

**Ordinances & Administration Committee**  
 Monday, July 15, 2019 – 6:00 p.m.  
**1<sup>st</sup> Fl. Council Conference Room - City Hall**  
 -Minutes-

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

**Also Present:** Councilor Hecht (left the meeting at 6:41 p.m.); Councilor Memhard (left the meeting at 6:20 p.m.); Councilor Cox; Councilor Holmgren (entered the meeting at 6:28 p.m.); Joanne Senos; Jim Destino; Chip Payson; Vanessa Krawczyk

The meeting was called to order at 6:02 p.m. There was a quorum of the City Council for the entirety of the meeting.

**1. Appointments:**

Clean City Commission	Zoe Murray ( <i>fulfilling an unexpired term</i> )	TTE 02/14/20
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**Ms. Murray’s appointment was continued to August 5, 2019.**

Records Management Advisory Board	Stephanie Buck, Peggy Calkins,* Jacklyn Linsky	TTE 02/15/22
	*Peggy Calkins TBC 08/05/19	

**NOTE:** Ms. Linsky has withdrawn her name from consideration as an appointee to the Records Management Advisory Committee (on file).

**Ms. Buck** advised that she is on the Archives Committee and has volunteered for over 20 years. Additionally she noted she was the Archivist and Librarian for the Cape Ann Museum for 15 years but as she is now retired, she has the time to take on this additional commitment.

**Councilor Cox** inquired if there were enough members of the Records Management Advisory Committee to this renewed committee to have a quorum. **Jim Destino** confirmed for the Councilor that there aren’t enough yet appointed members to constitute a quorum.

**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 Stephanie Buck to the Records Management Advisory Committee, TTE 02/15/22.

**2. 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 (Cont’d from 06/17/19)**

**Councilor LeBlanc** confirmed speaking with General Counsel about this Council Order, noting that Rackliffe Street is a private way with residents owning to the middle of the road. He asked if there had been a neighborhood meeting to gain consensus on the matter. **Councilor Memhard** advised there was neighborhood discussion but not a full neighborhood meeting. He noted that one item that came to light at the Traffic Commission meeting was that one side is already designated by the city as a Fire Lane which isn’t posted on the street currently. The signage was removed and needs to be put back. There is a property owner who expressed concern exiting their driveway which can get blocked in by vehicles parked across from it. The Traffic Commission endorsed the Council Order with a revision of language to ban parking on the side opposite from this homeowner’s driveway. He mentioned he was unsure if that was the consensus of the neighborhood on this issue. **Councilor LeBlanc** explained that General Counsel spoke with the DPW Director on this matter and pointed out that this road is plowed by the city, but that he didn’t know how much say the city would have on removing this parking. He urged a meeting of the neighborhood to gain consensus. **Chip Payson**, General Counsel, voiced his opinion that the city should have the authority to do something. **Councilor Cox** offered that the city can do something if it is a matter of public safety. **Councilor LeBlanc** expressed his concern that the city may not have purview as this private way is not a throughway; it is a dead end. Saying that this more of a neighborhood issue. He suggested that this matter should be continued and return to the Committee complete. He asked that Councilor Memhard obtain, in the interim, neighborhood consensus and would continue this matter to August 5<sup>th</sup>.

**Councilor Cox** expressed concern for setting expectations concerning police enforcement. **Mr. Payson** reviewed that General Laws cover this matter under MGL Ch. 40, §21 subsection 14 to create Fire Lanes; and under subsection 21 the ability to ticket and tow on private ways. He reiterated the city has the authority. He conveyed that it was his opinion that as to the situation with private ways where abutters own to the center line it would be up to the Council. He suggested that the Council would want unanimity before taking action. He added his further opinion that the Council has the authority. **Councilor LeBlanc** expressed his agreement saying that if the neighborhood wants this action, the Council could act upon it. **Councilor Memhard** conveyed he understood that unanimity was necessary and would lay the groundwork before the next O&A meeting. **Councilor Cox** asked for clarification, expressing her concern there was an issue with private ways in a beach zone and enforcement recently in trying to institute this same type of change.

Two photographs of Rackliffe Street dated 2015 and a Google Map view of the street were submitted from Bill O'Connor, 18 Rackliffe Street, and accepted by the Committee as to the signage as it used to exist in 2015 and which he described to the Committee briefly. **Councilor LeBlanc** pointed out that the Fire Lane on Radcliffe Street is already in the Code of Ordinances. The signs are to be replaced, he advised.

This matter is continued to August 5, 2019.

3. **CC2019-023(LeBlanc): Amend GCO Ch. 22 "Traffic and Motor Vehicles," Sec. 22-270.1 "Resident sticker parking only" by ADDING Foley Road, York Road and Bertoni Road for their entire lengths (Cont'd from 06/17/19 & TBC 08/05/19)**

This matter is continued to August 5, 2019.

4. **Referral to O&A Committee from 7/9/2019 City Council Meeting: Discussion & possible amendments to City Council vote of 6/25/19 pursuant to "Amend GCO Ch. 9 "Trash, Recycling and Litter" by ADDING Article III "Prohibition on Single use Plastic Straw, Stir Stick and Hotstopper"**

MOTION AS VOTED BY THE CITY COUNCIL JUNE 25, 2019:

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the City Council voted 8 in favor, 0 opposed, 1 (Nolan) absent, to Amend 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.

#### 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 July 1, 2021.”

**NOTE: Councilors Gilman and Cox** were the sponsors of the Reconsideration of Vote.

**Councilor Hecht** conveyed that previously a provision was removed from Sec. 9-23(g) and now is before the Committee with a new amendment (on file). He advised that in the case of handicapped persons who require due to medical or physical conditions would address concerns raised and caused a reconsideration of the Council vote on the ban. He then reviewed the language of the amendment with the Committee which is as follows: “In the case of disabled persons or persons with medical or physical conditions who require single use plastic straws in order to ingest liquids, establishments may provide plastic straws upon request. Hospitals, nursing homes, senior care, Day by Day, adult care and other establishments predominantly serving the elderly, infirmed or disabled, are exempt from this ordinance. The sale of off-the-shelf packaged single-use plastic straws at supermarkets, grocery stores and convenience stores shall be exempt from this ordinance.” This is a replacement of the word handicapped with the word disabled and makes clear the exemptions that addresses concerns of the Health Department and the Mayor, he pointed out. He added that this will allow for the purchase of single-use plastic straws in certain retail outlets.

**Councilor LeBlanc** asked about prepackaged juice/liquid containers/boxes that offer straws with each container. **Councilor Hecht** suggested the amendment language was broad enough to encompass that concern. **Councilor Nolan** added that the language covering the ban of single-use straws should cover items such as juice boxes and suggested adding items like that into the amendment as an example to broaden the language. **Councilor LeBlanc** touched on certain examples with **Councilor Hecht**.

**Councilor Cox** offered that Councilor Hecht’s proposed language was ambiguous for enforcement. She suggested the ordinance language shouldn’t be specific to senior programs, saying there was overall language, and that prepackaged drinks being exempted isn’t new – many municipalities that have enacted such bans to have exemptions. She pointed out if they expect to have enforcement, they need better language. A restaurant can’t ask what someone’s handicap is should a person ask for a straw; and if there is a complaint filed at the Board of Health, the inspector has to know whether the food establishment is giving out single-use plastic straws indiscriminately.

**Councilor Gilman** suggested that the O&A Committee could request the Public Health Director to join them at the next O&A meeting of August 5<sup>th</sup> to offer suggestions for language in order to as to effective inspections as required by the ban. She mentioned the language offered is close but there were a couple of issues of enforcement. Once they could get those details out proactively they can move forward proactively, she pointed out that the effective date of the proposed ban is July 1, 2020 so there is time to work matters out.

**Councilor LeBlanc** advised these were his same concerns he voiced during the initial Committee discussions on the ban, and suggested that this amendment may need to be rewritten for clarity's sake. **Councilor Gilman** mentioned four communications received by the Council on the issue of the single-use plastic straw ban (on file), in particular an email from Martha Rappoli, Director of the Day By Day Adult Care program.

**Councilor Cox** advised her concern that the restaurants were never required to have straws and now they're asking them to have multiple kinds of plastic straws. She asked what would happen should a disabled patron at a restaurant ask for a plastic straw -- what happens if that establishment doesn't have any to give. **Mr. Payson** advised that if you're a restaurant and have no straws for any patrons, the establishment isn't required to have them for the disabled. If an establishment offered patrons only paper straws then they'd have to be able to offer plastic straws to a patron who asks for one. A restaurant can refrain from purchasing any straws, he pointed out. If someone comes in and asks for a plastic straw, he advised, that establishment can't ask a lot of questions in that situation, and folks may get wise and ask for a plastic straw even if not disabled. He suggested that for those who ask for a plastic straw, the end result would be that the city be reducing the volume of plastic straws in use.

**Councilor Gilman** shared that when she reached out to Martha Rappoli of Day by Day conveyed to her that eight out of 10 folks who have straw restrictions, 8 are successfully using paper straws but for two of the 10 they have purchased multiple-use plastic straws. The Day By Day program is accommodating their clients' needs but Ms. Rappoli felt strongly that the ban should make exceptions for those who just can't use compostable straws due to allergens. Until the market catches up with those issues, it is the right solution to take this into consideration in an amendment. This is heading in the right direction, she pointed out.

**Allan McMillan**, a Rockport resident, suggested that as General Counsel pointed out there is no requirement that a restaurant has to provide straws, and that language to that effect could be added.

**Councilor Hecht** suggested language to accommodate the Councilors' concern can be added. He suggested that there won't be that much in terms of enforcement. **Councilor Cox** pointed out that she receives messages about establishments that are breaking the polystyrene ban. She touched on exemptions and enforcement regarding the Board of Health. She asked that any amendments for the next meeting be distributed to the Councilors before the meeting for their consideration. **Councilor Gilman** noted that on July 2 an ADA Specialist with the state offered some advice through an email (on file) suggesting the Council could write into the ordinance, "...to permit businesses to dispense plastic straws to people with disabilities..." and pointed out that covers what Mr. Payson advised. She conveyed she wanted to hear from the inspection agent before any amendment is put forward as did **Councilor Cox** who advised she wouldn't be available August 5<sup>th</sup> and will convey her ideas to Councilor Hecht.

This matter is continued to August 5, 2019.

##### **5. *Committee Discussion on Ride Sharing Services in the City of Gloucester (Cont'd from 06/17/19)***

**Councilor LeBlanc** explained that he'd raised the issue of Ride Sharing Services some time back that has become a popular way to get about, and still had some concerns for public safety. **Mr. Payson** touched on his memo of May 2019 (on file) on Ride Sharing, reviewing that the state has set up under the Mass. Dept. of Public Utilities, a Transportation Network Company Division with a detailed body of law including investigations on drivers, licensing procedures; penalties. He suggested that the challenge for the city is that unlike taxicab companies that are licensed in Gloucester and move about the city or take riders to a location outside of the city and return, ride sharing drivers don't necessarily live here although may pick up or drop off riders in the city. If the state hadn't taken a preeminence, the city may have wanted to enact something, he noted, but conveyed that the state statute is very comprehensive. He reiterated that ride share companies are required to background check and a periodic examination of drivers. This is happening around the country and many states have enacted similar statutes.

**Councilor LeBlanc** asked what stops a citizen from starting an on-line taxicab company. **Mr. Payson** advised there are rules under the Transportation Network Company Division that prevent a company simply starting up and not complying with the statute. If they're starting a taxicab company in Gloucester, that is another matter entirely. **Mr. Payson** advised that many users of these ride share services are cognizant of their safety, saying that the state has worked to make this mode of transportation safe. **Councilor LeBlanc** pointed out that it only takes one time. **Councilor Cox** pointed out that incidents related to rider safety happen to those avail themselves of taxicab services.

**Councilor Nolan** noted that the city does get something from Ride Sharing Companies through the state which does regulate the ride sharing companies. Taxis from Burlington can pick up someone at the Gloucester train station, he pointed out, saying that the state took the initiative to regulate ride sharing companies. He offered that it's up to the consumer to make wise choices. He added that they could institute fee for Ride Sharing Services driving through the city but asked how the city would regulate and enforce that.

Prompted by a question by **Mr. McMillan** public availability of background checks was briefly touched on.

This matter is closed.

6. **CC2019-024 (O'Hara): Request General Counsel drafts a Home Rule Petition to cease the addition of sodium fluoride in the City's public water supply; and request the City of Gloucester's state legislators file the Home Rule petition on behalf of the City**

**Councilor O'Hara** recounted that he received the Home Rule Petition draft language (on file) saying overall it appears suitable.

**Mr. Payson** commented on the process of a Home Rule Petition when it is received by the state legislature through State Senator Tarr's office which opens a dialog with his office. The Senator's Legal Counsel talks to the Senate Legal Counsel. In the past the Senate Legal Counsel has made comments and changes to effectuate the intent of what a submitted a Home Rule Petition tries to do. This 'tweaking' the language is part of the Home Rule Petition process at the state building. What the Council passes and whether the Legislature, Senate and House Legal Counsel tweaks the language is unknown at this time. He suggested that the language for the Home Rule Petition is to ban the addition of fluoride to the drinking water and is its intent. This won't be voted at the City Council on July 23<sup>rd</sup> but will appear under "For Council Vote" on August 13<sup>th</sup> **Councilor LeBlanc** confirmed with **Councilor Cox**.

**Karen Spencer**, 67 Langsford Street asked about a public hearing on this matter. **Councilor LeBlanc** advised that this matter will be for Council vote. This is the procedure for a Home Rule Petition recounting that it isn't an ordinance change that would require a public hearing. **Ms. Spencer** asked about information for the Council as to the economic and environmental impact of sodium fluoride, mentioning that this is something the Council would likely need to understand through due diligence. She asked about submission of information to the Council.

**Councilor Holmgren** asked the City Clerk's office for links to the articles for and against sodium fluoride. She advised there is a great volume of information on both sides sent to the Council to date.

**Councilor Gilman** recommended that they have the results of the official vote from four years ago for the non-binding ballot question on fluoridation of the city's water supply before the Council as well.

**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 forward a Home Rule Petition through the city's State Legislative representatives for the purpose of seeking the removal of artificial fluoride from the City of Gloucester's Public Water Supply as follows:**

"AN ACT PROVIDING FOR THE REMOVAL OF ARTIFICIAL FLUORIDE FROM THE CITY'S PUBLIC WATER SUPPLY THE CITY OF GLOUCESTER

Objective

The City of Gloucester is seeking relief from the requirement of section 8C of chapter 111 and section 31 of chapter 111 of the Massachusetts General Laws in so much as Gloucester would like to be allowed to cease the addition of artificial fluoride to the city's public water supply and enact ordinances to effectuate the same through a vote of the City Council and approval of the Mayor.

*Section 8C. The department in taking cognizance of the dental health of the people in the commonwealth shall recommend such methods as in its opinion are advisable to reduce or limit the prevalence of dental caries and other dental diseases and defects. If the commissioner determines that the fluoride content of the public water supply for domestic use in any city, town or district is not at optimum level for sound dental health, he shall so notify the local board of health of his findings. Such board of health, after making such inquiry and other use of the consulting services of the department or elsewhere as it chooses, shall, if it considers doing so in the best interest of the inhabitants of the city, town or district within its jurisdiction, order the upward adjustment of the fluoride content of the water supply available for domestic use in that city, town or district. No such order shall be effective until ninety days after it has been published in a newspaper having a general circulation in such city or town, or until favorable vote has been taken in accordance with the provisions of this section, whichever occurs later.*

*The provisions of this section shall not apply if two or more cities or towns are supplied water from the same source, if such supply to each city or town cannot be treated independently and if the majority of the boards of health representing such cities and towns have voted not to accept such recommendation; provided, however, that any such city or town desiring to adjust upward the fluoride content of the water consumed within its own jurisdiction may comply with the order by the installation of proper equipment that will comply therewith if it does not interfere with the water supply of said other cities or towns.*

*In any city, town or district where the board of health has ordered the upward adjustment of the fluoride content of the water supply under the provisions of this section, upon petition of ten per cent of the registered voters of said city, town or district, filed in the office of the city or town clerk, as the case may be, within ninety days of the publication of such order, the following question shall be placed upon the official ballot to be used at the next regular city election or for the election of town officers at the next annual town meeting or at a biennial state election, whichever occurs first, but not earlier than sixty days following the date of filing the petition with the city or town clerk: "Shall the public water supply for domestic use in (this city) (this town) be fluoridated?", or in such district the following question shall be placed before the next annual meeting of the inhabitants of the district: "Shall the public water supply for domestic use in this district be fluoridated?" If the majority of votes in answer to said question is in the negative, the water supply of such city, town or district shall not be fluoridated, and the fluoridation of such water supply shall not be ordered again by the board of health for a period of at least two years from the date of such vote.*

*Section 31. Boards of health may make reasonable health regulations. A summary which shall describe the substance of any regulation made by a board of health under this chapter shall be published once in a newspaper of general circulation in the city or town, and such publication shall be notice to all persons. No regulation or amendment thereto which relates to the minimum requirements for subsurface disposal of sanitary sewage as provided by the state environmental code shall be adopted until such time as the board of health shall hold a public hearing thereon, notice of the time, place and subject matter of which, sufficient for identification, shall be given by publishing in a newspaper of general circulation in the city or town once in each of two successive weeks, the first publication to be not less than fourteen days prior to the date set for such hearing, or if there is no such newspaper in such city or town, then by posting notice in a conspicuous place in the city or town hall for a period of not less than fourteen days prior to the date set for such hearing. Prior to the adoption of any such regulation or amendment which exceeds the minimum requirements for subsurface disposal of sanitary sewage as provided by the state environmental code, a board of health shall state at said public hearing the local conditions which exist or reasons for exceeding such minimum requirements. Whoever, himself or by his servant or agent, or as the servant or agent of any other person or any firm or corporation, violates any reasonable health regulation, made under authority of this section, for which no penalty by way of fine or imprisonment, or both, is provided by law, shall be punished by a fine of not more than one thousand dollars.*

*In a municipality with a municipal agricultural commission established pursuant to section 8L of chapter 40, the board of health in that municipality shall, during the publication period, solicit and consider comments submitted by the commission on regulations that have an impact on farming or agriculture as defined in section 1A of chapter 128.*

*Boards of health shall file with the department of environmental protection, attested copies of sanitary codes, and all rules, regulations and standards which have been adopted, and any amendments and additions thereto, for the maintenance of a central register pursuant to section eight of chapter twenty-one A.*

#### Draft Language

Section 1. Notwithstanding any general or special law to the contrary, the city of Gloucester may, upon the approval by the city council and mayor, cease the addition of artificial fluoride to the city's public water supply and enact ordinances to effectuate the same.

Section 2. This act shall take effect upon its passage."

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

**Respectfully submitted,**

*Dana C. Jorgensson*

**Clerk of Committees**

**DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.**