

Ordinances & Administration Committee
Monday, March 6, 2017 – 6:00 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

Present: Chair, Councilor Steve LeBlanc; Vice Chair, Councilor Jamie O’Hara; Councilor Nolan

Absent: None.

Also Present: Jim Destino; Chip Payson; Meredith Fine

The meeting was called to order at 6:00 p.m.

1. *Appointments and Reappointments*

A. Management Appointment

Community Development Director	Daniel Smith	TTE 02/14/18
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Mr. Smith’s appointment is continued to 3/20/17.

B. *Appointment to Board, Committee, Commission or Council:*

Fisheries Commission	Joseph B. Jurek	TTE 02/14/20
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Mr. Jurek’s appointment is continued to 3/20/17.

Waterways Board	Russell Sherman, Peter Yung	TTE 02/14/20
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Mr. Yung explained that he was on the waterfront committee at the Annisquam Yacht Club and sits on three committees there. He noted he is a member of CERT. He said he wishes to see more revenue raised for the waterfront and entice transient boaters to the city. Councilor LeBlanc said they have to find a happy medium between commercial fishing and recreational boaters. He noted he sits on the Waterways Board as well as the Council’s liaison.

Both **Councilors Nolan** and **O’Hara** expressed their thanks to Mr. Yung for stepping forward to volunteer.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Peter Yung to the Waterways Board, TTE 02/14/20.

Mr. Russell’s appointment is continued to 3/20/17.

Capital Improvements Advisory Board	Leonard Gyllenhaal	TTE 02/14/20
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Mr. Gyllenhaal’s appointment is continued to 05/15/17.

C. Boards, Committees, Commissions & Councils Reappointments (Cont’d from 02/06/17):

Affordable Housing Trust	Michael Luster	TTE 02/14/19
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Mr. Luster conveyed that matters for the Affordable Housing Trust are slow, but they are meeting on a quarterly basis. They have awarded some funds over the last eight years, and expressed his desire to serve another term on the AHT.

Councilor LeBlanc briefly discussed the various city projects that affordable housing is associated with coming forward with Mr. Luster.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Michael Luster to the Affordable Housing Trust, TTE 02/14/19.

Clean Energy Commission	John Moskal	TTE 02/14/19
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Mr. Moskal explained that there are several more grants expected for the city's Green Community status. He mentioned that the DPW has been a great partner highlighting the recent conversion of city street lights to LED.

Councilors Nolan and O'Hara expressed their appreciation for Mr. Moskal's volunteerism.

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council reappoint John Moskal to the Clean Energy Commission, TTE 02/14/19.

Fisheries Commission

Angela Sanfilippo

TTE 02/14/20

Ms. Sanfilippo expressed to the Committee her desire to continue to serve on the Fisheries Commission. The entire Committee thanked Ms. Sanfilippo for her tireless advocacy on the behalf of the city's fishing industry with **Councilor LeBlanc** calling her the hardest working woman on the waterfront in a near tie with Mayor Theken.

Ms. Sanfilippo said there is a lot of excitement on the Fisheries Commission with the upcoming Seafood Expo in Boston, and many projects are in the offing.

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council reappoint Angela Sanfilippo to the Fisheries Commission, TTE 02/14/20.

Open Space & Recreation Committee

Charles Crowley, Susan Hedman

TTE 02/14/20

Both Mr. Crowley and Ms. Hedman's reappointments were continued to 03/20/17.

Zoning Board of Appeals

David B. Gardner

TTE 02/14/20

Mr. Gardner conveyed that the Zoning Board of Appeals is doing well, meeting once a month. He said the Board does its best to make fair and equitable decisions. **Councilor LeBlanc** mentioned that from time to time applicants that appear before the ZBA need their hands held to which **Mr. Gardner** expressed his agreement indicating that the ZBA is sensitive to those situations.

Councilor Nolan, saying that Mr. Gardner is an asset to the Board, and was joined by **Councilors LeBlanc and O'Hara** in expressing their thanks to Mr. Gardner's for his dedication to the ZBA.

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council reappoint David B. Gardner to the Zoning Board of Appeals, TTE 02/14/20.

2. *CC2017-002 (Orlando) Request third party audit to determine whether the consolidation of the following departments for the city, school and Police departments would achieve benefits/cost savings to the city: Human Resources, Payroll and IT (Cont'd from 02/06/17)*

Councilor LeBlanc recounted as this matter was taken up at City Council at its 02/14/17 meeting and a Request to the Mayor was forwarded by the Council the, and so this matter is considered closed.

Jim Destino, CAO, updated the Committee recounting that they have already had a meeting on this matter which is progressing which he said will take a little time, but it is progressing.

This matter is closed.

3. *CC02017-004 (Gilman) Amend GCO Sec. 22-277 "One-hour parking-Generally" re: Holly Street (Cont'd from 02/06/17)*

Councilor LeBlanc conveyed that Councilor Gilman, unable to attend the meeting due to a prior commitment, had forwarded a statement by email (on file) which he read into the record: "Having attended the Traffic Commission meeting on 2/23/17, I support their recommendation as stated on their draft minutes (on file) of their recent meeting. Initially my reasons for submitting the one-hour parking order was to support the parking needs for

those patrons using the post office and restaurant. Restaurant General Manager, Melissa Donati, was observing a pattern that some members of the public would leave their cars in one of those six premium parking spots all day and car pool to the quarries, beach, or hiking paths. At the meeting on 2/23/17 the Traffic Commission, in addition to the Willow Rest landlord, Audra Dainora and I, thought that adding a time of day to my initial order consistent with the hours of the post office AND the busy hours of the Willow Rest, would allow the public to use these spots for overnight parking.

I have checked in with Postal Carrier/Officer, David White, and he supports this one-hour parking as well, with time restrictions, for similar reasons as the Willow Rest. If it is the will of the O&A Committee, the wording on my proposed order CC2017-004 should be amended to state the following: "Holly Street, westerly side (easterly side of the traffic island) from its intersection with Washington Street, beginning at a distance of 35 feet in a northerly direction, for a distance of 50 feet. Hours of restriction to be 8:00 a.m. to 5:00 p.m."

Councilor LeBlanc said Councilor Gilman has been extremely proactive about traffic issues in the area of the Willow Rest, part of her ward, pointing out she has really stepped up to clearly define what it should be done to alleviate residents and business's concerns. He said that thanks to her efforts, traffic conditions in the area of the intersection of Holly and Washington Streets has vastly improved. He expressed his support of her Council Order as recommended by the Traffic Commission with a few minor changes.

Councilor O'Hara said he had spoken to Councilor Gilman today, as did Councilor Nolan. Both Councilors said that they would support this Council Order as recommended by Councilor Gilman and the Traffic Commission pointing out she made a great effort to reach out to her constituencies to come to consensus with all the traffic changes instituted in the area over the last year. **Councilor Nolan** called it a win/win situation for everyone.

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Sec. 22-277 "One-hour parking-Generally" by ADDING: "Holly Street, westerly side (easterly side of the traffic island) from its intersection with Washington Street, beginning at a distance of 35 feet in a northerly direction for a distance of 50 feet. Hours of restriction to be 8:00 a.m. to 5:00 p.m.)."

This matter will be advertised for public hearing.

4. CC2017-006 (LeBlanc) Request the O&A Committee work with General Counsel to propose amendments to the City Council re; displaying of bongs, pipes and other smoking paraphernalia in storefront windows (Cont'd from 02/06/17)

Councilor LeBlanc introduced the three proprietors of local smoke shops/paraphernalia sellers: Tyler Palm, Cape Ann Vapors; Sunny Patel, Sunny's Smoke Shop; and Mark Lundgren, manager of the Gloucester location of the Boston Smoke Shop. **Councilor LeBlanc** said there have been complaints from residents regarding window displays of paraphernalia, and so the Committee wanted to hear from these business owners. He highlighted that the Committee doesn't want to implement anything that would discourage business but rather wants to find an equitable solution for the businesses and satisfy residents at the same time. The main complaint is that displays in windows are, "in people's faces." He said he spoke to the owner of the Boston Smoke Shop about some recommendations to tone down that business's window displays. He pointed out that the Committee isn't looking to reduce displays to the point of giving a business an illicit look. He said he believed it was possible to set some kind of framework as to how paraphernalia products may be displayed, for instance. He mentioned visiting Mr. Palm's business which he indicated was discrete, in his opinion. He noted that the Boston Smoke Shop has been responsive to neighborhood concerns as has Sunny's Smoke Shop, and their willingness to be good business citizens of Gloucester.

Chip Payson, General Counsel, suggested that the Council needs to consider that there is a body of law that deals with the possession and usage of marijuana as things change over the next 12 months (pursuant to the legalization of the sale of recreational marijuana and its propagation). That is somewhat of a cloudy issue, he said. Under the statute there are some parameters, some of which the city can act on and may or may not wish to take. The Council may have an ability to put ordinances in place or craft something that deals with advertising or the appearance of the businesses. This whole area deals not just with the legalization of marijuana. He advised caution. Everything should be on the table, but a meaningful discussion with proprietors and the Council should be undertaken without legislation at this time. There may be options out there, he pointed out. He said Karin Carroll, the city's Public Health Director could not be here this evening. She is trying to come up to speed with the legalization of recreational marijuana and is at a forum on that subject this evening, he said.

The three businesses will only handle transactions with people 21 years of age and over, it was noted. **Mr. Lundgren** said Boston Smoke Shops took the model of the City of Boston regulations and adapted it to all their shops which includes no one under the age of 21 is not allowed in the store regardless if they are with an adult. All shop visitors are required in the Boston to be ID'd within 45 seconds of entering the business – and the business can be fined if that doesn't happen. He said that the Boston Smoke Shops try to go above and beyond, even hiring a commissioner to educate their employees. A large sign is posted at all locations saying that no one under the age of 21 is to enter stores. Their employees are trained to ID on the spot and how to handle that transaction appropriately. Most of their shops are in the Boston city limits, he advised.

Mr. Palm said if he thinks people visiting his shop are underage he cards them. He said if someone comes in with a child they can do so as he doesn't restrict it, and that there aren't such restrictions on their business through regulations set up by the city's Public Health Department that he was aware of. **Mr. Patel** said that ID must be provided to come in the store to conduct transactions and is the law for tobacco products. If kids come in to his store, they must show ID, he noted.

Councilor LeBlanc engaged in a discussion with **Mr. Payson** briefly about regulations and the state law with **Mr. Payson** expressing that this is a fluid situation with the state to be handing down regulations which may say you can't enter a business if you are under 21 years of age which may also apply to businesses selling marijuana paraphernalia. The state regulations and law may change and the city doesn't know yet, he pointed out. **Councilor LeBlanc** confirmed this evening's discussion is just about paraphernalia at this point. He reported that most of the Council received emails of concern about the Boston Smoke Shop display in the windows. He said it is about setting a standard, adding that it is an issue for most folks about discretion given the area that the Boston Smoke Shop and Sunny's Smoke Shop. This isn't about putting anyone out of business but to be supportive, he said.

Mr. Lundgren said on behalf of Boston Smoke Shop they want to be a part of the community and be active in it. He explained that the reason so many pipes were in the windows of his store was because that those window shelving units comprise most of their shelf space to hold their products. He mentioned the company's website where people can contact the store directly, find information and ask questions. He suggested that whatever parents explain to children about alcohol, they should explain the same about marijuana and its paraphernalia and how to be responsible. He said he's received positive emails from the community but doesn't want to make anyone upset, and want to hear from the public directly of their concerns.

Councilor LeBlanc said he was impressed having visited all three shops with the well-lit, professional, clean environments. He said they want to ensure these businesses stay in Gloucester. **Mr. Payson** said there are certain limitations that municipalities can place on commercial speech, in referencing limiting displays to the public for paraphernalia; they can categorize commercial speech if that the Committee and the Council want to go and is something they can look to craft along those lines. **Mr. Payson**, responding to an inquiry by **Councilor LeBlanc**, advised that vaping and paraphernalia is different than selling marijuana paraphernalia or for tobacco paraphernalia that can be used for marijuana. That, he said, becomes a bit more uncertain as to what may or may not be coming from the state in terms of the regulations. Zoning is an option, he pointed out, narrower restrictions on commercial speech in terms of what can be advertised; on how things are presented – there are avenues to restrict commerce and businesses within the city. It is done now with certain entities to be able to conduct their business only sited at the Blackburn Industrial Park and some types of businesses allowed at Kondelin Road, he noted.

Councilor LeBlanc asked if this is something that should be a licensing issue. **Meredith Fine**, Chair of the Licensing Board, said the Board discussed this issue briefly at their last meeting in February about paraphernalia. Just as the state is looking at new regulations on marijuana, the State Treasurer is also looking hard at liquor licensing. She reported that it is the sense of the Licensing Board that this matter seems like a Board of Health issue as much as it is a licensing issue. The Board has no expertise in this area, she said. She added that the underlying question is in terms of permitting, and what the permitting process is supposed to be solving. She said it is not the same underlying issues with alcohol, briefly recounting the history as to why alcohol permitting is as it is today, as it is with recreational marijuana. If they are trying to solve a public health issue, then it belongs with the Board of Health. If it is about Zoning, it belongs to the Planning Board, she suggested.

Councilor Nolan said he is not one to advocate interrupting business or deterring it. There is nothing before them that is a pressing situation, he cited. He said he wouldn't mind looking at the city of Boston's regulations. He touched upon children being brought into shops by parents. He said when complaints keep coming in, there always is a way to remedy situations. He urged self-policing by the businessmen, and to limit displays of paraphernalia in their shop windows but yet not hide things either. They want them all to work together, he said. He said he, too, received complaints about the Boston Smoke Shop window displays. He reiterated that there is nothing to act on at this juncture, he noted. He asked that **Mr. Lundgren** look into what he can do to limit/tone down his shop's window displays. **Mr. Lundgren** said the Council won't hear the support they get in general whether directly from

customers or through their various media accounts, but only the complaints. He pointed out that their business is surviving and doing well and says something about community acceptance. He said he would meet with the Boston Smoke Shop owners to discuss this matter. He highlighted that what is on display in his shop is well represented on the internet in all formats with no limitations as to who may view it. He welcomed the public to speak with him to hear their concerns.

Councilor O'Hara said when the business opened he was impressed with the lighting, and that the windows were spotless, speaking of the Boston Smoke Shop, but that lighting during the winter only served to highlight that business's products to the public as they passed by, pointing out that Washington Street is one of the city's main gateways, and so it is on many people's mind.

Mr. Payson reiterated to the business owners that recreational marijuana regulations are very fluid at this time and the city is waiting for the state to put forward regulations to determine what action to take.

Councilor LeBlanc said this is just a first step towards awareness of the issues. He said moving forward they will look to stay focused on a lower level and are willing to sit down with the businesses and with General Counsel to set up some guidelines, numbering the amount of shops that can be permitted, zoning, etc., for sale of paraphernalia when state guidelines become available in the near future. He said they will follow up with each of the owners as deemed necessary.

This matter is continued to May 1, 2017.

5. CC2017-007 (Memhard): Amend GCO Sec. 22-265 re: no right hand or left hand turn onto Eastern Avenue at its intersection with Rt. 128 for trucks 2 ½ tons or greater

Councilor LeBlanc said that Councilor Memhard sent an email last week to him, noting that his order was asking to require the posting of signage that delineates a clear path for all trucks 2.5 tons or greater in the area of the intersection of Main Street and Eastern Avenue in for that area because of concerns raised by the residents of that immediate area. The Clerk of Committees reported that the Traffic Commission at its Feb. 23 meeting discussed the matter with the input of Barrett Pett, Administrative Aide to Sen. Bruce Tarr, that State DPW rules on Heavy Traffic Exclusions learning that MassDOT rules state that, "Numbered routes are ineligible for heavy commercial vehicle exclusions." This also applies to streets that intersect a numbered state highway. As Eastern Avenue is State Rte. 127, Mr. Pett had conveyed that he knew of absolutely no exceptions or waivers ever being made by MassDOT for this purpose. As a result, the recommendation of the Traffic Commission is that the City Council and the Mayor's Office work with the city's state legislative team and MassDOT to have signs installed that would suggest a "Truck Rote" informing trucks from Exit 14 to the East Main Street exit of Route 128 of the preferred route. The signs should be big enough to be seen by trucks. Additionally it was recommended that a sign should be posted at Exit 14 informing trucks that it is the exit for the Cape Ann Industrial Park (Kondelin Road).

Councilor LeBlanc said having observed the traffic; he said it is a difficult issue and needs to be addressed. He suggested that the big trucks need to be kept out of that neighborhood, which **Councilors O'Hara** and **O'Hara** agreed with.

By a unanimous vote of the Committee, a Request to the Mayor would be formatted and forwarded by the Clerk of Committees adding Councilor Memhard to that request, to be reflective of the suggestions of the Traffic Commission from its 02/23/17 meeting to work towards some kind of equitable resolution for trucks travelling lower Eastern Avenue and to address the expressed concerns of area residents.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:00 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.