

CITY COUNCIL
AND CITY COUNCIL STANDING COMMITTEE
Planning & Development
Wednesday, June 16, 2010 – 6:30 p.m.
1st Fl. Council Conference Rm. – City Hall

Present: Chair, Councilor Joseph Ciolino; Vice Chair, Councilor Robert Whycott; Councilor Greg Verga

Absent: None

Also Present: Councilor Jacqueline Hardy; Councilor Paul McGeary; Al Kipp; David Tucker; Peter Williamson; Paul Rogers; John Linquata; Fire Chief Phil Dench; Police Chief Michael Lane; Anthony Giacalone; Anne Ziergiebel; Attorney Robert Coakley; Attorney Lisa Mead; Christina Passanisi; Lenny Linquata; Daniel Swimm; John McNiff, Jr.

The meeting was called to order at 6:30 p.m. Items were taken out of order. There was a quorum of the City Council.

1. Unfinished Business

- A) Petition of Residents re: 85-89 Bass Avenue: Report by Building Inspector (Continued from 12/09/2010)

Councilor Ciolino reviewed the history of the matter noting that the petition had been originally brought before P&D in October of 2009, and was last heard on December 9, 2009 and that at that time the Committee asked to place this on the agenda for this evening and have the Building Inspector take stock of the situation with the wall plantings. The issue of the propagation of vegetation on the wall remains unresolved to date.

Anthony Giacalone, represented Nino Ciamartaro, owner of 85-89 Bass Avenue explained ivy was planted that was specified, in hopes it would thrive and grow down the wall, which failed and remains an ongoing problem. There's only 6" of top soil in the wall "pockets in a wall with an elevation of approximately 26 ft. in some areas. They've planted twice; the first time with mums because they could not find enough ivy to cover the wall and in order to meet the criteria of the Council as specified. Both the mums and ivy plantings have failed. It is now being overwhelmed by weeds. No matter how much maintenance is done, nothing will survive. He proposed to the Committee to do some tree plantings in the parking lot on the front line of the parking lot that faces the wall, and trees at the base of the wall. They felt it would be more pleasing to the eye. He asked for a modification of the original condition and be granted permission to put plantings in the driveway which will grow to 25 ft. tall. Wolf Hill Landscaping has given them a quote. They'll be 8-10 ft trees at planting. There'll be four at the front boundary line and two at the back of the parking lot where the electrical posts are. He felt it would please the neighbors, be more practicable, and be a good compromise. There is no way of maintaining plantings on the wall. When the wall went up, the planters were a part of the wall system. Because of neighborhood concerns they agreed to and had professionals choose and install plants. After thousands of dollars they recognized it would be an ongoing problem. They are proposing to take the soil out of the pockets; pressure wash the wall, and let it age naturally.

Councilor Ciolino expressed concern regarding choice of tree stating he had one in his yard. It is a nice ornamental tree but thought the salt and sand would adversely impact it. He didn't feel the species was a good choice. It was a harsh environment.

Mr. Giacalone did discuss this with Wolf Hill and expressed the same concerns; but they still felt it was a good choice. They will check out other nurseries about a more appropriate species.

Councilor Ciolino suggested a tougher species with the conditions there, and suggested looking into what the plantings were at the traffic island on Mondello Square.

Councilor Whynott thought the wall was attractive, and didn't feel there was anything wrong with it. **Councilor Ciolino** noted that the neighbors thought the wall was ugly. Since nothing can grow on the wall, growing something in the parking lot will help to distract the eye to something green.

Councilor McGeary asked about possible cascading plants from the top of the wall.

Mr. Giacalone stated that the land at the top of the wall was private property owned by the abutter; and that sending someone up to that height to maintain plantings was risky even if it could be arranged with the private property owner.

Councilor Ciolino stated thought they should continue this until June 16, 2011 and ask the Building Inspector, Mr. Sanborn, to review the plantings and ask him to come back and make a report to the Committee.

Councilor Hardy suggested that this was a change in the original permit that the wall be planted. He's asking for a change in the permit and she thought it would need to be approved by the Council.

Councilor Ciolino noted his conversation with Ms. Lowe, City Clerk, who thought just putting this forward to review for next year, would be appropriate because they're responding to a petition of the residents.

Councilor Hardy expressed she differed with that perception; that the matter had been dragging on for years now, especially since the neighbors were not represented there that evening and are not able to have a say as to whether they will accept the trees. If they accept the trees, she would be all for it. This was a violation of the special council permit. She reiterated if the neighbors agree to it, she'll agree to it. But she was on the original City Council when the Special Council Permit was approved. They had all agreed that as long as the neighbors agreed that as long as the plantings were on the wall it was acceptable. She thought last time there was a maintenance plan to go along with the planting of the vines to ensure their propagation.

Mr. Giacalone noted that when the condition was put on the wall for planting, there were no landscaping companies who could provide them with enough plants that were specified by Hancock Engineering and approved by the City. They just couldn't locate them even though they were willing to pay whatever it took. He did inform the City of their plans. They put mums in to make it look nice; not ever thinking this would be taking the place of the ivy.

Councilor Hardy reiterated they were told the mums would come back the next year because the vines weren't growing. She felt the neighbors had to agree to the tree plantings. Otherwise she thought it would have to go before the City Council for a revision and let the Council vote to decide on the revision of whether the trees are acceptable.

Mr. Giacalone felt it was important to get this resolved and do the right thing as quickly as possible. If they continue this to 2011, and continuing the existing conditions on the property now which are allowing him to clean the wall and put plantings in the parking lot.

Councilor Hardy disagreed that the permit allows for the owner to put plantings in the parking lot as opposed to the wall.

Councilor Ciolino posed that the wall is not going to support plantings.

Councilor Hardy responded then it should go before the City Council, and let the City Council make the decision as to whether or not they want to amend the Special Council Permit that they enacted.

Councilor Verga stated Councilor Hardy's point wondered if the neighbors had been informed of what was going on. We don't want to spin our wheels and go ahead and then have the neighbors out there protesting. He felt the neighbors needed to be involved.

Councilor Hardy suggested the neighbors may even be able to have input as to the kind of trees they'd like to see planted.

Mr. Giacalone had no problem with that. He didn't understand why he was not able to plant trees on the property as it was private property.

Councilor Hardy responded that they could plant all the trees they wanted but they'd still have to plant the wall according to the Special Council Permit.

Mr. Giacalone, if he understood correctly, that the matter was going to be continued to 2011. So as far as the wall planting, it would still be continued and up for review then.

Councilor Hardy stated if they wanted to bring the neighbors in, and they're OK with it; she'd have no problem with it. But the Special City Council Permit should be amended to allow the trees.

Councilor Ciolino thought that would be the case but was told they didn't have to. They didn't have the permit in front of them; it was the neighbor's petition.

Councilor Hardy stated the neighbors were not here to answer whether this was acceptable. It is their petition and discussed with **Councilor Ciolino** about his suggestion that they continue the matter for two weeks and ask the neighbors to come in to express their opinion or they move it forward to City Council and have the neighbors come there, and felt having them back to P&D so they could come to an agreement would be more appropriate.

Councilor McGeary understood Mr. Giacalone's desire to plant trees doesn't require a modification to the permit; the modification would be required to remove the condition of the planting of the wall. In that sense, you could continue the hearing for a year on whether or not to pull the requirement on planting the wall and Mr. Giacalone could go ahead and plant his trees. He felt the point was well taken to get the neighbors in before P&D to fully discuss the matter before Mr. Giacalone did the planting to see what they had to say.

Mr. Giacalone felt that it was reasonable noting he's on good terms with the neighbors and has had open conversations with them. And he felt many would be happy with the plantings in the parking lot. He would welcome their input at the next P&D meeting.

Councilor Ciolino and the Committee agreed that the matter would be continued and suggested Mr. Giacalone speak to Mike Hale or Mark Cole at the DPW for suggestions on what kinds of trees would thrive in a parking lot and bring with him his updated plans for the plantings at that time.

The matter was continued to June 30, 2010 and the neighbors who brought the petition would be invited to attend.

- B) CC2010-016 (Verga) Request filed with City Clerk's Office on March 19, 2010 re: Lot on the corner of Concord Street and Rt. 128 (Continued from 06/02/2010)

Councilor Ciolino stated on a zoning law requirement, the time to hear this matter before the City Council has passed. The Planning Board did hear it, so it was not a waste of time. They will have Councilor Verga to resubmit this to the City Council; and it would move more quickly with the Planning Board's review having already been concluded.

Kathy Hurlburt, 6 Causeway Street stated she didn't know why the City would not want the property's zoning to revert to its original zoning. The neighbors want it changed. If the Planning Board thought that it shouldn't be changed because the City has plans for it then she wished the City would come forward with that. They could be using it as a staging area for the CSO. As it stands now no one has told her any reason not to change it. They don't want a shopping center there in the future, so the neighbors want it changed.

Councilor Ciolino understood how it is zoned now would be better off for all the neighbors.

Ms. Hurlburt questioned how that could be. The neighbors don't use the property. She also requested a copy of the Planning Board minutes where they took up the matter.

Councilor Verga stated they didn't have the Planning Board minutes. They requested them officially at their last meeting. At the last Planning & Development meeting they simply continued the matter. He noted Demoulas has been pretty quiet on this issue and doesn't seem interested to be a part of this conversation.

Councilor Ciolino stated they will take this up again, and when they do a letter will be sent to Demoulas asking them to join the Committee at their meeting. If they don't show up they'll continue the matter. They'll get it through this time around.

Ms. Hurlburt stated they want the zoning changed. The City can bring it back to change the zoning or Demoulas can do it. Or citizens of 10 can bring it back.

Councilor Ciolino understood that the City Council made a promise if the project didn't go the zoning would revert back; and that's a promise they have to follow through on.

Councilor Whynott added that Demoulas said they wouldn't stand in the way of it being reverted to its original zoning.

Councilor Hardy suggested that the Committee make a motion to send the original order back to the City Council to be re-referred to the Planning Board which would jump start this. The Planning Board would be able to hear it again and send the Committee their recommendation without extra weeks going by.

MOTION: On motion by Council Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to send CC2010-016 (Verga) Request filed with City Clerk's Office on March 19, 2010 re: Lot on the corner of Concord Street and Rt. 128 be resubmitted to the City Council in order re-refer it out to the Planning Board and the Planning & Development Committee.

2. *Memo from Police Chief re: Fishtown Horribles Parade 2010 application AND COM2010-028: Request from the Fishtown Horribles Parade Committee re: permit for July 3, 2010 parade*

Al Kipp, 32 Eastern Avenue stated that there has been a suggestion about changing the parade route of the Fishtown Horribles Parade, to go up Main Street. He had taken measurements on Main Street, Rogers Street, up and down the whole area, looking at the whole big picture. He understood the gridlock, but it has been that way for 22 years. It has never changed. He understood about opening up that artery by going up Main Street; but once leaving Main Street, you'll still have the gridlock. The dimensions on Main Street are not appropriate and certainly not wide enough for the size of their parade. They have bands with 100 members, 150 members. With the overhanging trees, it's not possible. Floats would be limited in height because of those overhanging trees. He also expressed concern for the safety of the spectators as well that they would be opening up a door to safety hazards. People will sit in the street with their chairs. The summary (on file) showed the widths and that the parking on Main Street would shut it down and create even more gridlock. He understood the reasons for wanting to change it; but to the Horribles Parade Committee felt it was not possible. In his 22 years, there has never been a problem. It is also a matter of getting emergency vehicles through on Main Street.

Lenny Linquata, 4 Reef Knot Way spoke as a concerned citizen was for the parade and was not against the tradition; and was for all of it. He found that there are issues that present themselves with a simple solution that he has presented to the Council, the Fire and Police Chiefs, the Traffic Commissioner and the Mayor. One on one they seem to agree and then somehow become undecided. The fact that they have the Horribles Parade before the Committee for a permit was a step in the right direction as it is the first time they've been before the City to even ask for a permit. His concern was for the end of the parade. He lives in Riverdale; and it takes him two hours to get home after the conclusion of the parade from Rogers Street to Riverdale; and felt it was unreasonable. It is not safe. There are no revenues to the City from this parade. The parade route should stay much as it is now. It should stage at the High School, proceed down the Boulevard, and at Tally's Corner rather than go down to Rogers Street, it should go up Main Street until it gets to Pleasant Street. It is only two blocks. It is not a change for the entire parade route; they're talking about two blocks. He believed if they did this, they'd find when the last float leaves Tally's Corner, there'd be an open thoroughfare through the City. Rogers Street would be passable east and west, and the Boulevard would be free and clear. The way it is presently set up both Main and Rogers Streets are simultaneously closed down. Two main arteries that run east to west parallel to each other are blocked for the entire time of the parade – egress and access to the entire City for the length of the parade. He understood Main Street was narrower. There should be a total ban on Main Street for parking from Tally's corner to Pleasant Street leaving that entire length open. If, in fact, the west end is narrower, and believed that it was, you would have to limit the amount of people in those particular areas. But to say that the vehicles can't negotiate in and out of this area is not true. When the traffic study was done, they sent the hook and ladder truck up Main Street in the opposite direction. It

worked. They, as merchants in the downtown area, are looking to reverse the traffic on Main Street, and that discussion is active. The fact that a private parade would go out and sell vending space on a public road without a permit he could handle. But to do so at the inconvenience of the entire population of the City preventing them from getting home at a reasonable time after the parade is over, he had a problem with that. He reiterated he is only speaking as a private citizen and was not opposed to the parade. He told Mr. Tucker if they changed the route he would be more than willing to support the parade.

Councilor Ciolino noted they permit St. Peter's Fiesta, and they sell vendor sites on the sidewalk. This is the first time the new Council has asked them to come before them; and they have. It is their first time. This is the way they've done it for years by selling those vending spots. The precedent has been set. It is how they create revenue.

Mr. Kipp asked Mr. Linquata when the test was done with Ladder 1, what time of day it was.

Councilor Ciolino stated it was done at 10 a.m. on a Saturday with the largest trailer truck Gorton's could offer up. The trailer truck negotiated Main Street with cars parked on either side with no problem; also it was tested with a bus.

Mr. Kipp noted it would mean everyone would have to move. The bands, flags, floats, parade participants being moved to one side on Main Street for emergency vehicles would be difficult; and how do you limit folks on the sidewalks in the West End? This is a public event.

Councilor Ciolino stated he'd spoken with Mr. Kipp about their keeping people on the sidewalks.

Mr. Kipp pointed out that the outcroppings of the Main Street; some are raised. Marchers are focused forward, and Main Street poses many potential trip hazards. Their main concern is the safety of all involved; and Main Street, to the Parade Committee, is unsafe area to bring a parade.

Mr. Linquata understood the nubbins create a problem. But once the parade leaves Rogers Street, they go to Manuel F. Lewis Street. There are nubbins there; and once you enter onto Main Street there is a problem there too. It's a straight run up to Pleasant Street. There isn't any place an emergency vehicle can't get to. The fact that they've not have an incident for over 22 years was luck. It is their job to plan and to develop for the safety and security for the people of this community. It is after the parade when this is a gridlocked City. That is the safety hazard, not during the parade.

Chief Lane noted after last year's parade, Mr. Linquata approached him and proposed going up Main Street the wrong way. He suggested Mr. Linquata get a consensus of business people on Main Street; go to the Chamber of Commerce about closing Main Street for a half day and then go to P&D with the consensus. He didn't see any other business people there supporting this notion. He felt the West End was narrow once you got past Larson's. The trees are overhanging and felt there would be parade issues. He didn't think there was that big a safety issue. He conceded that people do stick around for the fireworks after the parade and that does create congestion downtown. He suggested the parade come down the Boulevard, go to Tally's Corner, take a left and go up *Washington Street*, take a right onto Prospect Street, go to Railroad Avenue, take a left onto Railroad Avenue, go past the Rhumb Line, take a right on Washington Street. Now you have Main and Rogers Streets clear. It's just an alternative. He suggested it's too late to have a route discussion for this year's parade. They should have been talking about this back in February or March. He also wanted to know what the other merchants thought.

Councilor Ciolino stated that there are the block parties where they shut down Main Street. They put up warning signs and then stop the parking at 3 p.m. to block Main Street. It can be done. They do it all the time now.

Chief Dench noted having heard from both sides this evening; he thought Chief Lane's parade route alternate was the best solution of all.

Chief Lane at the Councilors' urging restated the route he proposed of leaving the High School, to the Boulevard, to Tally's Corner, left on Washington, take a right on Prospect Street, Prospect to Railroad Avenue back out to Washington Street and go to the rest of the regular route. Now Main and Rogers is clear.

Chief Dench followed up with anytime anything takes place on Main or Rogers Streets, it's a problem to the Fire Department to try and maneuver. There's the Sidewalk Days, the Block Parties. He thought having Rogers Street clear it would be helpful. No matter what, they have to breach the parade to go out

on an emergency call. He thought that made more sense to open up Rogers Street. He didn't know about the parade marchers issues though. Rogers Street leaving it open and felt the parade route. Having Rogers and Main Streets blocked made getting to East or West Gloucester, Lanesville, Magnolia, very, very difficult. Moving the route as Chief Lane proposed made more sense.

Chief Lane wondered if the change in parade route to go up Washington Street would be long enough.

Mr. Kipp thought it was something they could look at. Its two weeks away from the parade now which David Tucker also expressed was his concern.

Councilor Verga asked Mr. Linquata what he thought of Chief Lane's proposal, "Plan C".

Mr. Linquata happened to like "Plan C" and agreed with Mr. Kipp about his concern changing it this year. It was his concern that the precedent that is being set regarding events that stage in the downtown area. The precedent, he felt, was bad. He'd like to see a more comprehensive plan with regard to as to how it affects the community overall. He has a problem with events staging in the center of the community.

Mr. Tucker stated as far as a permit being done, they've always gone to the Fire and Police Chiefs, given them a record of their route and got their permission; and that's all they had to do. They also got the permits for the vending spots which help to pay for the parade.

Peter Williamson stated they carry insurance on the parade. If after the parade there were no fireworks, it would still take a great deal of time to reach his home near the Rockport Line on Thatcher Road. How does changing the parade change anything?

Councilor Ciolino stated that there were all these events in town, but no calendar. This new Council decided that it was important to clarify the situation. They want this before them to have this dialog. Everything can be improved, and that's what they were here for that evening.

Mr. Williamson noted they're all committed to this. Two and a half weeks before the parade makes any changes at this point extremely difficult. But they would be willing to discuss it for next year.

Mr. Linquata made clear this is not an indictment on the parade itself. It is strictly a discussion about where this parade should go and how the City should be run during and after the parade – that's all. It is a great traditional event.

Councilor McGeary asked Mr. Linquata if he understood that he would be willing to work with the Fishtown Horribles Parade Committee.

Mr. Linquata had no problem with things being done the way they are now. He felt that the people in the community need to understand the situation. He understood the time limitations for this year. He would like a commitment that this route would be changed next year.

Mr. Tucker pointed out there is a lot of events in the City that inconvenience the community.

Councilor McGeary was unclear on the relationship of changing the route and alleviating traffic occasioned by the fireworks.

Councilor Whynott stated Mr. Linquata spoke to him about his plan, and it sounded good to him. He thought having Rogers Street clear was a good thing. Then he listened to the parade committee and the Chiefs; and it looked like the West End of Main Street will cause a lot of problems. He thought it was a great dialog was a good thing. He thought the route proposed by Chief Lane was a good idea, which seemed to be about the same length. He didn't think anyone could guarantee they would change the route next year. But they could guarantee they would talk about it again in the new year where everyone will have input and try to do something that makes as many people happy as possible.

Chief Lane noted Councilor McGeary came up with a good idea of using Middle Street to go up to Washington if they found the standard trucks had trouble on the beginning of Washington Street.

Chief Dench noted Mr. Linquata approached him right after the parade last year also. He thought some of Mr. Linquata's arguments sounded reasonable. He mentioned the road races and the triathlon. Those are good for the City of Gloucester and worked well. The key was the planning. To get ready for those races, they've had meetings for weeks. The parade should have been brought up a long time before this. It is a good dialog and some of these issues can be worked out to make it safer for everyone and make it a lot easier.

Councilor Verga felt there was universal agreement that it was too late to do anything for this year. But since our two safety experts think there could be an improvement to the route for next year, and then it will be able to be discussed sooner.

Councilor Hardy would like to commit to this group she'll be looking for another route moving the parade away from Rogers Street and if at all possible away from Main Street. In today's world, the Fire and Police need to get where they need to quickly. The world is changing; and this parade didn't start 22 years ago; it was much further back than that. She was committed to work with whoever wishes to work together with the Council, P&D to take it away from Rogers Street.

Chief Lane interjected that the Police are willing to sit in on any dialog.

Councilor Hardy stated that is what this Committee does which is to bring the community here to discuss it for the benefit of everybody.

Chief Lane suggested that they all sit down together way before this time next year to make a better route. They'll patrol whatever route they have. It's just got to be safe for everybody.

Councilor Whynott would like to see it off Rogers Street. This shows one person can move mountains.

Mr. Williamson noted there are many events that cause issues and wants to see things fairly handled.

Mr. Kipp in closing stated they were not closed to change. It's too late this year. Let's start earlier, say January and look at alternative routes, which is now at 1.2 miles.

Councilor Whynott noted that it's not like they're not giving anything back.

Councilor Ciolino also noted that the Police and Fire are provided by the City.

Councilor Hardy suggested would the Committee to continue this matter to the first meeting in February and put it on the Agenda for February 2011.

Councilor Ciolino noted that they understood that they want to liberate Rogers Street. He wanted to see a plan to circumvent Rogers Street next year. He puts on the Christmas Parade and understood their difficulties in funding a parade. He appreciates the difficulty of putting on a parade.

Mr. Kipp wondered if they came up with a different route in 2011; do it as a test; if the City is still in dead gridlock that it goes back to its original route.

Councilor Hardy believed they were not ready to make a promise like that.

Councilor Ciolino stated they'll be back every year before the Committee like everyone else; and that if a route didn't work they'd tweak it then next year when they come before the Committee again. They'll have time to think about it. It is no reflection on the Horribles Parade Committee. This is the gold standard for parades in the City. It is well organized. It is a family day, and they do a good job.

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to permit the 2010 Fishtown Horribles Parade on July 3, 2010 starting at 6:00 p.m. from the Gloucester High School parking lot to Centennial Avenue onto Stacy Boulevard to Main Street to Washington Street proceeding down Rogers Street to Manuel F. Lewis Street to Main Street to Pleasant Street to Prospect Street to Railroad Avenue to Washington Street to Centennial Avenue to Emerson Avenue to Lincoln Avenue returning to the Gloucester High School parking lot with the following conditions:

- 1. A Certificate of Insurance naming the City of Gloucester the certificate holder to be on file 7 business days in advance of the event in the City Clerk's Office;**
- 2. A Letter of Understanding between the 2010 Fishtown Horribles Parade Committee and the City of Gloucester School Department indicating permission to use the grounds of Gloucester High School as a staging area for the parade be on file 7 business days in advance of the event in the City Clerk's Office;**
- 3. That Memorandums of Endorsement with the Fire and Police Departments for the parade be on file 7 business days in advance of the event in the City Clerk's Office;**
- 4. A written plan of the parade route with attendant map indicating times of start and estimated finish be on file 7 business days in advance of the event in the City Clerk's Office.**

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to requests that the Fishtown Horribles Parade Committee submit a letter in January 2011 to begin the discussion of revising the route their July 3, 2011 Parade to the Planning & Development Committee.

3. SCP2010-006: 474 Washington Street, Sec. 5.5.4 Lowlands

Councilor Ciolino noted that the applicant, Anne M. Ziergiebel had submitted all proper documentation and that it was all received in a timely fashion and that all had appropriate City departments had signed off on the application.

Anne Ziergiebel submitted the affidavit of the notice to the abutters to the Committee. She explained she was applying for a pier with a seasonal float and ramp on 474 Washington Street extending into the Mill River. She had an Order of Conditions from the Conservation Commission (ConCom); and had approval from the Army Corps of Engineers, Appendix C, Category 1 form; and had a Chapter 91 simplified waterways license all of which has been filed. The structure sequence submitted by Brad Murray involves three pre-made 24' x 4' sections of a pier, a 30' ramp, and a 10' x 20' float anchored on rocks conforming to ConCom's specifications. They have made amendments to the plan based on the recommendations of the Army Corps of Engineers and the ConCom.

Councilor Whynott thought all appeared to be in order.

Councilor Verga agreed with Councilor Whynott that everything was covered.

Councilor Hardy noted it is in her ward. There are quite a few homes that already have piers off the back of their properties.

Ms. Ziergiebel noted the structures are seasonal.

Councilor Hardy asked if this would be further out into the channel than existing ones now there.

Ms. Ziergiebel stated no, they don't come close to the channel. The structure is still 30' from the channel at low tide; navigation will not be impeded at all.

Councilor Hardy asked if she would be opposed to another neighbor was asking for the same thing.

Ms. Ziergiebel stated no; she would welcome any project that does no harm.

Councilor Hardy stated in the six years she'd been representing Ward 4, she had not had any complaints of anyone there. She'd only been asked for assistance in getting these applications through. The Harbormaster has never had any difficulties there nor had she heard any report of any. She would be supporting this application.

Councilor Ciolino stated at low tide they'd be totally dry, which Ms. Ziergiebel confirmed. He asked if she would be using this strictly for their use that they'd not be renting out the pier to others.

Ms. Ziergiebel stated emphatically that it would be for her family use only.

Councilor Ciolino stated the Planning and Development Committee finds that in accordance with Gloucester Zoning Ordinances, section 5.5.4 for lowlands special permit are met; the project has been designed to satisfy the requirements of the Hatch Act as there are no hazards to health and safety, and the project will be executed as to conserve shellfish and other wildlife resources of the City. In addition, the application met the six factors of Sec. 1.8.3(e) of the zoning ordinance especially in regard to the natural environment as the Conservation Commission had given its previous approval. For those reasons, the Planning & Development Committee can endorse this Special Council Permit.

Councilor Hardy asked if there was a memo from the Shellfish Warden.

Ms. Ziergiebel stated they did get that and that a copy would be placed on file.

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning and Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant the application of Ann M. Ziergiebel for a Special Council Permit 2010-006, Lowlands Permit under Gloucester Zoning Ordinance Sec. 5.5.4, at 474 Washington Street, Assessors Map 110, Lot 16, zoning district R-10, for a pier, ramp, and float on Mill River. The application meets the six (6)

factors of Sec. 1.8.3(e) of the zoning ordinance especially as regards to the natural environment since Conservation Commission approval (05/19/2010) has been obtained, and meets neighborhood character as other nearby Mill River properties have similar structures; further the requirements of Sec. 5.5.4 are met as the requirements of M.G.L. Chapter 131, Sec. 40 are satisfied; and the project will not pose a hazard to health or safety and will be executed so as to conserve the shellfish and other wildlife resources of the City. Approval is based on the plans submitted to the Conservation Commission, included in this application, dated 04/21/2010, AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

A recess was called at 8:00 p.m.

The Committee reconvened at 8:03 p.m.

4. SCP2010-007: 168 Eastern Avenue, Sec. 2.2 and Sec. 5.19

Councilor Ciolino asked for a clarification on who the applicants were.

Attorney Coakley, representing Abbie Morgan, LLC, stated Abbie Morgan it is comprised of several individuals and a couple of managers. and that LLC's have managers, of which Jay McNiff (present this evening) is one of them; they're akin to a corporation but doesn't have officers.

Councilor Ciolino noted that the Affidavit of the Notice to the Abutters was received from Attorney Coakley for this Special Council Permit as were all appropriate documents received in a timely manner as were all sign offs from City departments.

Attorney Robert Coakley stated the property is at 168 Eastern Avenue. He showed the Committee an aerial photograph of the property and described it to the Committee. Up to six years ago this was the CATA bus terminal. Abbie Morgan, LLC purchased that property and for the last several years have been renting it out to a warehouse operation that has now left. Mr. Swimm runs the Meineke shop on Bass Avenue. He had his clients are in agreement in principal to purchase this property for his business. The application is for motor vehicle services, fueling, service and repair. However, they're not looking for fueling.

Councilor Ciolino noted part of Mr. Swimm's current business is selling used cars. There is no mention of selling of used cars in the application.

Attorney Coakley stated that was true as it was not a jurisdictional issue with the City Council; that is a permit out of the Clerks Office.

Councilor Whynott noted that the Building Inspector must also inspect the site in order to obtain that permit.

Attorney Coakley noted they did file a placeholder permit until they could get the Special Council Permit. As in so many business transactions, things come up quickly. They didn't want to miss an opportunity to file and go through the process with the City Council in order to gain the permit on this. This property is in an EB district. It is the most generous zoning for businesses except for the type they're looking for. The type this business is permitted as a matter of right nowhere in the City. He noted Gloucester Dispatch, a trucking operation, is next door to their site, and before their site is Mt. Pleasant Memorials, a welding shop, a Sprint store. Tally's has an automobile storage facility. They are the last property before they get into the residential district. Mr. McNiff has talked to Dolores Sheehan, a nearby residential abutter, has no objection. The gentleman who owns the house next door was shown a proposed plan of the property by Mr. McNiff and didn't have a problem with it. This property has two points of access, from Old County Road and Eastern Avenue. There is access to one resident high up on the ridge. It comes back down to Eastern Avenue before Pond Road. There is no direct access to Pond Road. The last Council adopted a site plan review provision, and they have filed under that new requirement to go before the Planning Board tomorrow evening to propose a new use, not a new building. They will be looking at this from a site plan perspective. Eastern Avenue shifts from being local to State ownership at about the Eastern Avenue egress to the property. The curb cut hasn't been used because CATA chose not to use it. They have a curb cut permit from the Engineering Department allowing them

to reinstitute that access. He noted the traffic pattern and parking. There is space for vehicles for sale if the proper permits are obtained. He noted between the building and the sidewalk out on Eastern Avenue, there is a large area and within that area is grass nearer the building and a wide expanse of pavement. They're proposing to reinstitute some vegetation along the sidewalk as a buffer and the used cars are proposed to be behind the vegetation buffer. They applied under the Sec. 1.8.4 and made reference 2.2 use section which references the location of motor vehicle services. There are four criteria, and none of the four criteria impact them at all. They do have adequate off street parking. There will not be a filling station nor are there plans to make this a car wash.

Councilor Hardy asked if the making it a condition of the permit that there be no filling station on the site, would that be acceptable.

Attorney Coakley responded that would be acceptable because while CATA had filling services there for their buses as did the former owner, his client will be removing the gas tanks according to state and local guidelines, and so there will be no filling services on the site. They submitted their response to the special permit criteria and felt this use meets the purpose and intent of 1.8.3(e). It is moving a local business from one location to another, a more suitable spot on a major thoroughfare with two points of access rather than being in a residential district. This is an ideal location for Mr. Swimm's business.

Councilor Whynott had no problem with the area for whatever they do there. But when there were buses there, he was concerned about the entrance on Eastern Avenue where the fence is. He was concerned that the buses never went down the hill and turned left on Old County Road by the Sea Lion. He felt that would be more traffic than before, there might need to be no left turn. There also needed to be a clear line of sight. There would need to be delineation on the entrances and exits.

Attorney Coakley noted that the businesses or property owners as a private road, they control that. They could look to approach one of the businesses to put signage on their property and would have to get permission to do so. They could try to educate the consumers that come to this location, but their signage could potentially limit the businesses as to how they enter and exit on that road also.

Councilor Ciolino was concerned about the access, noting he'd been over to view the site twice, about the entrance at Eastern Avenue as he felt it was a blind corner. If vehicles were stopped trying to take their right turn into the property from the direction of Rockport, it could cause accidents. It seemed to be a rather blind corner. Eastern Avenue from the other end is difficult as well. His suggestion was to make the access point on Eastern Avenue be an exit only with a right turn only. The way the traffic moves on Eastern Avenue could cause problems.

Councilor Verga noted the difficulty of egress on either end on either road.

Councilor Whynott stated going in on Old County Road was also concerning.

Councilor McGeary was concerned about Old County Road because it's in pretty deplorable shape. It also is a hazard where it joins Eastern Avenue especially if you're taking a left. He wondered how difficult it would be not to use it as access.

Mr. Swimm thought it would be good to have it. He didn't see a lot of people using it.

Councilor Ciolino noted they aren't a high volume business – it's not a McDonalds.

Mr. McNiff stated what they did promise that after speaking with the neighbors about that the first bumpy spot by where Tally's pulls up on top; he stated they would cut the area out and repave it. It may speed up the traffic, but the neighbors thought it would be a good thing. They were pleased to hear about the additional egress because it would take the pressure off of Old County Road even for the heavier delivery trucks.

The Councilors viewed the maps and discussed amongst themselves the pros and cons of access to the property.

Attorney Coakley noted that the City put in a sidewalk. That will come out and will be handicapped ramped on both sides; fixing a drain that is down at that point. The use is being reinstated for the curb cut.

Councilor McGeary noted Old County Road is a public street and then asked Mr. Swimm about the bays he would have for his automotive business.

Mr. Swimm responded he would have five doors and six or seven lifts.

Councilor Ciolino asked if there would be a second floor added.

Mr. Swimm stated they are not making any changes to the building.

Councilor Whynott asked for an indication on the property spray painted to show where the entrances and exits would be as a temporary measure to view where the curb cuts will be.

Councilor Verga thought that they should leave the entrances and exits as is.

Councilor Hardy noted the entrance coming in from Rockport it would be a good to increase the transition with a wider swale so it's not such a sharp angle.

Councilor Verga agreed a gradual sweep would be much better.

Councilor McGeary didn't want to see a loss of sidewalk.

Councilor Hardy asked about putting a crosswalk and stop sign on the exit at Eastern Avenue.

Mr. McNiff stated if the plan didn't show one they would put in a stop sign. and that they are ADA compliant with the handicapped ramp.

Councilor McGeary noted that there will be an entrance and exit on Old County Road and they'll remediate the giant pothole.

Mr. McNiff and **Mr. Swimm** agreed to the suggestions of the Councilors regarding the signage on their property for the entrances and exits.

Councilor Ciolino stated that after the Committee viewed the site of the proposed gas and repair business, the property at 168 Eastern Avenue, owned by the business entity, Abbie Morgan LLC, has met the requirements of a Special Council Permit by their providing employment opportunities for the community; that traffic issues have been taken into account with two means of access and egress and adequate parking; that the site is adequately served by public utilities; and is consistent with the surrounding uses. No further disturbance of the land has been proposed for the site other than what historically existed and that the applicant will landscape appropriately. The proposed use of the space will provide further economic stimulus to the area, filling a long vacant building and lot. For those reasons, the Planning & Development Committee can endorse this Special Council Permit. He also noted that he is familiar with the Meineke Shop is a well run business. It will be good to see the building come back to life. Mr. McNiff does a good job on his projects and looks forward to seeing what they will do with the property and do a terrific job.

MOTION: On motion by Councilor Whynott, seconded by Councilor Verga, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant Special Council Permit 2010-007 for 168 Eastern Avenue, Assessors Map 160, Lot 6, zoning classification EB District, applicant/owner Abbie Morgan, LLC, under Gloucester Zoning Ordinance Sec. 1.5.3(b) and Sec. 1.8.3, Sec. 1.8.4(a), Sec. 2.2 and Sec. 5.19 to use the property for motor vehicle service, fueling, storage or repair. The application demonstrates the applicant meets the six factors of Sec. 1.8.3 as noted in the application and the four conditions of Sec. 5.19 and Sec. 1.8.4(a) for the location of motor vehicle service, storage or repair. Approval of this Special Council Permit shall be based on the Site Development Study of 168 Eastern Avenue signed by the Planning & Development Committee *with the following condition:*

1. There will be no filling station on the property;
2. That a stop sign be at the exit on Old County Road and Eastern Avenue;

AND TO ADVERTISE TO PUBLIC HEARING.

5. *SCP2010-008: 5-7 Bass Avenue, Sec. 2.3.1(7) to allow the continued use of existing 6-unit multi-family dwelling structure, Map 54, Lot 36, zoning district R-10*

Councilor Ciolino noted that the fees have been paid and all documents have been filed appropriately by the applicant, Faye Passanisi. All sign offs have been made in a timely fashion.

Christina Passanisi, represented her parents Tony & Fay Passanisi, owners of 5-7 Bass Avenue stated they are seeking a Special Council Permit for 5-7 Bass Avenue a six unit building they have owned for 7 years. Because of health reasons her parents decided to sell the property and have a buyer. The buyer's attorney discovered there is no legal documentation for the 6-family which it has been permitted by the City and taxed and used as such at least since 1964, more than 40 years ago. This has never been an issue until now. She noted her parents have spent a lot of time, hard work and money to make improvements to the property. As they have a pending sale, it would be desirable to acquire a Special Council Permit in order to close on the property. Time was of the essence. There is parking for seven vehicles, a private entrance as well as a common entrance for each unit. The landlord takes care of trash removal. There is a hardwired smoke/fire system which is serviced by Dana Alarms Co. All necessary permits from the City were obtained in April 2010; and all is up to code. Her parents were looking for relief from this situation via a Special Council Permit to allow them to maintain the use of the existing 6-unit, multi-family dwelling in keeping with the continued use for at least 44 years and which predates local zoning. There would be no changes in traffic flow or safety; there would be no impact on utilities or public services. This property actually is an improvement in the neighborhood character and will not alter the quality or the existing natural environment. Also, continuing use as a 6-family dwelling will allow continued tax revenue for the City.

Councilor Verga asked if there are seven spaces for six units.

Councilor Ciolino stated there were up to 9 spaces.

Councilor Hardy noted in 1977 or 1978 she lived around the corner from the property. There were six apartments then, as she had attended a Christmas party in the building at that time. She went through the application showing a letter from the Building Inspector who stated it has been in use since 1966 as a six-unit multi-family property. The Assessors Office had records to 1966 that also showed this was six apartments. A sale requires that it be called exactly what it is before a loan is issued. She will be supporting this at City Council. It's not the ugly yellow building anymore.

Councilor Whynott felt it was a well-kept building and didn't think the parking was congested; he would support the application.

Councilor Verga stated he would support this as well here and at City Council. There are examples of properties like this all over the City. The City has been happily charging taxes for six units for forty plus years. It only seems fair to make it official.

Councilor Ciolino noting that the property at 5-7 Bass Avenue, owned by the applicants, Fay Passanisi and Anthony Passanisi has been known to be in continued use for a least the past 44 years predating applicable local zoning as a multi-family dwelling. The six (6) requirements of Sec. 1.8.3(e) are satisfied as there are sufficient City services to meet infrastructure requirements; and the property is similar in size and density to other multi-family dwellings in the district; and as it has been in existence for many years, there will be no increased impact to the neighborhood with regards to traffic flow or safety. The natural environment will not be altered because there are no current plans for external changes to the structure. There is a letter on file dated May 19, 2010 from the Inspector of Buildings, William Sanborn that it was his opinion, "that the current use of the building as a six family is valid and a legal use." Therefore, this application meets the requirements for a Special Council Permit, and the Committee can recommend the continued use of the existing 6-unit multi-family dwelling on 5-7 Bass Avenue.

MOTION: On motion by Councilor Verga, seconded by Councilor Whynott, the Planning & Development Committee voted 3 in favor, 0 opposed to recommend to the City Council to grant Special Council Permit 2010-008: 5-7 Bass Avenue, Map 54, Lot 36, zoning classification R-10 pursuant to Gloucester Zoning Ordinances Section 2.3.1(7) and Sec. 1.8.3 the continued use of existing 6-unit, multi-family dwelling structure as the application demonstrates that all requirements of Sec. 1.8.3(3) are satisfied.

6. *COM2010-026: Request from 1907 LLC and Pavilion Mercato LLC re: BirdsEye Mixed Use Overlay District (“BMOD”) Zoning Proposal (Rezoning #2010-003)*

Councilor Ciolino stated due to the complexity of the issue before them that the Planning & Development Committee will continue the matter and hold a joint meeting with the Planning Board on July 15, 2010, 7 p.m. in Kyrouz Auditorium at City Hall to explore the matter more fully, and to have a site visit on Saturday, July 17, 2010 at 8:30 a.m. again in conjunction with the Planning Board.

It was moved, seconded and voted unanimously to adjourn the meeting at 8:40 p.m.

Respectfully submitted,

**Dana C. Jorgenson
Clerk of Committees**