. **Councilor Verga** said there may be examples of a board and commissions that may not be functioning well or others that have stopped functioning altogether. He also reiterated these boards and commissions are all staffed by volunteers. He asked for clarification on that clause. **Ms. Lowe** said the Community Development Director under the Charter is supposed to coordinate with particular boards and commissions not oversee and coordinate all of them. **Councilor Verga** said some boards and commissions are allowed to lapse and that does create a problem. He added that Mr. Daniel has hit the ground running and has a good background for this position.

Councilor Tobey asked been able to engage Tom Gillett, the new Director of the EDIC and his board. **Mr. Daniel** confirmed he has worked with Tom and that he has been a great resource. Mr. Gillett is also new to his role and he and Mr. Daniel meet regularly on Fridays as part of the City's economic development team, sharing ideas and strategizing. **Mr. Daniel** said he has been up to the Blackburn Industrial Park since he started with the City and said it is interesting because there is a lot more diversity of businesses there and a wide array of employment opportunities. Blackburn, he said, is a major employment center from Ph.D.'s to folks just out of college. He noted there are underutilized properties there also. That is something that he is looking forward to working with Mr. Gillett to create an inventory of those properties. **Mr. Daniel** pointed out that a property may not be on the market but there could be shadow space which can be broken into different units. That is something that Mr. Gillette will lead, he said. But working to utilize shadow space was something he did in Salem and in Minneapolis, he pointed out. He added that he is not a broker; but having an inventory of City opportunities for a real estate broker is an important value he and Mr. Gillett can bring.

Councilor Tobey asked how Mr. Daniel views his marketing role for the industrial sector generally. **Mr. Daniel** said partly it is getting the word out about Gloucester. This is working with some of the relationships – those whom he met in the past week - to go into the Boston market to strengthen relationships and getting the word out. He noted that the Urban Land Institute is the preeminent real estate organization in the country. There is an industrial group in that organization with whom he is reengaging, he said. The property owner and the broker the property owner is working with have the primary responsibility. But if the broker isn't engaged in the community there is a disadvantage. He said the broker can work directly through the contacts he and Mr. Gillett establish.

Councilor Tobey pointed to the example of New Bedford which is also making a difficult transition from a fishing economy regulated out of business; that city's industrial parks are full. He said their Director of Public Infrastructure is building new access roads to open up a substantial number of acres for new industrial development and yet Gloucester has many industrial properties on existing roads lying fallow. He wished to see Mr. Gillette and Mr. Daniel work closely together aggressively.

Councilor Tobey also asked how Mr. Daniel will get the pulse of the City. **Mr. Daniel** said he lives in Manchester, but that Gloucester is not a new community to him, but it is different in this role. It is, he said, about multiple contacts in different roles and boards, commissions, real estate professionals; the newspaper, Good Morning Gloucester. It is being engaged with the community, he said. A lot of the conversations, he added, that he has had are an hour long on the phone or in person learning about that person or their organization in the broader context of what challenges they face in the community. **Councilor Tobey** advised Mr. Daniel that those new to Gloucester need to understand that it is a gritty complex place; it is not one thing and not a green leafy suburb.

Councilor Tobey pointed out that a department can not have two directors; that it has to have a clear chain of command. He wanted to know the hierarchical structure of the department and how the situation will be structured in having the former Community Development Director working for Mr. Daniel. **Mr. Daniel** made clear to the Committee that he is the boss. The previous director reports to him as does Mr. Cademartori, the Planning Director who was the Acting Community Development Director for eight months. The reporting to the Community Development Director is clear, he said. He noted he has been a part of an organization in the past where there was a

not so different a shift in terms of management; and there is a transition period. He said he felt the transition was going well, and that there are opportunities for fostering a collaborative working atmosphere; for joint problem solving. The economic development team meetings on weekly basis have been helpful to bring each of his Directors' experience to the table. **Councilor Tobey** asked from the Administration's perspective had it been made clear to Ms. Garcia, the former Community Development Director that this reporting schematic is the way it is. **Mr. Duggan** said he personally made this clear to Ms. Garcia.

Councilor Ciolino asked about the advertisement for a Senior Planner's position for the department. **Mr. Daniel** said the senior planner is a junior level position. That person will assist Mr. Cademartori with the Planning Board. It is a position that existed before and is being brought back. **Councilor Ciolino** expressed concern that the department was becoming heavy in personnel. **Mr. Daniel** said this position provides back up to Mr. Cademartori and acts as a resource for him and the department. **Mr. Duggan** said it was evident in the 8 months Mr. Cademartori was Acting Community Development Director and the intent as part of the reorganization which the Council supported, timing wise it was appropriate to bring a Senior Planner on board and that there would be an Economic Development Director. In viewing the Planning Director's responsibilities, it stood out that Mr. Cademartori needs support, a bench to which he can delegate particular issues. The Senior Planner's position will report to Mr. Cademartori who reports to Mr. Daniel.

Councilor Verga said he would like to have a review in a year's time at P&D to learn about the value-added results of this additional position to the Community Development Department.

MOTION: On motion of Councilor Verga, seconded by Councilor Ciolino, the Planning & Development Committee voted 3 in favor, 0 opposed to join the O&A Committee in recommending to the City Council to the appointment of Tom Daniel as Community Development Director, TTE 02/14/14.

4. CC2013-017 (Verga) Amend GCO Chapter 21, Article IV (Repair of Private Ways) Sections 21-81 through 21-85 To add specific standards on what the City should require for the level of design, amount of work, and allocation of funds for permanent repairs to private ways

Councilor Verga reviewed for the Committee the discussion held at O&A where by consensus that Committee determined there was a sequencing issue with the ordinance and had asked the City Clerk to review the ordinance and to provide her input to them at their June 3rd meeting. **Ms. Lowe** said most citizens who try to use the ordinance and Councilors who try to help them get confused by it because of the various steps that have to be taken. Within those steps some things can be unclear and get overlooked and then become too late to manage during the process. For that reason alone, she said, the ordinance needs rewriting. She noted Councilor McGeary had put a lot of effort into revising the ordinance and submitted his suggestions to both the O&A Committee and to P&D for revisions to the ordinance that could be incorporated also.

Councilor Verga said once O&A finishes their review of the ordinance, this matter should go to the B&F Committee because there is the overriding issue of funding on the City's part. **Ms. Lowe** said there used to be a helpful guidebook for residents about the joint paving process. She suggested that guidebook could be revised and once again be used.

This matter is continued to June 5, 2013.

5. CC2012-072 (Hardy/McGeary/Verga) Request City Council review Law Proposed by Initiative Petition 3 re: Zoning/marijuana dispensaries - Returned to Committee at Request of City Council for administrative considerations

Councilor Tobey asked Ms. Lowe to explain the zoning amendment motions before the Committee. **Ms. Lowe** said that before the Committee is a revised motion for the Committee's consideration which has been broken down to the necessary parts in order to achieve a moratorium. The Planning Board's was the whole deal for the implementation of a zoning ordinance. A moratorium has to say why it is in place. The State Department of Public Health (DPH) has a draft of 45 pages of regulations. **Ms. Lowe** said there is a comment period for the draft regulations and that she believed it went until April 19th. The regulations will not be final until after May 24th.

Councilor Verga said he wished to put in a clause for the moratorium to end 30 days after the DPH rules are issued. He wanted, he said, to see something that pushes the Council to act once the regulations are issued. **Ms. Lowe** reminded the Committee that the Attorney General struck down the banning of the treatment centers. She also reminded them that the Board of Health is also looking at this issue. **Councilor Verga** expressed concern that

the Board of Health doesn't make this process more complicated than it needs to be; and asked if the Board of Health Dept. of Health usurp the will of the voters (referring to the November 2012 referendum). **Ms. Lowe** stated the Board of Health cannot be out of line with the State regulations. **Councilor Verga** expressed his support of the amended motion which added language as framed by **Councilor Tobey** in Section 5.27.6 as: "...provided, however, that the City Council shall revisit this matter within 30 days of the effective date of the promulgation by the Commonwealth of Massachusetts Department of Public Health regulations to be codified at 105 CMR 725 and can be further extended by the City Council following advertisement and public hearing."

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND the Gloucester Zoning Ordinance by ADDING a new section under GZO Sec. 5.27 Temporary Moratorium on Medical Marijuana Treatment Centers" as follows:

"5.27 Medical Marijuana Treatment Centers Moratorium

5.27.1 Purpose. This section is intended to provide restrictions that will allow the City adequate time to consider whether to allow facilities associated with the medical use of marijuana, to the extent that such facilities are permitted under state laws and regulations, and if so, where and under what conditions. Given that a law permitting the medical use of marijuana in the Commonwealth of Massachusetts became effective January 1, 2013, and that the Massachusetts Department of Public Health is to promulgate regulations by which facilities that produce or dispense medical marijuana shall be registered and administered, a restriction on the establishment of such facilities in the City of Gloucester shall provide an opportunity to study their potential impacts on adjacent uses and on general public health, safety and welfare, and to develop zoning and other applicable regulations that appropriately address these considerations with statewide regulations and permitting procedures.

5.27.2 Definition. A Medical Marijuana Treatment Center shall mean any medical marijuana treatment center as defined in Sec. VI, Definitions.

5.27.3 and 5.27.4 Reserved.

5.27.5 Moratorium: Interim Restriction. Medical Marijuana Treatment Centers shall not be permitted in any zoning district in the City of Gloucester so long as this section 5.27 is effective, as set forth in Section 5.27.6 below.

5.27.6 Expiration. Section 5.27 shall be effective through December 31, 2013; provided, however, that the City Council shall revisit this matter within 30 days of the effective date of the promulgation by the Commonwealth of Massachusetts, Department of Public Health regulations to be codified at 105 CMR 725 and said moratorium can be further extended by the City Council following advertisement and public hearing;" AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to AMEND under the Gloucester Zoning Ordinance Section 1.11.2(e) by ADDING a new definition of "Medical Marijuana Treatment Centers in GZO Sec. VI Definition as follows:

"GZO Sec. VI, Definitions: Medical Marijuana Treatment Center shall mean any medical marijuana treatment center, ad defined under state law as a Massachusetts not for profit entity that acquires, cultivates, possesses, processes (including development of related products such as food, tinctures, aerosols, oils or ointments), transfers, transports, sells, distributes, dispenses, or administers marijuana, products containing marijuana, related supplies; or educational materials to qualifying patients or their personal caregivers, which is properly licensed and registered by the Massachusetts Department of Public Health pursuant to all applicable state laws and regulations;" AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:55 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.