

Ordinances & Administration Committee
Monday, July 31, 2017 – 6:00 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

Present: Chair, Councilor Steven LeBlanc; Vice Chair, James O’Hara (entered at 6:03 p.m.); Councilor Sean Nolan

Absent: None.

Also Present: Councilor Memhard (left the meeting at 6:15 p.m.); Councilor Cox; Councilor Gilman (entered the meeting at 6:10 p.m. and left the meeting at 7:13 p.m.); Jim Destino; Chip Payson

The meeting was called to order at 6:01 p.m. There was a quorum of the City Council upon Councilor O’Hara’s entering the meeting, and the quorum was moot upon the departure of Councilor Gilman.

1. Appointments & Reappointments:

A. Boards, Committees, Commissions & Councils Appointments

Fisheries Commission David Leveille (alternate to full mbr.) TTE 02/14/20

Mr. Leveille said that he was recently appointed an alternate on the Fisheries Commission but two people resigned since he was appointed. He said he’s now been recommended to become a full member of the Commission. He reported that the Commission meetings are going well, and is working on familiarizing himself with the Commission work. He explained his background in ground fisheries noting that he is a manager for Sector 2 (Trawl Sector in Gloucester) and Sector 6 in Boston and knows what is going on in the industry. He said this Commission will allow him to utilize his industry know-how.

Councilor Nolan said Mr. Leveille is well qualified for the position and would be an asset to the Commission. **Councilor LeBlanc** added his support for Mr. Leveille’s appointment. He noted as Mr. Leveille had already been appointed to the Commission he was excused from having to attend the Council meeting on August 8.

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 David Leveille as a full member to the Fisheries Commission, TTE 02/14/20.

Mariners Medal Committee: Vito Calomo TTE 02/14/18

Mr. Calomo said he thinks the Mariners Medal Committee needs to expand its scope noting that a medal hasn’t been awarded in some time. He said that the Committee needs to talk about awarding more medals. **Councilor LeBlanc** said after a few meetings when the Committee has formulated a plan he suggested they reach out to the Administration and then to O&A if they need assistance.

Councilor LeBlanc noting the recent award to Christian Dagley of a special mayoral and Council citation for saving a family in the waters of the Annisquam River, said that reconstituting the Mariners Medal Committee was appropriate at this time.

Councilors O’Hara and **Nolan** added their endorsement of Mr. Calomo’s appointment.

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 Vito Calomo to the Mariners Medal Committee, TTE 02/14/18.

Thomas Ellis TTE 02/14/19

Jim Destino, CAO, said that Mr. Ellis was unable to attend was speaking in support of his appointment. He said that the Mariners Medal Committee has been defunct for some time. He pointed out that the criteria under the Ordinance for awarding a Mariners Medal is high. He said this group of appointees is a very strong group -- three of the four appointees have to be actively working as captains by the Mariners Medal Committee parameters. He noted the Administration has an applicant for a Mariners Medal they want the Committee to review, he advised. He said that Mr. Ellis is the captain of the Schooner Thomas Lannon. He asked that Mr. Ellis’ appointment be forwarded to the Council.

Councilor LeBlanc indicated he would support Mr. Ellis' appointment saying that he knew him personally. The Committee agreed to move Mr. Ellis' appointment forward and voted as follows:

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 Thomas Ellis to the Mariners Medal Committee, TTE 02/14/19.

Capt. Arthur Sawyer, Jr.

TTE 02/14/20

Capt. Arthur "Sookie" Sawyer said his father was awarded a Mariners Medal in the 1970's and served on the Mariners Medal Committee for some time. He said his father was very proud of his medal and service. He said this is a family heritage and is a big deal. He said his father saved a father and daughter fishing off of a dock and a few months later saved a man from a burning lobster boat and put out the fire. **Mr. Destino** said Capt. Sawyer has been involved on the Waterways Board for about 20 years with Mr. Calomo and is an active lobsterman.

Councilor Nolan expressed his thanks to Capt. Sawyer for his years of service saying that he knew the Mariners Medal Committee would choose wisely and award medals to those that deserve it.

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 Capt. Arthur Sawyer, Jr., to the Mariners Medal Committee, TTE 02/14/20.

Stefan Edick

TTE 02/14/21

Mr. Edick explained that he is currently Executive Director and captain of the Schooner Adventure, noting he was in the middle of his third renewal for 500 ton Ocean-level licensure, working commercially since 1993 and a full-time captain since 1996. He said he is honored to be appointed to the Committee, that it was important to honor those who risk their lives to help others. He noted that he had to rescue his engineer on a trip at sea in the middle of the night and said he understood that recognition of such lifesaving is important especially in light of the risks at sea.

Councilor LeBlanc said this is a good group of appointees who will bring this Committee back. **Councilor O'Hara** added this thanks to all the Mariners Medal appointees for their energy and 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 appoint Stefan Edick to the Mariners Medal Committee, TTE 02/14/21.

2. Memorandum from General Counsel re: Amendments to GCO Art. IV, Sec's 21-80 thru 21-86 "Repair of Private Ways" (Cont'd from 07/17/17)

Chip Payson, General Counsel, reviewed the proposed Amendments to GCO, Art. IV, Sections 21-80 through 21-86 "Repair of Private Ways" as follows:

There have been challenges with GCO 21-80 through 21-86 "Repairs of Private Ways" as currently constructed. Working with Councilor Nolan, city staff and the CAO, they tried to simplify and streamline the related ordinance. The crux of the governing section is in Sec. 21-84 in the new draft whereas before Sec.'s 21-84 & -85 had the bulk of the ordinances, and it was out of order. The new Sec. 21-84 guides residents through the process and is simplified and strengthened in a way that will prove to be beneficial moving forward.

In addition to streamlining Sec. 21-84 there are now timeframes for submitting applications which will give the Public Works Dept. (DPW) an opportunity to look forward for planning for the coming year. Additionally, there are safeguards in place that if the city isn't able to get to an approved private way paving project within that year it will carry forward to the next year. Further, if there is an issue where neighborhood opposition causes problems, that application will be removed and the abutters will have to reapply after a two-year hiatus.

Councilor LeBlanc said the City Clerk's office upon requests gives the petition forms out now under the ordinance and asked if there are new petition forms or does that form need redrafting. **Mr. Payson** said his office will draft new petition form to meet the changes to the ordinance. **Councilor LeBlanc** discussed with **Mr. Payson** signatures of abutters who attend the abutters meeting as proof of their attendance and vote. **Mr. Payson** pointed out that the requirement remains that after a vote is taken by abutters that a signed document by all who voted will have to be submitted to ensure that the requisite number of abutters did in fact attend and vote in favor of the

petition. He reiterated there will be a need to draft some documents to be available for the petitioners. **Councilor LeBlanc** said these amendments are better than what is in the ordinance currently given the Council's experience over the past several years with private way paving petitions.

Councilor Memhard asked for clarification that the proposed ordinance doesn't in any way entitle abutters/residents of having their road accepted as a public way. **Mr. Payson** said, "No." **Councilor Memhard** reiterated that it is a separate and distinct process. **Mr. Payson** added that that just going through the petition process doesn't automatically entitle abutters to get their private road paved anyway. He pointed out that the amended ordinance leaves it to the Mayor's discretion after "a lot" of these steps have taken place -- it rests with the Executive. He said the clarity remains that it doesn't entitle the abutters to have a private road made public, just as there's similar language in the current ordinance. That is a separate, distinct process governed by statute, he noted.

Mr. Destino highlighted when these project are done now, the project has to go before B&F has to approve the private way project and then to approve separately the funding upon the approval of the project – a separate process. He pointed out that now the project and funding come together at once to be approved by the Council. He noted with the new ordinance there is a bigger buy-in as 75% of abutters have to vote in favor rather than the current 51% which previously has caused neighborhood concern. He said a table will be put in place which will delineate that if a project for road repair is \$25,000 the betterment to the abutters is for five years with larger, more costly projects having a betterment of 10 years. Most of the betterments, he advised, will be between five and 10 years so that the city isn't carrying the debt longer than it has to.

Councilor Nolan said the old language made the ordinance hard to understand on a variety of levels. This takes it all out, he noted. He highlighted that there is a buy-in for the abutters, which by having the three-fourths vote makes it more fair not only for the abutters but for the city who has to put time and effort into the administrative process and the paving project itself. Questions that have come up previously are answered through the new ordinance language, he said. He said in all this will make it easier for the Council, Administration and for residents.

Councilor LeBlanc said there have been issues with this ordinance recently and this rewrite answers many of those issues. **Mr. Payson** expressed his agreement saying that those issues highlighted the ordinance's deficiencies which prompted these changes to ensure the abutters are in full support of the paving of their private way by the city and understand clearly the betterments to be placed on them for the paving project by the city.

Councilor O'Hara said that most of the private ways are on the outer perimeter of the city and those roads are breaking down -- this is something residents need answers on, and this ordinance is in responsive to that need.

COMMITTEE RECOMMENDATION: On 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 Article IV, Sections 21-80 through 21-86 "Repair of Private Ways by STRIKING Sections 21-80 through 21-86 and ADDING new Sections 21-80 through 21-86 as presented by General Counsel in a memorandum dated July 6, 2017.

Councilor Nolan thanked the Administration, Acting Community Development Director, Gregg Cademartori; Public Works Director, Mike Hale; General Counsel, Chip Payson and Mr. Destino for their hard work to assist in drafting this updated ordinance language.

3. *CC2017-022 (Cox): Amend GCO Ch. 22, Sec. 22-277 "One Hour parking-Generally" re: Washington Street (TBC 09/18/17)*

This matter is continued to September 18, 2017.

4. *Communication regarding Williams Court traffic pattern, and Citizens Petition to change Williams Court from one-way to two-way traffic (Cont'd from 06/19/17) and CC2017-023 (Memhard) Amend GCO Ch. 22, Sec. 22-267 "One-way streets-Generally" re: Williams Court*

Councilor LeBlanc explained that Councilor Memhard put in a Council Order (consistent with the Citizen's Petition) to take Williams Court from a one-way roadway to two-way roadway. **Councilor Memhard** noted the Council Order asked that recommendations be obtained from the Police and Fire Chiefs, the DPW Director and the Traffic Commission (which the Committee did at its last meeting prior to the Council Order being filed). **Councilor LeBlanc** reported the Traffic Commission had voted pursuant to the Citizen's Petition to keep Williams Court one way at their June meeting (minutes on file). Noting the Committee hadn't yet heard back from the DPW, he

suggested that it was likely the DPW Director would be in agreement with Chiefs. He then read the memo from the Police Department (on file) dated July 31, 2017 which did not support Williams Court being made one way in light of the existing street being narrow, and concluded it is too narrow for two-way traffic in light of the existing parking configurations traffic. The Police Chief said it was a safety concern to make the road two ways. He noted the Fire Chief's lack of endorsement to take the street two-way: "... Williams Court in my opinion cannot support two-way traffic. This is supported by the Mass. Fire Safety Code 527 CMR 1.00 Ch. 18 (attached to the memo on file).

Councilor O'Hara said he spoke with neighbors -- which this seems to be a neighborhood issue. While noting Williams Court is a public way, he said he reviewed the recommendations of the Chiefs as well as the Traffic Commission. He noted his understanding that the road was two-way for some time, and there seems to be an issue related to two children playing in the street which he suggested may have forced this issue. He said that it was two way previously regardless of whether it was correct or not. He said he respected the opinions of the Chiefs but that there were no major issues previously when Williams Court was two way. He reiterated it is a neighborhood issue and needs to go to a public hearing to give the neighbors an opportunity to offer their opinion. **Councilor LeBlanc** pointed out that the Traffic Commission recommended that if the road were to revert to two ways that there would have to be removal of all on-street parking for the length of the road which will be a consideration in a neighborhood where parking is very limited.

Councilor Nolan said this has been one way legally since the 1980's. Whether the signs were taken down for whatever reason, it remains that the street is very tight and narrow which he noted he has observed on many occasions. He said he'd like to hear a bit more from the neighbors to see what they have to say. He said he spent time seeing cars backing up to allow another car to pass on the road. No parking on Eastern Avenue by Jeff's Variety doesn't appear to be 20 feet from the corner and is more of a safety hazard and makes it difficult to get vehicles into Eastern Avenue traffic from Hartz Street. He said based on the standards set out by the Fire Chief he'd have to support Williams Court staying one way but will hear about the issue at public hearing, and that his vote was subject to change.

Councilor LeBlanc said this matter needs to go to public hearing as it is a Citizen's Petition, although he pointed out he supports the Chiefs' recommendations at this time. He said the vote can change after the public hearing but that the Committee is making a recommendation from the Committee and that the matter will still go to the public hearing.

John Silva, 6 Williams Court, said when he moved here Williams Court 47 years ago wasn't a one-way street and no signs were posted. He recounted the Council said it would do a 45-day trial period, and pointed out that minutes were provided (on file with the Citizen's Petition) and yet the road remained a one-way street and asked why did they have a 45 day trial period then and put it back to a one-way street. He said the past 42 years there have been no signs posted on Williams Court. **Councilor Nolan** noted that the only change in the traffic ordinance on the roadway was done in the 1980's. **Councilor Memhard** pointed out that this review prompted by the Citizen's Petition has triggered the application of state standards to this roadway, noting a similar situation occurred with ADA parking at the Town Landing parking lot. He suggested a sensitivity to the practical concerns of the residents especially if they live on the "bottom" of end of Williams Court, that another alternative to consider is to make Tolman Street one way from Hartz Street into Williams Court so that people who live on that part can at least come in because of the one-way configuration. He noted the Police Chief saw vehicles parked on Williams Court the wrong way at his site visit. He said it has become a difficult situation for people who have lived on these streets for many years. He said the important question for these neighbors is whether they are willing to give up on-street parking because parking is very limited in this area and would be the only way to justify making Williams Court two-ways. People have reported an improvement in a reduction of cut-through traffic with the posted one-way signs. He also mentioned the on-street parking at the intersection of Hartz Street and Eastern Avenue with poor sight lines currently as did Councilor Nolan. **Councilor LeBlanc** pointed out that the Eastern Ave./Hartz Street issue isn't part of what is before the Council at this time.

Councilor Memhard expressed his agreement that this is a neighborhood issue and pointed out the work of the neighbors as a valuable thing to do, but that the Council has to observe the law but not wanting to create a hardship.

Councilor O'Hara said he doesn't support what is before the Committee, that this is a neighborhood issue that prompted this matter going forward. He reviewed that the road has been operational and that there is increased traffic with the density increasing with no prior problems; the neighbors want Williams Court two-way.

COMMITTEE RECOMMENDATION: On motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 1 (O'Hara) in favor, 2 opposed to recommend that the City Council AMEND GCO Ch. 22, Sec. 22-267 "One Way Streets-Generally" by DELETING Williams Court

from its intersection with Eastern Avenue to its intersection with Hartz Street for its entire length, in an easterly direction.

This matter, pursuant to the Citizen's Petition, will be advertised for public hearing.

5. *CC2015-044 (Cox) Amend GCO Sec. 9-12 re: Prohibition of plastic checkout bags (Cont'd from 07/18/16) (Cont'd from 06/19/17) TO BE WITHDRAWN*

Councilor Cox requested that Council Order 2015-044 be withdrawn.

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 permit the withdrawal of CC2015-044 (Cox) Amend GCO Sec. 9-12 regarding "Prohibition of plastic checkout bags without prejudice.

6. *CC2017-026 (Cox) Request O&A review & recommend the matter of regulating the use of plastic & paper checkout bags & recommend whether an ordinance regulating the use of plastic & paper checkout bags be adopted*

Councilor LeBlanc expressed his thanks to the Clean City Commission members who were present to discuss both the proposed plastic bag ban and the polystyrene container ban with the O&A Committee after a brief discussion with Councilor Cox as to the process of taking up those two matters.

Councilor Cox recounted that someone came to her with a concern on plastic bags asking that a ban be introduced in the city. This process involved a great deal over the past two years, she advised, and that the previous order didn't now meet the standards of current bag bans in the state. She noted the previous Council Order had a retailer's requirement based on square footage which was removed as local orders are now "all encompassing." She pointed out that there are options for a 10 cent/5 cent buy in, which some communities have left in place as a tax which goes back to the city or town. **Councilor LeBlanc** asked who would track such a tax. **Councilor Cox** said she didn't necessarily agree with that method, but that the idea was to introduce the standard language of the local bans. She said she would vote to withdraw that subsection of the plastic bag ban agreeing with Councilor LeBlanc it would be extremely difficult to track by the city. She noted that she didn't want to give her opinion in the form of the Order and that the ordinance proposal is introduced at 100% saying that she is willing to offer and/or accept amendments to it. The effort put forth for the last year, the Clean City Commission has done its due diligence, giving handouts to all merchants with contact information, and she said she has received one phone call to date opposing the bag ban. She pointed out that she's received several compliments for the bag ban and received good feedback from merchants. There is a phase-in effort for the ban and gives businesses an opportunity to use up what they have on hand.

Councilor LeBlanc asked how many merchants were contacted. **Eric Magers**, 7 Marchant Street, Clean City Commission member, said the Commission picked brick and mortar establishments and those retailers that would potentially be putting goods in bags or polystyrene and contacted 166 merchants, including supermarkets. **Councilor LeBlanc** asked if the Commission had heard back from the supermarkets. **Councilor Cox** said they didn't hear from the supermarkets. **Councilor Cox** said almost all of the "bigger merchants" are already doing this in other communities -- Gloucester isn't the first community to consider or institute a plastic bag ban, of which there are 55 communities' already banning plastic bags -- Market Basket and Marshalls, are already affected by bag bans. **Mr. Magers** said their feedback from retailers was that they thought the ban was already happening and expressed they were accepting of it.

Councilor LeBlanc said while this bag ban ordinance has been in the works for some time, yet there wasn't much in the way of communications from the store owners this will affect and from consumers who may be paying this tax and purchasing their own checkout bags. He noted subsection (d), "Recyclable Paper Bag" A paper bag that meets all of the following requirements: (1) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) postconsumer recycled material; (2) is capable of composting, consistent with the timeline and specifications of the ASTM Standard D6400." He asked what it meant and the difference between a brown paper bag that is in city grocery stores now and the specifications of the ASTM Standard D6400. **Mr. Magers** said they used the Mass. Green Network and the Sierra Club standards to base the ordinance on. He advised there are a lot of products in the market that exist for organizations to "potentially get around ordinances in a very creative way," and that this has very strict guidelines that shows what is compostable. **Councilor LeBlanc**

asked what the price is to the retailer and what is passed onto the consumer. If they were to adhere to this subsection, what is the retailer's cost and will it be passed onto the consumers. **Mr. Magers** responded that they are not passing on the 10 cent charge. All the paper bags that people now get in Gloucester, he said he's never seen one that doesn't fit these guidelines, but they are there – there are companies that are making a profit producing bags to get around bag bans. **Councilor LeBlanc** reiterated his ask – are they a certain type of bag and what would be the ramifications of a supermarket not using the type of specified paper bag shown in this draft ordinance but the simple paper bag they've been using for years rather than outsourcing a bag to meet the ordinance specifications.

Councilor Cox said this is a definition of what a brown paper bag is and what they've used all along, noting that most companies won't use the non-compostable bags because they are more expensive. She said that the legal language they're instituting is, "a little heavy handed" but is what has been used all along. She said they're not trying to burden businesses or taxpayers but are encouraging the use of reusable bags.

Councilor LeBlanc noted subsection (h) "Any retail establishment that provides a recyclable paper bag, a compostable plastic bag, or a marine degradable plastic bag, with the exception of produce bags and product bags." Bags for produce and product bags are not included in this ban, he said. **Mr. Magers** said it seemed daunting to have paper bags in areas of the supermarkets such as the produce aisles and so this is an exception. A product bag is a bread bag, things that are already in a bag also. **Ainsley Smith**, 14 Pine Street, Chair of the Clean City Commission added that a product bag is a bag that is used to bring products up to a counter. She pointed out that the product bags were defined in an earlier draft of the proposed ordinance language which she read reiterating Mr. Magers' assertion.

Councilor Cox mentioned the concern of lack of communication to businesses and from businesses. She said they've given multiple page documents to the businesses with the Clean City Commission and her contact information, that that they've received no feedback. **Councilor LeBlanc** asked if Councilor Cox and/or the Clean City Commission had reached out to the Cape Ann Chamber of Commerce. **Councilor Cox** said that the Chamber of Commerce is on board but that they've received nothing in writing. She said that 99% of businesses know this is coming; all of them hearing about the proposed state-wide ban, so they realize it's just a matter of time. **Councilor LeBlanc** asked about the Downtown Development Commission. **Councilor Cox**, noting she is the Commission's Council liaison, said that the DDC hasn't made a formal recommendation, although they have discussed the bag ban. Any communication has been, "it's about time," or that they know it is coming. She mentioned that people also know it is the right thing to do.

Councilor LeBlanc pointed out that the city has people from Manchester and Rockport who shop in Gloucester, especially at supermarkets, and this ban will affect not just Gloucester residents. He suggested that such a ban may make doing business in Gloucester more difficult as it will add to a start-up's cost. A burden is purchasing bags the first time, **Councilor Cox** pointed out, but is not a burden to doing business. She said she has had this conversation with some of the members of the Rockport Board of Selectmen, and that they're not willing to put such a ban forward noting that Rockport doesn't have a grocery store. They're unwilling to move forward with such a ban. If there is a state ban the retailers will have to get used to the situation regardless, she noted. She highlighted that this ban is about protecting the city's surrounding waters and protecting marine life. She said this is a small step but an important one -- this is more of a global situation and how they individually affect the world. There are states that have banned plastic bags, and there are countries that have banned the bags, she pointed out.

Councilor Nolan said that it has been two years since the original order came through and that he's been in this room when the bag ban first was presented. He noted he's read a great deal on the matter, studied the issue, and reviewed the ideas of the ban and its different iterations. He expressed his opinion that this is something that has to happen. He pointed out that subsection (h) in the Council Order needs to be removed but otherwise he is fine with the rest of the ordinance as presented. He noted there are expenses in running a business; paper bags already cost more money but are offered. He noted that he was in Ipswich, the town just instituting a bag ban that hasn't gone into effect yet. He conveyed that there are bags that can be reused up to 100 times that have a compost rate of three months in the sun. He noted the arguments about dog waste and how people use store plastic bags to pick up their dog's waste – but those bags are in the soil forever, and now they have dog waste in them. He said he supports this ban – there have been a lot of people doing a lot of "footwork" on it. He said people he talks to downtown that are business owners are supportive or that the bags they now use aren't plastic. He reiterated that aside from subsection (h) he is supportive of the ordinance. He offered his thanks to those people who have worked on it, and that this is something they have to do for the good of the environment. **Councilor Cox** added that out of respect for this Committee, she didn't invite a lot of people to speak but asked the Clean City Commission, who are appointed by the Administration to speak this evening whom she said should have the right to speak because they worked on formulating this ordinance amendment. Their process isn't finished, she advised, as there is a lot of education that still needs to be done and is why there is phase in to the bag ban. Other communities found the phase-in period very

helpful, she added. They have sought out grants to deliver bags to the Senior Center for the last four years because she said she knew this was going to happen. From the point where this passes to where it goes into effect there will be flyering in the windows of stores to remind consumers they need to remember to bring their bags with them for their purchases as well as window stickers which she pointed out she bore the burden willingly for the cost of their printing.

Councilor O'Hara expressed he is environmentally friendly and believes the environment has to be protected. adding that the city works very hard to recycle. What he's hearing this evening and what the Commission is saying they've heard, isn't what he's heard from city retailers. He said he "feels for" transient folks walk city streets with plastic bags that they need these bags to carry their personal goods and recycled bags would be a burden to them. He said shop owners tell him they're not in favor of the bag ban. People have busy lives, he said, and that while he understood there may be a state ban issued going forward, he's not hearing from merchants and consumers that they want this ban. He said that some bags do end up in the ocean, but there are many bags that end up on the side of the road as do many other objects just as often. This is something that he couldn't support, he said. The community, the retailers, Shaw's, Stop & Shop, Market Basket, passes this expense onto consumers and these consumers who are city taxpayers are already strapped, he highlighted. He pointed out that all trash goes to incinerators -- there is no municipal landfill being used anymore. He reiterated that this would be a burden that goes directly to the consumer. Many people repurpose their plastic bags, and this is a tax a consumer will have to bear. He said retailers told him they're prepared but that someone has to pay for it, and it will be the consumer. He said he's not in favor of a tax on the consumer and can't support the ordinance amendment.

Councilor Gilman introduced a constituent who is in the waste industry and has asked to speak for clarification purposes and then left the meeting. Through the Chair, **Deborah Darby**, 553 Washington Street, someone working in the waste industry was allowed to speak. She said that under subsection (c) "Marine Biodegradable Plastic Bag" A plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability. A plastic bag that is made of polyethylene, polyethylene, terephthalate, polyvinyl chloride, polypropylene, or nylon is not deemed "marine degradable." She said the marine degradable standard is not appropriate. Councilor Nolan had mentioned the Town of Ipswich plastic bag ban and that the bags are photodegradable; but the industry doesn't accept that -- it is called "oxo-degradable" which means the plastic bags simply fragment into finer pieces that remain in the environment. She said moving forward if a plastic ban moves forward it is selecting appropriate materials and wording it so these products are moved into the market in a way that is environmentally and economically viable. **Councilor Cox** said they are aware that the United States doesn't use marine biodegradable plastic bags but they are available in the United Kingdom. This is building for the future not just what is currently available in the United States, she added. **Councilor LeBlanc** said that bag is not available to residents of Gloucester so that section is "obsolete." He said this ordinance would be making people to comply with an ordinance with products that aren't available to them at all, and expressed his understanding they're trying to build the ordinance for the future. He said while he was appreciative of the input, the Committee is trying to vet this ordinance completely. He expressed his thanks to Ms. Darby in offering some clarification to the Committee. This ordinance was a bit unrealistic as it is presented currently, he said. He said in speaking for himself, he agrees with Councilor O'Hara. He cited that he is a "huge" recycler, hunter, biker, and fisherman, and said that he is in the woods all the time and brings out so much trash frequently as well as out of the ocean in addition to what his family recycles at home. He said in trying to do the right thing for the environment, he was struggling with lending his support for the bag ban especially in light of Ms. Darby pointing out that under subsection (c) a marine biodegradable product isn't even available in the U.S., and that (h) needs to be stricken. He said he can't support the ordinance as it is written now. **Ms. Smith** asked if there are suggestions the Councilor could offer. **Councilor LeBlanc** said these are costs that are going to be passed onto the consumer, people that are on state and federal aid, people on fixed income, many of whom use public transportation -- this will be a burden to them. He expressed his opinion that a plastic bag ban would likely happen eventually, but that he couldn't support the ban now saying that it will be a burden not only to merchants but to taxpayers. **Ms. Darby** noted as to supermarkets and other retail store, the cost of shopping there actually covers the cost of those existing T-shirt bags and paper bags. She suggested that some research on the point-of-sale transaction might be viable and said it would not be a tax burden on people but is the cost of doing business.

Councilor Nolan noted under subsection (c) that when a marine biodegradable product when it becomes available they can use it although it doesn't restrict them now. **Ms. Darby** said she is a member of the ASTM and that the ASTM 7081 -- marine degradability is temperature dependent and most plastics tend to sink in the ocean. There are good biopolymers that are fully compostable, she noted, but that there are other issues involved which she enumerated briefly as to why the definition is being rewritten.

Councilor O'Hara thanked Councilor Cox for her effort. A plastic bag ban is coming, but this is a tax, and someone has to pay for it, he said. He conveyed that merchants are in business to make money and a cost like this is passed onto the consumer.

Councilor Nolan asked Ms. Darby that since she is in the waste industry, when a non-recyclable plastic bag with dog waste is put in the trash, it goes through the incinerator adding that it may be a potential air pollutant. **Ms. Darby** said a conventional plastic bag with dog waste goes to a burn facility. Those facilities maintain very strict air release standards, and it is just the ash that is buried in a landfill. That is where it all goes – if a bag is buried it remains there in the environment forever. With the dog waste they are adding a potential biohazard with people coming in contact with it. **Mr. Magers** said 5% of all plastic bags are recycled in the right way. According to the DPW in Gloucester lots of people put plastic bags in the recycling bins. **Councilor LeBlanc** said there is an educational program underway to stop that use of plastic bags in that manner. **Ms. Darby** said the only way to properly recycle a plastic bag is to return the bags to the store.

The Committee agreed to remove subsection (h) as proposed through the Council Order and voted as follows:

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 1 (Nolan) in favor, 2 opposed, to AMEND the Code of Ordinances Ch. 9 by ADDING new Chapter 9, Sec. 9-12 as follows:

- (a) "Carryout Bag" A bag provided by a retail establishment to a customer at the point of sale for the purpose of removing products purchased therein
- (b) "Compostable Plastic Bag" A plastic bag that (1) conforms to the current ASTM D6400 specifications for compostability; and (2) is certified and labeled as meeting the ASTM D6400 standard specifications by a recognized verification entity. A plastic bag that is made of polyethylene, polyethylene terephthalate, polyvinyl chloride, polypropylene, or nylon is not deemed "compostable"
- (c) "Marine Biodegradable Plastic Bag" A plastic bag that conforms to the current ASTM D7081 standard specification for marine degradability. A plastic bag that is made of polyethylene, polyethylene terephthalate, polyvinyl chloride, polypropylene, or nylon is not deemed "marine degradable"
- (d) "Recyclable Paper Bag" A paper bag that meets all of the following requirements: (1) is one hundred percent (100%) recyclable overall and contains a minimum of forty percent (40%) postconsumer recycled material; (2) is capable of composting, consistent with the timeline and specifications of the ASTM Standard D6400
- (e) "Retail Establishment" means any commercial business facility that sells goods and/or services directly to the consumer including but not limited to grocery stores, pharmacies, liquor stores, convenience stores, restaurants, retail stores and vendors selling clothing, food, and personal items, and dry cleaning services
- (f) No retail establishment shall provide single-use plastic bags to customers
- (g) If a retail establishment provides carryout bags to customers, the bags must comply with the requirements of being compostable bags. Nothing in this section shall prohibit customers from using bags of any type that they bring to the retail establishment or from carrying away goods that are not placed in a bag, in lieu of bags provided by the retail establishment.

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration Committee voted 1 (Nolan) in favor, 2 opposed, to AMEND the Code of Ordinances by ADDING new Chapter 9, Sec. 9-13 as follows:

"Each retail establishment shall comply with this law. If a violation has occurred a warning notice shall be issued for the first offense. The penalty for each violation that occurs, the initial violation shall be: \$50.00 for the first offense and \$100.00 for each offense thereafter."

These matters will be advertised for public hearing.

7. *CC2016-015 (Cox) Request O&A review & recommend the matter of prohibiting the use of polystyrene food & beverage containers or serving items for food service establishments if the packaging takes place on the premises of food service establishments & recommend whether an ordinance on polystyrene food & beverage containers be adopted (Cont'd from 06/19/17) TO BE WITHDRAWN*

Councilor Cox requested that CC2016-015 be withdrawn.

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to permit the withdrawal of CC2016-015 (Cox) Request O&A review & recommend the matter of prohibiting the use of polystyrene food & beverage containers or serving items for food service establishments if the packaging takes place on the premises of food service establishments & recommend whether an ordinance on polystyrene food & beverage containers be adopted, without prejudice.

8. *CC2017-025 (Cox): Request O&A review & recommend the matter of prohibiting the use of polystyrene food & beverage containers or serving items from food establishments if the packaging takes place on the premises of food establishments & recommend whether an ordinance on food & beverage containers be adopted*

Councilor Cox reviewed that this proposal is essentially the same as Agenda Item #6. **Councilor LeBlanc** then highlighted subsection (a) "Food Establishment" shall mean an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption." That's for anyone who serves any food products, he confirmed with **Councilor Cox**. **Councilor LeBlanc** then read subsection (b) in part, "... Foam Polystyrene is generally used to make cups, bowls, plates, trays, clamshell containers, meat trays, and egg cartons. The term also includes clear or solid polystyrene, which is also known as "oriented", and referenced in this section as "Rigid Polystyrene." Rigid Polystyrene is generally used to make clear clamshell containers, and clear or colored straws, lids and utensils." He said this then applies to everything a purveyor would use to give a customer who is taking prepared food off his premises which applies to all plastic then, even straws. **Mr. Magers** indicated it is a very specific kind of plastic. **Councilor LeBlanc** asked if he were to go to a national fast food chain in Gloucester would he be able get a straw with his drink. **Mr. Magers** said there are some straws that could be used. **Councilor LeBlanc** asked if this ban applies to meat packaging, to which **Mr. Magers** said that is polystyrene. **Councilor Cox** said Market Basket is not a "food establishment." **Councilor LeBlanc** pointed out that Market Basket sells prepared foods. **Councilor Cox** said that the meat containers are polystyrene but are not applicable to this ban, but the store's prepared food to take away is affected. **Councilor LeBlanc** then asked about cost to not just consumers picking up the costs but for retailers to replace all their current stock. **Mr. Magers** said in the last several years as more companies are producing these items the costs are coming down. He said he didn't know the cost of a straw but that the market is becoming more competitive. Schools are going to using no polystyrene trays and if schools can do it, retailers can, he pointed out. **Councilor LeBlanc** said that it is easier for a school to do this as it is more controlled in a smaller environment as opposed to a supermarket with city-wide consumers daily. He said this expense will be passed onto the consumer noting that polystyrene is cheap and accessible versus cardboard containers that are biodegradable. This is just as impactful if not more so as the plastic bag ban, he said.

Councilor O'Hara said he is a supporter of the Styrofoam cups ban and moving to cardboard. He advised he hadn't done his research thoroughly but realizes that fresh and packaged meats are in Styrofoam containers. He said it appears that Massachusetts isn't prepared to recycle Styrofoam as the sole recycler of that product has subsequently gone out of business, and now the products to go incinerators. He suggested that packaging meats in condensed paper products may still be hygienic but that it could affect product shelf life. Paper straws were first out then plastic replaced paper straws, he noted. He suggested possibly reworking the ordinance. He said the schools are controllable, he said, and couldn't see Styrofoam being used in their environs. He said it is going to be a burden but other cities and towns have done it, and that he is bothered by the Styrofoam cups. He suggested what is in front of them may need to be honed.

Councilor Leblanc pointed out it is more than Styrofoam cups. He said this is definitely a cost to city businesses. He said he'd be in favor of the foam cups being banned but everything else is another burden on businesses even more than banning plastic bags. **Mr. Magers** said the cost of these paper and cardboard products are coming down dramatically and will get cheaper. He noted that these are "responsible products" that will reduce waste in the city. He said the city should be a leader as a coastal community, an island. He advised that the harbor's seabed is full of plastic bags and Styrofoam cups. **Councilor LeBlanc** expressed his concern and understanding, but reiterated that the polystyrene ban as written is placing a cost burden onto city businesses. He said if it was limited to plastic cups he would support it but couldn't as written.

Councilor Nolan said the straws may be hard to ban at first as well as to-go containers. Most of the egg cartons are already cardboard/paper products. He said he is willing to go to public hearing on this matter and hear what the public has to say -- and unless they are vested in it, the Council won't hear much. He said he is in favor of it, but it may be easier to have started with just the cups and take-out containers.

The Committee removed references, after a discussion, to any polystyrene or rigid polystyrene products other than cups and clamshell containers although Councilor LeBlanc objected to the inclusion of clamshell containers in the first motion regarding the ban under GCO Ch. 9, Sec. 9-20 "Prohibition on Polystyrene-Based Disposable Food Serving Items" and in Sec. 9-21 "Definitions."

Councilor LeBlanc said there are many small businesses in the city with it hard enough on them as it is, and the small business person needs help. He said he sees this as a burden to the city's small businesses at a time where the city is trying to be business friendly and bring more businesses to Gloucester.

The Committee discussed with **Councilor Cox** as to the effective date of the polystyrene ban and determined that September 1, 2018 would be an appropriate date.

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 Amend the Code of Ordinances by ADDING Chapter 9, "Art. II," "Prohibition on Polystyrene-Based Disposable Food Serving Items" "Sec. 9-20" as follows: "Effective September 1, 2018 polystyrene food and beverage containers shall not be used in the City of Gloucester to package or serve food or beverages if that packaging takes place on the premises of "food establishments" as defined in Sec. 9-21. In the event that compliance with this ordinance is not feasible for a food establishment because of either unavailability of alternative non-polystyrene containers or economic hardship, the Director of Health may grant a waiver of not more than six months upon application of the owner or owner's representative."

Councilor LeBlanc said he wouldn't support the ban on clamshell containers. This is yet another thing to make it harder to do business in the city, and the cost will be passed onto the consumer, he said.

Councilor Nolan said that two shops in town that already use the cardboard containers and that they like them. He noted that one food establishment told him the cardboard containers increase his costs to them for take-away containers yet he doesn't notice a difference in the quality of the container and that the cardboard containers are better for his food.

Councilor O'Hara expressed he supported Councilor Nolan's views, and offered that the clamshell containers could be switched and be more environmentally friendly but that Styrofoam cups should be banned.

COMMITTEE RECOMMENDATION: On a motion by Councilor Nolan, seconded by Councilor O'Hara, the Ordinances & Administration Committee voted 2 in favor, 1 (LeBlanc) opposed, to Amend the Code of Ordinances by ADDING Chapter 9, "Art. II, "Prohibition on Polystyrene-Based Disposable Food Serving Items" "Sec. 9-21" "Definitions" as follows: "Sec. 9-21 Definitions."

- (a) "Food Establishment" shall mean an operation that stores, prepares, packages, serves, vends, or otherwise provides food for human consumption.
- (b) "Polystyrene" means and includes blown polystyrene and expanded and extruded foams, also referred to as expanded polystyrene (EPS), which are thermoplastic petrochemical materials utilizing a styrene monomer and processed by any number of techniques including, but not limited to, fusion of polymer spheres, injection molding, form molding, and extrusion-blow molding; in this section referenced as "Foam Polystyrene". Foam Polystyrene is generally used to make cups and clamshell containers. The term also includes clear or solid polystyrene, which is also known as "oriented", and referenced in this section as "Rigid Polystyrene." Rigid Polystyrene is generally used to make clear clamshell containers.
- (c) "Compostable" means materials that will completely degrade into, or otherwise become part of, usable compost in a safe and timely manner. Compostable, disposable food service ware must meet ASTM- Standards for compostability and any bio-plastic or plastic-like product must be clearly labeled.
- (d) "Biodegradable" means materials that will completely degrade and return to nature.
- (e) "Recyclable" means a material than can be sorted, cleansed, and reconstituted using available recycling collection programs for the purpose of using the altered form in the manufacture of a new product.
- (f) "Reusable" means any material that will be used more than once in its same form by a food establishment.

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 Amend GCO Ch. 1, Sec. 1-15 "Penalty for violation of certain specified sections of Code" by ADDING as follows:

"Violations of Sec. 9-20 of the Code of Ordinances shall be subject to civil ticketing by agents of the Health Department". If a violation has occurred a warning notice shall be issued for the first offense. The penalty for each violation that occurs after the initial violation shall be: \$50.00 for the first offense and \$100.00 for each offense thereafter.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:57 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.