

Ordinances & Administration Committee
Monday, August 18, 2014 – 6:00 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

Present: Chair, Councilor Robert Whycott; Vice Chair, Councilor Sefatia Theken; Councilor Steve LeBlanc (Alternate)

Absent: Councilor Hardy

Also Present: Councilor McGeary; Councilor Verga; Councilor Fonvielle; Councilor Cox; Linda T. Lowe; Suzanne Egan; Dale Brown; Jim Hafey

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

1. Report & Recommendation from the Gloucester Poet Laureate's Selection Panel for appointment of Peter Todd, Poet Laureate

Dale Brown, member of the Gloucester Committee for the Arts (GCA) and the Poet Laureate Selection Panel, informed the Committee that Peter Todd, a lifelong Gloucester resident, was recommended unanimously by the Panel to be the next Gloucester Poet Laureate. She said that the Panel was very pleased to make the unanimous recommendation primarily based on Mr. Todd's history with the city, his love of Gloucester and how much he wants to communicate that.

Peter Todd spoke briefly with the Committee saying that he was born and raised here and had a lifelong love for the city and poetry and the connection between the two, and that it was his time.

The entire Committee expressed their support of Mr. Todd's nomination: **Councilor Theken** said it is time to recognize Mr. Todd's hard work having seen him teach poetry to children, having read his poems and he would be a fine Poet Laureate. **Councilor LeBlanc** offered his congratulations to Mr. Todd. **Councilor Whycott** recalled that he has known Mr. Todd since they were shoeshine boys on Main Street. He pointed out that Mr. Todd's poetry is easily understood by all and was pleased to support Mr. Todd's nomination as Gloucester's Poet Laureate.

MOTION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Peter Todd as Gloucester Poet Laureate, TTE 08/2018.

2. CC2014-032 (LeBlanc) Amend GCO Chapter 22 "Traffic" Sec. 22-270.1 "Resident Sticker Parking Only" by adding a definition of "resident parking sticker" and by adding the areas listed in Section 22-270.1 to Sec. 22-176(b) "Penalties for parking violations-in beach district"

This matter goes before the Traffic Commission on Thursday, August 21 and is to be continued to the September 15, 2014 O&A Committee meeting pending the Traffic Commission's recommendation.

3. CC2014-033 (Cox) Amend GCO Chapter 22 "Traffic" Sec. 22-284 "Service or loading zones re: overnight parking"

This matter goes before the Traffic Commission on Thursday, August 21 and is to be continued to the September 15, 2014 O&A Committee meeting pending the Traffic Commission's recommendation.

4. CC2014-035 (McGeary, Theken, Verga, Cox, Fonvielle, LeBlanc, Lundberg, Hardy) Amend the Gloucester Code of Ordinances Chapter 14 by adding Article III "Sex Offender Residency Ordinance"

Councilor Whycott said that not one of the Councilors who signed on to Council Order 2014-035 regarding the amending of the Code of Ordinances on a draft proposal for a Sex Offender Residency restriction had any intentions of moving all sex offenders residing in the city to West Gloucester. He said it was an unintended consequence of the draft language of the ordinance. He noted that this was a proposal that was based upon ordinances in place in many cities, towns in the Commonwealth. He said there are pros and cons to the draft ordinance, and he expressed that he thought the cons outweighed the pros.

Explaining why he was not a signer on the Council Order, **Councilor Whynott** said that while this draft ordinance looks like it protects the citizens; it was too complex an issue to sign on to. He said this is a quick fix that sounded good but doesn't necessarily work in reality. He said he didn't support the ordinance saying that one size doesn't fit all, in that each offense is different and that it is not appropriate for registered offenders to live in one particular place. He also noted that registered sexual offenders because of the ordinance would have difficulty finding employment and have no place to live causing them to be dependent on taxpayers. He observed this label is a life time of punishment which in some cases is unfair. He said the ordinance is not able to be fixed as proposed and asked that it be withdrawn. He added that should something else be subsequently put forward with different outcomes that it may be something to be taken up by the Council in the future.

Councilor Theken said everyone has a right to live where they wish. She said that the woman with a concern, a good one, knew through notification by the Police Department, that a Level 2 sex offender was living in her neighborhood and there was a Level 3 offender as well. It brought an understandable fear to that neighborhood, and she came before the Council in early July and asked if something could be done. She wanted to know her rights and what could be done to protect her children.

Councilor Theken explained that when all the Councilors signed on to the Council Order regarding the proposed Sex Offender Residency ordinance, it was something necessary in order to come before the Council for their consideration and debate. She pointed out that General Counsel reviewed other communities' ordinances to see what they had done. When the GIS maps were produced based on the draft ordinance language, the Council became concerned that sex offenders would be forced to live in only one area of West Gloucester, she said.

She said this wasn't targeting any one ward or area of the city. She said that Gloucester is a community of help, love and protection. Children do need to be protected and spoke about some of the protection offered to the community through safety policies in place currently. She said when she wanted this matter to go forward it wasn't to put all registered sex offenders into one place in the city. She reiterated this was precipitated by a woman who expressed her concern to the Council and asked for help. She said she would want to see added protections put in place but voiced she couldn't support the ordinance as she said she feels it is unconstitutional.

Councilor LeBlanc said he agreed with Councilor Theken pointing out that he signed onto the Council Order but after seeing the maps showing where registered sex offenders would be placed within one small area of the city, he could not support the Council Order. He then inquired about the city of Lynn's ordinance and the Commonwealth of Massachusetts Superior Court recent ruling against it.

Suzanne Egan, General Counsel, said the city of Lynn had a similar ordinance. The Essex Superior Court issued a decision on July 7 against the ordinance, and that city has filed an appeal. She said the state's Supreme Judicial Court will hear that appeal. This draft ordinance was modeled on a similar ordinances in place in 40 other communities, she pointed out.

Councilor Theken reiterating several previous points said that with this proposed ordinance there is no win but yet didn't know how best to protect children. She observed that the city's Police Department notifies neighborhoods of a registered sex offender in the neighborhood.

Councilor Whynott made note of several of the differences between the city of Lynn's Sex Offender Residency ordinance and the proposed Gloucester ordinance before the Committee highlighting that Gloucester's proposed ordinance was more restrictive than Lynn's.

Councilor LeBlanc conveyed information about a registered sex offender that had moved into his neighborhood when his children were younger. He said he spoke to his children and educated them to be aware of their surroundings and who is around them. He observed that protection starts with parental education and in turn educating their children. He expressed his understanding how parents may feel.

Councilor McGeary who put forward CC2014-035 announced that he would withdraw the order. He noted that Ms. Hafey came before the Council in early June at a time when he was acting Mayor and pointed out that not only was a registered sex offender living in her neighborhood, he was living across from a day care center. He said, like many people, thought that wasn't allowed. He added that he was surprised that under state law it is allowed, that registered sex offenders can live anywhere, although they do have to register, their name has to be known, and be public information.

He explained at that juncture he asked Suzanne Egan, General Counsel, to see what other cities and towns had done. Ms. Egan's research, he noted, took some time, so it wasn't until late in July when the Council Order was drafted. The ordinance called for a 2,000 foot safety zone around certain kinds of institutions – schools, day care centers, parks, playgrounds, elderly housing and houses of worship. He said it was never intended to be a "hermetically sealed predator approved zone." He observed that the idea was that there are crimes occurring because the opportunity presents itself. He said that there are people who maybe are trying to walk the straight and narrow but this is a disease that can be very overpowering. He continued that if they are in close proximity to

temptation the thought is they would be more likely to offend. He said that the intention was to try to cut down on the crimes of opportunity, not that it is some sort of panacea.

Councilor McGeary spoke to the Gloucester Daily Times headline that the Council was steering sex offenders to Eastern Point, Brier Neck, Lanesville, to West Gloucester, but said he would let the Times account for their own activities.

He noted from the time he approached Ms. Egan about getting draft legislation to today, the Essex Superior Court has held in the Lynn case that the state law trumps or pre-empts the city's efforts. The residency restriction can only be done at the state level if the legislature chooses to impose them. He said out of caution, the Council Order should be withdrawn from consideration at this time. He suggested that should it come forward in the future, as it had in this process, the Council would need to first determine is it effective; does it work for the intentions hoped to be achieved with it. Then, he pointed out, as the Chair was concerned with, to ensure fairness in the process to look at the geography of it. He also noted that the Chair had asked the state to provide expert testimony on recidivism and the effectiveness of safety zones which he said was a thoughtful and a wise decision. He concluded his remarks by saying that given it is a matter of state law that was upheld in the Lynn case, he asked the Council Order be withdrawn without prejudice and be removed from Council consideration.

Councilor Theken said that this was a well-intentioned proposed ordinance but agreed that the Council Order should be withdrawn.

MOTION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council allow for the withdrawal of CC2014-035, to amend the Gloucester Code of Ordinances Chapter 14 by adding Article III "Sex Offender Residency Ordinance, and to be withdrawn without prejudice.

Councilor Cox also asked for the withdrawal of CC2014-024 which had asked to amend the Gloucester Code of Ordinances CC2014-024 (Cox) Amend GCO Chapter 22, Sec. 22-270 "Parking prohibited at all times" and Sec. 22-291 "Tow-away zones" re: Pleasant Street (near Sheedy Park).

MOTION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council allow for the withdrawal of CC2014-035, to amend the Gloucester Code of Ordinances CC2014-024 (Cox) Amend GCO Chapter 22, Sec. 22-270 "Parking prohibited at all times" and Sec. 22-291 "Tow-away zones" re: Pleasant Street, and to be withdrawn without prejudice.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:25 p.m.

Respectfully submitted,

Dana C. Jorgensson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None