

Ordinances & Administration Committee
Monday, April 30, 2018 – 6:00 p.m.
1st Fl. Council Conference Room – City Hall
-Minutes-

Present: Chair, Councilor Steven LeBlanc; Vice Chair, James O’Hara; Councilor Sean Nolan

Absent: None.

Also Present: Councilor Gilman; Councilor Lundberg; Councilor Holmgren; Joanne M. Senos; Jim Destino; Chip Payson

The meeting was called to order at 6:00 p.m. There was a quorum of the City Council. The Committee of the Whole was convened at 6:21 p.m. and adjourned at 6:38 p.m.

1. *New Appointments to Boards, Committees & Commissions*

Cemetery Advisory Committee	Christine Maney (Alternate)	TTE 02/14/21
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The appointment of Ms. Maney to the Cemetery Advisory Committee is continued to May 14, 2018.

Clean City Commission	Carter Whitlock, Jamie Mathison	TTE 02/14/21
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Ms. Whitlock highlighted for the Committee that she moved to the city in 2010 and expressed it is beneficial to the city and humankind to cut down on litter, waste, not just as producers of waste products but as consumers who have choices to make. She noted it is a good opportunity to work with a team and help out in the community. **Ms. Mathison** conveyed that as a business owner and seeing the things the Commission has already accomplished, she was inspired to join. **Councilor LeBlanc** thanked Ms. Whitlock and Ms. Mathison as did **Councilor O’Hara** for their community spirit.

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 Carter Whitlock to the Clean City Commission, TTE 02/14/21.

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 Jamie Mathison to the Clean City Commission, TTE 02/14/21.

Gloucester Cultural Council	Connie Zaitchick (Cont’d to 05/14/18)	TTE 02/14/19
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Magnolia Pier Advisory Committee	Richard Wilson	TTE 02/14/19
	Howard “Ted” Costa	TTE 02/14/20

Mr. Costa and **Mr. Wilson**, the first two members of the newly formed Magnolia Pier Advisory Committee were present. Noting that “you don’t become a Wilson until you jump off the pier,” **Mr. Wilson** conveyed the Magnolia Pier is an important piece of the community’s tradition. **Mr. Costa**, a retired Fire Chief for the City of Boston, advised he has a lot of experience writing grants, albeit in the realm of public safety but could be helpful to the new committee. He noted that he is a 20+ year resident of Magnolia. **Councilor Nolan** expressed he was pleased to get this new Committee off the ground and thanked Mr. Costa and Mr. Wilson 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 Howard “Ted” Costa to the Magnolia Pier Advisory Committee, TTE 02/14/20.

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 Richard D. Wilson to the Magnolia Pier Advisory Committee, TTE 02/14/19.

Reappointment to Boards, Committees & Commissions:

Licensing Board

Brian Hamilton

TTE 05/31/20

Mr. Hamilton reported that he wished to continue as a member of the Licensing Board, having come in last fall to fill the remainder of Mike Lane's term. **Councilor O'Hara** thanked Mr. Hamilton for his energy and commitment. **Councilor Nolan** lauded the work of Mr. Hamilton on the Board saying that the city was fortunate to have him in that role.

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 Brian Hamilton to the Licensing Board, TTE 05/31/20.

2. *Memo from Assistant Public Works Director re: updates to Beach & Stage Fort Park regulations*

This matter is continued to May 14, 2018.

3. *CC2018-008 (LeBlanc) Request the Traffic Commission review the traffic patterns on Middle St. & Washington St. around the Joan of Arc statue & the American Legion building & make a recommendation on any amendments to the traffic ordinances (Cont'd from 04/02/18)*

Councilor LeBlanc reported that at the Traffic Commission meeting of April 19, the Commission recommended as an improvement at the Joan of Arc statute intersection of Middle and Washington Street by an amendment to the ordinances to erect two yield signs particularly for visitors who are unfamiliar with the small "rotary." Additionally, with the posted yield signs it will place accountability for that particular intersection should there be an accident.

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 Ch. 22 "Traffic and Motor Vehicles" Sec. 22-269.1 "Yield Intersections" by ADDING: "Middle Street, at its intersection with Washington Street in an easterly direction, two yield signs. One at the north corner on the Joan of Arc Island and one on the south corner on the sidewalk by the American Legion building."

This matter will be advertised for public hearing.

- 4. *CC2018-009 (LeBlanc) Request the Traffic Commission review whether the crosswalk at "Tally's Corner" be removed & make a recommendation to O&A (TBC 06/05/18)***
- 5. *CC2018-011 (LeBlanc) Request the Traffic Commission review whether or not there should be directional pavement markings for the delineation of traffic at "Tally's Corner" and make a written recommendation to the O&A Committee (TBC 06/05/18)***
- 6. *CC2018-012 (Nolan) Amend GCO Ch. 22, "Traffic and Motor Vehicles" Sec. 22-267 "One-way streets- Generally" by ADDING Cliff Avenue from Lexington Avenue in an easterly direction to Shore Road (Cont'd from 04/02/18)***

Councilor Nolan explained that there is a request from the residents of Cliff Avenue, a privately owned road that allows public access, to make it one way from Lexington Avenue to Shore Road to reduce traffic cutting down their roadway. Residents of Cliff Avenue recently paid by them to have the road repaved, he pointed out. The Fire Department confirmed its ladder truck can pass on this roadway, and there are no issues with trash trucks. All residents of the street have agreed to the proposed change. The Traffic Commission raised concerns about Shore Road being narrow at its end where it intersects with Cliff Avenue, and he reported that Mike Hale, DPW Director, is looking at the end of Shore Road because that end is actually city-owned property which is in poor shape.

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 Ch. 22 “Traffic and Motor Vehicles” Sec. 22-267 “One-way streets-Generally” by ADDING: “Cliff Avenue from Lexington Avenue in an easterly direction to Shore Road.”

This matter will be advertised for public hearing.

7. *CC2018-013 (Nolan) Request State Legislators file a Home Rule Petition re: repayment of funds and/or debt expended for the repair of private ways under section 6N of chapter 40 as established in chapter 44, section 7 for a period of up to ten years (To Be Withdrawn)*

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 permit the withdrawal of CC2018-013 (Nolan) Request State Legislators file a Home Rule Petition re: repayment of funds and/or debt expended for the repair of private ways under section 6N of chapter 40 as established in chapter 44, section 7 for a period of up to ten years without prejudice.

8. *CC2018-014 (O’Hara) Amend GCO Ch. 2 “Administration” Art. I “General” by ADDING a new subsection 2-9 re: visible exterior signage on municipal buildings/offices*

Councilor O’Hara conveyed that there are several major city buildings such as the West Gloucester Fire Station and the Rogers Street side of the Police Station that identifies the buildings to the public in times of need. Public buildings should be signed appropriately, he pointed out. **Jim Destino**, CAO, commented that there are signs on the street for city buildings, some directly adjacent to, he confirmed, although not necessarily affixed directly to the buildings. He pointed out that there is signage at both the buildings the Councilor noted, and there is not, in his opinion, a need for an ordinance amendment if it’s just a matter of adding a sign to the Police Station’s Roger Street side. **Councilor LeBlanc** suggested to Councilor O’Hara that this is more suited to a Request to the Mayor.

Councilor Lundberg pointed out that he is generally against ordinances that don’t need to be passed, and expressed his understanding of Councilor O’Hara’s concern for proper signage for all city buildings. He pointed out they are lacking an impact assessment of what this ordinance amendment means, and that the Council should know if it is a true issue before they vote on an ordinance amendment. He pointed out that a Request to the Mayor is very appropriate and gets the job done. In terms of an on-going requirement, he suggested that he’d like to know what the impact is. **Councilor LeBlanc** expressed agreement with Councilor Lundberg. **Mr. Destino** advised that the DPW Director has informed him that all city buildings have appropriate signage. He pointed out if this ordinance passes the Police Station is already compliant.

Councilor LeBlanc recommended this matter be continued to give the Councilor time to gather information.

This matter is continued to June 5, 2018.

9. *CC2018-016 (Gilman/Nolan) Amend the February 28, 2017 City Council Rules of Procedure by ADDING Item 2A to Rule #2 as follows: “Gloucester Green Tip” (TBC 05/14/18)*

10. *CC2018-002 (Gilman): Request General Counsel review the GCO for a proposed amendment to certain sections of the GCO to insert “recreational marijuana” where appropriate (To Be Withdrawn)*

Councilor Gilman explained that a different path was decided to be taken on this matter and asked it be withdrawn.

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor O’Hara, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council permit the withdrawal of CC2018-002 (Gilman): Request General Counsel review the GCO for a proposed amendment to certain sections of the GCO to insert “recreational marijuana” where appropriate without prejudice.

11. *CC2018-017 (Gilman) Amend GCO by inserting “marijuana,” “tobacco marijuana” and “marijuana products” in certain sections of code*

Councilor Gilman reported that before the Committee was a joint effort between General Counsel and the City Clerk with her input to search for language in the Code of Ordinances pursuant to alcohol and tobacco to ensure the city was compliant with the new recreational and medicinal marijuana products laws by inserting appropriate language where those terms were in place. She pointed out this will lend clarity to the Ordinances and give the Police Department enforcement capabilities. General Counsel added all the appropriate sections to cover the city and to help the police enforcement with the Cannabis Control Commission (CCC) regulations. **Chip Payson**, General Counsel, noted that before the Committee is the sections in the Code of Ordinances that refers to the terms tobacco, alcohol or liquor. They then inserted the terms, “marijuana or marijuana products” because they are similar in nature. He reported that at Councilor Gilman’s suggestion he ran these changes by the Karin Carroll, Public Health Director, and the Police Chief. Ms. Carroll offered some language refinements; Chief McCarthy was in agreement with the language, he advised. Some language was reworked to make clear in the ordinance for clarity’s sake.

Councilor LeBlanc advised that moving forward this is what they have to do to ensure the Ordinances encompass what is necessary for enforcement purposes related to marijuana. **Councilors O’Hara and Nolan** expressed agreement that the changes are appropriate. **Mr. Payson** pointed out that most of the changes are common sense that where alcohol and tobacco are typically banned so should marijuana.

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 certain sections of the Gloucester Code of Ordinances as follows:

Chapter 1, Sec. 1-15. – Penalty for violation of certain specified sections of Code.

Chapter 14, section 14-14, smoking tobacco marijuana or marijuana products on school grounds, and board of health regulations prohibiting involuntary exposure ~~to tobacco products to~~ of minors to second hand smoke.

Chapter 2, Article I, Sec. 2-5. – City hall—Rules and regulations for letting, use.

(b) No alcoholic beverages, marijuana or marijuana products may be served, sold, or consumed in any city building, except the director of public works may grant permission to groups or individuals to serve, sell or consume alcoholic beverages in city hall, the Rose Baker Senior Center and the American Legion building provided the applicant obtains all necessary permits and liquor licenses.

Chapter 4, Article II, Sec. 4-16d. – Off-leash dog areas.

(b) Dog park establishment and use.

(3) The following are prohibited inside the dog park:

f. Food, smoking tobacco or marijuana, marijuana and marijuana products, alcoholic beverages and glass; and

Chapter 6, Article I, Sec. 6-4. – Visitors’ conduct.

(e) The following actions and activities are prohibited at city-owned cemeteries:

(10) Alcohol, marijuana and marijuana products and illegal drugs and consumption thereof are strictly prohibited in all city-owned cemeteries;

Chapter 9, Article I, Sec. 9-1. – Definitions.

Litter means any waste material, including but not limited to tobacco, marijuana and marijuana products or parts thereof (other than the ashes), and waste material deposited on or near a waste receptacle which cannot accommodate more waste, and which waste material, if thrown or deposited in a manner prohibited by this Article I, tends to create a danger to the public health, safety or welfare, or tends to create a danger to the quality of life including an unsightly appearance that would reasonably discourage others from using the property for its intended purpose.

Chapter 14, Article I, Sec. 14-3. – Drinking alcoholic beverages and using marijuana or marijuana products upon public ways, etc.

(a) No person shall drink from, or possess, an open container containing alcoholic beverages as defined in M.G.L. c. 138, § 1, while in, or upon, any public way or any way to which the public has a right of access, or any place to which members of the public have legal access such a park or playground, or private land, building, structure or place without consent of the owner.

(1) Possession of an open alcohol container with beverage therein shall be prima facie evidence that said container contains an alcohol beverage as defined in M.G.L. c. 138, § 1.

(2) Any person found in violation of this section may be arrested without a warrant, or summoned before the court.

(3) All containers, and alcohol, shall be seized and held until final adjudication of the charge against the person arrested, or summoned before the court, at which time they shall be returned to the person lawfully entitled to possess.

(b) The sale of alcoholic beverages shall be subject, in all instances, to the approval of the licensing board.

(c) No person shall use marijuana or marijuana products while in, or upon, any public way or any way to which the public has a right of access, or any place to which members of the public have legal access such a park or playground, or private land, building, structure or place without consent of the owner.

(1) Any person found in violation of this section may be arrested without a warrant, or summoned before the court.

(2) All marijuana and marijuana products shall be seized and held until final adjudication of the charge against the person arrested, or summoned before the court.

Chapter 14, Article I, Sec. 14-13.—Cigarette, marijuana or marijuana product machines.

(a) Cigarette machines and machines that dispense marijuana or marijuana products are hereby banned within the city.

(b) Lockout devices on cigarette machines located in private clubs, barrooms and taverns holding a liquor license in the city and who do not allow minors under the age of 21 years of age to enter their establishment are allowed.

(1) This amendment section will be enforced by the health agent and the health agent is to coordinate educational efforts with the educations efforts of the prevention network.

(2) All lockout devices are to be installed within 30 days which will be verified by the enforcing agency, and machines are to be moved to a position in the line of sight of the bartender and away from entryways.

Chapter 15, Article III, Sec. 15-34. – Use and activities restrictions.

(c) The use or introduction of alcoholic beverages, marijuana or marijuana products on any playground, park, ball field or beach is prohibited, except when properly licensed to do so in accordance with state law and local ordinance, subject to the approval of the director of public works in accordance with section 15-32(b) as noted hereinabove.

Chapter 19, Article II, Sec. 19-38. – Same—For keeping intoxicating liquor, marijuana or marijuana products.

If any intoxicating liquors, [marijuana or marijuana products](#) are found upon any premises licensed under this division the licensing commission shall immediately revoke the license therefor, and no license shall be granted to any person whose license is revoked under this section until at least two years from the date of revocation.

Appendix C, Article V, Sec. 5-4. – Sick leave.

(h) If any injury, illness or disability provided for in this section is self-inflicted or self-imposed, or if there is any other good reason or cause to deny an employee of the city sick leave or injury with pay under this section, the personnel director may, after due inquiry which meets constitutional standards determine what if any pay shall be given under the circumstances. Sickness or accidents sustained or caused to any city employee as the result of the use of alcohol, [marijuana, marijuana products](#) or drugs shall not be considered a proper claim for leave with pay under the provisions of this section.

This matter will be advertised for public hearing.

12. *CC2018-018 (Gilman/Memhard/O'Hara) Placement of question on ballot for a special election to be held in 2018 which would state, "Shall this city adopt the following ordinance? Consistent with MGL c. 94G, sec. 3(a)(2) non-medical marijuana retailers as defined in MGL c. 94G, sec. 1 shall be limited to one (1) within the City of Gloucester*

This matter is to be continued to May 14, 2018.

13. *Memorandum from Mayor re: recreational marijuana recommendations: That the Council vote to limit the number of marijuana retail establishments in Gloucester to three (3); and that the Council adopt an ordinance governing marijuana accessories as well as an ordinance authorizing Board of Health to inspect edible marijuana products to be drafted by General Counsel*

Councilor LeBlanc explained that this time the Committee has nothing to vote on related to this memo. **Mr. Destino** noted that ordinance language will come forward when it is complete related to Board of Health inspections and advertising. He pointed out that state law says that you can limit advertising for cannabis but can't be any more restrictive than liquor advertising. **Mr. Payson** added they have language for Board of Health inspections about edibles that the Director of Public Health has passed on to him that several Commonwealth health associations have provided municipalities and will give a basis from that language crafted for Gloucester.

This matter is continued to June 5, 2018.

14. *CC2018-019 (Lundberg) Amend GCO by ADDING a new Ch. 28 "Marijuana Retail Establishment" Sec. 28-1 "Number of Marijuana Retail Establishments"*

Councilor Lundberg recounted the Mayor's memo (on file) was referred to the Standing Committees because each Committee has a task or tasks under the mayoral recommendations. There are timing issues, he advised -- the Planning Board is drafting a Zoning Ordinance; the B&F Committee has already received the matter of the acceptance of the 3% sales tax on the sale of recreational marijuana, and all of these initiatives have to follow one after the other. Having the Mayor's memo on each of the Standing Committee agendas is what he termed a, "foundation document" as they move forward. He reported that state law requires that there are a minimum number of retail marijuana shops dependent on a formula based on a percentage of the full liquor licenses in the city which translates into three retail recreational marijuana shops. Before the Committee is a recommendation to amend the Code of Ordinances by capping the number of retail recreational marijuana establishments at three by adopting the definition of the number of shops in a particular town or city from state law which becomes the city's ordinance. The ordinance will always cap the number of establishments by that formula, he pointed out. He explained that if the Council wants to at some point, for example, to increase the number of retail recreational marijuana establishments to six, they can do that separately by ordinance. He highlighted that in order to reduce the number of retail recreational marijuana establishments to less than three they have to go back to the voters. He noted that this action by the Council brings into the ordinance the requirements of the state law. **Councilor LeBlanc** reconfirmed that the cap is the reflection of the city's number of full liquor licenses with **Mr. Payson**.

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 the Gloucester Code of Ordinances by ADDING a new Chapter 28 “Marijuana Retail Establishments” and Chapter 28, Section 28-1 “Number of Marijuana Retail Establishments” as follows:

“CHAPTER 28 - MARIJUANA RETAIL ESTABLISHMENTS

Section 28-1. - Number of Marijuana Retail Establishments

Marijuana retailers shall be subject to MGL c.94G, §12 and the following restrictions to ensure there are no undue impacts on the health, safety, and well-being of the public:

- 1. As defined in MGL c. 94G, the number of marijuana retailers shall be limited to no more than 20% of the number of licenses issued within the city of the retail sale of alcoholic beverages not be drunk on the premises where sold under MGL c.138, §15. Should 20% of the number of licenses issued be a whole number and .5 or greater, the number shall be rounded up to the next whole number; should it be .4 or less, the number shall be rounded down.**
- 2. All marijuana retail establishments shall comply with all regulations that may be promulgated by the Cannabis Control Commission.”**

This matter will be advertised for public hearing.

- 15. CC2018-021 (Lundberg/Nolan) Amend GCO Ch. 21 “Streets, Sidewalks and Other Public Places” Sec. 21-83 “Funding for approved construction or repair” re: five or ten year terms on betterments on Repair of Private Ways**

Councilor Nolan explained that there were some issues with the financing/betterment process for the paving of private ways. It was thought that it had to be done by a Home Rule Petition to amend the terms for the number of years of betterments. He reported that he asked Councilor Lundberg to review this matter and join the Order because of his planning experience. He recounted that if the cost of the individual assessment is \$3,000 the homeowner is eligible for a 10 year financing (betterment) through the city. If it is less than \$3,000 for the project then it is a five year term. Most of the larger projects, he pointed out, are over \$3,000 per homeowner. This can make a big difference for homeowners. He extended his thanks to Councilor Lundberg and Mr. Destino for their work on the ordinance amendment.

Councilor LeBlanc pointed out that this was what they needed to do from the beginning and makes the most sense; and it will be easier on some folks who might find the financial burden of a betterment difficult.

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 Ch. 21 “Streets, Sidewalks and Other Public Places”, Sec. 21-83 “Funding for approved construction or repair” subsection (b) “Betterments shall be assessed and collected for such work in accordance with the provisions of MGL c. 80, §1 et. seq. and other applicable laws.” BY ADDING after “...other applicable laws, the following sentences: “All betterments shall be apportioned at either five or ten year terms based on the size of the project. Individual total assessments totaling three thousand dollars or more may be apportioned over a ten-year term.”

This matter will be advertised for public hearing.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:44 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.