



City of Cambridge

Comm. No. 18(A)

IN CITY COUNCIL

August 3, 1987

MAYOR WALTER J. SULLIVAN
VICE-MAYOR VELLUCCI
COUNCILLOR DANEHY
COUNCILLOR RUSSELL
COUNCILLOR WALSH

ORDERED: That it is the sense of the Committee on Public Safety/Public Service to request the City Manager to confer with the Commissioner of Health and Hospitals and other appropriate City officials to re-open the public hearing of March 18, 1987 so that new evidence may be presented regarding this matter and said hearing should be held within a six (6) to eight (8) week period.

In City Council August 3, 1987.
Adopted by the affirmative vote of 9 members.
Attest:- Joseph E. Connarton, City Clerk.

A true copy;

A handwritten signature in cursive script, reading "Joseph E. Connarton".

ATTEST:-

Joseph E. Connarton, City Clerk.



City of Cambridge

Comm. No. 18(B)

IN CITY COUNCIL

August 3, 1987

VICE-MAYOR VELLEUCCI

ORDERED: That the City Manager be and hereby is requested to appropriate a sum of money sufficient to cover the costs of hiring an attorney, an investigator and a rodent expert to represent the Committee on Public Safety/Public Service on the Mabardy matter; and be it further

ORDERED: That the City Manager be and hereby is requested to confer with the Commissioner of Inspectional Services to ensure that monitoring of the stipulations take place on a daily basis.

In City Council August 3, 1987.

Adopted by the affirmative vote of 9 members.

Attest:- Joseph E. Connarton, City Clerk.

A true copy; *Joseph E. Connarton*

ATTEST:-

Joseph E. Connarton, City Clerk.



City of Cambridge

Comm. No. 18(C)

IN CITY COUNCIL

August 3, 1987

COUNCILLOR RUSSELL

ORDERED: That it is the consensus of the Public Safety/Public Service Committee after hearing public testimony on the operations at 51 Mooney Street that the City Manager be and hereby is requested to confer with the Commissioner of Health and Hospitals and other appropriate City officials to suspend operations by C. J. Mabardy until such time as a site assignment is granted; and be it further

ORDERED: That the City Solicitor be and hereby is requested, after conferring with the City Manager, to take any and all steps to enforce this suspension.

In City Council August 3, 1987.
Adopted by the affirmative vote of 9 members.
Attest:- Joseph E. Connarton, City Clerk.

A true copy:

ATTEST: *Joseph E. Connarton*
Joseph E. Connarton, City Clerk.



City of Cambridge

Comm. No. 18(A)

IN CITY COUNCIL

August 3, 1987

MAYOR WALTER J. SULLIVAN
VICE-MAYOR VELLUCCI
COUNCILLOR DANEHY
COUNCILLOR RUSSELL
COUNCILLOR WALSH

ORDERED:

That it is the sense of the Committee on Public Safety/Public Service to request the City Manager to confer with the Commissioner of Health and Hospitals and other appropriate City officials to re-open the public hearing of March 18, 1987 so that new evidence may be presented regarding this matter and said hearing should be held within a six (6) to eight (8) week period.

In City Council August 3, 1987.

Adopted by the affirmative vote of 9 members.

Attest:- Joseph E. Connarton, City Clerk.

A true copy;

A handwritten signature in cursive script, reading "Joseph E. Connarton".

ATTEST:-

Joseph E. Connarton, City Clerk.



City of Cambridge

Comm. No. 18(B)

IN CITY COUNCIL

August 3, 1987

VICE-MAYOR VELLUCCI

ORDERED: That the City Manager be and hereby is requested to appropriate a sum of money sufficient to cover the costs of hiring an attorney, an investigator and a rodent expert to represent the Committee on Public Safety/Public Service on the Mabardy matter; and be it further

ORDERED: That the City Manager be and hereby is requested to confer with the Commissioner of Inspectional Services to ensure that monitoring of the stipulations take place on a daily basis.

In City Council August 3, 1987.

Adopted by the affirmative vote of 9 members.

Attest:- Joseph E. Connarton, City Clerk.

A true copy; *Joseph E. Connarton*

ATTEST:-

Joseph E. Connarton, City Clerk.



City of Cambridge

Comm. No. 18(C)

IN CITY COUNCIL

August 3, 1987

COUNCILLOR RUSSELL

ORDERED: That it is the consensus of the Public Safety/Public Service Committee after hearing public testimony on the operations at 51 Mooney Street that the City Manager be and hereby is requested to confer with the Commissioner of Health and Hospitals and other appropriate City officials to suspend operations by C. J. Mabardy until such time as a site assignment is granted; and be it further

ORDERED: That the City Solicitor be and hereby is requested, after conferring with the City Manager, to take any and all steps to enforce this suspension.

In City Council August 3, 1987.
Adopted by the affirmative vote of 9 members.
Attest:- Joseph E. Connarton, City Clerk.

A true copy:

ATTEST:

Joseph E. Connarton

Joseph E. Connarton, City Clerk.

stated that if it was determined that C.J. Mabardy did enjoy this grandfathering, then it should be determined if the site assignment should be suspended, modified or conditioned.

Councillor Russell, referring to the public hearing, questioned if any city personnel with expertise in various fields surrounding this issue were present to testify. Dr. Chalfen responded in the negative stating that only the proponents of this determination offered evidence at this hearing, (March 18, 1987)

Councillor Walsh, questioning Dr. Chalfen if he would re-open the public hearing before issuing his final report. The Commissioner stated he would if new evidence would be presented by those who opposed the site assignment.

At this time, George Spartichino of 99 Normandy Avenue and President of the Cambridge Highlands Neighborhood Association stated that area residents were ready to offer affidavits and that he felt strongly that there is sufficient evidence to re-open the hearings. Upon conclusion of Mr. Spartichino's statement, the Chair recognized Councillor Walsh who introduced the following Council Order: Sponsored by Mayor Sullivan, Vice Mayor Vellucci, Councillors Danehy, Russell and Walsh:

ORDERED: That it is the sense of the Committee on Public Safety/ Public Service to request the City Manager to confer with the Commissioner of Health & Hospitals and other appropriate City officials to re-open the public hearing of March 18, 1987 so that new evidence may be presented regarding this matter and said hearing should be held within a six (6) to eight (8) week period.

The order was adopted by a voice vote of five (5) members.

Referring back to the summary judgement with stipulations, Councillor Danehy requested of Attorney Shea his opinion of the stipulations that allow for the Mabardy Company to operate. Attorney Shea stated his agreement with the stipulations based on his knowledge of the facts that were presented to him.

The Chair then recognized Vice Mayor Vellucci who offered this order with an Amendment by Councillor Russell:

ORDERED: That the City Manager be and hereby is requested to appropriate a sum of money sufficient to cover the costs of hiring an attorney, an investigator and a rodent expert to represent this Committee on the Mabardy matter; and be it further

ORDERED: That the City Manager be and hereby is requested to confer with the Commissioner of Inspectional Services to ensure that monitoring of the stipulations take place on a daily basis.

This order as amended passed on a voice vote of four (4) members.

Councillor Walsh proceeded with a series of questions for Mr. Spartichino and Cathy Holway of 104 Normandy Avenue regarding compliance with the stipulations by the Mabardy Company. At the conclusion of the questions, Councillor Russell offered the following Order:

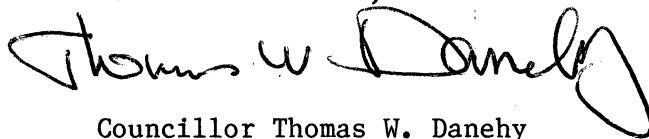
ORDERED: That is the consensus of the Public Safety/Public Service Committee after hearing public testimony on the operations at 51 Mooney Street that the City Manager be and hereby is requested to confer with the Commissioner of Health & Hospitals and other appropriate City Officials to suspend operations by C.J. Mabardy until such time as a site assignment is granted; and be it further

ORDERED: That the City Solicitor be and hereby is requested, after conferring with the City Manager, to take any and all steps to enforce this suspension.

This order was adopted on a voice vote of four (4) members.

The hearing was adjourned at 9:40 p.m.

For the Committee,

A handwritten signature in black ink, appearing to read "Thomas W. Danehy", is written over the printed name and title.

Councillor Thomas W. Danehy
Chairman
Public Safety/Public Service Committee

The Committee reconvened at 8:25 p.m. and Councillor Danehy called for discussion of the concerns and complaints surrounding the operations of C.J. Mabardy. The Chairman requested the Deputy City Clerk to read a communication from Wright and Moehrke, P.C. Counsellors At Law (representing C.J. Mabardy Co., Inc.) stating their inability to attend due to a previously scheduled commitment.

At this time, Councillor Walsh questioned the Deputy City Solicitor if his office had rendered an opinion on the issue of grandfathering the operations of the Mabardy Company. In response, Mr. Drisdell explained to the Committee the history of the legal proceedings brought by the City against C.J. Mabardy. Mr. Drisdell stated that the City filed a motion for a summary judgement and that it was granted with stipulations. He further stated the case is still pending (filed in 1985 on or about August 15) and defined the term "pre-existing use" the basis on which Mabardy is operating under. Under Massachusetts General Laws, a site assignment must be determined by the local Health Commissioner, to determine pre-existing use. This pre-existing use must be defined prior to the effective date of the statute (1955). Vice Mayor Vellucci inquired as to when C.J. Mabardy began their operations. The response was 1981.

At this time, Councillor Walsh questioned the involvement of the Commissioner of Health & Hospitals, Dr. Melvin Chalfen in the site assignment process. Dr. Chalfen responded by stating that on March 18, 1987, a public hearing was held to gather evidence to determine the site assignment question. According to the Commissioner's testimony, the neighborhood was notified through notices in the Cambridge Chronicle and the Tab as well as on the advice of counsel a questionnaire was hand-delivered to some 140 households. The Commissioner further stated that twenty individuals were in attendance and he was presented with a petition signed by some 118 individuals regarding this action.

At this time, Councillor Danehy questioning Dr. Chalfen on the scope of his broad powers as Commissioner if he could suspend the operations of this company due to health hazards that might be in existence. Dr. Chalfen stated that although he has broad powers, they are specific ones and upon advice from counsel, those powers would not apply to this situation.

Mayor Walter J. Sullivan questioned the names of the individuals seated at the Testimony Table. Deputy City Manager Rossi then proceeded with the introduction of John F. Shea, Jr., Esquire who was hired by the City in September of 1986 to assist in the resolution of this matter.

Attorney Shea explained to the Committee his involvement to date and stated that it was his recommendation to conduct a public hearing under M.G.L. 111 Section 115A - grandfathering under the statute. He further

basis and not on a truck ban basis. Vice Mayor Vellucci suggested that the police should take stronger measures of enforcement by bringing a complaint against the driver or the firm to the DPU.

Councillor Danehy, at this time questioned Inspectional Services Commissioner Joseph Cellucci on the merits of restricting the business hours of Portland Stone Ware. Commissioner Cellucci responded that City Ordinances No. 877 ("Regulations for the Control of Noise") might contain the means to restrict the operating hours of the firm. Commissioner Cellucci further stated that enforcement of this ordinance is under the jurisdiction of the Police. The Chair then asked License Commission Chair James T. McDavitt if his department had the proper measuring device to determine noise levels emanating from 177 Pemberton Street. Mr. McDavitt responded in the affirmative. The chair then suggested that a possible solution to the problem would be through a "five-prong attack" - Police, Traffic and Parking, Inspectional Services, License and Law Departments.

The Committee then heard from Doug Hannon of 4 Verdun Street, Charles Giacobbe of 7 Van Norden Street and Jeff Howard of 9 Middlesex Street detailing grievances they and their neighbors had regarding the operations of Portland Stone Ware Company ranging from traffic to noise to pollution to damage of public property.

Upon conclusion of this testimony, Councillor Walsh questioned Mr. Drisdell on the advisability of the City seeking an injunction order against Portland Stone Ware based on the testimony provided at this hearing. Mr. Drisdell responding to the question stated that he would be willing to build a case by assembling all the pertinent data of the Police, Traffic and Parking and Inspectional Services Departments and soliciting signed affidavits from the neighbors. He stated that this action would be a priority of the Law Department.

Further public testimony was taken from Regis DeSilva of 199 Pemberton Street who stated that the only solution would be for Portland Stone Ware to move out and let the property be developed. He also stated his opposition to a downzoning petition before the City Council. Daniel Kanstroom of 13 Verdun Street stated his support for the downzoning petition and proposed that the neighborhood and not the city should take legal action against Portland Stone Ware.

At this time, Councillor Danehy asked Deputy City Manager Rossi for any concluding remarks regarding the information that was presented at this hearing. Mr. Rossi stated that he would assemble a meeting with the appropriate city officials to review and discuss all the points that were raised and would be communicating with the neighborhood in the near future in order for the city to take a position in court.

This portion of the hearing was closed at 8:16 p.m. The Chair then called for a brief recess.

City of Cambridge

In City Council..... August 3, 1987

The Public Safety/Public Service Committee conducted a public hearing on Wednesday, July 8, 1987 beginning at 7:21 p.m. in the Sullivan Chamber, City Hall. This hearing was called to discuss various citizen complaints regarding current business operations by Portland Stone Ware Company, 177 Pemberton Street and C.J. Mabardy, 51 Mooney Street.

Councillor Thomas W. Danehy, Chairman of the Committee requested Deputy City Clerk, John Flynn to read a communication from Portland Stone Ware Company stating their inability to attend this hearing due to prior commitments along with a request for a copy of the proceedings minutes.

At this time, the Chairman introduced Mr. Richard Rossi, Deputy City Manager, to make an opening statement regarding the City's handling of the situations affecting the neighbors of Portland Stone Ware Company. Mr. Rossi introduced Mr. George Teso, Traffic and Parking Director and Mr. Donald Drisdell, Deputy City Solicitor to explain the actions that have been taken and offer future action that could be taken by the City. Mr. Teso gave a detailed explanation of the steps taken by his department regarding truck traffic and explained the rationale for instituting a truck ban on Middlesex Street. Mr. Teso further explained the history of this ban by stating that it became effective on February 1, 1987 and outlined the time period that the ban is in effect (Saturday beginning at 4:00 p.m. through Monday at 7:00 a.m.). Councillor William H. Walsh questioned Mr. Teso on whether or not he has received any complaints by area residents since this ban became effective. Mr. Teso responded in the affirmative but stated that the complaints were in regards to enforcement of this ban by the appropriate departments. Vice Mayor Alfred E. Vellucci questioned Mr. Teso on whether or not the Portland Stone Ware carriers were licensed by the Department of Public Utilities, (DPU).

The Committee, at this time, heard from James Ronchetti of 68 Middlesex Street, who questioned the commitment of the Police Department in enforcing the ban citing examples such as slow response time and lack of issuance of citations. Chief Anthony Paolillo responded to the remarks stating that the department has issued citations to drivers and have responded to calls regarding noise and other complaints. The Chief further stated that the department has tried to educate Portland Stone Ware Company employees on appropriate truck routes to be used in the City. Councillor Sheila T. Russell then questioned the Chief on what steps could be taken to alleviate and/or stop the truck traffic in the neighborhood. Chief Paolillo responded by saying that residents should voice their complaints to the police either through 911 or the business number. Councillor Alice K. Wolf questioned the Chief on the number of citations issued since February 1, 1987. The Chief stated that he would furnish the Committee with the information at a later date because the statistics he had were on a city-wide

REPORT

Committee on Public Service/Public Safety
Re: various citizen complaints on current
business operations by Portland Stoneware
Co. & C. J. Mabardy.

In City Council,

August 3, 1987

*Report Accepted - See
Orders Adopted*