

Ordinances & Administration Committee
Monday, June 3, 2019 – 6:00 p.m.
1st Fl. Council Conference Room - City Hall
-Minutes-

Present: Vice Chair, Councilor Jamie O’Hara; Councilor Sean Nolan, Councilor Lundberg (Alternate)

Absent: Councilor LeBlanc

Also Present: Councilor Memhard; Joanne Senos; Jim Destino; Chip Payson; Peter Seminara; Vanessa Krawczyk; Karin Carroll

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

1. *Appointments:*

Clean City Commission

Demitra Lavrakas

TTE 02/14/20

Ms. Lavrakas recounted that her grandfather came to Gloucester at the turn of the century to the city and became business and land owners. She advised she has moved back to the city and wants to be a part of helping the city she resides in.

Councilor Nolan noted that this has been a great Commission. **Councilor Lundberg** offered his thanks to Ms. Lavrakas for stepping forward.

COMMITTEE RECOMMENDATION: On a motion by Councilor Nolan, seconded by Councilor Lundberg, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Demitra Lavrakas to the Clean City Commission, TTE 02/14/20.

Reappointments:

Economic Development & Industrial Corp.

Michael DiLascio

TTE 07/01/22

Mr. DiLascio was not in attendance. His appointment was continued to August 5, 2019.

Magnolia Pier Advisory Committee

Richard D. Wilson (TBC 6/17/19)

TTE 02/14/22

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 (Cont’d from 05/20/19)*

Eric Magers, Seaside Sustainability, Inc., updated the Committee saying that with the Shellfish Warden’s assistance, he’s sent an application to the DMF (Dept. of Marine Fisheries) and is awaiting a response. He recounted he met with the Conservation Agent, Adrienne Lennon, and is starting that process as well; taking the appropriate steps. He reviewed for **Councilor Lundberg** who asked for an overview of the permit, that this is Marine Citizen Science Data Collection for the city in the city, for the Health Department. **Councilor Lundberg** asked if they have that in writing and mentioning the application which had not much in it. If the Council does a permit, it has to say what is going to be done; what limitations there might be; deliverables. He asked if they have any of that yet. **Mr. Magers** responded, “No,” that he’s doing that for several Committees. **Councilor Lundberg** pointed out that in order to do this research it is required under the ordinance to have a permit from the City Council. He asked what the permit says.

Jim Destino, CAO reviewed that he raised the question at the Committee’s last meeting that he needed a determination from the Conservation Commission (ConCom) or a sign off from them in order for Seaside Sustainability to work in a resource area – it is a Request for a Determination for an Order of Conditions – and that permit would give all the information the Councilor was requesting. That permit from ConCom will see the Mayor having to sign off because the program is on city land. The burden is on the applicant to get that work done because the city needs to know what they’re doing. He recounted he found out today that Mr. Magers was doing the work for the Board of Health and asked if that was the case. **Karin Carroll**, Public Health Director, reported that Max Schenk, Assistant Health Director, is in charge of a particular study. Seaside Sustainability, she reported, is taking samples, sending them to BioMarine, and those results are reported directly back to Mr. Schenk. **Mr. Destino** noted the Council typically doesn’t vote on permits until they have all the information necessary to make a decision. This has to be permitted first by ConCom and it had been anticipated that the information would have been before the

Committee by now. **Mr. Magers** advised that, “The wheels are in motion.” **Councilor Lundberg** noted they have an application and O&A is going to recommend to the Council for approval but asked what the Committee had in hand besides the application; will they have the ConCom determination. **Councilor Nolan** pointed out that the assumption was that Mr. Magers would have gone to ConCom and have information by now but that this would be worth continuing.

This matter is continued to June 17, 2019.

3. Memorandum from Shellfish Constable re: request amendment to GCO Ch. 20 “Shellfish, Seaworms and Eels” Sec. 4 “Area set aside for noncommercial taking of shellfish

Peter Seminara, Shellfish Constable requested a correction to the Code of Ordinances, Ch. 20, Section 4 where a fixed location delineating a non-commercial shellfish area from a commercial shellfish area is no longer in use, the No. 10 nun buoy. That marker that is no longer there and that it needs to be noted that there is a change in the location of a buoy to be used as a fixed marker. To make the correction, he advised that by using the No. 11 green can nearby will take care of the fixed point location for enforcement purposes in determining violations. The buoy is charted and is the nearest for delineation of commercial and non-commercial shellfish areas. If they went to the nearest red can it would increase the non-commercial area and detract from the commercial portion of Wingersheek Beach. This only changes things by a few feet, he pointed out. He explained that they have to have an area set aside for non-commercial takings by state law. **Councilor Lundberg** asked where the No. 11 buoy was located. **Mr. Seminara** noted it is originally from the No. 11 buoy north to the sandbar at Wingersheek Beach. He showed the Committee a chart on his phone to point out the exact location of the No. 11 green can. Any commercial impact on Wingersheek Beach would be significant, he noted, and that this delineation is an important one to ensure a fixed location which is the closest proximity to the former No. 10 buoy for enforcement purposes.

Mr. Destino advised that since Mr. Seminara has taken this job he has delved into the Shellfish Ordinance, identifying discrepancies and has already brought this forward to the Council to clean up the Shellfish Ordinance. It was suggested that when Mr. Seminara collects a group of necessary ordinance changes he should present them as a package to the Committee for its consideration.

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Ch. 20 “Shellfish, Seaworms and Eels”, Sec. 4 “Area set aside for noncommercial taking of shellfish” by DELETING the phrase, “No. 10 nun buoy” and ADD in its place, “No. 11 can buoy”.

This matter will be advertised

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

Mr. Destino conveyed this is to amend the Personnel Ordinance to reflect the personnel Study they finished for AFSCME A. While asking to amend the ordinance, the Personnel Ordinance needs review and updating. There are references to jobs that no longer exist; references that are outdated, and other small things that need updating. They’ll look at the 32 pages of the Personnel Ordinances such as administrative functions that don’t need Council approval, and will put forth a recommendation on appropriate streamlined changes in its totality after a thorough review of the Personnel Ordinance. He advised it was a “great process” with the union, Mark Cole (Assistant Public Works Director) and Mike Hale (Public Works Director) and Donna Leete did a great job in putting this together, he advised.

Donna Leete, Human Resources Director conveyed the following information: On April 29 a package was submitted through the Mayor (on file) saying this was a true joint labor/management effort; they couldn’t have accomplished this effort without the cooperation of their union partners who were professionally engaged in the process to create a new system of job groups in the DPW for professional advancement within the six different job groups and define parameters and create a career ladder for those who choose the city of Gloucester as a career opportunity. This is merit and license based with qualifications clearly defined. They went further than the initial efforts of the consultants, but nothing to the depth of what is accomplished now before the Committee. There has been a positive response from the vast majority of DPW employees, she reported. They have high standards of professionalism for their DPW workers, she reported, saying that the “vast majority buy into that concept.” These employees are dedicated to bettering the city and advancing in their careers. This is a tool to get them there, she

highlighted. She mentioned the compensation review process was included (chart on file) which she briefly touched on.

Ms. Leete pointed out that this will build morale, commitment and professional work effort, saying that significant progress is being made. There is a requirement in the GCO, when they negotiate a classification plan they have to incorporate it into the ordinance. She highlighted that this has been done through collective bargaining. The Administration negotiated this with the union, and while the Council is not a part of that they're charged with its acceptance. She expressed her concern that every time there is a change due to collective bargaining, they have to have a public hearing on any change. She noted that Art. 4 is clear, that she should maintaining classification plans developed through collective bargaining. She suggested for the long term basis they might consider that the ordinance should say that the Human Resources Director is responsible for maintaining the classification plans for all plans that are developed through the collective bargaining process and shall supply a copy of such plan to the City Clerk's Office. By going through the Personnel Ordinance this is overly cumbersome and difficult, she suggested. She reporting having worked with the Clerk of Committees on this ordinance amendments saying that there are 87 AFSCME A positions to eliminate from the Personnel Ordinance and substituting the 30+ position in the documentation on file. She is trying to meet present ordinance requirements and is why this package is before the Committee. She welcomes the O&A Committee and the Council as a whole about how best to proceed to be efficient, responsible and transparent as possible going forward. She mentioned that Beverly has eliminated their Personnel Ordinance that requires classification maintained for union positions. At a minimum, she suggested that they need to change the ordinance as practices vary differently from what is in the ordinance. She recommended the proposal to remove the 87 jobs and replacing the jobs with those enumerated in her memo.

Mr. Destino added that 12 years ago there were 20 more DPW workers that were doing different jobs than now. This new list creates new jobs with new job descriptions to fit the work the employees do in their positions. This took a lot of negotiating with the union to get it done, but there are problems in that the Council votes funding on contracts not the negotiated results as they aren't a party to those negotiations. This went through full scrutiny, he assured, saying that there is more work to be done, but this is a good first step, noting other departments will follow.

Councilor O'Hara noted times change and jobs change, so that this is appropriate. **Councilor Lundberg** advised this is the right way to go. Noting his career in labor relations, the Council doesn't want to be getting into job descriptions citing the "impressive" work done with the unions to create a classification system. He offered that this is fair to the city and the employees and was a job well done. **Ms. Leete** pointed out that although the Council hasn't been a party to the negotiations that developed this system they're responsible for voting it as long as it's part of the Personnel Ordinance. She offered in her opinion, there is strong language in Art. 4 of Appendix C of the Personnel Ordinance which says, "It shall be the Personnel Director's job to maintain the classification system for any jobs that are part of the collective bargaining agreements." She suggested they consider this not as a part of the Personnel Ordinance, but rather that Human Resources shall always supply the City Clerk's office with a copy of such plans which would simplify things. Jobs and job classifications change on an annual basis and the amount of public hearings wouldn't be appropriate that would have to come forward, she advised. She assured the Council would receive a comprehensive plan.

Councilor Nolan commented this is good work and will benefit the people who work for the city. **Mr. Destino** pointed out that not everyone benefited from this but as a unit those employees stuck together and moved forward.

COMMITTEE RECOMMENDATION: On a motion by Councilor Nolan, seconded by Councilor Lundberg, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Appendix A and B of Appendix C of the Personnel Ordinance by DELETING the following AFSCME A and related positions:

Asphalt Raker, AFSCME V
Asst. to Animal Control, Police VI
Asst. Harbormaster AFSCME VI
Asst. Sanitary Inspector
Asst. Skating Rink Manager
Asst. Supt. Fire Alarm and Police Signal System
Asst. Traffic Sign Erector, AFSCME V
Backflow Prevention Device Tester, AFSCME VIII
Building Custodian (Junior), AFSCME VI
Carpenter, AFSCME VI

Code Enforcement Inspector, AFSCME VIII
Custodian (Junior), AFSCME VI
Drillman, AFSCME V
Electrician
Electrician Helper, AFSCME V
Facilities Manager (DPW)
Forestry Maintenance Man
Grounds Maintenance Man
Head Pumping Station Operator, AFSCME VII
Head Treatment Plant Operator, AFSCME VII
Heavy Motor Equipment Operator, AFSCME VI
House Worker
Junior Draftsman, AFSCME VI
Junior Engineering Aid, AFSCME VIA
Laborer, AFSCME V
Lineman, AFSCME VI
Mason, AFSCME VI
Master Mechanic
Meter Installers, AFSCME VI
Meter Reader, AFSCME VI
Motor Equipment Maintenance Man, AFSCME V
Motor Equipment Operator, AFSCME V
Motor Equipment Repair Foreman, AFSCME VII
Motor Equipment Repairman, AFSCME VIA
Oil Burner Maintenance Man
Operations Manager, Public Properties
Painter
Park Maintenance Man, AFSCME V
Parking Control Officer, AFSCME V
Parking Meter Repairman, AFSCME VI
Pipelayer, Engineering, AFSCME VI
Public Works Foreman, AFSCME VII
Public Works Maintenance Man, AFSCME V
Pumping Station Operator, AFSCME VI
Senior Building Custodian
Senior Building Maintenance Craftsman, AFSCME VIA
Senior Meter Reader, AFSCME VIA
Sewer Foreman, AFSCME VII
Sewer Systems Maintenance Craftsman, AFSCME VIA
Shellfish Warden, AFSCME VII
Sign Painter, AFSCME VI
Signal Maintainer, AFSCME VIII
Signal Maintenance Helper
Skating Rink Maintenance Man
Special Motor Equipment Operator, AFSCME VI
Storekeeper, AFSCME VI
Stores Delivery Man
Tree Warden, AFSCME VIII
Traffic Sign Erector, AFSCME VI
Treatment Plant, AFSCME VIA
Tree Climber
Tree Surgeon
Watchman, AFSCME V

Water Meter Foreman, AFSCME VII
 Water Meter Repairman, AFSCME VI
 Water Systems Foreman AFSCME VII
 Water Systems Maintenance Man
 Working Foreman Craftsman, AFSCME VII
 Working Foreman Forestry Maintenance Man, AFSCME VIA
 Working Foreman, Heavy Motor Equipment, AFCME VIA
 Working Foreman, Laborer, AFSCME VIA
 Working Foreman, Motor Equipment Operator, AFSCME VIA
 Working Foreman, Motor Equipment Repairman, AFSCME VIA
 Working Foreman, Public Works Maintenance Man, AFSCME VIA
 Working Foreman, Sewer Craftsman, AFSCME VII
 Working Foreman, Skating Rink Maintenance Man, AFSCME VIA
 Working Foreman, Signal Maintenance, AFSCME VIA
 Working Foreman, Special Motor Equipment Operator, AFSCME VIA
 Working Foreman, Tree Surgeon, AFSCME VIA
 Working Foreman, Water Meter Repairman, AFSCME VIA
 Working Foreman, Water Systems Maintenance Man, VIA

Facilities Manager (DPW), M-8
 Operations Manager- Central Services, M-6
 Operations Manager – Public Property, M-6
 Operations Manager – Water, sewer & Highway, M-6
 Pretreatment Coordinator, M-5
 Recycling Coordinator, M-3

And ADDING new AFSCME A positions as submitted by the Human Resources Director in a memo dated April 29, 2019 with Appendices attached thereon.

This matter will be advertised for public hearing.

5. CC2019-021 (Memhard): Amend GCO Ch. 22 “Traffic and Motor Vehicles,” Sec. 22-292 “Fire Lanes” be amended re: Horton Street (Cont’d from 05/20/19)

Councilor Memhard explained that this is an attempt to fix a parking issue on Horton Street where vehicles are parking in property frontages, typically restaurant patrons parking on Rocky Neck. He conveyed there was some question that General Counsel looked at about the rights of the city to protect fire lane access on private ways as part of Horton Lane is public and part is private on the way to Ocean Alliance at the end of the road. This should assist in keeping the road open. The Fire Chief and General Counsel has weighed in; the Traffic Commission met last Thursday and made a positive recommendation.

Councilor Nolan pointed out that this is the right thing to do saying that Mr. Kerr (of Ocean Alliance) is in favor. The right thing to do is to vote this forward, he mentioned. **Councilor Memhard** touched on the Ocean Alliance property and Ian Kerr’s concern about development plans including widening the road to that property, but that his concerns were allayed.

COMMITTEE RECOMMENDATION: On a motion by Councilor Lundberg, 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. 22-292 “Fire Lanes” by DELETING “Horton Street, both sides from Lot #21 in a southwesterly direction to the dead end gate at the entrance to Rule Industries” and ADDING “Horton Street, both sides from its intersection with Clarendon Street in a southerly direction to the dead end gate.”

This matter will be advertised for public hearing.

6. *CC2019-022 (Memhard): Amend GCO Ch. 22 “Traffic and Motor Vehicles”, Sec. 22-270 “Parking prohibited at all times” and Sec. 22-291 “Tow-away zones” re: Rackliffe Street (TBC 06/17/19)*

It was noted that this matter has yet to be taken up by the Traffic Commission and therefore would be continued to the June 17th O&A Committee meeting.

7. *Committee Discussion on Ride Sharing Services in the City of Gloucester (TBC 06/17/19)*

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

Chip Payson, General Counsel, advised that there was an issue raised that Councilor O’Hara had communicated with someone at the Department of Public Health. **Councilor O’Hara** noted he spoke with Shannon Moore (Acting Director of Government Affairs of the Dept. of Public Health). He advised he’d spoken to the Deputy General Counsel who said that wasn’t exactly the position of Public Health; in fact, he agreed with Mr. Payson’s assessment that the Board of Health can remove fluoride and the City Council can through a Home Rule Petition.

Councilor O’Hara advised Ms. Moore has recanted her statement, saying he’s spoken to others mentioning also the Board of Health and Home Rule Petition. It becomes an issue for the Council of what’s right. Enough constituents have brought forward their concerns to him. Within the state and city, there are opportunities for children to receive topical fluoride. He pointed out that through health insurance this is the opportunity for every child for dental coverage; there is \$285,000 soon to be appropriated for the Gloucester Dental Center in the city. He highlighted that there are plenty of opportunities to have proper dental treatment. There is evidence that there is plenty of fluoridation in liquids consumed. He mentioned a community in Utah having fluoride issues. He noted he spoke with the city’s DPW Director. He opined that fluoride is a poison chemical which can be used as an insecticide. He asked why they put it in their drinking water. He mentioned certain situations that people encounter having adverse effects to fluoride, pointing out he’s heard this independently. He cited that the city has a great natural water supply that in his opinion is being polluted by sodium fluoride. He expressed that this is his personal opinion and those of his constituents. He advised he wanted to get this matter this to a public hearing. Instead of buying bottled water, the city should be selling its abundance of fresh water.

Councilor Lundberg pointed out there was a recent public hearing on the merits of this matter recently under a citizen petition signed by about 180 citizens and heard all of the evidence, and advised he didn’t believe much had changed since then. Councilor O’Hara pointed out that the Council had never taken it to a vote. Councilor Lundberg advised asked what the vote would be. **Councilor O’Hara** highlighted they won’t know until they get there. **Mr. Payson** explained that the vote would be to draft a Home Rule Petition, if Council were to ask for relief from the statute. **Councilor Lundberg** pointed out that’s one of the options but there’s nothing before the Council and they need a Council Order in order for the Council to consider a Home Rule Petition. **Councilor O’Hara** conveyed he’d made numerous calls to law schools, saying that it seems to be unclear. The Home Rule is one way to rid sodium fluoride from the city’s drinking water. He reiterated they need to bring it to a public hearing and let the public weigh in and let nine Councilors make a decision. They need is to ask the city be relieved of its obligation to fluoridate the water. **Councilor Lundberg** pointed out that there is nothing right now that would bring such a matter before the City Council and suggested a Councilor could put in a Council Order for the Council to consider a Home Rule Petition which asks the state to relieve the city from its obligation to put sodium fluoride in its water which is a state requirement. **Councilor O’Hara** conveyed he didn’t think that was right as not all cities and towns have it. He advised he would put through a Council Order for a Home Rule Petition to go to the state.

Councilor Nolan reviewed that if the Councilor put through a Council Order to remove fluoride through a Home Rule Petition, it goes to the Consent Agenda, back to O&A and then the Council like any other Council Order. They expressed that while he doesn’t like fluoride personally, but what may be best for the citizens of Gloucester may be different. The majority of people by a non-binding question four years ago voted against its removal. **Councilor Lundberg** reiterated that the Council Order for Council consideration would be for a Home Rule Petition which asks the state to relieve the city from its obligation to put sodium fluoride in its water. **Councilor O’Hara** expressed to him it isn’t so clear and that he’ll continue to do his research as to how it can be removed. He conveyed it was his personal opinion that this is a poison—and constituent concerns remain. **Councilor Nolan** expressed his agreement saying that Councilor O’Hara would have to put in for a Council Order for a Home Rule Petition. He reiterated it is his personal opinion he doesn’t like fluoride, but that what may be best for the citizens of Gloucester is probably different, citing the non-binding referendum question; the majority said no. He asked even if they do a Home Rule Petition and makes it through the state legislature; that doesn’t stop the Board

of Health from acting independently. **Mr. Payson** advised that he didn't think that the Board of Health would be able to turn right around and put it back in. Expressing agreement with Councilor O'Hara in that usually there's a case that can be pointed to but there really isn't. The North Adams case is close but dealt with funding of the decision to fluoridate the water. He suggested he would argue on behalf of the city that if the city got a Home Rule Petition to take it out, the Board of Health couldn't, therefore, the next day put it back in. How long would they have to wait, he suggested he didn't know. That would be defeating the intent of what the city was authorized to do.

Karen Spencer, 67 Langsford Street, pointed out water districts operate in Massachusetts operate apart from MGL Ch. 111, §8C and aren't subject to the fluoridation law. They get to vote it in and out because they have a Special Act. She pointed out that they talk about Home Rule to take it out of the water it is only the first part. She highlighted that they need to ask for that Special Act to allow them to create an ordinance that would be a special act to ban it in the City of Gloucester, more akin to the water districts, that makes clear it replaces Ch. 111, §8C with a city ordinance banning fluoridation based on the deliberations of the City Council.

This matter is closed.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:52 p.m.

Respectfully submitted,

Dana C. Jorgensson

Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.