

Ordinances & Administration Committee
Monday, May 1, 2017 – 6:00 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

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

Also Present: Councilor Gilman; Jim Destino; Chris Sicuranza; Ken Whittaker; Chip Payson

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

1. *Appointments & Reappointments:*

A. Boards, Committees, Commissions & Councils Appointments

Cemetery Advisory Committee Carol A. Kelley (Alternate) TTE 02/14/20

Ms. Kelly, responding to direct questions from the Committee conveyed that she will be an alternate, able to attend the meetings and be available to substitute as a voting member when needed. She mentioned a grant was just received for \$6,000 for restoration purposes that **Councilor LeBlanc** expressed his hope it was just the first of many. Ms. Kelly was excused by the Committee to appear at City Council May 9 as she would be out of state at that time.

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 Carol A. Kelley to the Cemetery Advisory Committee (Alternate), TTE 02/14/20.

Clean City Commission Zackary Thomas (Cont’d from 04/03/17) TTE 02/14/20**

Mr. Thomas has withdrawn his name from consideration. This matter is closed.

Council on Aging Roseanne Cody TTE 02/14/20

Ms. Cody’s appointment is continued to May 15, 2017.

Fisheries Commission Joseph B. Jurek (Cont’d from 04/03/17) TTE 02/14/20

Mr. Jurek’s appointment is continued to May 15, 2017.

Historical Commission Helen “Holly” Clay, Jude Seminara TTE 02/14/20

Helen “Holly” Clay explained that she was previously an alternate member of the Historical Commission, but that there is a need for the Commission to have her take on full membership role and is willing to do so. She touched upon some grants the Commission has received, mentioning several others still being waiting on to come through by the Commission, in particular for the restoration of the American Legion/Old Town Hall building, 8 Washington St.

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 Helen “Holly” Clay to the Historical Commission as a full member, TTE 02/14/20.

Mr. Seminara’s appointment is continued to May 15, 2017.

Waterways Board Russell Sherman (Cont’d from 04/03/17) TTE 02/14/20

Mr. Sherman, under direct questioning by the Committee, said that fishing is over with for a month and briefly reviewed his background in the fishing community. **Councilor LeBlanc** noting he is the Council liaison to the Waterways Board advised that Mr. Sherman will be an asset to the Board and said he was looking forward to

working with him. The Committee offered their thanks to Mr. Sherman and his commitment to the fishing community. **Jim Destino**, CAO, expressed that it was fortunate that Mr. Sherman is joining the Board.

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 Russell Sherman to the Waterways Board, TTE 02/14/20.

B. Boards, Committees, Commissions & Councils Reappointments

Tourism Commission

Catherine Ryan

(Cont'd from 04/03/17) TTE 02/14/20

Ms. Ryan expressed her desire to continue as a member of the Tourism Commission as it fits nicely with her role on the Committee for the Arts. She advised the Commission is getting back up and running. She also mentioned the Historical Commission's awards ceremony on Saturday, May 6.

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 Catherine Ryan to the Tourism Commission, TTE 02/14/20.

2. Memorandum from City Solicitor re: proposed amendments & additions to GCO Sec. 22-1 regarding Electric Vehicle Parking Zones

Mr. Destino conveyed the following information: The city has six electric cars in its fleet and pointed out there are two publicly available electric vehicle charging stations per grant requirements which partially funded the charging stations on Warren Street and the other at 3 Pond Road. The changes to the Code of Ordinances allow for the reserving of the appropriate spaces and that parking enforcement will have the ability to write tickets for non-electric vehicles parking in spaces designated electric vehicle spaces, he advised. He expressed his thanks to Councilor Cox for bringing this matter to the Administration's attention.

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. 22, Sec. 22-1 "Definitions" by ADDING as follows:

Electric Vehicle shall mean a vehicle that operates, either partially or exclusively, on electrical energy from the grid, or an off-grid source, that is stored on board for automotive purposes."

Electric charging station shall mean equipment that has as its primary purpose the transfer of electric energy to a battery or other energy storage device on an electric vehicle."

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 the Code of Ordinances, Chapter 22 by ADDING a new Section as follows:

"Sec. 22-155 Electric Vehicle Parking

- (a) Certain designated, reserved and clearly marked parking spaces on the street at or near electric charging stations for use by electric vehicles only shall be specified by the city council.
- (b) When a space has been so marked no person shall park or stand any nonelectric vehicle in that space.
- (c) If an electric vehicle is parked in such a designated space but is not attached to the charging station it shall be a violation of this ordinance.
- (d) Any nonelectric vehicle so parked is subject to civil fine consistent with Sec. 22-176 or removal.
- (e) The fine for violation of this ordinance shall be collected in the same manner and with the same penalties for late payments as other on street parking violations.
- (f) Any vehicle parked in such a space must make the appropriate payment for the space and observe the time limit for the underlying parking zone."

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 the Code of Ordinances, Chapter 22 by ADDING to Sec. 22-176 Penalties for parking violations, a new subsection as follows:

“27 Electrical vehicle charging stations \$15.00”

These matters will be advertised for public hearing.

3. Memorandum from Conservation Agent re: proposal to establish a ticketing procedure for violations of wetlands protection statues and regulations

Ken Whittaker, Conservation Agent, said that this is not a “grab for turf” for the Conservation Commission (ConCom) nor was it an attempt to increase fees to the city, but to create a more effective and efficient way for ConCom to do its job, that is to protect the wetlands and coastal resources of the city. This proposal adds authority to be added to the list of those entities that can issue civil tickets -- by issuing tickets the Conservation Agent through ConCom will be able to assess per day violations, he pointed out. He said that it is more effective than the current enforcement means on the books; they can assign a one-time fee which can be extensive at this time but for long-term violations it maxes out at \$4,000 which may sound like a lot, but there is no incentive for identified violators for people to move forward and address violations because they don’t accrue over time. This creates a two-step process for addressing wetlands by-laws to give ConCom through the Conservation Agent the authority to issue tickets subject to approval by ConCom and added the fines to the GCO with fines of \$100 to \$300 per day. He noted that this new process will help to avoid the need to go to court to collect fines which can be time-consuming and expensive for the city.

Councilor LeBlanc said this will give the Conservation Agent this authority and ConCom will see results. **Mr. Whittaker** said it is about a quick response in remedying environmental violations.

Councilor Nolan asked who would be the actual ticketing agent. **Mr. Whittaker** said he would be the ticketing agent. He would go to the ConCom with a recommendation to ticket to ratify any decision by him to issue a ticket. This gives violators a week to 10 day grace period during which time he would work with the violator(s) to let them know they have time to fix the situation before he goes to ConCom to get their permission to issue any ticket for that violation, reiterating ConCom has to ratify any decision by him before a ticket can be issued.

Councilor Nolan confirmed with **Mr. Whittaker** he is the ticket issuing authority and him only for enforcement and not the members of ConCom which was the intent of the proposed ordinance amendments.

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 Ch. 12 “Marshlands,” Art. II “Wetlands,” Sec. 12-23 “Penalty for violation” by ADDING new Subsection (e) as follows:

“(e) In addition to other authorities provided herein for the Conservation Commission to take enforcement action or impose administrative penalties, the Commission may through majority vote or ratification of the recommendation of its Conservation Agent enforce noncriminally the provisions of this Chapter by way of the ticketing procedures set forth in MGL c. 40, §21D and Section 1-15 of these Ordinances and the Conservation Commission or its designated Conservation Agent shall be deemed to be enforcing officer for this section. Each day of violation shall constitute a separate offense.”

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 Ch. 1 “General Provisions,” Sec. 1-15 “Penalty for violation of certain specified sections of Code” by ADDING new Subsection as follows:

“Chapter 12 “Marshlands,” Art. II “Wetlands,” Sec. 12-23 “Penalty for violation”

Penalty: First offense (days 1-14 after issuance of the violation): \$50.00 per day of violation.

Second offense (days 14-30 after issuance of the violation): \$100.00 per day of violation.

Third and consecutive offenses (more than 30 days after issuance of the violation): \$250.00 per day of violation.

Enforcing persons: Members of the Conservation Commission or its designated Conservation Agent.”

This matter will be advertised for public hearing.

4. Memorandum from Personnel Director re: proposed updates to terms & appointments of specific city staff positions

Chip Payson, General Counsel, speaking also for the Human Resources, Donna Leete who was unable to attend, explained the following: Mayor Theken had asked Donna Leete, Human Resources Director, to look at staff appointed terms and found some department heads didn't have terms assigned, others had terms of various lengths based on position, and some were inconsistently assigned. Human Resources wanted to create uniformity, but also to amend the Ordinance in order that the city is better able to recruit qualified individuals for these positions. The Human Resources Department has found when recruiting for open department head positions that some qualified individuals are hesitant to take a job with the city for a position that only has a one-year appointment cycle. An example was given that if an open position was filled in August of the one-year appointment cycle, then that position would have to come back yet again in January to be reappointed yet again for another year and could be leaving a position that has a two to four year appointment cycle.

In moving from one- to two-year terms it was examined the Administration looked at “even” versus “odd years,” in that the Mayoral term is two years on the even calendar years, and so the Mayor's direct appointed staff will be on the same calendar appointment as her term whereas all others will be on the “odd” years. The Mayoral team was enumerated as the Chief Administrative Officer (CAO), Chief Financial Officer (CFO), and a new Community Development Director. All other department heads are up for reappointment in the odd year. This was explained as giving the Mayor the ability to get up and running, giving staff some job stability. Also addressed is someone who comes in at the last portion of a two-year term – that person will finish the remainder of the term plus another two years before their first reappointment.

Mr. Payson noted appointment changes for positions such as the Purchasing Agent, Assistant General Counsel and City Engineer that are being taken out of the appointment process. The Purchasing Agent will be hired by the CFO, Assistant General Counsel by General Counsel and the City Engineer by the Public Works Director, all without appointment.

He highlighted that these ordinance amendments also take the head of the IT Department and make it Director level position which he expressed is important as the need for such resources have grown exponentially over the last several years and so the IT Director is going to be appointed to a two-year level which is consistent with this ordinance proposal.

Mr. Destino added that the IT Director used to report to the CFO, didn't have any appointment and not a member of GMAA. That position has grown over the past three years, noting that almost without exception all city departments are asking for more IT support. With the MUNIS conversion, this position has grown and is really a department head and shouldn't be under the CFO, he conveyed, and will be under the CAO's supervision. He pointed out that the Veteran's Agent will be a two-year appointment and that position comes out of the union. He noted that the City Engineer and the Purchasing Agent will now be able to join the GMAA balancing out some staff positions that will be named as two-year appointments. He pointed out that the City Charter says the Mayor shall appoint the CAO but there is no term expressed, **Mr. Payson** added, and these proposed ordinance amendments will rectify that and are all about consistency. **Mr. Destino** also mentioned about staggering the terms of these department heads, pointing out there was no mention of the Human Resources Director's term or appointment and that was being codified through these proposed amendments. He thanked Councilor Nolan for bringing this matter forward that he said was an integral part of the early discussions.

Chris Sicuranza, Director of Communications and Constituent Services expressed his gratitude to Councilor Nolan for bringing this matter forward through the Mayor's office, Legal and Human Resources Departments who worked together to develop appropriate ordinance language and spoke to making the city's hiring ability a more competitive landscape and creating a better work environment. He added this action will make Gloucester more attractive to prospective hires.

Councilor LeBlanc expressed his appreciation that this proposal gives better stability to city staffing pointing out that annual reappointments are not the best situation in any work environment, citing the position of IT Director in particular. **Mr. Destino** pointing out that the Administration is in the midst of hiring a Community Development Director and that the one-year appointment is a hindrance, and suggested that the city doesn't have as many applicants as they expected, and said he believes this may be one of the main reasons coupled with geographics.

Joanne Senos, City Clerk, noted some amendments are under different GCO Articles not stated in General Counsel's memorandum. She asked if the Administration could submit under which articles these amendments fall so that the amendments can be enumerated for the purposes of legal advertisement for a public hearing, the enumeration through a vote of the Council and publication through MuniCode.

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend the Code of Ordinances by accepting the revisions to the Code of Ordinances, Chapter 2 as presented through a memorandum from the Human Resources Director and General Counsel dated April 10, 2017, entitled, "Request for Revision of Certain City Ordinances pursuant to updates to the terms and appointments of specific city staff positions.

This matter will be advertised for public hearing.

3. *CC2017-008 (Nolan) Request Traffic Commission perform speed study on Sumner Street to determine whether there should be a speed limit of 20 mph and whether the City Council should petition MassDOT to approve said speed limit (Cont'd from 04/03/17)*

Councilor LeBlanc said he was in attendance at the April 27 Traffic Commission meeting and while draft minutes of that meeting were not yet available, he advised that the Commission had completed a traffic study on Sumner Street which showed that upwards of 40% of all traffic on Sumner St. was above the speed limit and had recommended that the speed limit be lowered to 20 mph. **Councilor Nolan** pointed out that there are no sidewalks on Sumner Street and the neighbors have great concern for safety on this roadway.

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council petition MassDOT to approve a speed limit of 20 mph on Sumner Street from 30 mph.

4. *CC2017-010 (Gilman) Request that the Traffic Commission perform a speed study on Riverview Road to determine whether there should be a speed limit of 20 mph and whether the City Council should petition MassDOT to approve said speed limit*

This matter will be continued to June 5 pending a Traffic Commission Speed Study and recommendation.

5. *CC2017-011 (Cox) Request Traffic Commission review parking spots & traffic flow on Pleasant St. from Franklin Sq. to 32 Pleasant St. to address safety issue of 2-way traffic & depending on review recommend to Council possible GCO amendments (TBC 05/15/17)*

This matter is continued to June 5, 2017 pending a Traffic Commission recommendation.

6. *CC2017-012 (Cox) Request amendment to GCO c. 22, Sec. 22-288 "Off-street parking areas" the Town Landing parking lot (St. Peter's Square) by ADDING one handicap parking space on Commercial St. side of that lot (TBC 05/15/17)*

This matter is continued to June 5, 2017 pending a Traffic Commission recommendation.

7. *CC2017-006 (LeBlanc) Request the O&A Committee work with General Counsel to propose amendments to the City Council re; displaying of bongs, pipes and other smoking paraphernalia in storefront windows (Cont'd from 03/06/17)*

Councilor LeBlanc explained that he asked General Counsel to spearhead a reinvigorated effort to develop ordinance language displaying of bongs, pipes and other smoking paraphernalia in storefront windows as complaints have continued to come forward to City Councilors. He expressed his concern as to what actions the Council could take. **Mr. Payson** said he would look and see what the Council can act upon, whether they can ban the display of certain types of things, and whether this gets into commercial speech versus free speech. There are certain things municipalities can do, but he'd have to do research and based upon that he would suggest a course of action without

having to go to the Marijuana Advisory Group first. He said he would provide his opinion in writing and review case law before putting any suggested ordinance language forward for the Committee's consideration. **Councilor LeBlanc** said he wants to move forward on this matter to see if they can limit displays through ordinance language within reason.

Councilor Nolan expressed his agreement with Councilor LeBlanc's ask for language. **Councilor LeBlanc** said this is now an issue that the Council needs to address it. **Councilor Nolan** noted that the Boston Smoke Shop sent their rules and regulations to the Councilors but that he has received two more calls of complaint that there's been no change in that business's window display.

This matter is continued to June 19, 2017.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:46 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.