

Ordinances & Administration Committee
Monday, October 1, 2018 – 6:00 p.m.
1st Fl. Council Conference Room – City Hall
-Minutes-

Present: Chair, Councilor Steven LeBlanc; Vice Chair, James O’Hara; Councilor Sean Nolan

Absent: None.

Also Present: Councilor Gilman; Joanne M. Senos; Chip Payson; Fire Chief Eric Smith

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

1. *New Appointments to Boards, Committees & Commissions*

Committee for the Arts

Avery McNiff

TTE 02/14/22

Ms. McNiff’s appointment is continued to the O&A Meeting of October 15, 2018 at her request.

Historic District Commission

William C.S. Remsen (to fulfill an unexpired term)

TTE 02/14/19

Mr. Remsen, already a member of the Historical Commission, explained he is a registered architect who has worked on historic buildings, for more than 25 years. He expressed his interest in historic preservation in order to preserve the city’s culture. **Councilors LeBlanc** and **Nolan** thanked Mr. Remsen for stepping forward again to fill a position on the Historic District Commission. **Councilor O’Hara** noted Mr. Remsen’s impressive resume and desire to continue to serve the city. Responding to further comments by the Councilor, **Mr. Remsen** advised that a part of preservation is about being practical and reasonable as well as keeping older buildings safe.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council appoint William C. S. Remsen to the Historic District Commission, TTE 02/14/19.

Waterways Board

Joseph D. Crowell (to fulfill an unexpired term)

TTE 02/14/21

Mr. Crowell explained that while relatively new to the city, he grew up in Beverly and raised his family in Hamilton for 25 years before moving to Gloucester. Noting his degree is in marine biology, he expressed a love for the ocean always loved the ocean saying he is an “avid” boater. He recounted that it was Councilor Nolan who suggested to him that there was an opportunity for him to join the Waterways Board. He expressed his desire to help foster the city’s developing waterfront, needing to redevelop given the depletion of the city’s fishing fleet.

Councilor LeBlanc, noting he is the Council’s liaison to the Waterways Board, he highlighted the Board is now vibrant and proactive, and suggested that Mr. Crowell will be another set of fresh eyes for the Board. **Councilor Nolan** advised that when Mr. Crowell moved into Magnolia he jumped right into volunteering in his community, saying that he’s always available to lend a helping hand. He highlighted Mr. Crowell’s expertise in building/facilities management and biotechnology which he pointed out will be an asset to the Waterways Board just as much as he’s been an asset to the Magnolia community to date. **Councilor O’Hara** added that Mr. Crowell started on the waterfront in Beverly, a city with its own unique harbor.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council appoint Joseph D. Crowell to the Waterways Board, TTE 02/14/21.

2. *CC2018-032 (LeBlanc): Amend GCO Ch. 25 “Vehicles for Hire” by ADDING new sections re: Police Inspections; Ineligibility for License; Pre-Screening; Denials; Change of Address; Criminal Records; Administrative Fee for Transfer of License (Cont’d from 08/20/18)*

Joanne M. Senos, City Clerk, noted that the Licensing Commission (on which she serves with Interim Police Chief John McCarthy and Fire Chief Eric Smith) has had issues arise that have needed addressing regarding taxicabs; both Chiefs agreed that there needed to be ordinance language added for enforcement purposes. Other

changes to the ordinance need to be made simply to update the language to make it current. She then reviewed the following matters:

- If the Commission through the City Clerk's office finds taxicab drivers in violation and tries to locate them, if the taxicab drivers changed home addresses, the taxicab companies don't inform the City Clerk's office of that information and should.
- All taxicab drivers must undergo a Criminal Offender Record Information (CORI) check before a license can be approved. When a CORI is run on an applicant, done by the City Clerk, things have shown up that some of the taxicab companies aren't aware of; rather they're just signing the application to hire the drivers indiscriminately. The Commission believes it should be the responsibility of the taxicab companies to screen potential employees more thoroughly before an applicant gets to the stage of having a CORI check done.
- There was a recent spate of licensed taxicab drivers jumping from one taxicab company to another, and those licensed drivers needed their licenses transferred which involved a great deal of paperwork processing by the City Clerk's staff. The Commission believes that there should be a minimal administrative fee for the transfers of a taxicab license.
- Chief McCarthy has asked for ordinance language related to the inspection of the taxi vehicles added into the ordinance.
- Many taxicab drivers upon receiving notification that their license is ready to be picked up in the City Clerk's office never pick them up and driving taxicabs without them or they pick up their licenses and aren't driving because for whatever reasons the taxi companies don't find them suitable, but the companies don't inform the Clerk's office of that fact.

Councilor LeBlanc advised these ordinance amendments give the City Clerk's office and Police Department a basis for enforcement as well as bringing the Code of Ordinances up to date. He recounted that the last time this matter came before the Committee they had raised concern as to whether language should be included in the ordinance regarding on-call driving services such as Uber and Lyft and asked what the state says municipalities can do about instituting ordinance or regulations on a local level.

Chip Payson, General Counsel, advised from having worked with the City Clerk over the last 12 to 24 months on issues that have arisen from the Licensing Commission regarding taxicabs, these amendments will go a long way in addressing those issues. He explained that in 2016 the Governor signed a bill establishing statutes and regulations governing Uber and Lyft-type services. He expressed he didn't know whether it's necessary for a municipality to codify what is already established under state statute and regulations -- Uber and Lyft are large corporate entities outside of Gloucester where a resident may be a driver for them, but the issue is how do you license them locally. He suggested that if the Committee and the Council is interested in investigating whether there is worth in codifying such regulations, he would look into it. **Councilor LeBlanc** highlighted that taxicab drivers have background checks run and are licensed, but that on-call ride call services don't have any such local oversight. **Mr. Payson** observed that this is an issue that all cities and towns across the country are facing. He recounted that lawyers on the Mass. Municipal Association have had a discussion on this subject and there didn't seem to be consensus about putting any type of ordinances in place per town to deal with this. There is an appreciation generally for these types of problems as to how local municipalities can protect public safety. He suggested that what is before the Committee is solely about taxicab licensing and matters related to it. **Councilor LeBlanc** agreed moving forward the Committee could look at the Uber/Lyft-type services issue separately.

Councilor Nolan questioned if there was a fee contained in the ordinance amendment for the inspection of taxi vehicles. **Ms. Senos**, noting that the matter of a taxicab inspection fee was discussed at a previous O&A meeting, pointed out that the Building Department's Sealer of Weights and Measures charges a \$25 fee to calibrate taxi meters. **Councilor Nolan** asked what the fee was for the inspection of tanks on fuel trucks. **Fire Chief Eric Smith** advised it is \$25.00, noting that many of the fees in the Fire Department are limited under statute. **Mr. Payson** and the Committee agreed a fee of \$25 would be appropriate for the Police inspection of taxicabs.

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Article II "Taxicabs And Private Livery Vehicles," Division 1 – Generally Sec. 25-24-25-34.-Reserved by ADDING a new Sec. 25-24.-Police Inspections as follow:

"Any vehicle under this article shall be subject to inspection by the police department at any time for the purpose of determining if the condition of the vehicle is a hazard to public safety during the term of said license, and the cost of said inspections shall be \$25.00.

Sec. 25-25-26-34.-Reserved.”

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Article II “Taxicabs And Private Livery Vehicles,” Division 2 – Permit, Sec. 25-36. “Petition” by ADDING a new subsection “(b) Ineligibility For License” as follows:

“No person shall be the owner who is not twenty-one (21) years of age or older or who has had an under the influence of drugs or alcohol conviction or dispositions under MGL c. 90 within the past five (5) years or the equivalent in any jurisdiction.”

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Article II “Taxicab and Private Livery Vehicles” Division 3 “Taxicab Driver’s License” Sec. 25-56 “Application-Generally” by ADDING the following subsection after the first sentence:

- (b) All applicants must be pre-screened by their taxicab company prior to submitting an application for a license to the Licensing Commission. Pre-screening shall include without limitation, the following: review of the applicant’s driving record complete with a letter verifying that the applicant is suitable for a license certification as well as whether the applicant has been previously authorized by any city or state to operate a taxicab or livery vehicle, and certification that the taxicab company has insurance and that said insurance shall cover the applicant if the applicant is granted a license. Failure to adhere to this section may result in a denial of a license.

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council GCO AMEND Article II “Taxicab and Private Livery Vehicles” Division 3 “Taxicab Driver’s License” Sec. 25-58 “Qualifications of applicant” by DELETING Subsection (b) in its entirety and ADDING new subsection (b) a (d) and (e) as follows:

“(b) An applicant who has been denied a license may request in writing a hearing before the Licensing Commission within three (3) business days of receipt of the notice of denial. The denial shall become final if a written request for a hearing is not received within said time frame.

(d) When a licensed taxicab driver changes his/her home address or place of employment, he/she shall within five (5) business days of such change notify the Licensing Commission of such change.

(e) An applicant who has a criminal record or has within the last five (5) years any of the following may be considered unsuitable to hold a license:

1. Conviction of a felony;
2. Violation of parole or probation;
3. Conviction of illegal gambling and/or lottery;
4. Conviction of a sex offense and/or is currently a registered sex offender;
5. Conviction of assault and battery on or disobeying the directives of a police officer;
6. Conviction of narcotics and/or alcohol related offenses;
7. Conviction of firearms violation;
8. Conviction or five (5) or more moving violations of motor vehicle laws where public safety and/or property was put at risk or injured.”

COMMITTEE RECOMMENDATION: On a motion by Councilor O’Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council AMEND GCO Article II “Taxicab and Private Livery Vehicles” Division 3 “Taxicab Driver’s License” Sec. 25-59 “Fee” by ADDING, after the first sentence as follows: “An administrative fee of \$10.00 shall be paid for the transfer of a taxicab driver’s license.”

Councilor LeBlanc offered his thanks to Ms. Senos for bringing these matters forward to the Committee in order to update the ordinance.

These matters will be advertised for public hearing.

3. Memorandum from General Counsel re: MuniCode Ordinance Review & Recommendations for Gloucester's General Code of Ordinances & Gloucester Zoning Ordinance - List 2 (Cont'd from 08/06/18)

Councilor LeBlanc advised that this matter is to be continued to November 5, 2018.

4. CC2018-033 (LeBlanc/Nolan) Request Traffic Commission perform a speed study on Bond Street to determine whether the speed limit should be reduced to 20 MPH and make a written recommendation to O&A, and depending on results of study, O&A recommend the City Council request MassDOT approve a 20 MPH speed limit on Bond Street (Cont'd from 09/17/18)

Councilor LeBlanc recounted that he attended the Traffic Commission meeting about the speed limit on Bond Street. The Commission voted unanimously to approve the lowering of the Bond Street speed limit. He noted currently the speed limit is 30 mph for a street with blind corners and no sidewalks. He advised that he and Councilor Nolan had looked at the Commission's traffic study, and the mean average showed for the most part drivers were obeying the speed limit. He noted an anomaly that there were more vehicles traveling from Essex Avenue towards Western Avenue than Western Avenue to Essex Avenue.

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

This matter will come under "Committee Report."

5. CC2018-034 (LeBlanc) Amend GCO Ch. 22 "Traffic and Motor Vehicles", Sec. 22-270.1 "Resident Sticker Parking Only" to be Amended by ADDING: "Babson Street" (Cont'd from 09/17/18)

Councilor LeBlanc noted that at the same Traffic Commission meeting the Commission voted to approve the action as outlined in the Council Order for Babson Street. He reported he was approached by the residents of Babson Street to make their street resident sticker parking only. He explained that Babson Street, a dead-end with about four houses, is at the top of Hampton Hill off of Hovey Street. Some of the neighbors to the street are renting their property for Airbnb which means more cars parking in the immediate residential area. Residents of Babson Street understand that anyone with a resident sticker can park on their street should this action go forward, he added.

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Ch. 22 "Traffic and Motor Vehicles" Sec. 22-270.1 "Resident Sticker Parking Only" by ADDING "Babson Street."

This matter will be advertised for public hearing.

6. CC2018-036 (LeBlanc/Gilman/Lundberg): Amend GCO Ch. 28 "Marijuana Retail Establishments" by ADDING new Sec. 28-2 "Prohibited Practices"

Councilor Gilman explained that the issue of the display of marijuana-related paraphernalia in store windows was brought up in O&A about a year ago during the discussions on the Adult Recreational Use Marijuana draft ordinance, and this was one component which Councilor LeBlanc had initiated.

Councilor LeBlanc recounted that the Council voted the Zoning Ordinance for Adult Use Recreational Marijuana Establishments recently. This proposed action is to place some similar language into the Code of

Ordinances as there were permitted paraphernalia and smoke shops prior to the institution of the Zoning Ordinance. By codifying this new ordinance, it will allow retroactive enforcement of rules as to window displays.

Mr. Payson reviewed that within the past several weeks, Gloucester approved a new Adult Use Recreational Marijuana Establishment Zoning Ordinance; and in it was the exact same language. He pointed out that MGL Chapter 40A that creates the framework for zoning, prohibits retroactive applications, and only is applied prospectively. There is a business, he noted, on a main thoroughfare in the city that the city couldn't regulate as to their window displays because they were permitted prior to the Zoning Ordinance amendments going into effect. By taking the same language and putting it into the Code of Ordinances, it allows the city to enforce all parties that may have been displaying certain types of paraphernalia prior to the effective date of the recent Zoning Ordinance amendments. **Councilor LeBlanc** pointed out this isn't just about one particular paraphernalia shop, but for any business that may wish to display these types of goods in a certain way.

Councilor Nolan recounted that although it was over a year now, the Committee did have the managers and/or owners of the city's smoke/paraphernalia shops to a meeting to have this discussion and had asked them to self-police. As Councilors they've had many constituents who have expressed their concern about the displays in shop windows, and in turn Councilors have reached out asking these shop managers/owners to tone down their product displays on numerous occasions without success. Pointing out that the Council believes in free enterprise, he advised that since they have not done so, it is now time for the Council to take action. **Councilors LeBlanc** and **O'Hara** expressed their agreement.

COMMITTEE RECOMMENDATION: On a motion by Councilor O'Hara, seconded by Councilor Nolan, the Ordinances & Administration voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Ch. 28 "Marijuana Retail Establishments by ADDING new Sec. 28-2 "Prohibited Practices" as follows:

"Sec. 28-2. Prohibited Practices.

- (a) In addition to the requirements of 935 C.M.R. 500, specifically 935 C.M.R. 500.105(4)(b), Prohibited Practices, it shall be unlawful for any person to operate an establishment so as to clearly display any marijuana advertising products, paraphernalia or accessories so that it is visible to a person from the exterior of establishment. This includes any of the same that have multiple uses of which one is for marijuana.**
- (b) This section may be enforced by any police officer through any lawful means including noncriminal disposition pursuant to M.G.L. c. 40, §21D. The fine for a violation shall be as follows:**
 - (1) \$250.00 for the first offense;**
 - (2) \$500.00 for the second offense;**
 - (3) \$1,000.00 for each offense thereafter."**

This matter will be advertised for public hearing.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:42 p.m.

Respectfully submitted,

Dana C. Jorgenson
Clerk of Committees

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.