

Development and Governmental Relations (DGR) Committee

Thursday, June 6, 2024

Video of meeting can be found at <https://youtu.be/-GHMTX30DOU?feature=shared>

Members present: Chair Kocayne Givner, Vice Chair Michael Sullivan, Carmen Ocasio, Juan Anderson-Burgos, Patricia Devine

Other councilors present: David Bartley, Meg Magrath-Smith, I. Rivera

Chair Givner called the meeting to order at 6:33 PM

Councilor Devine made a motion to remove item 1 from the table and open the public hearing. Councilor Anderson-Burgos seconded the motion. Motion adopted.

Item 1: PUBLIC HEARING 3-6-24 Special permit application for a home occupation at 42 Arnodale Ave (124-00-077) for a driveway sealcoating business (Homeowner: Dylan Bradford, business owner: Florin Muradian)
*Continued from 4-22-24

---> Denied 4-1 (Givner).

DISCUSSION:

Chair Givner stated that she did not see Mr. Muradian in attendance.

Councilor Anderson-Burgos noted that a communication was received from the landlord.

Admin Asst Anderson-Burgos offered a reminder to open the public hearing.

Councilor Sullivan made a motion to open the public hearing. Councilor Devine seconded the motion. Motion adopted.

Chair Givner read the letter from Dylan Bradford into the record, which is available through link at the bottom of these minutes.

Councilor Devine noted that the letter contained technical information.

Chair Givner also noted that there was a safety data sheet included. She then invited Mr. Bradford or any other member of the public to add additional comments to the record.

Arthur Naatz, 19 Arnodale Avenue, stated that while the letter was thorough, it did not talk about the odor. He then stated that MSDS (Material Safety Data Sheet) for the chemical showed that the odor remained for 48 to 120 hours when used for a driveway or sidewalk, depending on the outdoor temperature. He suggested that nobody would be able to get away from the odor if the tank was there with leftover product from a job. He added that cleaning required more than soap and water. He explained that water was an important part of an emulsion application, but when putting it on, water was necessary so it can be squeegeed but then it separates from the tar based product, which leads to having the odor while the tacking process taking place. He emphasized that the houses were tight in that neighborhood, so he had smelled the product. He then suggested that this was not a good place for this business. He clarified that he was not seeking to be hard on Mr. Muradian but there were more proper business areas for this to be. He added that the MSDS also recommended that this product not be just hosed off to go into drains but using inert materials such as kitty litter or sand to clean it up.

Councilor Anderson-Burgos asked Atty Mantolesky to weigh in, noting he reached out to her with some concerns.

Motion was made and seconded to suspend the necessary rules to allow Atty Mantolesky to address the Council.

Atty Mantolesky stated that she looked at the ordinances to make sure this would fit in the definition of a home occupation. She then noted that this was found as section 4.8 in the zoning ordinances. She then stated that a home occupation was a business use customarily conducted entirely within a dwelling, carried on by the inhabitants thereof which is clearly incidental to the use of the dwelling as a place of residence. She added that it also referenced a professional home occupation, which would be a professional office that did not apply here. She then stated that upon looking at the application, she believed it did not fall under 4.8.1: a use as of right, adding that the applicant was seeking the special permit under 4.8.2. She stated that she was not sure this use fit under the definition of a home occupation, and had concerns with it fitting within 4.8.2, which would mean business conducted within a dwelling, or within a building accessory to a dwelling, because the actual business activities would be completed off premise. She suggested that the Council take the neighborhood concerns considering noise or smell into account. She suggested it would be within the discretion of the Council to deny the special permit.

Councilor Sullivan stated that he was ready to close the hearing.

Councilor Devine made a motion to close the public hearing. Councilor Anderson-Burgos seconded the motion. Motion adopted.

Chair Givner emphasized that Atty Mantolesky had advised that this did not fit within the definition of a home occupation. She stated that she personally did not have issues with

the business, especially with things just being stored there and not being a burden to neighbors, but reiterated it appeared he did not qualify.

Councilor Bartley asked Atty Mantolesky to reiterate why she believed this did not qualify under 4.8.2.

Atty Mantolesky stated that she believed the Council should take the concerns of the neighbors into consideration, but primarily under 4.8.2.4, it required the business be conducted within a dwelling or within a building accessory to a dwelling. She added that the primary activities would be conducted offsite by the nature of the business.

Councilor Bartley asked where the ordinance stated that neighbors concerns had to be taken into consideration.

Atty Mantolesky stated that it was generally a part of special permits.

Councilor Bartley stated that it was not in there. He then suggested that while the Council considers those concerns all the time, it was her personal opinion and had nothing to do with the law.

Atty Mantolesky stated that it was not personal opinion but under Chapter 40A, Section 9 of state law, notice was given of the public hearing to all abutters and all of those considerations had to be heard.

Councilor Bartley took exception to Councilor Devine banging her hand on the table.

Chair Givner called for order.

Councilor Bartley read from the ordinance where it states "clearly incidental and secondary to the use of the premises." He then asked Atty Mantolesky if she agreed this was incidental and secondary to the use of the premises.

Atty Mantolesky stated that she did not believe it was a residential use so the definitions of secondary or incidental needed to be looked at.

Councilor Bartley asked if that was a yes or no.

Atty Mantolesky stated that meant the definitions needed to be looked at.

Councilor Bartley suggested she should have been prepared to answer that question.

Atty Mantolesky stated that she did not believe the Council should allow it under the section because the business was not being conducted in a dwelling or within a building accessory to a dwelling.

Councilor Bartley reiterated that it was clearly incidental and secondary to the use of the premises as a person who had common sense and understood the English language.

Chair Givner asked Councilor Bartley not to attack anybody.

Atty Mantolesky took issue to that statement.

Chair Givner stated that everyone had common sense and understood English.

Councilor Bartley reiterated that regarding incidental and secondary, the business was not primary to the residential purpose. He added that Mr. Muradian's residential was where he lived, having nothing to do with the residence. He further added that Mr. Muradian had a full time job, making this incidental to the premises. He then read from 4.8.2.2: "Does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution." He then noted that while he heard from one abutter that it may produce odor, there was no evidence of it. He suggested a condition be put on the special permit that the use would be allowed as long as there were no offensive odors that could be distinguished. He then read from 4.8.2.3: "Does not utilize exterior storage of material or equipment." He then stated that Mr. Muradian was not doing that. He then read from 4.8.2.4: "Is conducted within a dwelling, or within a building accessory to a dwelling." He then stated that the building accessory to the dwelling was the garage that Mr. Muradian had agreed to store the tank in. He then read from 4.8.2.5: "Does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with this ordinance." He then emphasized that Mr. Muradian did not plan to have a sign or name plate. He then suggested that every box was checked, questioning how this business did not comply.

Atty Mantolesky stated that she understood his points but had a different interpretation of number 4. She then clarified that her concern was not about certain parts of the garage being used for storage but that the primary activity of the business was sealcoating, not storage, which was done not on premise. She emphasized that the Council did not necessarily have to accept the interpretation of the City Solicitor's office, but in the event that the Council allows the special permit against that interpretation, there was a possibility of an appeal and they would have to defend the city and make arguments regarding that. She reiterated that her position was that Mr. Muradian's business does not fit within the definition of 4.8.2.4.

Councilor Bartley suggested theoretically that if he has a lawnmowing business and was cutting lawns, he would be looking to store the lawnmower in his garage. He then asked how this applicant was different from that scenario. He then asked where the ordinance said the business had to be conducted away from the swelling.

Atty Mantolesky stated that was what it said. She added that she would not be discussing hypotheticals as this was a real world situation. She then reiterated that the primary activity of the business was offsite. She also reiterated that the Council did not have to agree with her, but arguments would have to be made if there was an appeal.

Councilor Bartley stated that an appeal was always a threat. He then asked the committee to consider the threat of an appeal if there was a denial. He suggested there was not a reasonable possibility of a lawsuit, adding that enough reasonable conditions could be put on the special permit to make sure the neighbors were satisfied with the operation of the business.

Chair Givner asked that if the tank was stored in the garage, no work or mixing was being done on site, materials were being picked up off site and being taken to where the work was being done, what kind of permit would they need to get to have this business.

Atty Mantolesky stated that the intent of the ordinance would need to be looked at. She then stated that home occupations tend to be work that could be done from home, such as attorneys, accountants, or bookkeeping. She added that she had also seen businesses such as yoga studios, where the business was being conducted solely within the home.

Chair Givner asked what would be needed for an offsite business.

Atty Mantolesky stated that she would have to look deeper into the ordinances to see what he may need.

Chair Givner suggested that he was likely conducting some of his business at home such as handling paperwork and taking calls.

Atty Mantolesky stated that it would if he had a professional office where the business was clerical or managerial and didn't have any storage or mixing happening on site. She agreed that it was not a perfect, one size fits all, ordinance. She suggested that it would be different if he had space in the industrial zone.

Chair Givner stated that it did not appear the ordinance was the right one to pass a permit under and was trying to see what the right one would be.

Councilor Anderson-Burgos stated that the safety data sheet provided by the landlord explained that while the chemical was not considered hazardous per OSHA (Occupational Safety and Health Administration) standards, there was a warning that it was harmful if swallowed, may cause skin irritation, and the general advice said that containers should be kept closed and the materials should be disposed of in accordance with appropriate state, regional, or local regulations. He added that for skin contact, wash immediately or see a physician. He also stated that it advised that if inhaled, someone should move to fresh air and if symptoms persist, call a physician, and if ingested, drink plenty of water. He suggested that there were too many red flags in those warnings. He expressed discomfort with approving the special permit as it was not a regular chemical and was not the same as a lawnmower. He then stated that he felt an obligation to keep his constituents safe.

Councilor Devine reiterated that 4.8.2.2 stated that under it the ordinance, it should not "produce offensive noise, vibration, smoke, dust, odors," noting that one neighbor already pointed out that an odor existed. She then referenced 4.8.2.3 and stated that the 5 x 8 foot trailer

with the 4 x 2 foot tank could easily be stored in the back section of the driveway ward from standard egress and not easily seen from the street. She noted that it had not been stored in the garage. She then read from the letter that "while the services provided by the business occur elsewhere, the home of the business would be the dwelling as Muradian would do all other business related activities at this address." She then suggested that did not explain what all other related activities were, and she was inclined to deny it and see if another ordinance could be used, or try to find another location.

Councilor Sullivan stated that he did not share some of the concerns about the toxicity. He then noted that as one of the man ingredients were asphaltic, it would produce a strong odor.

Councilor Bartley suggested that nobody in the room was an expert on odor emittance. He added that the applicant offered assurance that it would be locked down completely. He also suggested that anyone concerned about chemicals should not procure Drano because drinking that would make someone sick. He then questioned using 4.8.2.4 as the hook to deny it, making it sound like the business had to be exclusively conducted there. He suggested that was a ridiculous interpretation. He added that common sense should say that you can set up a dba (doing business as) at the home but not have to do everything there. He then reiterated that even if the concern about odors was taken into account, there could be conditions placed on it to require testing on site at reasonable intervals. He then acknowledged that Councilor Anderson-Burgos raised good points but many similar chemicals are common household products.

Atty Mantolesky agreed that it would be ridiculous to interpret the ordinance to say that everything related to the business needed to happen within the home, noting that lawyers could do most of their work at home but may also need to go to court. She then explained that the distinction was that the main activity of this business was sealcoating, which was done offsite.

Councilor Devine noted that the landlord's letter explained that he contacted each of the neighbors that presented at the April 22nd meeting to determine a path forward, including Ms. Naatz who expressed concern about smells reaching her home located 1 yards down the road due to her medical sensitivity and general environmental problems.

Councilor Ocasio asked how long Mr. Muradian had been living at the home.

F. Muradian (off mic) stated that he had lived there for 6 years.

Councilor Ocasio asked if there had ever been a problem with the neighbors saying that anything smelled over those 6 years.

F. Muradian (off mic) stated that he had not.

Councilor Ocasio asked what had changed in those 6 years to change it now.

A member of the public spoke off mic and could not be understood.

Chair Givner emphasized that the public hearing had been closed but relayed that the answer was that the business had been conducted previously offsite in Westfield.

Councilor Devine suggested that it probably had not been until the application was filed and neighbors received notification about the public hearing.

Councilor Ocasio stated something off the mic and could not be heard.

Councilor Devine made a motion to deny the special permit. Councilor Anderson-Burgos seconded the motion.

A member of the public spoke off mic and could not be understood.

Councilor Anderson-Burgos offered a reminder that the public hearing was closed.

Motion to deny adopted, 4-1 (Givner).

Councilor Bartley raised a point of order, agreeing that the public hearing was closed. He noted that the committee could make a motion to reconsider but noted it was a long agenda. He then stated that there was a public comment period to speak for 2 minutes at the beginning of the next City Council meeting. He added that a communication could be sent to the City Clerk to be added to the June 18th agenda.

(57:00)

Councilor Sullivan made a motion to remove item 2 from the table. Councilor Anderson-Burgos seconded the motion. Motion adopted.

Item 2: 5-7-24 Petition of Felix Rivera Soto Jr, application for a Street Vendor License

---> Approved 5-0.

DISCUSSION:

Chair Givner invited Mr. Soto to explain his plan.

F. Soto, 647 Hampden Street, stated that he was seeking to register for a street vendor license.

Chair Givner asked if this was a cart and not a truck.

F. Soto stated that it was.

Chair Givner asked if he had planned hours of operation.

F. Soot stated that it would be 9 a.m. - 3:30 p.m. Monday through Friday.

Chair Givner noted that Mr. Soto was still awaiting approval of a permit.

F. Soto stated that they had it.

Councilor Devine noted that the application had an expiration date of 5-2-24 and asked if that was a typo.

F. Soto stated that it was supposed to be until the following year.

Councilor Ocasio noted that they currently had the hot dog truck on city property, on the lot. She then asked if that would be a problem in the future because the application did not say where it would be other than South Bridge and Cabot.

Councilor Devine stated she had the same question.

Chair Givner stated that it was submitted to the Board of Health with that address and expressed hope that they considered that when approving it. She then asked Atty Bissonnette to address the question.

Atty Bissonnette suggested deferring to the Board of Health who should have checked on the location as one of the things they look at for food trucks in a stationary location.

Chair Givner asked if stationary food trucks were primarily on the sidewalk or the street.

Atty Bissonnette stated that some were in public parking areas, often adjacent to the sidewalk. He suggested a complete map of all of them would be a worthwhile endeavor.

Councilor Sullivan stated that there was a permit from DPW to obstruct the public way, allowing it to be on Cabot Street between South Summer and South Bridge. He added that the mobile food permit had been approved by the Board of Health.

Chair Givner suggested that it should be in order.

Councilor Devine asked where this was in relation to the former Pat's Supermarket and the pizza place going down Cabot.

Councilor Ocasio stated that the truck was in the corner lot of South Bridge and Cabot Street. She suggested putting it on the sidewalk would be too narrow and putting it on the street would make it too close to the crosswalk.

Councilor Sullivan a motion to approve item 2. Councilor Anderson-Burgos seconded the motion. Motion adopted, 5-0.

(1:05:15)

Councilor Sullivan made a motion to suspend the necessary rules to remove items 3 and 4 from the table as a package. Councilor Devine seconded the motion. Motion adopted.

Item 3: 5-7-24 Petition of William F. Councilor Sullivan & Co Inc, of 107 Appleton St. for a Junk Dealer's License

---> Approved 5-0.

Item 4: 5-7-24 Petition of William F. Councilor Sullivan & Co Inc, of 1-3 Jed Days Landing for a Junk Dealer's License

---> Approved 5-0.

DISCUSSION:

Brian Powell introduced himself as President of William F. Councilor Sullivan & Co. He then stated that they were seeking renewal of both applications, noting they had been in the city for 70+ years doing the same thing, and were looking to keep doing what they had been.

Councilor Devine asked to clarify how long they had been there.

B. Powell stated that they had been there since 1953.

Councilor Devine asked if they had any problems there,

B. Powell stated that none he was aware of.

Councilor Devine read from an email she received from Jeffrey Bianchine:

" I reside and work at 62 Main Street, providing me with a direct view of the Councilor Sullivan Scrapyard. I have been at this location since 2008.

I understand that the application for Councilor Sullivan Metals' scrapyard permit is up for renewal, and I would like to bring to your attention some concerns shared by myself and other residents in the neighborhood. While I am not attempting to oppose the permit renewal or hinder a Holyoke business from operating, I believe this is an opportune

moment to address these issues and explore reasonable accommodations to enhance the quality of life for those of us living in downtown Holyoke.

First, there is the issue of noise. Regularly, before dawn at around 5 AM or earlier, the machinery at the scrapyard begins operating. The beeping of multiple overlapping trucks creates a disturbance that lasts for five to ten minutes, like alarm clocks we cannot silence. Following this, the noise of smashing and pouring metal commences. During the day, the repetitive and loud noises become tortuous as we try to work in the shop. While I understand this is part of living in an industrial city, perhaps we could find a balance. Second, there are concerns regarding air quality and safety. Frequently, we observe smoke emanating from the scrapyard that can only be described as questionable, with fires or burning pits producing blue, green, and yellow smoke. We have also witnessed large, uncontrolled fires on the hillside. Additionally, there have been instances where the blinding light of an arc welder is visible in the open. While I assume the welder uses eye protection, the same cannot be said for residents walking past or passengers on the train.

The scrapyard predates my arrival, and has been an integral part of downtown Holyoke for many decades, providing jobs and contributing to its industrial landscape. But with an elementary school adjacent, several apartment buildings on Bowers Street facing the scrapyard, and the residents at the Cubit and the soon-to-open Wynn project nearby, I believe it is crucial to consider some accommodations for improving the quality of life in downtown Holyoke when renewing this permit.

Thank you for your time and consideration."

She then expressed concern about noise beginning at 5 a.m. and also suggested having the Fire Department look into the concern about open fires.

- B. Powell stated that he was not sure what the letter was referred to about fires. He stated that they did recently have a fire overnight but was a rare occurrence, adding that they had not been actively burning materials. He explained that everything they did there was cut mechanically, and that welding was done for maintenance. He then stated that while they did start work at 5 a.m., they did not start the machinery until 6 a.m. He then expressed an openness to discussing those concerns but was the first time he was hearing of the complaint. He then emphasized that some things they could not control as their operation during the day was noisy and trucks had backup alarms as they were supposed to. He suggested they could try to mitigate concerns that they could control.

Councilor Devine suggested to Mr. Powell that he speak with Mr. Bianchine at the Print Shop located at 62 Main Street.

- B. Powell stated that he could do that.

Chair Givner asked what the hours of operation were.

- B. Powell stated that they had people coming in at 5 a.m. to get started and then started the machinery at 6 a.m., stopping between 4 and 4:30 p.m.

Councilor Devine asked if that was Monday through Friday.

B. Powell stated those hours were Monday through Friday, and that they were open to the public on Saturdays 7:30 a.m. until noon.

Councilor Anderson-Burgos asked if any other committee members were familiar with the ordinance regarding the hour when loud operations could begin. He suggested it may be 6 or 7 a.m.

Councilor Devine suggested it may be 8 a.m.

Anderson-Burgos that was regarding activities such as mowing lawns.

Councilor Sullivan emphasized that this was zoned as industrial, and people who move into the area should know where they were moving to. He added that they should not be trying to affect the businesses that had operated there for some time. He also suggested that people concerns about noise should be concerned about the Amtrak train blowing its horn every morning at 4:30 a.m.

Councilor Sullivan made a motion approve items 3 and 4. Councilor Devine seconded the motion. Motion adopted, 5-0.

(1:14:10)

Chair Givner suggested taking up item 9 out of order as it was also a public hearing.

Councilor Anderson-Burgos made a motion to suspend the necessary rules to remove item 9 from the table out of order. Councilor Devine seconded the motion. Motion adopted.

Councilor Sullivan made a motion to open the public hearing. Councilor Devine seconded the motion. Motion adopted.

Item 9: PUBLIC HEARING 6-6-23 Special Permit Application of Salmar Realty LLC c/o Peter Martins for a special permit for a Proposed Coffee shop/Drive Thru Restaurant at South Street Plaza, A Portion of 209 South St.

*Continued from 7-12-23, 8-23-23, 9-25-23, 11-20-23, 12-18-23, 1-29-24, 2-27-24, 4-22-24

---> Continued to August 5, 2024 at 6:30 pm

DISCUSSION:

Chair Givner asked if anyone was in attendance to speak on behalf of this.

Admin Asst Anderson-Burgos noted that a letter was in the packet from the petitioner requesting another continuance.

Chair Givner read from the letter, available through the link at the bottom of these minutes.

Admin Asst Anderson-Burgos stated that he informed the applicant that the Council would be going on recess in July which could mean it may not be until August.

Chair Givner asked if that meant a date in August needed to be set now.

Admin Asst Anderson-Burgos stated that a date certain would be needed in order to continue the public hearing.

Chair Givner asked if a date was already scheduled.

Admin Asst Anderson-Burgos stated that a date was not yet scheduled.

Chair Givner asked if Monday, August 19th was available.

Admin Asst Anderson-Burgos stated that it was.

Chair Givner asked if that worked for everyone else.

Councilor Devine asked if the one Council meeting in August was before the 19th.

Admin Asst Anderson-Burgos stated that the Council would be meeting on August 6th.

Chair Givner noted she would not be there since that was her birthday. She

Councilor Devine suggested holding the meeting before the 6th.

Admin Asst Anderson-Burgos stated that it could be the 5th or the final week in July.

Chair Givner suggested meeting August 5th.

Councilor Sullivan made a motion to continue item 9 to August 5th, 2024 at 6:30 pm. Chair Givner seconded the motion. Motion adopted, 5-0.

(1:19:40)

Councilor Sullivan made a motion to suspend the necessary rules to remove item 8 from the table out of order. Councilor Anderson-Burgos seconded the motion. Motion adopted.

Item 8: 6-4-24 Bartley, Sullivan- The conservation commissioner be invited to attend a future DGR meeting to provide an update on the construction in and around Scott's Tower. Please be prepared to address the issue of water run-off to the pond owned by the abutter at 5 and 15 Lindor Heights. Refer to DGR and Conservation Commission.

---> Laid on the table, 5-0.

DISCUSSION:

Chair Givner welcomed Conservation and Sustainability Director, Yoni Glogower, into chambers.

Y. Glogower introduced Jeff Horan, Vice Chair of the Conservation Commission, as well as Mark Wamsley, Director of Conservation at Kestral Land Trust.

Councilor Bartley stated that the order was filed on behalf of a friend who owned a large pond on Route 141, located at 5 Lindor Heights. He then stated that he had since learned that other properties has also been affected. He then explained that the clearcutting from Overlook Drive up to Scott Tower had led to runoff traversing down the slope, under Route 141, through a culvert, and into the pond. He noted that catch basins had been sealed off, preventing water from going into them. He added that it took months for a block to be put in. He then stated that they were seeking to get the perspective of Conservation, emphasizing that they were the ones who contracted with Mass-West Construction to perform the work. He then expressed a hope that there would have been an insurance policy that would have named the city as an additional insured party. He then recognized that while this was not a public hearing, some members of the public were hoping to address the committee on this matter.

Councilor Devine made a motion to suspend the necessary rules to allow the public to speak on this order. Councilor Anderson-Burgos seconded the motion. Motion adopted.

Chair Givner asked if the intent was to get answers or just an update.

Councilor Bartley clarified that it was more the property owners looking for answers. He then explained they were looking to find out who did what from the city's perspective, and how this occurred. He also asked how the water might be changing the acidity and look of the pond, and who was responsible for that. He emphasized that it was clear the color of the pond had changed. He added that copperhead snakes had funneled their way into the pond and had never been there before. He noted that while the Council could not dictate what happens, the intent was to take in information and help figure things out.

Dan Glenville, 33 Dicsal Lane, stated that photographs he took demonstrated water coming down the hill as well as remediation work that was done in the area that was

unprotected. He added they also showed the discoloring of the pond. He explained that while the pond was largely associated with Lindor Heights, it stretched behind the entire neighborhood, converted into three ponds, and finished as a vernal pool next to his property. He then asked the Conservation Committee to address how alteration was defined. He suggested that they had a broad definition which included filling, removal, excavation, dredging, sand, gravel, aggregation of materials, changing of preexisting draining characteristics, flushing, salination, distribution, sedimentation patterns, flow patterns, flood storage, retention areas, draining, disturbing, lowering the water level, water table, dumping, discharging, filling with any material, erection of building structures of any kind, placing objects or obstructions, and it continued almost double that. He then asked how the permit was granted and what mitigation factors were put into effect at the granting of the permit, and what was done to verify mitigation factors were done, and whether a buffer was put in place and whether it was continued. He also asked how abutters would have been notified, noting that he did not recall being notified. He also emphasized that this would qualify under the Mass DEP (Department of Environmental Protection) with regard to stormwater and stormwater management, asking what mitigation factors might have been put in place.

Y. Glogower explained that they began working with Kestral Land Trust in 2021 on efforts to restore Anniversary Hill Park and Scott Tower, beginning with the acquisition of 14.1 acres. He noted that they had done extensive community outreach to see what people wanted done with that area. He then shared a presentation, available through the link at the bottom of these minutes. These points included results of surveys, flyers for various events, aerial views of the master plan. He noted the community wanted to keep the area mostly forested, while making it a multiuse park. He noted that some of the funding sources had stipulated that all overhead utilities needed to be buried, which dictated the first step of their work. This also included site plans showing the access pathway and utility trench. He noted that city stayed on as the engineer of record and helped oversee the project and helped oversee it on a day to basis. He added that since the utilities would need access to inspect underground facilities, they made those pathways wheelchair and ADA accessible. He also stated that they found preexisting storm basins carrying stormwater down the hill, and the contractor was able to get those running again. He noted the long stretch was no longer running down to Overlook, and that the sedimentation event happened when the project was still ongoing. He showed photos straw waddles and curbing in place overlooking Overlook Drive. He also showed photos of catch basins.

Councilor Devine asked for explanation of a tarp next to the catch basin.

J. Horan stated that it was a filter cloth meant to filter out sediment before getting to the sump.

Councilor Sullivan asked when the barriers were installed.

Y. Glogower stated that it was early in the project but additional controls were added after the saltation event.

Councilor Sullivan expressed his understanding that it was redirecting water into a different direction.

Y. Glogower stated that it was allowing the water to pile higher. He then presented photos of the access pathway, the utility trench, noting that the only exposed area was the entrance, which was waiting on a pole license. He also showed photos of the preexisting drains and drainage trenches along the sides of the pathways. He then explained that the city had to get general construction permits from the EPA for stormwater discharge. He explained that a site plan review was not required because it didn't meet the standards. He added that there was no addition to impervious surface, meaning no need for a stormwater permit.

J. Horan stated that most of the trails already existed, meaning new roads were not created but just dilated back and new drainage areas were created. He acknowledged there did appear to be an issue with the ponds, adding that they met with the abutters to that pond to look at it. He recalled that one of those abutting owners, Kevin Flynn, went to the Commission and asked for remediation to help with the pond because it was covered with algae and duck weed, and it was his understanding that the Commission was not helpful at that time. He noted this was before he was on the Commission. He suggested that they should look at the pond and see how they could help the situation. He also recalled that while considering purchasing a home in that area, he found that it appeared there were sediment issues coming from 141, and I-91 as well. He reiterated that it was clear a flush of sediment that went into the pond. He noted that Mass DEP found everything was properly done on site, but that was not to say things did not occur. He suggested that the Commission should look into it, but he expected that if the ponds were dredged, they would likely fill back up with sediment.

Councilor Magrath-Smith noted that there was a difference between doing what the letter of the law required and going above and beyond that to avoid issues. She noted that a lot of issues happened around the same time due to the ground being frozen and intense rain coming in. She then questioned how the city could respond to that in the way that contracts are developed or in the way that the city works with people onsite, given that these things could happen in the future. She also asked what potential solutions could be considered here.

J. Horan stated that they were looking into options, but they did not know at the time how to solve it.

Councilor Sullivan stated that he was hearing from Mr. Flynn for months before any March event. He then stated that he was not going to fault the contractor as they were just following the plan given to them. He suggested looking at the initial planning done with the layout that affected the flow. He also expressed discomfort with leaving the abutters hanging.

Chair Givner asked if there was a reasonable timeline to research ideas that could be shared with the public.

Y. Glogower agreed with Mr. Horan's point that solutions needed to expand beyond looking at this project. He noted that 5 separate drains from Route 141 went into the pond. He then clarified that the saltation event took place on December 19th. He then emphasized that heavy rain events were going to keep happening. He shared Mr. Horan's perspective

that while the construction contributed to the issue, it was likely not the only contributing factor. He suggested that it needed to include working with state partners to reduce inputs into the pond and find other places for water to go. He then stated that he was unsure about what to do about remediation to the pond. He noted that there were devices that could aerate the pond and introduce oxygen to counteract the algal presence, but it was a speculative solution.

Councilor Sullivan noted that section to 141 was designed in 1960 and there had not been an event like this in the years since. He questioned how runoff from there could be considered a root cause. He then emphasized that this was a community problem that needed to be addressed together. He then suggested tabling this to give the Conservation Commission and other relevant city and state officials time, perhaps within 90 days.

Chair Givner agreed that it could be revisited in the fall.

Councilor Devine recalled there was just one previous owner of the home Mr. Flynn was now living in and could not recall any event like this happening in the past. She agreed to revisit it as long as the neighbors were good with waiting a few months.

J. Horan stated that they would be willing to come back. He then noted that item 7 was somewhat related to this, which was about closing up the one existing open trench.

Chair Givner stated that order could be addressed, but it was important for the neighbors to know that this discussion was going to continue.

Councilor Sullivan made a motion to lay item 8 on the table. Chair Givner seconded the motion. Motion adopted, 4-1.

(2:07:10)

Councilor Sullivan made a motion to suspend the necessary rules to remove item 7 from the table out of order. Councilor Anderson-Burgos seconded the motion. Motion adopted.

Item 7: 5-21-24 GIVNER - Ordered that the City Council approve a license agreement between the City of Holyoke and Verizon for relocation of cables at the Anniversary Hill Park project located at Scott Tower Road in Holyoke, MA.

---> Approved, 5-0.

DISCUSSION:

Chair Givner stated that the legal license information was provided from the Law Department. She asked for confirmation that the committee had a chance to read it. She then expressed her understanding the license was needed to continue the wiring work to continue at the Scott Tower project.

Y. Glogower stated that was correct. He noted that Vincent O'Connell from Holyoke gas & Electric was in attendance on Zoom to speak to the technical aspects.

V. O'Connell stated that they were working with the development to convert poles and structures at the location to underground facilities. He then explained that there would need to be additional utility work from Easthampton Road requiring a single pole set at the top, and then transfer them underground.

Y. Glogower stated that by doing this, they would be able to remove 25 poles farther down in the park.

Councilor Sullivan made a motion to approve item 7. Councilor Anderson-Burgos seconded the motion. Motion adopted, 5-0.

(2:10:15)

Councilor Anderson-Burgos made a motion to suspend the necessary rules to remove items 5 and 6 from the table as a package. Councilor Sullivan seconded the motion. Motion adopted.

Item 5: 2-6-24 From David Weinberg, communication regarding Victory Theater

---> Complied with, 5-0.

Item 6: 6-4-24 MiFA response to Mr. Weinberg letter and addendums

---> Complied with, 5-0.

DISCUSSION:

Chair Givner invited the team from MiFA (Massachusetts International Festival of the Arts) into the Council chambers.

Don Sanders introduced himself as Executive Artistic Director of MiFA/Victory Theater.

Brad Foster introduced himself as handling accounting for MiFA.

Susan Palmer introduced herself as Project Manager for the Victory Theater.

Matt Jacobs introduced himself as representing the construction management firm, Barr & Barr Builders, who would be renovating the theater.

Fleur Kuhta introduced herself as the administrative assistant at MiFA.

Chair Givner asked the Admin Asst Anderson-Burgos if anyone was online for this item.

Admin Asst Anderson-Burgos stated that he was not aware of anyone else.

D. Sanders stated that they were happy to help illuminate the public about the project. He noted that they had provided a point by point response to Mr. Weinberg's letter, which is available through link at the bottom of these minutes. They also provided a presentation on the status of the project.

S. Palmer reiterated that a point by point response was provided to Mr. Weinberg's letter, and they were happy to answer questions regarding those. She then stated that much of the content of the letter was outdated or had incorrect interpretations of information. She noted that some things has changed since the presentation was provided just a few days earlier to the tune of \$3 million in additional funding. She highlighted an overview of their project schedule. She noted that they were ahead of schedule by 30 days. She emphasized that in contrast to asserting being made that nothing was going on, the presentation illustrated a lot of work going on in the interior that could not be seen from the outside.

M. Jacobs stated that the main focus for the past few months had been explaining to the design team what needed to be addressed in the theater because it hadn't been touched in many years. He noted that one of the main things was stopping water from getting in to stop deterioration of the building, as well as fixing drains that were leaking, and opening up areas for investigation by the structural architect.

S. Palmer highlighted a document showing a detailed list of activities of the work being undertaken. She emphasized that this is normal for how this kind of project goes and it does tend to take a long time. She then explained that this was not like many other projects that would have a built in affinity group that would be to motivated to provide support, such as a college, hospital, or church. She then explained that in addition to the fundraising they had been doing, they would be securing financing to borrow against the funding they would later get in state and federal tax credits that would be received after the theater opens. She added that they had also identified investors willing to provide \$22 million, and were also willing to talk to other investors to join them. She also described a sources and uses table highlighting the funding they had identified.

Councilor Devine stated that it was thrilling to hear things get better every time she had spoken with their team. She suggested that they utilize Holyoke Media to put on a presentation to help more of the public hear this information.

S. Palmer stated that they had done a presentation there 10 days earlier and that it was publicized in the newspaper.

D. Sanders emphasized the importance of having someone talk through the data and explain the scope of the work. He then referenced the earlier discussion of the ponds, noting that he was moved by the discussion as they are a part of the community. He then stated that the Victory Theater was like those ponds, part of the city's geography. He then stated that while it was currently dormant, it was designed as a live theater, became a movie theater, and people wanted to see it back helping to entertain people. He added that it also served as an economic development project. He then stated that they had been doing smaller presentations at Holyoke Media featuring the Victory Players performing Latin classical and contemporary music. He added that they had been able to use that to talk to people and humanize the potential programming at the Victory Theater. He noted that he inherited the project from an earlier organization, Save the Victory Theater, that had tried to save it in the 1980's, got a price tag of \$9 million in 1992, and could not raise it. He then explained that MiFA took it over in 2005. He added that he brought in consultants, including Margaret Wood, who believed that it should be saved because there was no other theater like it in the area. He added that he was told then that it would take 20 years. He then explained that he was informed by Helen Casey that the City Council was convening to discuss a motion to tear it down. He stated that he offered a promise then that if it was not torn down, they would open the theater. He added that by that point, they had done enough research to know what it could do. He emphasized that their information reflected classic ways that projects like this were funded, where they started with individual donors and then used that to secure additional funding from city, state, and federal sources. He also stated that Ms. Wood's advice was that they had to get recognition of the tax credits from the Historic Commission showing that this was an important project. He further explained that while the \$1 million would not be provided until the project completes, it provided confidence to acquire additional funding from other individuals. He reiterated that these were details people needed to understand. He emphasized that the tax credits were a form of collateral that would not go away unless the project went away, allowing them to keep building on it.

Chair Givner explained that the presentation and the attachments provided were a response to the letter sent by David Weinberg. She then noted that Mr. Weinberg was called and messages were left with him twice to let him know that this discussion would be taking place that night. She then asked how much Holyoke was paying for the project.

S. Palmer stated that there was a \$2 million commitment from the mayor, about 5% of the overall cost. She added that the previous mayor committed to forgiving some of the associated fees, such as tipping fees and utility permits. She noted that those were valued at around \$1.2 million.

Chair Givner asked them to confirm that any funding secured from the state was not available until the project was completed.

S. Palmer stated that most of what was coming from the state had been made available strictly for project use. She explained that construction docs has been paid for. She added that they had received the first \$1.5 million of a recent \$3.5 million allocation, which had gone into the sticks and bricks elements of the building. She added that they expected to close on the remaining \$2 million soon. She noted that the question of where the programs were advertised was still open.

D. Sanders stated that Channel 22 had covered their programming. He added that they had a big article in Berkshires Magazine coming out soon, which showed what the theater would look like when it opens, as well as listing some of the accomplishments that MiFA had already made. He then stated that they were planning to hold a public session soon.

Councilor Anderson-Burgos stated that the Victory Theater was listed as a historic building on the National Registry of Historic Places. He then expressed his opinion that they owed it to the city to protect it. He recalled going to the theater as a child. He also recalled visiting the theater since being elected and coming to recognize all of the moving parts. He suggested that a lot of people just didn't know what was happening or weren't willing to listen, assuming that it could be done as quickly as turning on a switch. He also noted that he and his husband often traveled to New York City, Boston, or Rhode Island to see shows, what he labeled as moving art, and believed that Holyoke deserved a piece of that history. He added that once opened, it could be connected to theater programs at Holyoke Community College and Holyoke High School.

S. Palmer stated that she often goes to projects where there is no plan beyond passion and ideas. She added that she had never been a part of a project that had not taken less than 10 years. She noted one project in Ohio took 33 years to complete. She emphasized that this was how long these kinds of projects take. He also stated that she did a user demand study that showed how people in this area within 30, 60, and 90 minutes of drive time from the theater spend their discretionary income, which showed 450,000 currently spending their money on theaters. She added that people here were spending their money in the Berkshires because there wasn't a theater in the area.

Councilor Sullivan stated that it was amazing how long MiFA had stuck with this. He then noted that as this was now coming up on 40 years, there was a great deal of skepticism among the general public, and they were just hearing that the price had gone up by another \$9 million, going from \$63 million the last time this was discussed to \$72 million. He added that it needed to be taken in context to new housing units coming in at millions less than this one. He also emphasized that there were also other enormous problems in the city that would need to be addressed at the same time in order to make this successful.

S. Palmer acknowledged that those issues deserved to be addressed. She then explained that the money being allocated to their project would never go to public housing because it was dedicated for this.

Councilor Sullivan stated that while he was not suggesting that, the public was viewing it in the context of the other projects going on around the city.

S. Palmer stated that in interviews she had conducted with the Mayor and with others around the city, she understood people wanted to see something with transformational impact, something that attract people to come to the city and spend their money in the city. She then emphasizing that while housing was needed in the city, it wasn't going to transform the city and get people to come to it.

Councilor Sullivan stated that while he was not suggesting it was, reiterating that it was about the scope of the projects. He suggested that people with discretionary income were not going to come to the city if bodies and needles were being picked up off the street no matter how beautiful the building might be.

S. Palmer referenced a project in Schenectady, New York she worked on, that had been in a similar situation after a lot of industrial companies left and had a lot of empty store fronts. She then explained that Proctor Theater had been scheduled for demolition until a group of people rose up to save it. She then explained that it reopened in 2005, and since then, 3 new hotels and 11 new restaurants opened in their downtown area within 3 years. She added that they were now a site where Disney was bringing their content to their stages to prepare shows for the road. She added that it was helping to contribute over \$20 million to the local economy. She also estimated that at the Victory Theater, on any given night, at least 65% of 1600 seats will be occupied. She suggested that would inherently help with what was going on in the city.

Councilor Sullivan stated that he hoped she was right.

Chair Givner emphasized the importance of the revenue this would bring to the city helping to pay for other things the community needed, such as housing, policing, and city services.

D. Sanders emphasized that Holyoke was a city created through investment, adding that there were 8 theaters at one time.

Chair Givner stated that it was because Holyoke had the most millionaires per capita in the world.

D. Sanders that they became millionaires because they had people working here. He added that it had given an urban view that a city can grow and be prosperous and also help those who were not prosperous. He then stated that it required a dialogue of assets, with cultural and entertainment events being included in financing. He stated that he had trained with the late Joseph Papp who had the idea that the arts and social justice worked hand in hand. He noted that Broadway in 1874 was going to be torn down until certain forces came in.

Councilor Devine stated that she had known Mr. Sanders for years and appreciated that his cup was always half full and that he never got discouraged.

D. Sanders stated that he grew up in Massachusetts, and he recalled when he first came to Holyoke there an attitude that they should just take bulldozers from 91 and push the

whole city into the river. He emphasized that this was a place where people live and have this great asset.

Councilor Sullivan made a motion that items 5 and 6 have been complied with. Councilor Anderson-Burgos seconded the motion. Motion adopted, 5-0.

Documentation for agenda items can be found [here](#).

Meeting adjourned at 9:30 PM

LAI D ON THE TABLE:

Discussion unlikely to take place

Item 10: 9-5-23 JOURDAIN — City Council explore with the Mayor a residential redevelopment plan for city owned vacant parcels has homes built then sold. City funds coupled with any available grant funding will be used for seed funding with the proceeds of the sales used to build more homes. The long term play for the city is the generation of all of the property tax revenue from these home sales, the new availability of great new housing, the reduction in city owned buildable lots and the growth of population.

*Tabled 2-27-24

Item 11: 9-5-23 JOURDAIN — Law Dept and Mayor be invited to the City Council to discuss an update on the city's use of the receivership program including current properties being targeted and others that are excellent prospects for required repairs. I also would like to see if we can use this for larger scale problem rental properties with the right receiver as has been done in larger metropolitan cities. I also would like to start an initiative as has been used in large urban settings where we have required landlord training programs when appropriate as well as a model like Kansas City Bad Apple Program for repeat offenders. Law dept. and Mayor will be encouraged to look at what resources we need to go bold on problem properties and develop a plan with us.

*Tabled 1-29-24

Item 12: 12-5-23 MURPHY-ROMBOLETTI — An order to declare Parcel Holyoke Assessors Map 212, Block 00, Parcel 001, Easthampton Road, Holyoke, MA as surplus property and sell to the Massachusetts Department of Fish and Game with an address of 100 Cambridge Street, Suite 620, Boston, MA 02114 for \$270,000.00.

*Tabled 12-18-23

Item 13: 8-1-23 BARTLEY -- HPD and MA DOT work to promote a pedestrian safety plan for the employees contracted to work at the Soldiers' Home. MA DOT expects to have up to 300 employees working on site for the next three years. The employees are scheduled to park at Lot Q at H.C.C. during that time. Refer to HPD, MA DOT District 2 and the Development and Governmental Relations Committee for a follow-up.

*Tabled 9-25-23