

CITY COUNCIL STANDING COMMITTEE
Planning & Development Committee
Wednesday, October 15, 2013 – 5:35 p.m.
1st Fl. Council Conference Room – City Hall
MINUTES

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

Absent: Councilor Jackie Hardy, Councilor Bruce Tobey

Also Present: Linda T. Lowe; Police Chief Leonard Campanello; Donna Compton; Jim Duggan; Gregg Cademartori; Suzanne Egan; Tom Daniel; Steve Winslow; Jonathan Pope; Kathy Clancy; Dr. Richard Safier; Nick Taormina, Chair of West Parish School Building Committee; Kevin Buckley, Owners Project Manager from the firm of KBA; Karen Elliot; Sandra McGrath; Hank McCarl; Stan Stone; Councilor Melissa Cox

The meeting was called at 5:35 p.m. to order with matters on the agenda taken out of order.

1. Memorandum from CAO requesting City Council approval of a Construction Manager at Risk (CMAR)

The Construction Manager at Risk Method for West Parish School was presented by **Jim Duggan**, CAO and explained that this allows for reimbursement to be increased by one (1) percent. **Nick Taormina**, Chairperson of the West Parish School Building Committee said he recommends this method as it has many positives to use the Construction Manager at Risk, including checking on contractors. **Kevin Buckley**, the O.P.M. of the KBA firm, strongly recommended the Construction Manager at Risk. He stated that you will know before construction start what the guaranteed price will be because the contractor participates in design phase. **Jonathan Pope**, Chair of School Committee, said that this method offers a guarantee as to cost versus looking for lowest bidder. **Councilor Ciolino** asked Mr. Buckley to explain the CMAR process. **Mr. Buckley** stated that they have to meet strict CMAR requirements to participate and allows the City great flexibility. It does not eliminate the Clerk of the Works. **Kathy Clancy**, School Committee member, said she supports this approach, particularly because it allows contractor to be on board early with the project. **Mr. Buckley** said that even after Council approves method, they must still go to Inspector General for approval of this process. Councilor Ciolino said that he didn't want to repeat history of Gloucester High School construction. **Nick Taormina** said he is familiar with the bad experiences with Gloucester High School. He was on the committee along with Jonathan Pope that got to resolve some of the issues after the fact with some settlement money and some of the conditions of that project are still problems down there today. The process down there left the City hanging, and after going through that process and not having enough money to get things done, building a team with the contractor and having him partake early in the process it benefits everyone. He becomes invested and a member of the team and the lines of communication are open and there are a lot of positives that come out of that.

MOTION: On a motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed 1 absent to recommend to the City Council to approve a Construction Manager at Risk (CMAR) under MGL c. 149A as a public construction alternative to the Design-Bid-Build method under MGL c. 149 for the West Parish School construction project.

2. 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 10/02/13))

Councilor Verga asked Greg Cademartori, Planning Board Director, to highlight the Planning Board's recommendation. Mr. Cademartori said the council members were just forwarded the draft that was by Council order by result and also by Councilor McGeary. Since that initial referral, there was a staff meeting at the Health Department with the representatives from the Police Department, as well as Building, and others that have an interest in this potential ordinance. Discussions at that meeting were draft recommendations, which were reviewed at Planning Board at its public hearing. Highlights of them over the initial draft are that originally all commercial districts were fair game for potential proposal by special permit by the City Council. After some discussion about the likelihood given that these maybe larger facilities, many of the smaller commercial districts like neighborhood and village business are entirely inadequate for potential use, as well as safety concerns. They are scattered about through the community in existing residential district areas. It was reduced to focus on the business park which has

the largest lot size, average lot size in the community as well as limited access from the highway from the potential of public safety. Additionally, there are set backs that are in the DPH regulations, but there was also a concern of potentially adding some setbacks from residential properties as well. The setbacks that were drafted in the proposal in the council order that Councilor McGeary put forward were added to with an additional setback of 500 feet from any residential property. There was also a concern in terms of what an application would look like, and there was suggestion that it mirrored the submission requirements and standards of a major project. Mr. Cademartori said these are the highlights of the proposed changes which would greatly reduce the potential but will still be allowed by special city council permit in the business park district.

Chief Campanello said that Greg Cademartori and Planning Board did an outstanding job of threading of what is going to be really a thin needle. The entire state has been handled a mess in terms of what has been done legislatively. The Planning Board has done a great job with walking that line between in what the referendum was by the voters and the legality of what the issue is now and compared to what we face in terms of social issues as a community. Where he would weigh in, speaking from his position as the law enforcement official in the City, the zoning amendments as presented by Planning Board are excellent. The City is pretty much in standing with what the rest of the state is doing by communities. From a police enforcement standpoint, wherever they are zoned for, they will do the same job. Socially, they will also be placed in places, as a community, where they would want them to be. **Chief Campanello** said they didn't want to send the message out that you don't want to place these next to a school or next to a residential area because it presents the wrong mind set, and they deal with prevention, education and enforcement in different areas. He applauded the Planning Board for their inclusion of police department and pre-forming the zoning amendment. He applauded Councilor Verga and Councilor McGeary and the rest of Council for proposing these amendments, and is in favor as it stands. Hank McCarl said that on behalf of Planning Board, he thanked the Chief of his compliment.

MOTION: On a motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed 1 absent to recommend to the City Council that it Amend the Gloucester Zoning Ordinances by ADDING the following under Section 2.3.2 Use Table (Community Service Uses):

	F n	R - 8 0	R - 4 0	R C- 40	R - 3 0	R - 2 0	R - 1 0	R-5	C C D	C B	V B	N B	E B	M I	G I	B P	
Medical Marijuana Treatment Center	*	N	N	N	N	N	N	N	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	C C S
Medical Marijuana Cultivation Facility	*	N	N	N	N	N	N	N	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	<u>N</u>	C C S

And a new footnote:

- In accordance with restrictions set out in section 5.27 below.

MOTION: On a motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 absent to recommend to the City Council that it Amend the Gloucester Zoning Ordinances by DELETING Sec. 5.27 in its entirety and by ADDING the following under a new Section 5.27 entitled “Medical Marijuana Treatment Center and Medical Marijuana Cultivation Facilities as follows:

5.27 Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities

5.27.1 Definitions.

A “Medical Marijuana Treatment Center” is defined in Section VI of this ordinance.

A “Medical Marijuana Cultivation Facility” is defined in Section VI of this ordinance.

5.27.2 Purpose.

It is the purpose of this section titled “Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities,” to address and mitigate the secondary effects of the presence of Medical Marijuana Treatment Centers and Medical Marijuana Cultivation Facilities and drug dispensing and cultivation oriented businesses that are referenced and defined herein. Secondary effects have been shown to include increased crime, adverse impacts on public health, adverse impacts on the business climate of the City, adverse impacts on the property values of residential and commercial properties and adverse impacts on the quality of life in the city. All of said secondary impacts are adverse to the health, safety and general welfare of the city and its inhabitants. It is the purpose of this ordinance to establish specific standards and procedures for local licensing permitting of medical marijuana dispensaries, medical marijuana infused products, manufacturers and medical marijuana cultivation operations. The provisions of this ordinance have neither the purpose nor intent of imposing a limitation on the content of any communicative matter or materials. Similarly, it is not the purpose or intent of this ordinance to restrict or deny access by adults to Medical Marijuana Treatment Centers or to other related matter or materials that are protected by the Constitution of the United States of America or of the Commonwealth of Massachusetts, nor to restrict or deny rights that distributors of such materials may have to sell or distribute such materials. Neither is it the purpose or intent of this Ordinance to legalize the sale, rental, or distribution of illicit or other illegal matter or materials.

MOTION: On motion by Councilor Ciolino, seconded by Councilor Verga, the Planning & Development Committee voted 2 in favor, 0 opposed, 1 absent to delete the Temporary Moratorium on Medical Marijuana Treatment Centers adopted by City Council on July 23, 2013.

Mr. Cademartori pointed out that under GZO Sec. 1.11.4, we are required to notice all owners of all property included in and abutting the area of the City to be affected by such amendment. Under Sec. 1.11.4, this notice may be waived by vote of the Council if they determine that the proposed amendment affects so many people notice is impracticable.

3. Memorandum from Mayor re: Market Readiness for I4-C2/65 Rogers Street (Cont'd from 09/04/13)

Tom Daniel, Community Development Director said he was back to give an update to the committee. Last year in September, the path they were on with I4-C2 was working with the Gulf of Maine Research Institute (GMRI), and that they would be holding their first meeting the first week in October after which they would know whether to continue with GMRI through their full process or stop. They met October 1st and had a day long workshop, and decided that they are going to continue with the process with merit. The next step is to meet late in November, then in January and report back to Council and Mayor would be in early February. **Councilor Ciolino** asked **Mr. Daniel** on whether this was a report on the harbor or I-4C2. **Mr. Daniel** replied it was on I4-C2. **Councilor Verga** said that GMRI's specialty was not profit. **Mr. Daniel** said GMRI is based in Portland and developed a facility that is a mix of tenants related to ocean and various maritime uses there. They have a larger site and a multi-phased plan for their site. They are engaged with folks throughout the Gulf of Maine that are working on different things from fishing to research to shore side businesses. The reason they retained GMRI for this was because of their expertise both in terms of having developed a facility of their own but also having connections to organizations and individuals who might be interested. **Councilor Ciolino** asked **Mr. Daniel** if they were developing an RFP on this site. Mr. Daniel replied it wasn't an RFP. It was a feasibility analysis looking at a multi-tenant ocean development center on the site. **Councilor Verga** said that this was a result of a second RFP that failed, we went a different route. Mr. Daniel agreed and said that there was an RFP for marketing and development services, and they had one response they felt was not qualified. Other feedback through that process was that they needed to explore and go more in depth. They are really looking at a public/private partnership and what that might look like. With this information, they came back in June and changing path going deeper into that analysis with the GMRI's assistance. Councilor Ciolino asked whether they still didn't have anyone interested in this site. Mr. Daniel confirmed not at this time. **Councilor Verga** commented that they have not been really seeking anyone since the full RFP. The purpose of this process is see real organizations and real entities that have space needs and trying to cobble them together. People have been interested but they do not have the capacity to do it all. What they can identify, and group them together, they may

have enough to make a project. **Councilor Ciolino** commented that the City keeps on studying this project with design proposals, etc. and it is tiring. **Councilor Verga** said that the argument could have been made the City should have done analysis before it was bought from this point of view. One thing to keep in mind as it seems their focus is nonprofits, whether public or private, and he didn't think they should close the door on for profit in something that is going to create jobs as well as property taxes. **Mr. Daniel** wanted to make it clear that is it not nonprofit and not for profit. It is looking for users that can fill the space. In the context of a public, most likely there will need to be some public participation to make a feasible development. Most likely there probably will be need for public to make it a feasible development. The mix of the tenants may all be for profit entities and even with that there most likely be some public participation. **Councilor Verga** asked the question to Mr. Daniel that GMRI be telling us maybe here is what they want to do, build this and we will bring the people in. Mr. Daniel said that is not the model they are looking for. It is looking at the potential mix and looking at the business model behind that. **Councilor Ciolino** said that when the City bought this, the Council promised the citizens of Gloucester that this would be on the tax rolls. He said that he is disappointed, whether public or private, that was not what the intention was for this site. **Councilor Verga** said that unfortunately that was where Council got redirected, and he agrees one hundred percent that he didn't vote for a parking lot and he didn't vote for some freebee down the road. Hopefully, after seeing the report and seeing what is realistic, at that point Council may not say that was not what they were looking for. Mr. Daniel said they are trying to do the analysis and get the information so that good decisions can be made.

4. Memorandum and pertinent material from Planning Director re: Land Disposition Committee Recommendations on 6 Stanwood Street (Easement Request by Karen Elliot, 6 Stanwood Street (Cont'd from 10/02/13))

Councilor Verga said that Council did not yet take action on this and is still on the agenda. He asked Ms. Elliot if there was anything else to update them on. Ms. Elliot said that she was not exactly sure what an easement was and what she is asking for is a legal right of way to know that she can go in and out of her yard without someone telling her that she cannot or someone blocking the way so that she can't. All she is asking for is a legal right of way in writing. She said how that differs from an easement she did not know. **Councilor Ciolino** asked Ms. Elliot how long she has been using this right of way. She replied seven months as she just bought the house, but stated that it has been used for over thirty years. **Sam Stone**, the representative of the lessee of the property, said that it has come before the city council back in 1984 requesting an easement and was denied, and a little over two years ago the council reviewed a lease to the Cape Ann Amateur Radio Association requesting a survey of the property and a fence to be put on property lines. They have done the first part required by the lease the survey. **Councilor Verga** asked what did the parties involved want to see as a compromise. **Hank McCarl** replied they would like to do a joint driveway, but they legally would have to be owners of the property and that is still up in the air. **Councillor Verga** asked the Planning Director, **Greg Cademartori**, how difficult was it to put in a joint driveway? **Mr. Cademartori** explained the process and criteria for a joint driveway. **Councilor Ciolino** asked **Suzanne Egan**, General Counsel, to explain the difference between an easement and a right of way. She explained the difference and said that this is different because it is a request for an easement to pass and repass. **Councilor Ciolino** asked the parties involved whether they could live with all this. **Mr. McCarl** replied they would prefer that this not be imposed on them by the City and would like to negotiate this as three property owners as private individuals, but they cannot do that until they actually own the property, if that is even possible. Sandra McGrath, another abutter to 6 Stanwood, of 537 Washington Street, and Mr. McCarl both agreed that the neighbors work well together. Mr. McCarl said that they have the ability to work with Ms. Elliot, after they own the building, to put in a joint driveway in and would be willing to negotiate that. His thoughts were that it would be in the City's best interest for them to put a joint driveway in, but reiterated that they would have to be owners of the property. They would have to have a legal right to do this. **General Counsel** said that she had discussion with the organization and with Ms. Elliot about sort of entering into a three party agreement in which the City would also be a party into it that would insure that the access provided across that property. It wouldn't be a property interest but a contractual obligation. The city would be a party to it as they would be there to help with any type of enforcement or issues that came up. There was further discussion between **General Counsel** and committee members and the parties involved regarding the agreement. There was discussion between the parties involved and the standing committee members on the drawing that was submitted (on file). There was discussion regarding a four party agreement, which would be drawn up by the legal department, and to work out the issues before coming back to the Planning and Development Committee.

This matter is continued until December 4, 2013

5. 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 10/02/13)

Councilor Verga said this matter was brought to his attention by a citizen who said that there was a Recreation Committee he helped put together through the Mayor's Office in the 1980's or 1990's. When he started, through the City Clerk to do the research, he came across an agenda for open space talking about a consolidation. Before trying to reconstitute the committee that someone is asking for, he would like to know if there was a good reason for eliminating the committee in the first place. **Stephen Winslow, Project Manager**, said this came to his attention while applying for grants for Newell Stadium. Under the Parks Grant that they applied for, he needed the sign off of the Park Commission, and realized there was another committee that Mark Cole had overseen for a while. There were three existing members of that committee that he had to track down. He said that they were not active and didn't know if they met. He asked Mr. Cole whether he would be active in working with this committee, and he said no. In his research, he found that there were three committees involved. A Recreation Committee, Parks and Recreation Commission, and an Open Space and Recreation Advisory Committee. There are three different committees in this area and all have advisory positions. The Open Space and Recreational Committee initially was set up more for open space and not for recreational areas. He has tried to involve some people from the recreational part as they are doing an open space plan so that it's broader. The recreation committee hasn't been meeting actively. This went on the agenda just as a thought because it could be an impediment if he couldn't track down the three members of the Parks and Recreation Commission to sign off on the grant application. Open space is pretty active and a good resource. He spoke to Mr. Cole about whether they should put together an ordinance. **Mr. Winslow** said only one is active as far as he knew. **Councilor Verga** said the language on all three should be reviewed, and the survivor should be brought over to Open Space as long as the key points in the inactive committees are included. Mr. Winslow said if **Councilor Verga** wanted to charge the Open Space with coming up with a draft he could work with them to integrate the three and work with General Counsel, and have her put the draft forward through the Mayor's Office. **Councilor Cox entered the meeting at 6:26 p.m.**

Councilor Ciolino said that he also heard complaints from same people that the Recreation Committee was disbanded because they didn't fund it. They would give them money, and they would go to the parks and the beaches. It was a good committee, and when the money was shut off, and there was no point in meeting because there was nothing they could do. The point he wanted to make is that Open Space is looking at the woods and the trails but wanted to know who is looking at the details i.e. Stage Fort Park. He said the problem is that no one is looking at the details. Councilors including himself and Councilor Cox, all get involved in the parks and have gone to Mark Cole. Maybe there needs to be written requirements for Open Space that would may be required of them to look at the beach or maybe that might be too much for them. He didn't know if this was the answer, but it isn't working they way it is now. **Mr. Winslow** said that when they did put together the open space plan, they did get the DPW's input. **Councilor Verga** asked Mr. Winslow on whether there could be an ordinance and have a subcommittee to that ordinance so that those members would work on certain projects. **Councilor Ciolino** said the ad hoc committee has taken overseeing Stage Fort Park because the City is not doing it, and the DPW does not have the time. There was a discussion on the infrastructure and maintenance of the parks. **Mr. Winslow** said there is no DPW designee in the Open Space ordinance and it is purely a citizens group of volunteer, and they cannot be involved in or concerned with park maintenance. Councilor Cox said it is very important to push and somehow get in the budget to get DPW representation at the Open Space meetings. **Councilors Verga and Ciolino** both agreed. **Councilor Ciolino** said that there should be a five year plan in which Open Space would look at Stage Fort Park and then move on to the next project on the plan. They should have a playbook. Mr. Daniel said that they should have a comprehensive plan for Stage Fort Park as it is a huge asset. The standing committee said that they would like them to come back with a possible consolidation of the committees, and also look into having an ordinance with a subcommittee within that ordinance sometime in December if it is doable.

6. Memorandum & Relevant information from Community Development Director re: updated Activity and Use Limitation related to New Balance Track & Field at Newell Stadium

Stephen Winslow, Project Manager, said test results showed that there were contaminated soils from the soil samples taken at Newell Stadium. To complete the Mass. Department of Environmental Protection (MDEP) process, CDM-Smith prepared a modification to the original Activity and Use Limitation (AUL) so as to include the

Newell stadium plot that will be filed with the Registry of Deeds. Mr. Winslow was advised by General Counsel to present this document to the committee for approval to the City Council.

MOTION: On a motion by Councilor Ciolino , seconded by Councilor Verga , the Planning & Development Committee voted 2 in favor, 0 opposed 1 absent to recommend that the City Council approve a Notice of Activity and Use Limitation under MGL c. 21E, §6 and 310 CMR 40.0000 for the Disposal Site of Gloucester High School, MassDEP Release Tracking Number RTN 3-12563 by the City of Gloucester, as owner of certain parcels of land as recorded with the Southern Essex District Registry of Deeds in Book 32418, Page 213 (High School); and Book 1821, Page 365 (Newell Stadium), and also referenced in Plan Book 73, Page 58. This Notice of Activity and Use Limitation shall be recorded at the Southern Essex District Registry of Deeds.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:50 p.m.

Respectfully submitted,

Joanne M. Senos

Substitute Recorder

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

Plan – Stanwood & Washington Streets