

CITY COUNCIL STANDING COMMITTEE
Planning & Development Committee
Wednesday, October 2, 2013 – 6:00 p.m.
1st Fl. Council Conference Room – City Hall
MINUTES

Present: Chair, Councilor Greg Verga; Councilor Jackie Hardy

Absent: Councilor Tobey

Also Present: Councilor McGeary; Linda T. Lowe; Jim Duggan; Gregg Cademartori; Suzanne Egan; Police Chief Leonard Campanello; Mike Hale; Jim Hafey; Donna Compton; Cate Banks; Ralph Pino; Gary Johnstone

The meeting was called at 6:00 p.m. to order with matters on the agenda taken out of order.

1. Memorandum from General Counsel re: Remediation of Solomon Jacobs Park and Abutting Water Sheet By National Grid

Kenneth Lento, National Grid (NG), Project Manager-Site Investigation & Remediation said that the site in question is the Gloucester MGP (Manufactured Gas Plant) site. He noted the actual site boundary shown to the Committee on an enlarged aerial photograph which he said includes parts of Harbor Loop, Rogers Street, but the majority of the site is in the inner harbor and a portion of the Coast Guard property, Solomon Jacob's park, NG's property where the Harbormaster's office is located and leased from NG, as well as Maritime Gloucester. This agreement allows for the remediation to take place on City property that includes Solomon Jacobs Park and two adjoining parcels to allow access onto Harbor Loop.

Mr. Lento said the actual remediation involves:

- Dredging about 5 acres of water sheet in the harbor. The area in question is where the Harbormaster docks his vessels.
- Within the park itself there will removal of soils; realignment and improvement of seawalls that connect both the Coast Guard property to the NG property.
- A soil cap placed in the park, with the park restored after the work is done.

He said benefits to the City are:

- Improvements to the seawall;
- With additional dredging there will be deeper draft in portions of the City property providing better use by the Harbormaster;
- There will be improvements to the dock system – the Waterways Board is moving forward with redoing both the NG dock and the City dock to make a more efficient use. Part of the agreement is for lease of the NG property to accommodate the use. During that process NG will put in the piles necessary to accommodate that dock system.
- The lease is a 30-year lease with 10-year terms for the City use of the NG property which is intended to use the building for potential rest rooms for transient boaters.

Councilor Hardy asked about any affect to traffic or parking. **Mr. Lento** said the following:

- The remediation of the area which includes the park will be a two to three year project.
- There will be no work done during the summer months (between Memorial Day and Labor Day) so no parking on the Harbor Loop will be affected during that time and the ground surface of the park will be restored to allow use of the park during that same timeframe.
- Traffic will flow down Harbor Loop up to Rogers Street.
- Material will mostly be barged from the water side to a pier where it will be properly managed.
- There will be some truck traffic allowed to the NG substation for transportation of contaminated soils. The majority of contaminated soil will be coming from the water side on barges. Trucks will be used for the sea wall area working from land. The contaminated soil will be shipped to a thermal treatment system in New Hampshire and be recycled travelling out of the City from Rogers Street out to Rte. 128. Trucks are required to be covered at all times and material is not allowed to leak out by federal and state regulation.

Responding to inquiries by **Councilor Verga**, **Mr. Lento** explained about the Harbormaster's office and other issues surrounding its use and the immediate area:

- The docks will be taken out and the Harbormaster's vessels will be temporarily be relocating to another area. The Harbormaster will be able to use the office during the full remediation. NG will provide temporary docking during the summer months.
- There will be no public harbor access through the park during the remediation.
- Access to other properties surrounding the City-owned areas and the leased area of the Harbormaster's office (owned by NG) is under negotiation and the term of the exclusive use would be at least 3 years.
- The work on City affected properties will be Labor Day through Memorial Day and then access will be restored. Use of the park property will not change due to a granting of an exclusive license of use to use Solomon Jacobs Park. The park will continue to be a public park with a deed restriction permanently associated with residential use only.
- The permits are being worked through for necessary approvals through federal, state and local agency approval. There is initial approval from the Mass. Environmental Protection Agency office but NG has not submitted an application to Gloucester's Conservation Commission to date, but it is anticipated that will happen in the next couple of months.

Councilor Hardy, referring to General Counsel's memo to the Mayor dated September 3, 2013 on the remediation of Solomon Jacob's Park; NG has agreed that in settlement of claims that the City may have against NG, with what claims may the City and National Grid be involved in. **Suzanne Egan**, General Counsel said it is claims related the remediation in terms of the contaminated soil and it's clean up. The City is saying that with this remediation to be undertaken by NG, the City will be satisfied and is willing to grant the exclusive license. There are no outstanding lawsuits or pending claims related to this action being undertaken by the Council, she said.

There was a discussion between the Committee, Ms. Egan and Mr. Lento as to the term of the exclusive license due to there yet to be agreements in place with abutters and all permits in place in order for the project to commence. The Committee agreed, in consultation with Ms. Egan, to a term from October 9, 2013 to October 9, 2018, if any extensions are necessary.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, to recommend to the City Council to grant the Massachusetts Electric Company d/b/a National Grid ("MEC") an exclusive license to use Solomon Jacobs Park located at the Harbor Loop area in Gloucester, Mass., as described in the 9.3.13 Remediation Agreement between the City of Gloucester and MEC commencing on or about October 9, 2013 and terminating on or about October 9, 2018, if any extensions are necessary.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent to recommend to the City Council to accept the Activities and Use Limitation Agreement on Solomon Jacobs Park to be recorded at the Essex County Registry of Deeds after the completion of the Solomon Jacobs Park Remediation by the Massachusetts Electric Company d/b/a National Grid.

2. PP2013-004: Petition #2 by National Grid re: Atlantic Road #149 for installation 65 additional feet of underground conduit and 1 heavy duty hand hole (Cont'd from 08/07/13)

This public hearing is opened:

Those speaking in favor and Councilor Questions:

Joel P. Glynn, representing National Grid and the customer at 149 Atlantic Road, Ralph DiGigiorio said they are back before the P&D Committee because when the Committee last permitted for this underground conduit, the plan was for it originally to be placed substantially in the shoulder of the roadway. However, that was deemed by the customer to be not feasible. As a result, a new plan requires 65 additional feet of underground conduit from what was originally permitted, bringing the total length of conduit to 915 feet.

Ralph DiGiorgio said that he went before the Conservation Commission (ConCom) on September 4th. ConCom has issued an Order of Conditions to him for the plans for installation by him of the underground conduit to 149 Atlantic Road. He said he is a site utility contractor and will be doing the work. **Councilor Hardy** asked if this work will be completed by the timeframe indicated by the DPW Director in his memo (on file) of conditions under which opening the roadway can be done. **Mr. DiGiorgio** said would start as soon as the street opening permits are issued by the DPW Director.

Councilor Hardy said she has heard complaints about individuals' backfill road trenches within a year the road which settle and causes rutting of public roadways. She asked if Mr. DiGiorgio will he be responsible for maintaining a roadway upon completion of the work. **Mr. DiGiorgio** said the majority of the work is in the sidewalk and there are only two roadway crossings – at 129 Atlantic Road and at 149 Atlantic Road. He said he would be responsible for the sidewalk. He noted the he trenches across the street will be encased in concrete and said there should be very little settling because of that. He said he would take care of it and maintain the area where he worked moving forward.

Those speaking in opposition: None.

Communications: None.

This public hearing is closed.

Councilor Hardy said this project is to be finished by November 15, 2013 when at that time NG will take ownership. **Mr. Glynn** said a trench inspector from NG will be inspecting the work and approve it, and then NG takes ownership. **Councilor Hardy** said that National Grid will then be taking responsibility for the condition of the roadway ongoing not the property owner. **Mr. Glynn** confirmed the Councilor's statement. She noted this permitting was delayed not because of City Council action but was due to an incomplete NG application and that the Planning & Development Committee had not been given a ConCom sign off until September 16th.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, 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 65' of 2-3" conduit and also one (1) heavy duty Hand Holes to bring the new total of underground conduit to 915' and total heavy duty hand holes to three (3) overall. 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 5/21/2013 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. The applicant has informed Public Works that they intend on installing the majority of the conduit within the sidewalk of Atlantic Road. Two perpendicular crossings to Atlantic Road are required to facilitate this installation. 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. There shall be 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. Final restoration of the excavation shall include: reconstruction of the sidewalk, which includes any and all disturbance to the asphalt berm. The cross trenches within the way shall be restored by installing binder to within 2 inches of the surface, and then 2 inch hot mix asphalt top course pavement with emulsion sprayed on prepared surfaces, including the sealing of all joints.
 6. All work is to be in compliance with the Conservation Commission's Order of Conditions, date of issuance: September 13, 2013.
3. *Review & Recommendation for the Disposition of Real Property re: property located at 8 Washington Street (Legion Building) (Cont'd from 08/21/13) and American Legion Site Visit Report from June 19, 2013*

Jim Duggan, CAO made the following statement: One of the points of discussion of the current leaseholder to provide some adequate maintenance for the facility at 8 Washington Street. The Mayor asked he pass along to the Committee that this RFP process is not intended to displace the veterans. The City needed to do its due diligence to understand the capabilities of the existing tenant. While drafting the RFP, the City wants to maintain the ability to absorb some of the capital improvements within the Legion. They have worked closely with Mr. Nestor who stepped up to the plate and taken a positive leadership role with the Legion and has a tremendous amount of veterans involved in maintaining the facility and anticipates will be a good partnership for years to come.

Attorney Mark Nestor, 45 Middle Street American Legion member and newly elected Commander of the Lester S. Wass American Legion Post No. 3 said he stepped in along with a number of other veterans due to the controversy surrounding the issuance of the new RFP. The Lester S. Wass American Legion Post, he said, has had a long tenure in this historic setting, with its 95th anniversary coming up in 2014. The Post stresses service to community, members and all the assets to benefit the community and veterans. **Mr. Nestor** said there is a new team of Post officers, an E-Board (Executive Board) has been just been established and a new board of directors for the Post is now elected. The Post, he said, is becoming a center for Iraq and Afghanistan veterans as well as a renewed outreach to Vietnam veterans.

Mr. Nestor said that issues are being addressed with Mr. Hale, Donna Compton, and Mr. Duggan. Improvements are being made to the inside, reaching out to the community to make this a fit for everybody but primarily to the American Legion with 242 members. Examples of the Post's outreach and giving back to the community were given such as:

November 9th there will be a welcome home dinner for the Vietnam veterans. On November 11th there will be a Veteran's Day ceremony and dinner at the Post. Thanksgiving, Christmas and Easter are the three major holidays when the Legion serves dinner to veterans and delivers holiday to shut-ins and the City's disabled citizens. He pointed out oftentimes the only people these folks see is the drivers who deliver the dinners with hopes to expand this program. There are plans for a possible Christmas party to bring people in for something that is joyful in the community.

He said that on his watch as Commander of the Post, these are his intentions, he said. The Legion can provide the services inside and out; and the Post will look forward to the RFP and further is asking for a lease for another three years.

Councilor Verga said one of the issues has been the whole building was supposed to be maintained by the Legion. He said he understood that going forward the plan is that the City will handle the building's exterior upkeep and capital improvements like the heating system, and that the Legion will handle the interior and maintenance of that new system. **Councilor Verga** said there are concerns that go back to the previous lease. He asked about the thought of making the upstairs available to community based groups with a charge on a sliding scale. **Mr. Nestor** noted that the Post offers their facilities for free on a case-by-case basis to use the Legion facility either on a sliding scale or for no fee. The Legion building is a community building, he said, but is also a historic gem which has been the American Legion since 1919. They want to make this a welcoming entity for veterans and for community groups. If non-community groups were to use the Post, there would be a fee. There is a new bar manager and a new team, but here is more to be done, he noted.

Councilor Verga asked about plans for the interior to maintain it in this historical building, and what are the guidelines and safeguards. **Jim Hafey**, Facilities Manager said there has been no talk of the interior work yet to make sure it is done to maintain historical accuracy. **Mr. Nestor** said that he has discovered the original paint plan, and that there will be a matching issue. **Mr. Duggan** said when Mr. Hafey is able to schedule the appropriate improvements to the property; the Historic Commission and Historic District Commission will be brought in to consult.

Councilor Hardy asked if the Historic District Commission was involved in the exterior and interior of the building. **Mr. Duggan** said he was unsure if they have significant input inside. Considering the rehabilitation job in 1991 when addressing those concerns the historic factors will be embraced. **Councilor Hardy** said that if the Historic District Commission is involved in the interior that it should be included in the RFP. **Mr. Nestor** said The Historic District Commission's purview is the exterior features. As far as the interior, the building is outside the historic district although it is a state historical building, he said, but the Post would do its best to match the interior paint to the old guides; the outside paint much match

Councilor Hardy said when there was a site visit, there appeared to be some ADA issues and asked if they had been addressed. **Mr. Hafey** said he did not know of any ADA violations. The elevator is working properly which is inspected every year, he said. **Councilor Hardy** asked if door handles have to be addressed as with City Hall. **Mr. Duggan** said that things of that nature would be made to come into compliance if there is a large scale renovation undertaken of the interior. **Councilor Hardy** said she believed it is at 30 percent of the assessed value. **Mr.**

Duggan said it would be from the assessed value of \$661,500, about \$190,000 in renovations to trigger ADA compliancy (30 percent of assessed value) which standard practice, he said.

Councilor Verga said he wished to see confirmation that with renovation of the interior it may affect with the grant money that had been used for the 1990 renovation. **Mr. Duggan** said that he requested to the Auditor's office which will take time to do. The Committee requested the Clerk of Committees send a reminder to the City Auditor about the grant research.

Councilor Hardy expressed she was pleased that Mr. Nestor was now involved with the Legion and was part of the reason she would vote affirmatively to move this RFP forward.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, to recommend to the City Council to approve the RFP #13155, Disposition by Lease of City-owned Land for Property Located at 8 Washington Street, Gloucester, MA as put forward by the City Administration with the terms and conditions as presented and as incorporated in this approval.

4. Free Petition in accordance with City Charter Sec. 9-1(b) re: Condition, Restoration and Preservation of Stage Fort Park (Cont'd from 09/04/13)

Councilor Verga said this matter would go before the Council on October 22nd for public hearing.

George Roark, 15 Beauport Avenue said that he is before the Committee for a petition for the restoration and preservation of Stage Fort Park. He displayed a map of the park from 1898 and pointed out pathways on the map. He referenced 51 photographs (on file) which he said showed deterioration of the park's pathways and other relevant features. He noted a request for funding from the Seaport Advisory Council for the Stacy Boulevard Seawall and engineering plans were completed in 2007 but the request remains unfunded. Because of that, he said, the Lucy Brown pathway has not been repaired but added there is a way to fix the Lucy Brown pathway without that funding. He noted a picture of a path coming down by the rose garden. He said the path was loose crushed hot top. Sections of the wall has missing stones which he said wouldn't take much to fix. There is a section of the railing on the seawall that is missing which he said was a safety hazard. He showed the Committee a display of six photos with a GIS map of the park leading to Cressy's Beach saying that the path there is in disarray and asked that the path be restored. He said the 400 year anniversary of the park is coming up and asked that over the next five to eight years these projects could be done.

Mr. Roark noted there is an area from the Visitor's Center to the fort which will be an improved hopefully funded by CPA funds at the request of the Friends of Stage Fort Park in the near future. He noted the Tony Gentile bandstand with the bare ground saying there is no reason not to fix that area. The Rotary Club, he noted, will bring forward a plan to fix the bandstand. He again reiterated these repairs to do not take a lot of money. He pointed out a picture of the Farmer's Market with tents and cars. He also noted the parking lot across the street with trash tossed there. He said the Friends envisioned moving the Farmer's Market into the circle so that the area around the bandstand could be restored. It would never be fixed if cars continue to park where the Farmer's Market is continued to be located there, he contended. He said at one time the park was maintained beautifully and noted an old fountain suggesting it could be moved by the bandstand. **Mr. Roark** pointed out areas of loose fill and the path going past Cressy's Beach up to Western Avenue.

Mr. Roark pointed out that the volleyball field hasn't been maintained, by the City, nor is it used. By removing it, the field may drain better and be better maintained, he said. The park, he noted starts at the canal and is 61+ acres. He noted the granite stairs that are in disrepair off of the Boulevard and said it could be fixed. He said he understood work has been done, but the railings are rusted out and falling apart. He pointed out other areas of disrepair on the Boulevard, noting a photograph of the sidewalk at the Fisherman's Wives Memorial. Lastly was the area between the street and sidewalks which he also suggested would not cost much money to fix.

David Dow, 12 Essex Street said a top priority is to fix the stairs from the Lucy Davis Path to the top of the park and that all the stairways are in bad shape. Secondly, he said the Friends are proposing there be a ban the use of charcoal in the park since disposal of the charcoal is a problem. He said he is talks with the Fire Department about the use of propane grills in the park. **Mr. Dow** said he would like to see two positions established for "park rangers" to do park maintenance and spend the day walking through the park to keep an eye on things. He said at 84 hours a week for two park rangers covering the park 6 a.m. to 6 p.m. at \$10/hour would be \$840/week. If this was done for fourteen weeks it would be \$11,700 in salaries which could easily be made up in parking fees, he suggested.

Susannah Wolfe, 3 Old Salem Road (written statement submitted) said that the mission is to increase the awareness of this iconic park. She noted Fitz Henry Lane painted from this park. This is to make this park pride of

place; and that it should fostered to make the park a walkable park. She also suggested that this park be a carry in/carry out park policy for trash.

Councilor Hardy asked about the action the Council is being asked to do. **Mr. Roark** said that the Friends of Stage Fort Park would like to see: The establishment a revolving fund funded by parking fees to maintain Stage Fort Park; start a Board of Commissioners to oversee the park; seek additional funding from state sources for park improvements.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, to recommend to the City Council that to ADVERTISE FOR PUBLIC HEARING for October 22, 2013 in reference to a Free Petition in accordance with City Charter Sec. 9-1(b) regarding the Condition, Restoration and Preservation of Stage Fort Park.

5. RZ2013-001: Norman Avenue #18 Assessors Map 170, Lot 43 from R-20 (low-Medium Density Residential to VB (Village Business) (Cont'd from 09/04/13)

Attorney Robert Coakley, representing Jon von Tetzchner, Petitioner, Curry Properties LLC, 18 Norman Avenue, said that the Petitioner is asking to take 18 Norman Avenue, Lot 23, Map 170 and move it the zoning classification as Village Business. An Affidavit of Notice of public hearings and meetings was submitted for the record it was noted. **Mr. Coakley** said that there was a neighborhood meeting orchestrated by Councilor Verga; there was the Planning Board meeting review of this requested zoning change, and this is the second Planning & Development Committee meeting where this matter has been taken up.

He explained his client; an Icelander who owned and operated a successful software company which was a popular European search engine, Opera. Mr. Von Tetzchner, he said, resigned his position and looked around the world to relocate his family and settled on Shore Road in Magnolia. He said Gloucester is a site where his client envisions it could be like Silicon Valley. He noted this use of this large property, that of an "innovation house." This property currently has a Bed & Breakfast concern; has an annex which has a motel use with two apartments. Small weddings are hosted on site, and an office is associated with conducting the business of the inn where concierge services are provided.

Mr. Coakley said the new use envisioned by his client would fit seamlessly into the neighborhood. In listening to the neighbors, he said, the neighbors aren't aware of any noise from the property or the business activities being conducted at the Bed & Breakfast. What the owner proposes has a business flavor with offices which his not an allowed use. Because Mr. Coakley's client is making a substantial investment in the building, and because he wants to be a good neighbor he didn't wish to just proceed. Neighbors asked why Mr. Von Tetzchner didn't just go to the Zoning Board of Appeals. **Mr. Coakley** said that would be a use variance which would have to show no other practical use for that property and so this wasn't an option. The avenue open to them was to move the property into the Village Businesses District which runs along Lexington Avenue which would allow Mr. Von Tetzchner to do what he intends to do, he said.

Noting that people travel with smart phones, iPads, and laptops today, there is wi fi capability on site now, he said. **Mr. Coakley** noted that his client envisions bringing former employees and clients, people who are interested in new ideas to develop new businesses, who would not be paying guests at this innovation house. His client proposes to subsidize the operation of this facility, he pointed out.

Mr. Coakley said the neighbors do not object to what his client is doing but are concerned about what happens in the future to the property. He told the Planning Board two weeks prior that they would meet with the neighbors which they did, he said (report on file). **Mr. Coakley** pointed out that the Planning Board unanimously endorsed this change in zoning. Business uses are regulated under the use ordinance. Business uses are within the purview, he said of the ZBA under a special permit or the City Council. He said there are a series of uses that are allowed by permit, SPS, CC and CCS. When they met with the neighbors, they presented them with a proposition that accept for the uses Mr. Von Tetzchner wanted to maintain that would be taken off the table, and that they would enter into a private covenant, that those uses, even though allowed would not be uses that would be allowed on this site and is enforceable by the neighbors. **Mr. Coakley** said that the only thing to be retained was the restaurant feature so that food service operations that are implicit in his client's future plans and have been maintained but would take it away but reserve the right to provide food to any clients/guests on the property. The other concern was the zoning parameters for setbacks in VB District are liberal and not as restrictive the R-20 district. He said as to the sidewalks, they were offering to restrict the property which is about a 2 acre site by agreeing to have this property governed by R-20 setbacks which is 30 feet front and rear, sides are 20 feet. The Restrictive Covenant has been sent to abutters and has to accept this proposal and has the ability to enforce it. **Mr. Coakley** said this was a benefit to the neighbors

and has heard back from neighbors that the protective covenants were appropriate. He noted copies of emails about this protective covenant were placed on file along with a copy of the proposed restrictive covenant. Dick Wilson is an immediate abutter who has been at all these meetings who sent an email to Mr. Coakley endorsing the plan to move this property to Village Business. He said he received calls from a large multi-family owner across the street as well as another neighbor as well signifying that this plan was good for the neighborhood. One of the neighbors noted this appeared to be more of a corporate retreat, which **Mr. Coakley** said was an apt description. This innovation house will bring educated and talented people together to promote business development, he said. Neighbors commented that in looking at VB definition, it is primarily defined as serving the needs of the community. **Mr. Coakley** said that in order for the village district to thrive there needs to be an infusion of financing, creativity and innovation. He said there is a benefit to the Magnolia community by the institution of this innovation house. There are no plans to change the footprint of the building but to make some minor changes only. There will be a property manager supervising on site. If there is someone creating a commotion, they will be asked to leave, he noted. He said Mr. Von Tetzchner will have his own office on site, and there will be accommodations for 40 guests. Residential aspects will be reduced. He said all concerns are being addressed and are willing to so voluntarily.

Councilor Hardy asked how a private agreement is enforced. **Mr. Coakley** said a private restriction gives the abutters the advantage to enforce the protective covenants through the courts against the owner should there be a violation. **Councilor Hardy** questioned whether it would be less expensive to pursue it through the Building Inspector and the Council. **Mr. Coakley** said that once this property becomes Village Business is governed by the Zoning Board. It can't be conditioned as one lot in the business district.

Councilor Verga discussed whether the Council vote could be conditioned on the execution of the protective covenants. **Mr. Coakley** said that to do this, his client has to take title. He can't grant it if he doesn't own it. Also, until the change of the zoning classification is final, it can't be done either. He said between himself and two other lawyers involved with abutters that they could come up with an escrow arrangement that this could go into effect should this be passed without appeal by the neighbors. **Councilor Hardy** said what if the property owners change within the restrictive covenant. **Mr. Coakley** confirmed the covenant binds any successor who owns 18 Norman Avenue and any change in abutting owners involved in the protective covenant.

Mr. Coakley said his client doesn't want a restaurant on the site as it is too close to abutters but wanted to reserve the right to provide food, with no liquor license, to anyone staying within the innovation house. **Councilor Hardy** asked if this food would be cooked on site. **Mr. Coakley** said food will either be prepared on site or catered. He pointed out that staying at the innovation house will be by invitation only.

Jon Von Tetzchner, 18 Shore Road said he moved to the City a year ago to Magnolia. After leaving the company he built over 17 years he needed to decide what to do moving forward, and after looking at California, he decided to move here with his family. He said he has a feeling for those starting a business, and is trying to tie in with friends doing similar projects like he envisions bringing them to Gloucester. He is looking at companies in Norway and Iceland to bring them here to work to address the U.S. market and also for him to have a local office here as he is starting a software company here also. He said he would bring over people to work for his software firm, as well for other small firms. The idea is not about making money from helping companies. This is to help companies to get started. **Mr. Von Tetzchner** said a colleague of his is moving from Iceland to be in charge of this project. She will be living in the neighborhood, as does he.

Councilor Hardy said no one would live in residence to oversee the property 24/7. **Mr. Von Tetzchner** said at this time there is no plan to have someone full time on the property.

Tom Daniel, Community Development Director said that he was in support of this application having worked with Mr. Von Tetzchner for the last several months in moving forward the innovation house project. He said it is a creative opportunity, investment and boon to Magnolia and City. This is an opportunity for collaboration of creative entrepreneurs engaged in local and outside businesses. He suggested some new businesses may end up being sited in the City as well. This is consistent in growing the City's economy in a new way, he said.

Councilor Verga said he appreciated the voluntary deed restrictions to make this change palatable to the majority of the neighbors.

Councilor Hardy noted that this matter will be taken for public hearing by the Council on October 8, 2013.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee under Gloucester Zoning Ordinance Section 1.11 and MGL c. 40A, §5, voted 2 in favor, 0 opposed, 1 (Tobey) absent, to recommend to the City Council Grant the proposed rezoning petition of the owners of Norman Avenue #18 to change the zoning designation for Norman Avenue #18 (Assessors Map 170, Lot 43 with a property depth of 250+ feet, a frontage of 261.29 feet and a lot area of 75,263 +/- square feet),

from R-20 (Low-Medium Density Residential) to VB (Village Business); AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

The Committee recessed at 8:16 p.m. and reconvened at 8:20 p.m.

6. *CC2013-021 (Verga) Develop and implement a use and fee structure for Magnolia Woods facility under GCO Sec. 2-558 and amend GCO by adding new subsection 2-555(1) (a) entitled, "Use and Fee Structure" (Cont'd from 09/04/13)*

Mike Hale, DPW Director said earlier this summer asked to look at rules and fee structure for Magnolia Woods. At the same time they were doing rules and regulations for Newell Stadium. He said it made sense to do it for all recreational facilities in the City. Before the Committee is a draft of Athletic Fields Rules and Regulations which he reviewed with them along with the proposed tiered fee system for facility use.

Mr. Hale also touched upon facility security, especially at Newell Stadium and issues surrounding other facilities as well, such as Magnolia Woods and all the challenges facing the DPW involved in this matter. He also noted the fall season is just about over; and that it would be worth bringing the draft rules and regulations to the stakeholders for their input once the draft is final but before it comes back to the Council and possibly hold a workshop with those same stakeholders when that point is reached.

This matter is continued to February 19, 2014.

7. *Discussion of Recreation Committee (GCO c. 15, Sections 15-15 & 15-16) possible consolidation with Open Space & Recreation Committee or reconstitution same (Cont'd from 09/04/13)*

This matter is continued to October 15, 2013.

8. *Memorandum from Harbormaster & pertinent material re: draft Engineering & Marketing Feasibility Assessment for a Transient Marina*

Ralph Pino, Waterways Board Acting Chair said that the Board went before B&F a week ago on this matter. Tony Gross, former Chair of the Board has also appeared before the P&D Committee on this matter as well. The Board, he said, unanimously voted not to go forward with the Transient Marina. He indicated Susan Neilson was present from CLE Engineering who made the engineering assessment of the prospective transient marina to speak to the report if needed. It was clear to the Board that it was inadvisable to go forward, he said. **Mr. Pino** added that the Board concurs with the report. At the time of the DPA discussions, a change in the DPA to allow a marina tied to land is much more advantageous. With a change in those regulations it would provide better access and be more popular and allow private industry to enter that business with transient facilities and save the City money.

MOTION: On motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee accepted the memorandum from the Harbormaster and pertinent material for the Draft Engineering & Marketing Feasibility Assessment for a Transient Marina with no further action required at this time.

9. *CC2013-039 (McGeary) Amend Gloucester Zoning Ordinance Use Table 2.3.2 (Community Service Uses and Sec. 5.27 re: Medical Marijuana Treatment Centers (Cont'd from 09/04/13)*

Councilor Verga said that the Planning Board at its September 19th meeting continued its public hearing on this matter, and that the P&D Committee is still awaiting that Board's recommendation, and so would continue this matter to the Committee's next regularly scheduled Committee meeting of October 15th.

This matter is continued to October 15, 2013.

10. *Review & Recommendations for the Disposition by Sale/Purchase of Real Property, RFP #31338 re: 6 Stanwood Street (Cont'd from 09/04/13)*

Gary Johnstone, City Assessor informed the Committee that the assessed value of 6 Stanwood Street is \$230,700, which is its market value. He said this is the same valuation formulated that the Assessors' value all other properties in the City, and adjusted for style of property and valuation of land. **Ms. Egan** noted that the \$1,000 minimum bid as shown in the RFP is a placeholder with the understanding that number can be changed by the Council will make a determination as to the property's value and is not being put forward as a recommended sale price; rather, what is recommended is fair market value.

Councilor Hardy, referring to Agenda Item #11, a request for an easement regarding 6 Stanwood Street, said that upon on the transfer of the 6 Stanwood Street property, rather than having the City issue the easement on th property, she would want to allow the people or entity to whom the property is transferred to upon a successful bid, thereby making the RFP contingent upon granting an easement to 541 Washington Street and let the successful bidder work out an easement for an amount of money. **Councilor Hardy** further clarified the City would grant, based on whatever amount of money the Council agreed to, that the property transfer would be conditioned upon the granting of the easement by the successful bidder, to the requestor of the easement as well as the filing of the easement in the Registry of Deeds be done by those parties.

Ms. Egan said she did not see a problem with this conditioning proposed by Councilor Hardy. She pointed out that language for an easement is simple, and that it is really the dimensions of the easement the City needs on a surveyed plan which has yet to be filed. She said the only issue this raises is the value of the property that is conveyed; and that there should be some parity when there is a discussion of the easement conveying it to an abutter. **Ms. Egan** added if the City sells the property for fair market value but does not get fair market value, when the new owners own the property she said one would want to make sure they are not selling the easement to the abutter at fair market value. **Councilor Hardy** put forward that the new owners would be expected to work as good neighbors and grant the easement. She said it should have nothing to do with the City. **Councilor Verga** said by the new owners conveying the easement to the requestor, it would be less complicated for the City as well.

Gregg Cademartori, Planning Director said in fairness, both CAARA and the applicant for the easement put an application for 6 Stanwood Street at the same time. Based on this fact, the question was whether it was appropriate to grant this easement, he said. The Council is then saying the applicant for the easement is no longer dealing with the City, but are now dealing with someone else other than the City which he said was the Council's prerogative. He noted that the plan that came with the easement request did not define the area of the property that was being requested which the requestor is now having prepared. The specifics of the actual location of the easement are not defined at this point, but the request remains to same, for the requestor to pass and access her property on Washington Street.

Stanley Stone, President of the Cape Ann Amateur Radio Association (CAARA) whose organization currently maintains a communications center on the 6 Stanwood Street property that during public emergencies and large events serves the whole city, said related to the price of the property, CAARA has already as a tenant paid for a survey of the property which was a condition of the lease that he said the City should have paid for because it is city property. It cost CAARA \$750, he noted. He said CAARA is willing to pay the \$1,000 minimum bid.

Jim Duggan, CAO said that approximately two years ago the Council faced a similar situation with the Disposition for Sale of the Blynman School House to the Magnolia Historical Society (MHS), with the price negotiated taking into consideration what that organization brought to the City as a whole. He said this is a similar situation; and that CAARA has been at this location for a number of years. **Mr. Duggan** pointed out that CAARA is a pivotal team member when there is a City emergency and the opening and maintaining of the Emergency Operations Center. When the Administration was approached by CAARA about purchasing this property, the RFP was based upon what was observed by the MHS purchase of the School House and thus the \$1,000 placeholder for the City Council to negotiate a price, he said. He said the School House property would be conveyed back to the City as a right of refusal with a certain amount of improvements to be done. If certain conditions for these improvements were not met, if the organization became defunct, the property would revert back to the City with no reimbursement by the City to the organization for any capital improvements made by them.

Councilor Verga said he wanted to see the same sort of conditions with this Disposition by Sale which would prevent the property from being sold immediately for a profit. **Mr. Duggan** said the conditions from the sale agreement for the Blynman School House would be forwarded to the Council.

Ms. Egan said that the conditions were plugged in after the RFP. The RFP has to go out to offer the property. The details are not appropriate now, but are for a negotiation; it is appropriate when there is a bid for the property and negotiations begin for its purchase. **Mr. Duggan** said the conditions and price were negotiated discussed with the B&F Committee.

Councilor Hardy said she would like to see the minimum bid upped. **Councilor Verga** said that Magnolia School House was in a poor condition when it was sold with a number of issues; foremost of which was the potential

of a failed septic system. This property it is not quite the same, he said. He agreed there needed to be an uptick for the minimum bid. **Councilor Hardy** suggested 1 percent of the assessed value. **Councilor Verga** said there is full recognition of the benefit of CAARA to the community but he would be in favor of raising the minimum bid.

Mr. Stone discussed his concerns with the Committee for his organization, should they be the successful bidder, about the granting an easement to the abutting property and it being permanent on the Deed.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, to recommend to the City Council that the Request for Proposal #31338, as received by the P&D Committee on October 2, 2013 for disposition by sale of the City-owned property at 6 Stanwood Street (Map 111, Lot 8, zoned R-10), be authorized by the City Council pursuant to the terms and conditions of the RFP and pursuant to the Code of Ordinances Sec. 2-3 (a) (2) and 2-3 (a) (4) and MGL c. 30B with a minimum bid of \$2,300 conditioned upon the new property owner for a property located at Map 111, Lot 8, 6 Stanwood Street granting an easement to a property located at Map 111, Lot 6, 541 Washington Street to pass and repass for the purpose of access for parking for 541 Washington Street.

11. Memorandum and pertinent material from Planning Director re: Land Disposition Committee Recommendations on 6 Stanwood Street; 19A, 19R and 23B Harbor Loop, and 4 Lane Road (Easement Request by Karen Elliot, 6 Stanwood Street Cont'd from 09/04/13)

A. 6 Stanwood Street

Motion: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, file the application for an Request for Easement for 6 Stanwood Street until the disposition of the RFP and bid award has been made for 6 Stanwood Street.

B. 19A, 19R & 23B Harbor Loop

This matter was completed by the votes taken under Agenda Item #1.

C. 4 Lane Road

Mr. Cademartori said that the Waterways Board reviewed this matter as did Land Disposition and both endorsed the water line easement.

Mr. Pino said that on April 17th the Waterways Board unanimously voted to allow the easement and installation of water lines with conditions which he read from a Waterways Board memo (on file). He said the owner of 4 Lane Road Mr. Gardiner agreed to the Board's conditions.

Ms. Egan said that Mr. Gardiner has been pursuing this easement for about a year. He knew that the Committee would take this matter up. **Mr. Pino** said Lane Road is a solid dirt road. The Waterways Board concern was that there is a continuing obligation on the part of the owner because of possible settling of the roadway after installation of the water lines. The public landing adjacent to this property has two accesses – one off of Lane Road and one around the corner up closer to Washington Street where there are two/three parking spaces. There is something there that might be considered a boat ramp.

Cate Banks, Waterways Board member said Lane Road runs between the house on 4 Lane Road and the Annisquam Village Church. Going down Leonard Street to the other end of the Gardiner's property is where the water line would go servicing the red barn on the property. The house address is Lane Road, and the City-owned property surrounds the Gardiner property.

Mr. Hale confirmed to the Committee that the nominal consideration is usually pegged at \$1.00 for this sort of easement.

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 (Tobey) absent, under Code of Ordinances Sections 2-3 (a) (2) and 2-3 (a) (4) and 2-3 (d) to recommend to the City Council to grant a water line easement, for a nominal consideration of \$1 to be paid for 4 Lane Road and 151 Leonard Street from the City of Gloucester to the property located at 4 Lane Road off of 151 Leonard Street (Certificate #14564 filed 6/4/1943, Plan dated

12/16/1942). Easement documents, including a plan for Council approval is to be prepared by Gateway Consultants and to be recorded by the owners of 4 Lane Road.

12. CC2013-030 (Whynott/Hardy) Request City Council investigate double pole situation (Cont'd from 09/04/13)

MOTION: On a motion by Councilor Hardy, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed to file CC2013-030 in its records with no further.

The Committee asked that the Clerk of Committees forward an email to the Council asking that ward Councilors document double poles in their wards and forward that information to the Electrical Inspector, Charlie Mahoney.

A motion was made, seconded and voted unanimously to adjourn the meeting at 9:00 p.m.

Respectfully submitted,

**Dana C. Jorgensson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Draft, "Gloucester Athletic Fields, Rules & Regulations, submitted by Michael Hale, DPW Director**
- **Outline of Statements by George Roark submitted by George Roark**
- **8-1/2 x 11 inch color print of an area of Stage Fort Park showing trash discarded around picnic benches and trash barrels on the ground submitted by David Dow**
- **Written statement by Susannah Wolfe regarding Stage Fort Park**
- **Rendering of a plan of Lot Area regarding Lane Road and Leonard Street by Gateway Consultants from a file with the Planning Director**
- **Affidavit of Service certifying the applicant for a rezoning of Norman Avenue #18 advised abutters from the official Abutters print out sheet from Assessor's Office of the Planning & Development public meeting and a Summary of Uses of Norman Avenue #18, as well as a draft Restrictive Covenant regarding same property.**