

Ordinances & Administration Committee
 Monday, August 19, 2019 – 6:00 p.m.
1st 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 Cox; Councilor Gilman; Hecht; Councilor Holmgren; Max Schenk; Vanessa Krawczyk

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

1. *Appointments:*

Gloucester Housing Authority Irene Frontiero (Cont’d from 08/05/19) TTE 05/28/24

Ms. Frontiero recounted her extensive professional background in affordable housing over the past 20 years with the Committee. She mentioned she helped to start the Gloucester Housing Authority. She added affordable housing in Gloucester is very important to the city as is the condition of its inventory.

Councilor LeBlanc noted he knew Ms. Frontiero personally, advising she’d be an asset to the Housing Authority. Both **Councilors Nolan and O’Hara** thanked Ms. Frontiero for stepping forward to volunteer.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Irene Frontiero to the Gloucester Housing Authority, TTE 05/28/24.

Historical Commission Sandy Barry (fulfilling unexpired term & to full member) TTE 02/14/20

Ms. Barry reminded the Committee she has previously served as an alternate to the Historical Commission for three years. She noted her interest in the city’s burial grounds which started her volunteer work for the city through her membership with the City-owned Cemeteries Advisory Committee. This is a “natural fit,” she pointed out, adding her appreciation to Councilors LeBlanc and O’Hara for their assistance in city cemetery clean ups.

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 Sandy Barry to full member of the Historical Commission, TTE 02/14/20.

Susan Morreale (alternate member) TTE 02/14/22

Ms. Morreale’s appointment was continued to September 16, 2019.

Reappointments:

Historic District Commission William C. S. Remsen TTE 02/14/22

Mr. Remsen reminded the Committee that he’s a registered architect and has worked on historic buildings in Gloucester since the mid-1980’s. He advised with his background and experience is well suited continue his work to protect the city’s heritage. He mentioned other volunteer commitments, such as membership with the Historical Commission, a complimentary appointment. **Councilors Nolan and O’Hara** offered their thanks to Mr. Remsen for his commitment.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council reappoint William C.S. Remsen to the Historic District Commission, TTE 02/14/22.

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 08/05/19)

Councilor LeBlanc advised that Councilor Memhard asked that CC2019-022 be withdrawn without prejudice. He explained that Councilor Memhard will work with the neighbors of Rackliffe Street to work towards a different, amicable solution

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to permit the withdrawal of 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” without prejudice.

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 08/05/19)*

Councilor LeBlanc advised this matter will be continued to September 16, 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” (Cont’d from 08/05/19)*

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.”

DISCUSSION:

Councilor Hecht explained that he reviewed the meeting minutes and tried to address the concerns; he met with Mr. Magers and with staff at the Health Department about this matter. This is clarification for the Health Department’s enforcement of the ordinance. He conveyed the following as a proposed amendment to Ch. 9 “Trash Recycling and Litter,” Sec. 23.- Regulations, Recommendations, Exemptions, and Prohibitions.” As voted by the City Council on June 25th by ADDING a new subsection (g):

"(g) 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 must provide plastic straws upon request if they provide straws. Hospitals, nursing homes, senior care organizations, adult care organizations and other establishments predominantly serving the elderly, infirm or disabled (including but not limited to organizations such as Day by Day, The Senior Center and Meals on Wheels for example) are exempt from this ordinance. The sale of off the shelf packaged single use plastic straws at supermarkets, grocery stores and convenience stores as well as prepackaged juice/liquid containers/boxes/pouches that include attached plastic straws shall be exempt from this ordinance.

In no case shall any Food & Retail establishment or Beverage Provider be required to offer straws of any sort. If any establishment does not provide straws, such establishment shall not be required to provide a plastic straw upon request. If any establishment not exempt from this ordinance provides straws then such establishment must provide reusable or compostable straws unless a plastic straw is specifically requested in which case the establishment shall be required to provide a plastic straw."

Councilor Cox conveyed her approval of the proposed ordinance amendment language.

Councilor Gilman expressed appreciation for the proposed language but expressed concern for a disabled person that arrives without a straw (to an establishment that purveys food and/or drink). Highlighting that in the case of an establishment not offering straws at all, she suggested that in the second paragraph of the proposed ordinance amendment to include that, "...such an establishment is requested to provide sippy cups as an alternative upon request." She offered that this supports the primary purpose of getting rid of plastic straws, and still accommodates a person who is disabled that wasn't aware that an establishment wasn't offering straws at all.

Councilor LeBlanc voiced his concern that the Council shouldn't require businesses to produce anything – that if establishments choose not to provide straws they shouldn't have to provide anything else. He suggested that if the Council wanted to pursue such an amendment discussion she should do so at Council. **Councilor Gilman** expressed her support for the majority of the proposed amendment language.

Councilor Holmgren asked if there had been outreach to the New England ADA Center in Boston. She mentioned an email from Jason Angel (on file) of that organization who offered suggestions for ordinance language in consideration of disabled persons. **Councilor Hecht** noted the receipt of the email. He conveyed that while there was suggested language offered, he didn't address it in this amendment because he didn't want to put business establishments in the position of having to determine if someone is disabled or not. This language offered is cleaner, he pointed out, saying that if an establishment offers some sort of drinking straw product then they'd have to offer

plastic straws if someone asks for them. **Councilor Holmgren** asked that the New England ADA Center in Boston be contacted on the amendment to seek their expert advice, saying that she, too, was looking to protect business owners as well. **Councilor Hecht** advised he didn't call that office. He expressed he felt the offered language was inclusive. He agreed he would reach out to the ADA Center prior to the Council's August 27th meeting.

Councilor Cox suggested that the Councilors concern is addressed in this amendment language. She expressed concern for the suggestion of offering sippy cups. She suggested they need to set a level of comfort, and put it in place for a year and then reassess as they did with the single-use plastic bag and polystyrene bans. She indicated that what is offered now is better language than what they started with and a good compromise.

Max Schenk, Assistant Public Health Director, responding to **Councilor LeBlanc's** question on enforcement of a straw ban ordinance, explained as follows: If someone is at a restaurant and sees a patron receive a plastic straw, calls the Health Department, and the person describes what happened, the Health Department would ask if that person had a known disability or allergy to use that straw. If they don't know if that person has an allergy or disability, that's not enforceable. If that's all the restaurant is providing, or his department sees that all the establishment has is plastic straws and not any biodegradable straws, then that is a different. As with the single-use plastic bag or polystyrene ban he reported that his department hasn't had that many calls or complaints. He suggested that the intent of the regulation is firm. Any opportunity to take plastics from the waste stream is important, and this is a start, he indicated. As to the department's enforcement, he advised he didn't see it to be much of an added workload and complaints would be handled on a case-by-case situation.

Councilor LeBlanc asked about the food allergy aspect pursuant to compostable straws. If someone has a reaction to a compostable/biodegradable straw in a business due to its composition where do they stand as to liability? **Eric Magers**, Seaside Sustainability advised that most single-use drinking straws are made of paper, straw bamboo and of compostable composition. He advised he knew of no compostable straws that are made with anything but corn. **Councilor LeBlanc** confirmed with **Councilor Holmgren**, a nurse by profession, that people do have corn allergies. **Councilor LeBlanc** expressed concern for requiring businesses to have to carry multiple drinking straw products which he indicated wasn't business friendly. He expressed the understanding of wanting the city to be environmentally aware. **Councilor O'Hara** pointed out that the least expensive option is to offer no straws at all.

Councilor Nolan highlighted the effort is to eliminate single-use plastic straws, suggesting they need to approach this the same way as they did with the single-use plastic bags and polystyrene bans. He also pointed out that businesses will have the option of not providing straws at all. He suggested it may be possible to hand out reusable straws at the Senior Center and at Adult Care Centers, and that those who work with the disabled will educate the population they serve. This is to stop the use of single use plastics, and the way the amendment is written is clean cut, he pointed out. **Councilor O'Hara** expressed agreement as did **Councilors Cox** and **Gilman**.

Councilor LeBlanc expressing concern for enforcement issues, pointed out that a loophole allowing people to ask for plastic straws may defeat the purpose of the straw ban, and suggested that many business will simply stop offering straws. Expressing he understood the concept and impetus behind the straw ban, he advised he wouldn't support the amendment.

Councilor O'Hara, expressing agreement with Councilor LeBlanc's enforcement concerns mentioned that no one can question a person if they are disabled if they ask for a plastic straw. The only real option is for a restaurant to eliminate straws on the premises, he suggested, and that the matter should go to the Council for a vote.

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 the vote of June 25, 2019 for "Chapter 9.-Trash, Recycling and Litter by ADDING ARTICLE III – "Prohibition on SINGLE USE PLASTIC STRAW, STIR STICK & HOTSTOPPER by ADDING a new subsection (g) to Chapter 9 "Trash and Recycling", Section 9-23 "Regulations, Recommendations, Exemptions, and Prohibitions." as follows:

"(g) 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 must provide plastic straws upon request if they provide straws. Hospitals, nursing homes, senior care organizations, adult care organizations and other establishments predominantly serving the elderly, infirm or disabled (including but not limited to organizations such as Day by Day, The Senior Center and Meals on Wheels for example) are exempt from this ordinance. The sale of off the shelf packaged single use plastic straws at supermarkets, grocery stores and convenience stores as well as prepackaged juice/liquid containers/boxes/pouches that include attached plastic straws shall be exempt from this ordinance.

In no case shall any Food & Retail establishment or Beverage Provider be required to offer straws of any sort. If any establishment does not provide straws, such establishment shall not be required to provide a plastic straw upon request. If any establishment not exempt from this ordinance provides straws then such establishment must provide reusable or compostable straws unless a plastic straw is specifically requested in which case the establishment shall be required to provide a plastic straw."

5. *CC2019-028 (O'Hara): Request the City Council place the following question on the next city election ballot: "Should there be a Charter Review Commission?"*

Councilor LeBlanc noted that Chip Payson, General Counsel, reached out to him today on the matter of CC2019-028, and sent an email to the Committee (on file) regarding placing a question on the municipal ballot regarding a Charter Commission. He pointed out, based on that information, Council action would not be appropriate at this time. **Councilor O'Hara** acknowledging receipt of the email from General Counsel and offered to withdraw CC2018-028.

MOTION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to permit the withdrawal of CC2019-028 (O'Hara): Request the City Council place the following question on the next city election ballot: "Should there be a Charter Review Commission?" without prejudice.

Councilor Cox discussed Council process briefly with the Committee about the difference between Council Orders and "For Council Vote." She also mentioned she has asked General Counsel to clarify certain issues pertaining to private ways.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:41 p.m.

Respectfully submitted,

Dana C. Jorgensson

Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.