

Ordinances & Administration Committee
Monday, May 20, 2019 – 6:00 p.m.
1st Fl. Council Conference Room - City Hall
-Minutes-

Present: Chair, Councilor Steven LeBlanc; Vice Chair, Councilor Jamie O’Hara; Councilor Sean Nolan
Absent: None.

Also Present: Councilor Lundberg; Councilor Gilman; Councilor Hecht (entered the meeting at 6:17 p.m.); Joanne Senos; Jim Destino; Chip Payson; Karin Carroll; Peter Seminara; Vanessa Krawczyk

The meeting was called to order at 6:00 p.m. There was a quorum of the City Council. Matters were taken out of order.

1. Reappointments:

Gloucester Housing Authority

Dorothy Martins

TTE 05/28/24

Ms. Martin appeared before the Committee to advise she wished to continue on the Board of the Gloucester Housing Authority. She noted that the Housing Authority is very busy with new clients coming in all the time; and touched on several activities of the GHA Board. She pointed out they are also “gifted” with great staff.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to reappoint Dorothy Martins to the Gloucester Housing Authority, TTE 05/28/24.

2. Application of Eric Magers for a Permit for Scientific Research in Coastal Waters & Tidal Flats of the City of Gloucester pursuant to GCO Ch. 20, Sec. 20-27 “Permits for Scientific Works in coastal waters and flats in the city

Eric Magers, Seaside Sustainability, Inc., explained that Seaside Sustainability conducts a program called, “Marine Citizen Science.” He pointed out McKenzie Woodman; Joshua Sheridan were present with him also from Seaside Sustainability. He reviewed they run about 10 protocols between Newburyport and Nahant although many of them are in Gloucester and Cape Ann. He mentioned that they do a lot of green “crabbing”; conduct mudflat acidification assessments and monitoring; water quality testing; marine debris trawls. He described the program as giving local people; students for opportunities to become “Marine Citizen Scientists.” **Councilor LeBlanc** asked how Seaside Sustainability works with school classes to participate in their program. He indicated they approach Seaside Sustainability and don’t especially advertise the program with no fee involved.

Mr. Destino asked what areas in the city will Seaside Sustainability is accessing. **Mr. Magers** noted that in Gloucester they conduct mudflat testing at Dun Fudgin and water quality testing in the Saratoga Creek (behind Good Harbor Beach), both of which are city property with most of the work in the water. **Mr. Destino** advised Seaside Sustainability needs permission from the city in order to do these testings on public property. He asked if Mr. Magers had been before the Conservation Commission (ConCom) or spoken with the Conservation Agent to obtain a determination. **Mr. Magers** indicated he spoke to the Shellfish Warden on this matter and conveyed for **Mr. Destino** that they don’t do anything with eelgrass in Gloucester but in adjacent Manchester. He noted they are working with the state Division of Marine Fisheries (DMF) in that town. **Mr. Destino** conveyed that the DMF does the same kind of work. **Mr. Magers** noted they are working for the DMF on the eelgrass study, and they already have permission there through them, but not in Gloucester. **Mr. Destino** advised he believed these are good programs, but that they should ensure that it is legal for Seaside Sustainability to do this with proper permitting in place whether it is the DMF or ConCom. He suggested there is a need to reach out to regulatory authorities and obtain a sign off/determination from those authorities.

Councilor LeBlanc asked that Mr. Magers to reach out to the Division of Marine Fisheries and the Conservation Commission and bring that information back to the Committee, obtaining a letter from each entity with their endorsement/permission for the testing they are currently conducting in the city by their next meeting.

Councilor LeBlanc acknowledged **Peter Seminara**, Shellfish Warden who advised the Chair he was present as he represented the enforcement for the Code of Ordinances section in question for conducting scientific work in/on the city’s coastal water and flats.

This matter is continued to June 3, 2019.

3. Memorandum from the Human Resources Director re: amendment to the Personnel Ordinance for Job Classification, AFSCME A (TBC 06/03/19)

Councilor LeBlanc advised that he had spoken with Ms. Leete, the city's Human Resources Director, and that it was prudent she be present to have this discussion with the Committee. As she was unable to attend he announced this matter would be continued to June 3, 2019.

This matter is continued to June 3, 2019.

4. CC2019-014 (Lundberg, O'Hara, Nolan): request City Council amend Ch. 11, Sec. 11-10(f) "Special Events; Transient Vendors; Parades" re: Special Events Committee and/or licensing commission shall refer all special events/parades requests that involve the use of Stacy Boulevard or Stage Fort Park to the City Council for final approval (Cont'd from 05/06/19)

Councilor Lundberg conveyed that he talked to Joanne Senos, City Clerk, today about the proposed amendment to Ch. 11 and confirmed for him that the suggested process will add no work to the Special Events Advisory Committee (SEAC) and will have to do the same amount of work as they do now. He expressed that he spoke to the Mayor and the CAO both of whom had voiced no objections. He asked that the Committee vote to move this matter forward to the Council and a public hearing.

Councilor LeBlanc noted he also spoke with Ms. Senos today who sits on SEAC with the Building Inspector, Bill Sanborn who advised they don't support the proposed amendment to Ch. 11. **Joanne Senos**, City Clerk relayed that she is co-Chair of SEAC along with Mr. Sanborn. She recounted that SEAC was created to streamline Special Event permitting process to make it easier for applicants and to have all the needed city staff in one room at the same time to approve events permits. She conveyed that she and Mr. Sanborn believe the process should remain as it is and that any event with road closures should move to the Planning & Development Committee Standing Committee which is the current procedure. She acknowledged she didn't have consensus of SEAC as this matter hasn't come up for SEAC to discuss yet; but in order for them to do their job, matters should be left as is.

Councilor Nolan advised that SEAC does a great job, but conveyed concern that there is a lack of public input on events, expressing particular concern as the Ward 5 Councilor about the use of Stage Fort Park which is in his Ward. Leaving it that road closures cause an event to come before a City Council Standing Committee given the effect of some of these events on the park and Boulevard; enforcement or lack thereof about parking on Western Ave.; not being able to walk the sidewalks surrounding the immediate area, indicated to him a need for a forum where public input is heard. He pointed out that by "renting out" the park on weekends, they're taking something away from the whole city. There are issues that need to be beyond what SEAC consisting of city staff can do, he conveyed. He mentioned that the Waterfront Festival which doesn't close a road but changes the traffic pattern around Stage Fort Park, which he indicated constitutes a road closure and is the event's "biggest violation." Without the Council having a say and meeting with these people to control their parking and/or hiring adequate staff or policing to ensure it's not a nuisance to the neighbors, then they need public input. **Councilor LeBlanc** asked if this proposed amendment is intended for every event that takes place on Stacy Boulevard and Stage Fort Park, which will now cause them to go before the Council for final permitting? **Councilor Lundberg** advised it is for events that have to go to SEAC. **Ms. Senos** pointed out that every special event that goes on in the city goes before SEAC for permitting. This change to the ordinance would mean that the Fishermen's Memorial ceremony a small service; the Gloucester Overdose Vigil, another small event; a charitable walk that starts at the Stage Fort Park Visitor's Center and ends at the Fishermen's Statue and returns to that location; the International Women's Diver's Day, an event that only draws 75 people would have to go to the Council for a public hearing. She noted that if this becomes ordinance they'd have to immediately change the application to be reflective of the change. She then listed larger events such as the Cape Ann Farmer's Market; the Cyclo-Cross Event; the Fiesta 5K Road Race starts from Stage Fort Park as does Pride Stride. **Councilor Lundberg** highlighted that this proposal is only for events that take place on the Boulevard and at Stage Fort Park. He spoke to the timing of the process saying that SEAC meets once a month; P&D and the Council meets twice a month so that timing/delay shouldn't be a problem for these events.

Mr. Destino expressed concern for the sequencing/timing for events to get through to final permitting.

Councilor Lundberg advised the event goes to SEAC and once approved as it does today, and if the event takes place on the Boulevard or Stage Fort Park, it goes by referral to P&D, then to the Council to public hearing and a

vote. **Mr. Destino** pointed out that these events would need to be noticed early on to be aware of this change in the permitting process which adds another step, especially those events that come to the city year in and year out. **Ms. Senos** pointed out that the SEAC refers a Special Event to P&D if it has a road closure, and the full Council doesn't vote on those events that go to that Committee and not go up to Council for a public hearing and vote. Now there would be a public hearing on all those events, **Councilor Lundberg** conveyed and that the applications for permitting would come forward as it does today. **Ms. Senos** noted timing will be a concern depending on when an event application is received by her office to be heard at SEAC; go to P&D and then would have to be advertised for public hearing. This does add a little more time, she pointed out. Noting the point of SEAC was to streamline the permitting process for events because it was taking too many steps for event permitting, **Ms. Senos** briefly recounted the history of events leading up to SEAC being created by vote of the Council. Prior to that every Special Event permitted was on the Council's agenda, she noted. **Chip Payson**, General Counsel adding that the ordinance related to SEAC was amended again 2/26/19 for some adjustment for rules governing SEAC.

Councilor LeBlanc advised he would not be supporting the amendment saying that SEAC does their job and that the events that have been problematic have gone before the P&D Committee to be managed and had been discussed at Council. He conveyed he didn't want to see events "micromanaged," needing to go through to a public hearing in order to be permitted. He highlighted that the process was streamlined years ago to make it easier to do business in the city, and this adds another layer, making it a bit more difficult for events, he explained.

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 2 in favor, 1 (LeBlanc) opposed, to recommend that the City Council Amend GCO Ch. 11, Sec. 11-10(f) "Special Events; transient vendors; parades" by ADDING the following sentence: "Further, the Special Events Advisory Committee and/or licensing commission shall refer all special events/parades requests that involve the use of Stacy Boulevard or Stage Fort Park to the City Council for final approval."

This matter will be advertised for public hearing.

5. *Memorandum from Human Resources Director re: draft Disabilities Rights Commission Ordinance*
6. *CC2019-019 (Gilman): Amend GCO Ch. 2 "Administration," Div. 8-"Human Rights Commission," by ADDING following sections: 2-502 "Disabilities Rights Commission Established; Terms," 2-503 "Election of Chairperson; rules of procedure; quorum," 2-504 "purposes," 2-505 "Definition of person with disability," 2-506 "powers and duties," and 2-507 "Records"*

Councilor Gilman explained that this has already been vetted in the O&A Committee forum which they had done formerly under CC2019-003. As they were vetting this new Disabilities Rights Commission it became apparent it would be better to have it be a subset of the Human Rights Commission. She advised nothing has changed and touched on all subsections contained in the ordinance amendment. She noted that she has worked with Donna Leete, Human Resources Director who would be the staff liaison to the Human Rights Commission. She asked for the Council to accept this recommendation pointing out the endorsement of the Mayor in the O&A packet. She added the sooner this is in place the sooner Mayor can begin recommending appointments to both the Human Rights and Disability Rights Commissions, saying that this is the right thing to do for the city.

Councilor LeBlanc expressed agreement that this was a good amendment to move forward and expressed appreciation for the language within the ordinance amendment, saying that he had spoken several times with Ms. Leete on this ordinance proposal. He offered his thanks to Councilor Gilman as did **Councilors Nolan** and **O'Hara**.

Mr. Destino also extended his thanks to Councilor Gilman although he expressed concern regarding Sec. 2-503 subsections (b) and (c) suggesting that the word "quorum" be removed from the title of that section; striking the words, "Robert's Rules of Order" from subsection (b), and replacing it with "Parliamentary Authority" and striking subsection (c) altogether. **Councilor Gilman** expressed she was comfortable with Mr. Destino's suggestions.

The main motion was placed on the table by Councilor O'Hara, seconded by Councilor Nolan.

Amendment to the Main Motion:

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, and voted unanimously by the Ordinances & Administration Committee, to amend the main motion as follows: To strike in the title for Sec.

2-503 the word “quorum”; in subsection (b) to strike “Robert’s Rules of Order” and add in its place “Parliamentary Authority”, and strike subsection (c) in its entirety.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommends that the City Council Amend GCO Ch. 2 “Administration,” Div. 8-“Human Rights Commission,” by ADDING following sections: 2-502 “Disabilities Rights Commission Established; Terms,” 2-503 “Election of chairperson; rules of procedure”, 2-504 “Purposes,” 2-505 “Definition of person with disability,” 2-506 “powers and duties,” and 2-507 “Records” as follows:

Sec. 2 – 502. - Disabilities Rights Commission Established; Terms.

- (a) There shall be a sub-commission under the Human Rights Commission known as the “Gloucester Disabilities Rights Commission,” which shall consist of seven members appointed by the mayor and approved by the city council, to serve without compensation. A majority of said commission members shall consist of people with disabilities, one member may be a member of the immediate family of a person with a disability, one member shall be either an elected or appointed official of the city, and one member shall also serve as a member of the Human Rights Commission to ensure consistent goals and practices.
- (b) The commissioners shall be selected and appointed from a list developed by the mayor through an application process which shall include public notice as provided in section 7-6 of the Charter. Said list shall be updated as vacancies on the commission occur. All such appointments by the mayor shall be confirmed by the city council pursuant to section 2-10(a) of the Charter.
- (c) The commissioners shall serve a term of three years; provided, however, that of the members first appointed to the commission, two shall be appointed to a term of one year, two shall be appointed to a term of two years, and three shall be appointed to a term of three years. Thereafter, the mayor shall appoint each successor to a term of three years. In the event of the death or resignation of any member, a successor shall be appointed to serve for the unexpired term for which the member has been appointed.
- (d) The loss of office by a commissioner due to excessive absence shall be governed by section 7-14 of the Charter.
- (e) Said commission shall follow all applicable laws including, without limitation, Section 504 of the federal Rehabilitation Act of 1973, which requires inclusion and integration of persons with disabilities in the programs, services and employment opportunities of organizations and agencies that receive federal money; Amendment Article 114 of the Massachusetts Constitution, which prohibits discrimination on the basis of disability under any service or program within the Commonwealth; and the regulations of the Architectural Access Board, which require access in newly built and renovated buildings.

Sec. 2 – 503. - Election of chairperson; rules of procedure.

- (a) The members of the commission shall annually elect a chairperson from among its members who shall not hold that office for more than three consecutive terms.
- (b) Subject to the approval of the mayor, the commission shall adopt rules of procedure for its administration which are consistent with the laws of the commonwealth, ordinances of the city and Parliamentary Authority.

Sec. 2 – 504. - Purposes.

The purposes of the commission shall be to promote the full integration and participation of people with disabilities in the City of Gloucester’s activities, services and employment opportunities or the community

and to coordinate or carry out programs in coordination with programs of the Massachusetts Office of Disability. The commission shall:

- (1) Research local problems and challenges of people with disabilities.
- (2) Advise municipal officials and employees in ensuring compliance with state and federal laws and regulations that affect people with disabilities.
- (3) Work closely with the ADA Coordinator, inventory all of the programs and services that are currently in place in the City for people with disabilities and promote public awareness of such services to bring about maximum participation of people with disabilities.
- (4) Recommend to the mayor and the ADA Coordinator new programs and services needed to meet the problems and challenges of people with disabilities and to ensure equal access by persons with disabilities.
- (5) Review and make recommendations to the mayor about current policies, procedures, services, activities and facilities of departments, boards and agencies of Gloucester as they affect people with disabilities.
- (6) Provide information and referrals for guidance and technical assistance in all matters pertaining to disability to individuals, public agencies, businesses and organizations in the city.

Sec. 2 – 505. - Definition of person with a disability.

For the purpose of this ordinance a person with a disability shall be defined as any person who (1) has a Physical or mental impairment which substantially limits one or more major life activities; (2) has a record of such impairment; or (3) is regarded as having such impairment.

Sec. 2 – 506. - Powers and duties.

The powers and duties of the commission shall include the following:

- (1) To ensure the equal status of persons with disabilities in the areas of education, employment, the economy, politics, housing, and health.
- (2) To acquire, analyze, use and store disability related statistics and related materials for program planning and evaluation purposes.
- (3) To keep and make public records of its meetings and actions and to publish reports and other documents.
- (4) To provide a public forum in which citizens with disabilities may identify specific barriers that may prevent them from taking full advantage of city programs, initiatives, and facilities. The commission may advise the mayor on any recommended corrective actions.
- (5) To assist in public awareness and inclusion of persons with disabilities through participation in public events, including but not limited to, City sponsored recreational, educational and development activities.
- (6) To refer complaints or grievances to the appropriate local, state or federal agency for resolution.
- (7) To receive donations in the name of the city, subject to the approval of the mayor and city council, consistent with the city's gift acceptance ordinance.

- (8) To provide the mayor, the city council and the school committee with a complete annual report of its activities and its recommendations, which shall be included in the City's Annual Report.

Sec. 2 – 507. – Records.

All commission records shall be public except those that are necessary to ensure privacy rights under other local, state or federal laws.”

This matter will be advertised for public hearing.

7. *Memorandum from Mayor re: endorsement of the establishment of a Dogtown Preservation Commission*
8. *CC2019-020 (Gilman, Lundberg): Amend GCO Ch. 2 “Administration,” Art. V “Boards, Commissions, Councils and Committees” be amended by ADDING a new Division 18 entitled, “Dogtown Preservation Commission”*

Councilor Gilman conveyed the following: This is a proposal for an amendment to the Code of Ordinances is to codify a new Dogtown Preservation Commission, as the current Dogtown Advisory Commission is Ad Hoc, designed to be temporary. This group has a passion for the preservation of Dogtown and would like to be considered a regular Commission to gain access to city staff with a partnership and a greater ability to work with a larger group of people in the community that are knowledgeable such as the DPW Director and Conservation Agent as well as to have a Councilor appointed to the Commission. She briefly described the way in which she constructed the ordinance amendment to the Committee. **Councilor Lundberg** recounted that the Council recently had before them a proposal by the Gloucester Historical Commission (GHC) to put Dogtown on the National Register which was voted down by the Council. He conveyed that during that conversation, Mike Hale, DPW Director, had mentioned that they should start with a management plan. He noted that this amendment was in response to that statement and the work of the GHC. This now creates a vehicle to make that plan, he pointed out. **Councilor Gilman** added that one of the charges of the Ad Hoc Committee was to work on a plan. She explained that amending the 1985 Dogtown plan was part of their ongoing responsibilities. This action will enable the Ad Hoc Committee to continue their work until it needs to be dissolved when and if this ordinance amendment is codified. She highlighted the Mayor's memo (on file), that endorsed the creation of the Dogtown Preservation Commission, positioning it as an advisory Commission, reading portions of it. She cited the charge of the new Commission and noted Sec. 2-559.4 a Dogtown Preservation Commission which states their mission is, “to formulate and implement a comprehensive plan for ongoing preservation, restoration, management, educational, and stewardship of Dogtown...” and read the section in its entirety as well as the rest of the proposed ordinance. She reiterated the fact that the new Commission is an advisory commission and helps to maintain local control over Dogtown. She also recommended under Sec. 2-559.5 that there be similar amendments as were proposed for the Disabilities Rights Commission by removing the word, “quorum,” as well as subsection 2 as confirmed by **Mr. Destino**.

Councilor LeBlanc advised this is a great start and segue from what they had a few weeks ago at the Council from listening to the concerns of the public. He asked for the DPW Director's opinion. **Mr. Hale** expressed his satisfaction with the ordinance as proposed.

Councilor O'Hara asked how long the Ad Hoc Committee was in place. **Councilor Gilman** advised the Ad Hoc Committee has been active and regular in its meetings for the last several years although it was dormant some years before that. She conveyed she attends their meetings because Dogtown is her ward but is on the list on the website of members but she is not appointed to the Ad Hoc Committee by the Mayor. **Councilor O'Hara** noted that as some of the founders of Cape Ann, learned, Dogtown is a valuable asset, and expressed he wants to ensure that Dogtown remains locally controlled. He conveyed this will help preserve Dogtown for the future.

Councilor Nolan expressed agreement that this was a great plan noting that Councilor Gilman had worked on this matter since she was elected as Ward 4 Councilor. He conveyed he was pleased to see the ordinance amendment and would support it as a “win” for the city of Gloucester.

Patti Page, 3 Tidal Cove Way, asked what the Committee is talking about as to local control, highlighting the subsection on “Purpose”, #2 and #3, and what kinds of conservation restrictions are planned or in place and what are the partnerships they anticipate moving forward (concerns expressed in an email to Councilors Gilman Lundberg and the O&A Committee dated May 20, 2019 on file). **Councilor Gilman** advised it is “exploring conservation partnerships...” She pointed out the importance is the word “exploring;” that this is an advisory board, and that nothing says they're making decisions as they are an advisory board. **Mr. Hale** pointed out that that the Commission hasn't been established yet. There is a difference between conservation easements and restrictions and briefly touched on the ways in which they each may be utilized. What it looks like in the end is too early to say, he

mentioned. They can reach out to some public land trusts that have been very successful as sounding boards in managing land throughout the state, he suggested. They need to find something that truly offers protection, he added. **Councilor LeBlanc** and **Mr. Destino** confirmed the Commission is advisory. **Councilor Gilman** pointed out they keep hearing they need to protect Dogtown to which everyone agrees. She conveyed that this is a way that a Commission can be an oversight group as to what needs to be done to protect Dogtown which creates an easier path to involve the city for a variety of issues that face Dogtown. She noted there was a lot of talk about grants at the public hearing, but it was clear when there are strings attached, saying they as a Council don't want grants that will inhibit their ability, and what the city wants, to maintain local control, to preserve and protect Dogtown. Anything more than that isn't true to the premise of what they're establishing, she pointed out. **Mr. Payson** posited that if they're setting up at situations of conservation wouldn't they want the Commission to speak with experts. They want a diverse purpose for a Commission whose sole goal and power is to look into things and pass that information along. **Councilor LeBlanc** highlighted that the word "advisory" is in the proposed ordinance several times to reiterate that fact. **Mr. Destino** pointed out that the decisions are made by elected officials.

David Condino, 8 Bittersweet Road, noted "partnerships" stated in the proposal and asked for clarity if it could include large private entities or landowners that abut Dogtown. **Mr. Payson** said, "No."

Ms. Page noted the sounding boards are the right avenue, and asked for assurances that no conservation restrictions will be conveyed. **Councilor LeBlanc** pointed out they can't determine that, but will be determined "down the road" if it is brought forward to the Council; they can't determine what will be pre-advised.

Councilor O'Hara stressed that this is strictly an advisory Commission and matters will ultimately go to elected officials for agreement. **Councilor LeBlanc** added that Councilors will reach out to their constituencies for public input before they move forward, expressing his agreement. He added his thanks to Councilor Gilman, Mr. Hale and Mr. Payson for their work on this matter.

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. 2 "Administration," Art. V "Boards, Commissions, Councils and Committees" by ADDING a new Division 18 entitled, "Dogtown Preservation Commission" as follows:

"Division 18. - Dogtown Preservation Commission.

Sec. 2-559.4. - Established; composition; appointment; membership terms.

There is hereby established a Dogtown Preservation Commission whose mission is to formulate and implement a comprehensive plan for ongoing preservation, restoration, management, educational, and stewardship of Dogtown. The Dogtown Preservation Commission shall consist of not less than seven members and may be up to nine members if deemed necessary by the Commission, to include a member of the City Council appointed by the Council President; Conservation Agent or designee; Public Works Director or designee, who shall serve so long as they hold the aforementioned positions. The remaining members shall initially be appointed by the Mayor of the City and approved by the City Council under section 2-10 of the City Charter for the terms listed below and shall be residents and voters of the city. All members shall have an interest and experience in conservation, outdoors/hiking, preservation and protection of open space. One member should have expertise in conservation restrictions and one member should also be an appointed member of the Open Space and Recreation Committee.

The members shall serve for three-year staggered terms beginning on the date of appointment and ending on February 14th as required by the City Charter.

- (1) Two members for one year
- (2) Two members for two years; and
- (3) Two members for three years.

The successors to these initial appointees shall serve for a term of three years.

The commission shall;

- Meet on a regular basis, minimally every other month, and file timely meeting minutes with the City Clerk;
- Report activities, progress achieving its mission, and areas for opportunity to the Mayor and City Council annually;

Sec. 2-559.5. - Election of Chair, Vice Chair and Secretary/Recorder, rules of procedure

- (1) The members of the Commission shall elect annually a Chairperson, Vice Chair and Secretary/Recorder from among its members who shall not hold their respective office for more than three consecutive terms.
- (2) The loss of office by a commission member due to excessive absenteeism shall be governed by Charter section 7-14.
- (3) Subject to the approval of the mayor, the commission shall adopt rules of procedure for its administration, which are consistent with the rules of the commonwealth, parliamentary procedure, and ordinances of the city.

Sec. 2-559-6. - Vacancies.

In case of resignation, death or disqualification of any member of the commission, or for the purpose of filling a vacancy for any other reason, the appointment of a new member to fill the unexpired term of such previous member immediately shall be made by the Mayor and forwarded to the City Council for its approval.

Sec. 2-559-7. - Assistance of city officials, board and employees.

The commission shall receive regular support and assistance from the Department of Public Works and Conservation Commission/agent. When required, the commission shall receive support from the Police and Fire Department, as well as the Community Development Department.

Sec. 2-559-8. - Purpose.

This commission, in an advisory capacity, will assist the City in developing and maintaining its management plans for Dogtown. The responsibilities include but are not limited to:

1. Defining, inventorying and mapping the boundaries of Dogtown Commons and Greater Dogtown including the status of all parcels, deeds, grant commitments, and jurisdictions.
2. Recommending land parcels warranting conservation restrictions to the City Administration in order to preserve and protect Dogtown.
3. Exploring conservation partnerships with established conservation organizations such as Essex County Greenbelt, New England Forestry, MA Audubon and Trustees of the Reservations, including trail management and other public access programs.
4. Reviewing, evaluating and incorporating past and present data and reports for Dogtown, including the PAL Archeological, Cultural and Historic Reconnaissance Survey of 2018, the Management Plan of 1985, North Gloucester Woods Survey of 2012, and historical and archeological studies and findings, in order to develop, a comprehensive management plan that fulfills the mission.
5. Disseminating information to the public about educational and recreational opportunities in Dogtown. Updating Dogtown trail maps and making sure the kiosk area is fully supplied.
6. Coordinating maintenance, security, and safety activities. Activities may include and not be limited to maintaining fire roads, trails, trail signage, reporting of illegal activities including use of motorized vehicles within the Dogtown boundaries.
7. Applying for available and appropriate grants through the Mayor's office, with the approval of City Council that support conservation, preservation, restoration, and educational projects in Dogtown for the use and enjoyment of current and future generations.
8. Partnering with community 501C3's and organizations, including community historians and naturalists to help organize educational hikes and speaker series and other cultural and educational activities to share our natural and historical heritage with our youth and the greater community.
9. Recommending action plans on ways to protect and preserve Dogtown via development of city ordinances in collaboration with the City Council.

Sec. 2-559.9. - Authorities and responsibilities.

Shall act as an advisory commission to the Mayor, City Council, municipal boards and the general public on matters concerning Dogtown. They shall have no budgetary powers but may submit grants to the Mayor for consideration and City Council approval.

All donations whether in kind or financial, must be approved by City Administration and City Council as required by Ordinance.

A majority of appointed members serving on the committee shall constitute a quorum and no meeting shall be continued without a quorum being present, unless a subcommittee has been established. The committee may create ad-hoc committees and subcommittees to fulfill its mission.”

This matter will be advertised for public hearing.

9. *CC2019-021 (Memhard): Amend GCO Ch. 22 “Traffic and Motor Vehicles,” Sec. 22-292 “Fire Lanes” be amended re: Horton Street (TBC 06/03/19)*

This matter is continued to June 3, 2019.

10. *CC2019-009 (Hecht): amend GCO by prohibiting the use and distribution of single use plastic straws, stir sticks & hotstoppers in food service establishments (also referred to Board of Health)(Cont’d from 05/06/19)*

Councilor Hecht advised that this matter has been considered by both the Board of Health and Clean City Commission and both endorsed a ban on plastic straws, stir sticks and hotstoppers in food establishments. He submitted a U.S. News article heralding that Maine had become the first state to ban Styrofoam containers (placed on file). He gave the Committee a summary about the reasoning behind the proposed ban for the plastic straw and stirrer reduction ordinance (placed on file). He explained that these plastic items break down into microplastics that don’t go away and are consumed ultimately by humans through foodstuffs. He noted the work of Seaside Sustainability to rid the environment of these types of plastics by spending time and energy to remove plastics out of the water. He pointed out that they can just stop the use of such plastics to stop the creation of microplastics. He reviewed briefly some cities and towns in the country that have banned plastic straws. The city of Gloucester Beach Concessions have banned plastic straws, he noted, and mentioned corporate entities that have banned plastic straws. China is not accepting recycled materials anymore, he pointed out, saying that they have to “come to grips” with using plastics. He advised this is a way for Gloucester to be a leader. He pointed out that the ordinance exemptions for the elderly, hospitals, nursing homes, handicapped and infirm. He gave the Committee copies of Karin Carroll, Public Health Director who advised of the Board of Health support (on file), along with the Clean City Commission and Seaside Sustainability (placed on file).

Councilor LeBlanc pointed out that under MGL you’re not allowed to ask what a person’s disability is, saying that if a person asked for a straw in a food establishment, they can’t be questioned as to their disability and be given one. He asked what makes the ban effective if everyone asks for a plastic straw and would have to be given one. They’re asking establishments to purchase other kinds of straws that are equally effective as plastic straws.

Councilor Hecht advised if a store or restaurant wants to have an inventory of plastic straws to accommodate their disabled patrons they can, and offered that they can work on the language to clarify this point in the ordinance amendment to be prepared for the public hearing. **Mr. Magers** pointed out that there are compostable straws that aren’t paper -- the difference between that and a plastic straw can’t be discerned, holding up an example. **Councilor LeBlanc** pointed out that moving forward they need to add an education outreach element to teach youth about how plastics aren’t good that could be very effective. **Councilor Hecht** mentioned that at the Clean City Commission meeting came up that the schools have tight budgets; but it was noted that it is a teaching moment so that it becomes educational, he conveyed.

Mr. Magers noted that there are wood stir sticks available as opposed to plastic for stir sticks. There is no alternative for hotstoppers, he advised.

Councilor Nolan asked if there is a flexible version of the compostable straw expressing concern for hospital patients who need them. **Mr. Magers** indicated he didn’t know of any.

Councilor O’Hara advised this is a great idea but expressed concern for giving latitude to hospitals, or an elderly person in need, a compostable straw versus plastic, they can furnish a straw, it just won’t be plastic. He urged it be a complete ban.

Councilor LeBlanc noted they will be destroying more trees to save on plastic. It takes twice as much to process for a wood stirrer. **Mr. Magers** pointed out that if they follow the compostable products are burned and add nothing to the atmosphere as it is all natural. **Councilor Hecht** noted this ban will raise public consciousness, and the

hope is that this will have people using any straws at all. He advised he would work with Councilor LeBlanc on any amendments he feels necessary to make a better ordinance amendment.

Councilor Gilman highlighted an elementary school program, “Change is Simple” which talks about the reduction of carbon footprints, offered her thanks to the Public Works Department and the Clean City Commission for their work on this program which is an effective educational tool.

Councilor Hecht reiterated that this ban is not to hurt people. They can look at various amendments as necessary. **Councilor O’Hara** stressed that he didn’t see why they’re giving latitude to hospitals. They can use compostable straws. **Mr. Magers** advised that flex straws may be required by hospitals and would investigate that. **Councilor O’Hara** spoke to tree growth and companies that harvest them for wood products citing that wood is a reusable product. He asked they eliminate plastic straws everywhere and only condone the use compostable straws.

Councilor LeBlanc noted that plastic straws aren’t banned in their entirety, and asked about whether they should amend it separately; to make establishments purchase compostable straws. **Mr. Payson** advised they can ban straws but can’t force a business to buy other kinds of straws and suggested that would be inappropriate to add into the ordinance.

Allen McMillan, member of the Rockport Conservation Commission, advised that there are flexible compostable straws available, noting he found that information through the internet.

Councilor LeBlanc advised he would vote “present” saying he would want to hear public input at the Council’s public hearing to make his decision as how he would vote.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 2 in favor, 0 opposed, 1 (LeBlanc) present, to recommends that the City Council GCO Chapter 9.-Trash, Recycling and Litter by ADDING Article III – “Prohibition on Single Use Plastic Straw, Stir Stick & Hotstopper, to Chapter 9-Trash Recycling and Litter as follows:

“Chapter 9.-Trash, Recycling and Litter by ADDING ARTICLE III – “Prohibition on SINGLE USE PLASTIC STRAW, STIR STICK & HOTSTOPPER

Sec. 9-22.- Definitions

The following words, terms and phrases shall, when used in this article, have the following meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

Plastic Straw means any straw made of polypropylene, polyethylene, or polystyrene provided by a retail establishment to a customer.

Plastic Stir Stick means any stir stick, hollow or otherwise, made from polypropylene, polyethylene, or polystyrene used to stir beverages.

Hotstopper means any device also known by the name “splash-stick” which is used to block the hole in coffee lids, intended for single use, and made from plastic materials including but not limited to those made from polypropylene, polyethylene, or polystyrene.

Biodegradable means any materials that will completely degrade and return to nature, i.e., decompose into elements found in nature within a reasonably short period of time after customary disposal.

ASTM D6400 means the American Society for Testing and Materials (ASTM) International “Standard Specification for Compostable Plastics.”

Compostable means a stirrer, straw, and hotstopper designated as compostable as it meets the ASTM D6400 Standard.

Customer means any person purchasing goods from a retail establishment.

Person means any natural person, firm, corporation, partnership, or other organization or group however organized.

Recyclable means any material that can be sorted, cleansed, and reconstituted using available recycling collection programs in the City of Gloucester for the purpose of using the altered form in the manufacture of a new product. "Recycling" does not include burning, incinerating, converting, or otherwise thermally destroying solid waste.

Food & Retail establishment means any operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption. Any establishment requiring a permit to operate in accordance with the State Food Code, 105 CMR 590.000, et. seq., shall be considered a "Food Establishment" for purposes of this ordinance.

Beverage Provider means any business, organization, entity, group, or individual located in the City of Gloucester that offers liquid, slurry, frozen, semi-frozen, or other forms of beverages to the public for consumption.

Director means the Director of the Public Health Department or his/her designee.

Department means the City of Gloucester's Public Health Department.

Sec. 9.23.- Regulations, Recommendations, Exemptions, and Prohibitions.

(a) No food establishment, retail establishment, or beverage provider in the City of Gloucester shall provide single-use, non-biodegradable plastic straws, stir sticks or hotstoppers to customers.

(b) If a retail establishment provides straws, stir sticks or hotstoppers, they must be one of the following:

- i. Compostable and made from compostable materials (meeting the specifications of ASTM D6400 or equivalent standard, as defined herein) including but not limited to paper, wooden, bamboo, straw, etc.
- ii. Reusable and made from reusable materials including glass, stainless steel, bamboo, ceramic, etc.

(c) Nothing in this chapter prohibits customers from using straws or stir sticks of any type that they bring to the retail establishment themselves in lieu of using straws, stir sticks, or hotstoppers provided by the retail establishment.

(d) Nothing in this section precludes food establishments, retail establishments, or beverage providers from using or making non-plastic alternatives, such as those made from paper, Compostable Plastic, sugar cane, or bamboo, available to customers.

(e) A retail establishment may provide or sell reusable straws, stir sticks, or hotstoppers to its customers or to any person.

(f) A reusable straw, stir stick, or hotstopper must be constructed out of stainless steel or other material deemed reusable and not single-use.

(g) In the case of handicapped persons who require plastics straws in order to ingest liquids, establishments may provide plastics straws upon request. Hospitals, nursing homes, and other establishments predominantly serving the elderly, infirmed or handicapped individuals are exempt from this ordinance.

Sec. 9-24.- Enforcement; Violations and Penalties.

(a) If it is determined that a violation has occurred the Director shall issue a warning notice to the Food and Retail Establishment or Beverage Provider for the initial violation.

(b) If an additional violation of this by-law has occurred within one year after a warning notice has been issued for an initial violation, the Director shall issue a notice of violation and shall impose a penalty against the retail establishment.

(c) The penalty for each violation that occurs after the issuance of the warning notice shall be no more than:

- i. Warning for the first offense

- ii. \$100 for the second offense.
 - iii. \$200 for the third offense and each subsequent offense.
- (d) No more than one (1) penalty shall be imposed upon a Retail Establishment within a five (5) calendar day period.
- (e) A Retail Establishment shall have fifteen (15) calendar days after the date that a notice of violation is issued to pay the penalty or the total amount of the penalty payable shall be doubled. All fines shall be payable to the City of Gloucester.

Sec. 9-25. Severability; Effective Date.

- (a) Each section of this chapter shall be construed as separate to the end that if any section, sentence, clause or phrase thereof shall be held invalid for any reason, the remainder of that chapter and all other chapters shall continue in full force.
- (b) This chapter shall take effect as of January 1, 2020.”

This matter will be advertised for public hearing.

11. *Committee Discussion on Fluoridation of the Public Water Supply in the City of Gloucester*

Councilor LeBlanc led off the Committee discussion by announcing that this matter isn't about the benefits or hazards of fluoridation of the city's water supply but a discussion about the legal aspects of what the city can and can't do as well as the Council and city's responsibilities and obligations to add or remove fluoride. If there is a public hearing that will be the time for public input, he announced. He noted a memo from General Counsel to the Committee dated May 17, 2019 (on file) and asked Mr. Payson review it.

Mr. Payson recounted that on July 24, 2018 there was a petition submitted to the city signed by about 45 people stating that the Council has the sole authority to initiate the legal process of ending fluoridation and called for a Council public hearing to review the evidence. He advised that based on that petition, subsequent questions and speaking at Council he recounted that he tried to address the petition process, addressing the petition statement specifically. He noted that he discussed Council action and MGL Ch. 111, §8C in the context of what was before the Council. He conveyed that he was recently asked to research and write a memo on the options for the city as a whole reporting that he spoke to Karin Carroll, Public Health Director, and came up with options that are possibilities. He explained that the Board of Health can authorize the cessation of fluoridation of the city's drinking water. As has been done before, the Council could place an advisory question on the ballot asking voters' opinions as to whether there should be a continuation of the fluoridation of city drinking water. He recounted that just such a question was placed on November 2015 ballot, and by a margin of 6,020 were in favor (of continuing fluoridation) and 3,199 were opposed. The Council could also place a question on the ballot asking the voters whether the city government should approve a Home Rule Petition to be submitted to the General Court as to whether the city should stop the fluoridation of its drinking water which it was indicated could be a binding question requiring the Council to vote to vote on a Home Rule Petition or a non-binding question. He mentioned in that case not only does MGL Ch. 111, §8C apply but also Ch. 111, §31 – a section which “broadly empowers” the Board of Health to create rules and regulations to protect the city's public health. The last option is that the Council or the Mayor can put forward a Home Rule Petition to seek relief from the General Court from state statutes. He pointed out that there is no case law for statutes “on point” for cities moving to remove. He noted that Amesbury did remove fluoride from their water supply through a vote of their Board of Health because the fluoride wasn't breaking down properly and clogging the pipes.

Councilor LeBlanc noted the Home Rule Petition or the Ballot options if moving forward. **Mr. Payson** advised by the petition process available to anyone in the city, there are mechanisms under which a petition can make the Council act. He pointed out that the core matter is a Home Rule Petition and the Board of Health mechanisms are what the Council can examine.

Councilor LeBlanc noted an email received that had questions which he then voiced:

1. Is there any way for Gloucester to put a temporary stop to fluoridation right now by the agency of the Mayor or City Council? **Mr. Payson** conveyed he didn't think there's a temporary stop capability – it either stops. The Council can ask for relief through a Home Rule Petition and if they get the relief then they can stop fluoridation; the Board of Health can stop it. He offered that he didn't know if the Board of Health would want to stop fluoridation and then wait for a Home Rule Petition to come through. He pointed out there is no reason for a temporary stoppage.
2. Is there any way for Gloucester to administratively stop fluoridation while waiting for the Home Rule Petition to be approved by the General Court? **Mr. Payson** advised the administrative action would be the Board of Health.
3. What components do you recommend be included in a Home Rule Petition to make it clear that the city's intent is a complete divorce from governance under Chapter 111, Section 8C? **Mr. Payson** explained that he's drafted Home Rule Petitions before for the Council. He suggested relief would come from Chapter 111, §8C and §31 whereby the Council could do something to remove fluoride that would go around the Board of Health.
4. What wording do you suggest so that a Home Rule petition permanently extricates the city from any state interference regarding fluoridation? **Mr. Payson** advised he'd just spoken to that.
5. If the Home Rule exemption were instead to trigger a binding referendum, would Gloucester continue to be governed by Chapter 111, Section 8C after that referendum? In other words, wouldn't a binding vote just reset the clock creating repeating loop - an endless Ground Hog Day scenario? **Mr. Payson** conveyed he didn't see it "triggering" a referendum. Chapter 111, Section 8C mentions 10% of the voters through a referendum; but a Home Rule Petition asks for relief from that statute. The city is in essence asking if they don't have to follow that statute and "instead do X". Were the legislature to say, "Yes," and is not guaranteed, the city would be able to get around that statute.
6. What wording do you suggest so that control of fluoridation remains with the City Council and Mayor's office whose duties are to ensure the civil rights of all residents, act in a fiscally prudent manner and conserve the environment to the best of its ability rather than be assigned to the non-elected Board of Health or Health Department who act as agents for the Mass Department of Health whose policy is to promote fluoridation? **Mr. Payson** explained that the Home Rule Petition process doesn't create new law. The law exists to give power to do certain things, and the Board of Health retains power under the law in certain areas. The petition doesn't change existing statutes - if approved it gives relief under that certain circumstance at that certain time from those statutory requirements. Despite the action, those statutes are still in place in effect. A new law isn't created from a Home Rule Petition, he added. The relief given is empowerment for a particular thing and once done it is over.
7. To whom do we address our Home Rule Petition for an exemption to Chapter 111, Section 8C and what is the state process for approval? How long would it take? **Mr. Payson** explained he reserved the right to extend into further statutes because he's not drafted anything yet. They start with the city's state legislative representatives; they then file a bill which typically every two years at the start of the legislative session. If filed late then it is up to the clerks of the House and the Senate whether they will release which they don't have to. Assuming it is released, it's sent to the Committee, a hearing is held, they vote; it's sent to both bodies; if different it goes back for consensus. He recounted that the last Home Rule Petition took four to six months to go through.
8. If the state were to deny our petition, what appeal or other process is available to the city? **Mr. Payson** advised there is no appeal from a Home Rule Petition.
9. If the Mayor's Office ordered the DPW to stop fluoridating without an exemption from Chapter 111, Section 8C, would there be any action against the city by the state? **Mr. Payson** conveyed that such action would be unlawful, and that the Mayor's office wouldn't do that.
10. What would be the city's liability in the event of a fluoridation accident that caused damage to people, property or environment? **Mr. Payson** advised that if there was an accident that causes damage to a person or their property, they should talk to a lawyer, but as the city's Counsel he wouldn't get into it.
11. Would the state assume any liability since the fluoridation order was at the recommendation of the Mass Dept. of Public Health and Chapter 111, Chapter 8C does not allow cessation? **Mr. Payson** offered no comment other than saying this is at a state level.
12. We have become aware that laws dealing with fluoridation chemicals are less stringent than federal environmental protections, even for those same chemicals when used for other purposes. What is the city's risk and liability regarding violations to the Resource Conservation and Recovery Act (RCRA) and Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA) concerning its use of sodium fluoride (NaF) and

disposal of NaF bags and clean ups of small spills of that chemical? **Mr. Payson** explained he's not aware of complaints regarding any violations of federal acts or laws and as the city's attorney he advised the city always acts lawfully.

Mr. Payson concluded his remarks by briefly going over the options he had previously described for the Council's consideration.

Councilor O'Hara noted that made phone calls to the state conveying he received differing information saying that the state agencies he contacted advised him that this is a local issue; they have no say in the matter – they decide to take it out, “have at it.” They advised the Board of Health is one the City Council is another -- the Council has the authority being representatives of the city. He conveyed upon Mr. Payson's request that he would share the name and telephone number of the person with home he spoke with Mr. Payson and Ms. Carroll. He noted that he was doing research on this matter and called many people on the issue.

Councilor Nolan conveyed he would also like to know whom Councilor O'Hara spoke with at the state and hear what Mr. Payson learns. He acknowledged the people on both sides of the issue who are working hard. He explained he wanted to hear from Councilor O'Hara on what he learned, the information that Councilor O'Hara and speak to General Counsel about that found out as it seemed there is a vast difference on “how it can be done” without the Board of Health; without the city, state or Home Rule Petition. He asked that this matter be continued to the Committee's next meeting. **Councilor O'Hara** advised that he feels this is important and expressed he wanted to get this matter to a public hearing. He pointed out this was voted on by the public four years ago, saying it isn't unreasonable to revisit the issue, he pointed out. **Councilor Nolan** asked for 15 minutes for questions and answers on gaining information because of so many changes in the last several years. If there are other ways to do this, they need to understand the new information.

Karen Spencer, 67 Langsford Street asked about MGL Ch. 111, §31. **Mr. Payson** advised that section of the statute empowers the Board of Health to create rules and regulations to protect the public health.

This matter is continued to June 3, 2019.

A motion was made, seconded and voted unanimously to adjourn the meeting at 8:00 p.m.

Respectfully submitted,
Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

Submitted by Councilor Hecht under Agenda Item #10. CC2019-009 (Hecht): amend GCO by prohibiting the use and distribution of single use plastic straws, stir sticks & hotstoppers in food service establishments:

- From U.S. News: “Main Becomes First State to Ban Styrofoam Food Containers dated May 2, 2019;
- Reasoning behind the Proposed Plastic Straw and Stirrer Reduction Ordinance in Gloucester, Massachusetts in conjunction with Eric Magers of Seaside Sustainability;
- Copies of memo previously filed from Karin Carroll, Public Health Director dated April 29, 2019 in support of the Code of Ordinance amendment to regulate the use of single-use plastic straws, stir sticks and Hotstoppers and an email to Councilor Hecht noticing of a vote by the Clean City Commission on May 7, 2019 in support of the ordinance amendment; and an endorsement letter from Seaside Sustainability, Inc.