

CITY COUNCIL STANDING COMMITTEE
Ordinances & Administration
Monday, November 15, 2010 – 6:30 p.m.
1st Fl. Council Conference Room – City Hall

- MINUTES-

Present: Chair, Sefatia Theken; Vice Chair, Ann Mulcahey; Councilor Bruce Tobey

Absent: None.

Also Present: Councilor Ciolino; Linda T. Lowe; Suzanne Egan; Robert Ryan; Donna Compton; Mike Fonzo; Jane Fonzo; Andrew Burgreen; Ann Hawley; Vaughan Hawley

The meeting was called to order at 6:35 p.m. Items were taken out of order.

1. Continued Business:

- A) CC2010-070 (McGeary) Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking)
Re: East Main Street #267 (Cont'd from 11/01/10)

Councilor Theken advised the Committee that Councilor McGeary had communicated via email to her his support of the creation of the handicapped parking spaces in front of the Gloucester Stage Company and asked his fellow Councilors to support it as well.

Robert Ryan, Chair of the Traffic Commission stated at their November 4, 2010 meeting the Commission recommended and approved to amend the ordinance for two handicapped parking spaces in front of the Gloucester Stage Company, #267 East Main Street to be utilized during events held at the Gloucester Stage Company only with temporary, portable signage to be kept and maintained by the Stage Company. He noted that precedent has been set to do temporary handicapped spaces in the City previously; pointing out the example of the Baptist Church has two spaces during services only.

Andrew Burgreen, Gloucester Stage Company stated their season is May 15 to November 15 each year, but they also have special events from time to time throughout the year. There are 190 seats in the theater. He would put out the portable signs and remove them.

Linda T. Lowe, City Clerk commented that traffic signage on public streets must be public signs.

Councilor Tobey asked Ms. Lowe about her observation she made regarding private removable signs.

Ms. Lowe referred to the GCO, Article IV Traffic Control Devices, Sec. 22-125, "Duty of Director of Public Works to place and maintain; conformity to State standards"; and Sec. 22-130 "Unauthorized signs, signals and markings" that the DPW Director is in charge of signage and that there is no such thing as privately created and maintained signs on public streets.

Mr. Ryan noted that Suzanne Egan commented that the DPW makes the signs so that they comply with regulations and then would give them to the Gloucester Stage Company for use during their theater season and for special events.

Ms. Lowe confirmed that also if the DPW Director creates and maintains the signs this is permissible.

Councilor Tobey asked that the General Counsel and City Clerk collaborate on the precise wording to capture the sense of the motion for the advertisement for public hearing, and if that were the case, he could then support the motion to add the temporary handicapped parking spaces.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-287 (Disabled veteran, handicapped parking) by ADDING "two (2) handicapped parking spaces in front of the Gloucester Stage Company, East Main Street #267, to be utilized during events held at the Gloucester Stage Company only. Temporary, portable signage to be

provided by the Department of Public Works to be kept and maintained by the Gloucester Stage Company; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.”

By unanimous consent, the O&A Committee asked General Counsel and the City Clerk to collaborate on the precise wording to capture the sense of the motion for the advertisement for public hearing for the temporary handicapped parking spaces at Main Street #267.

- B) CC2010-072 (McGeary) Amend GCO Sec. 22-269 (Stop Intersections) Re: Bass Rocks Road at Its intersection with Atlantic Road (Cont'd from 11/01/10)

Mr. Ryan stated at the Traffic Commission's November 4th meeting they unanimously recommended the stop sign be placed at Bass Rocks Road. Also after speaking with the requestor, the Commission recommended that the City trim the collection of bushes at the intersection to provide better sight lines for oncoming traffic.

The Committee, Councilor Ciolino and Mr. Ryan discussed the two places where Bass Rocks Road intersects with Atlantic Road and clarified it would be at the northerly end of Bass Rocks Road where it intersects with Atlantic Road.

Councilor Theken noted Councilor McGeary had communicated via email to her his support of the creation of the stop sign at this location.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Sec. 22-269 (Stop Intersections) be Amended by ADDING “a stop sign at Bass Rocks Road and Atlantic Road, northerly end”; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- C) CC2010-076 (Mulcahey) Amend GCO Chapter 11 “Hawkers and Peddlers, and Transient Vendors”, Article II, Sec. 11.5 “Fixed Vending: site specific locations (6) to allow a 20% Rebate to Disabled Veterans on fixed permit bid (Cont'd from 11/01/10)

Councilor Tobey felt “this is not broken and nothing needs to be fixed.” He contented if someone came forward and showed demonstrable harm then the matter should be revisited and that the matter be tabled.

Councilor Mulcahey disagreed with the Councilor and wished to see it go to the City Council.

Ms. Lowe presented to the Committee the GCO Chapter 11. She noted that she and Ms. Compton and Mr. Duggan met several times, and then she had drafted language for the Committee to review (on file). Councilor Mulcahey stated she had received from Suzanne Egan an email which stated that the State does recognize a discount of up to 20% discount for disabled veterans.

Councilor Theken did not want a preference and the discount. She would prefer a preference without a discount.

Ms. Compton stated if the highest bidder was a disabled Gloucester veteran they would get 10% off. If there was a tie, then they would give the tie to the disabled Gloucester veteran.

Councilor Tobey asked about the tie breaker concept. The rest, he felt, was unnecessary; that it was all about the tie break.

Councilor Mulcahey stated she would agree that the disabled veteran would be the tie breaker.

Councilor Tobey objected to the discount as did **Councilor Theken**.

Ms. Egan expressed that they would have an issue on a constitutional basis to limit it to just “Gloucester” veterans.

Councilor Theken summarized that they will leave it as a disabled veteran only, not to a “Gloucester” disabled veteran.

Councilor Mulcahey agreed.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend to the City Council to Amend GCO Chapter 11 “Hawkers And Peddlers, and Transient Vendors” as follows:

AMEND Sec. 11-1 “Definitions” by ADDING: ““disabled veteran” shall mean the same as defined in MGL c.31, sec. 1”;

AMEND Sec. 11-3(b) “Local license/permit requirement for fixed vending locations” by ADDING:

- at line 5, “up to” before the words “seven (7)”;
- at 3(b) (1) after the word “license”, “and proof that they are a disabled veteran as defined in sec. 11-1”

AMEND Sec. 11-3(c) “Sealed Bid Procedures by DELETING: “should there be a duplicate bid and duplicate date and time of submission there will be a rebidding procedure among duplicate bidders within seven (7) days”; and **by ADDING:** “If there is a tie between two or more vendors on the bid amount, then the bidder/vendor who is a disabled veteran shall be given preference over all other bidders provided they meet all other bid requirements.”

AMEND Sec. 11-5(1) “Fixed vending; site specific locations (6) by ADDING: “After Washington Street: “Ten (10) feet north from its intersection with Poplar Street”; AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- D) Memorandum from Charles H. Carroll, Director MA Division of Standards re: Adoption of Amended M.G.L. Chapter 101 by requiring “Promoters”, as defined, to be licensed under the Acts of 2010, Chapter 308 (By Direction of the City Council President (Cont’d from 11/01/10)

Suzanne Egan, General Counsel stated she was asked if the Act of 2010, Chapter 308 if it left anything for the City of Gloucester to regulate with regard to transient vendors and peddlers. The act, essentially, is for promoters who are licensed vendors; in order to regulate flea markets. She noted the City regulates individual vendors, hawkers and peddlers. It also says that municipalities may continue to charge such fees that they have in place, which the City has at this time.

The Committee, Councilor Ciolino Ms. Egan or Ms. Lowe discussed the matter and the difference of a festival, using the Waterfront Festival as an example, versus vendors simply selling tangible goods; that the definition in the Act points towards a flea market definition not to festivals.

Councilor Tobey wondered if it would be helpful to send to the MA Division of Standards to the attention of Mr. Carroll the City’s current body of ordinances to share it with him and ask him how we would revise it to comply with this Act in order that the Division would tell the City how it should be written. He felt it was wasteful to unravel 28 years of an arcane body of Massachusetts law. It was “a mess because Councils keep putting their hands on it” [the ordinance] and dealing with it piecemeal. He further suggested that the Waterfront Festival should be on I4-C2 and up to the Harbor Loop as far as the entrance to the Heritage Center instead of Stage Fort Park.

MOTION: On motion by Councilor Tobey, seconded by Councilor Mulcahey the Ordinances & Administration Committee voted 3 in favor, 0 opposed that the matter of Adoption of Amended M.G.L. Chapter 101 by requiring “Promoters”, as defined, to be licensed under the Acts of 2010, Chapter 308 be sent back to the General Counsel and in collaboration with the City Clerk in order to send the City ordinances to Charles Carroll, Director of the MA Division of Standards to seek guidance as to how the City should proceed.

This matter is tabled until such response is received from the MA Division of Standards.

- E) Amend GCO Sec. 22-287 "Disabled Veteran, handicapped parking" re: adding Main Street #46 (Cont'd from 11/09/10 City Council meeting for clarification by the O&A Committee)

Councilor Theken stated this matter was brought back regarding two hour parking for handicapped parking spaces. This matter was duly posted for O&A, discussed in their Committee, and advertised appropriately and brought to a public hearing which opened at the Council meeting on November 9th, and was continued. They had gone through the process and that there was ample time for comment. She thanked Mr. Ryan and the Traffic Commission for his work. She understood there was conflict on the issue. The order submitted by Councilor Mulcahey will either be withdrawn this evening or "die" at City Council. She and her fellow Councilors are advocates for everyone; and that there were no ulterior motives. They need handicapped parking downtown. She told of parking difficulty during St. Peter's Fiesta; and she had also received a complaint from a quadriplegic that used a handicapped van for transportation as well.

Councilor Tobey asked for the pros and cons from Mr. Ryan.

Mr. Ryan noted the need for a handicapped parking in the West End of which they all agreed. He showed a street map of the downtown (on file) showing the seven handicapped parking on Main Street; there was none from Flanagan Square to Manuel F. Lewis Street; and none on Main Street from Hancock Street to the intersection of Washington Street leaving the West End bereft of handicapped spaces. He further noted anyone with a handicapped plate or placard can park in any metered space and not pay the meter and cannot be ticketed which is a City ordinance/State law.

Councilor Tobey clarified that this then was the pro statement, that there isn't enough handicapped parking spaces from Hancock Street to Main Street's intersection with Washington Street. He asked Mr. Ryan for the "con".

Mr. Ryan did not have a "con".

Councilor Theken stated that the proposer has to delete the whole amendment and eliminate #46.

Mr. Ryan stated on Saturday, November 13th, he spoke with the Mr. and Mrs. Vaughan Hawley at #46/#48 Main Street, owners of a gallery there. They expressed to him they would rather not have the handicapped spot there. He stated they had already spoken with the owner of the building of Valentino's Restaurant several months ago; and lastly, he spoke to John Wright, the owner of Fisherman's Outfitters who has 20 parking spaces in his lot, which is next to Valentino's (pictures submitted and on file) who told him they could put a spot in front of his parking lot which is #20 Main Street. Meter #6 would have to be removed. There are two driveways on either side of the now proposed space making it easy to pull in and out of the space.

Councilor Mulcahey reviewed for the Committee that the gallery owners at #46/48 Main Street had previously complained that big trucks were in front of their building unloading, and recounted they took care of it with only allowing smaller trucks. She stated that when the handicapped space at #46 would go in no trucks would be in front of their gallery and thought that would be satisfactory.

Councilor Theken stated this was about a compromise and approved of the new location for the space, at #20 Main Street.

Councilor Ciolino stated parking is tight and one of the unusual things about this request, when a handicapped person wants a handicapped parking space they come before the Traffic Commission but noted in this case it was arbitrary. He stated again, as he had at Council that he has never voted against the creation of a handicapped parking space. But there is a loading zone in front of La Trattoria Restaurant; now another handicapped space, and there is a loading zone in front of Virgilio's. Handicapped persons always have the option go into any space and park as long as they have a placard or license plate in any parking space. A handicapped van can park in a loading zone for access. He believed the area was adequately served.

Councilor Theken reiterated for the record that handicapped people with appropriate placards and/or license plates can park at any meter free of charge. She also reiterated she wanted handicapped parking in

the West End and urged her fellow Councilors to take a broader view of the matter, and not a personal focus. She exclaimed she would never support two hour parking in a handicapped space. Further, she believed it was a “win-win situation” to put the space at #20 Main Street.

Councilor Tobey asked Mr. Ryan if the Traffic Commission recommend time limits on handicapped spaces.

Mr. Ryan stated they have never discussed the concept but personally he did not like the idea.

Councilor Tobey summarized that the Traffic Commission’s position is that there should be an open ended time limit on handicapped parking spaces. Further, that the proposal for the new handicapped parking space is now in the vicinity of the Wright building, #20 Main Street.

Mr. Ryan noted the Commission had not had a meeting since the last City Council meeting so they were not able to have a full discussion on possible handicapped parking space time limits.

Councilor Ciolino made clear to the Committee that if one person uses the new handicapped parking space as their exclusive parking space, he will move to withdraw the handicapped space they propose to create now at #20 Main Street.

Councilor Mulcahey stated she tries to do what her ward wants and in the best interest of everyone. “Handicapped trumps everything”.

Councilor Tobey asked Mr. Ryan if the Traffic Commission would conduct an inventory of the uses of the handicapped spaces and loading zones in the downtown business district so they look at all of it at once.

By unanimous consent, the O&A Committee referred the matter of an inventory of the uses of handicapped spaces and loading zones in the downtown business district to the Traffic Commission. Upon the Commission’s completion of such an inventory, the matter will be placed on the O&A Agenda.

Further, it was recommended in discussion with a property owner of a building in the West End that the owners of the properties, not the tenants’ of the buildings, be asked regarding parking issues when an area is being canvassed for opinions on such matters.

Councilor Theken thanked the Traffic Commission for their work on the matter and felt this was a good compromise.

MOTION: On motion by Councilor Mulcahey, seconded by Councilor Tobey, the Ordinances & Administrative Committee voted 3 in favor, 0 opposed to recommend to the City Council to withdraw Council Order CC2010-054 for “one (1) handicapped parking space at Main Street #46 (formerly #21) under GCO Sec. 22-287 (Disabled Veteran, Handicapped Parking)” AND to Amend the same Council Order CC2010-054, GCO Sec. 22-287 (Disabled Veteran, handicapped parking) by ADDING “one (1) handicapped parking space at Main Street #20” AND FURTHER TO ADVERTISE FOR PUBLIC HEARING.

- F) Amend GCO Sec. 22-287 “Disabled Veteran, handicapped parking” re: adding Main Street #287 (Cont’d from 11/09/10 City Council meeting for clarification by the O&A Committee)

The Committee tabled this matter to give the Traffic Commission the opportunity to speak with Gorton’s, Inc. as a courtesy to discuss with them about the proposed handicapped parking space.

This matter will be continued to the Special O&A Meeting of November 22, 2010.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:39 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS RECEIVED AT MEETING:

- **Street Map of Downtown Gloucester (Main Street) submitted by Robert Ryan**
- **Copy of GCO Section 22-218(b) submitted by Robert Ryan**