

Ordinances & Administration Committee
Monday, May 5, 2014 – 6:00 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

Present: Chair, Councilor Whynott; Vice-Chair, Councilor Sefatia Theken; Councilor Steven LeBlanc (Alternate)

Absent: Councilor Hardy

Also Present: Councilor Cox; Councilor Verga; Councilor Fonvielle; Councilor McGeary; Gregg Cademartori

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

1. New Appointments:

Waterways Board

TTE 02/14/16 Karen Tibbetts

Under direct questioning by the Committee, **Ms. Tibbetts** related that she did not apply for the appointment to the Waterways Board but was sought out by the Administration for her recreational boating expertise. She reviewed her many accomplishments (resume on file) and her extensive experience related to the city's waterfront in recreational boating, noting she has been the Director of Boating for 17 years at the Cape Ann Marina. She pointed out that she also has extensive experience promoting the city as a boating destination and has many years of experience involved in all aspects of boating on Cape Ann. She said transient boating is a service to the city as business without car traffic. She said having travelled the East Coast, observing what other marinas do and what services they make available has shown her what could be developed here to enhance recreational boating. She pointed out she was the founder and 8 year president of the North Shore Community Tuna Association representing the interests of 350 tuna fishermen in the northeast. She said none of her work puts her in conflict with the work of the Waterways Board. Ms. Tibbetts had submitted her State Ethics test to the City Clerk prior to the meeting.

Councilor Theken noted she has sat on several different boards with Ms. Tibbetts whom she agreed would not have a conflict with Waterways Board matters.

Councilor LeBlanc, who **entered the meeting at 6:05 p.m.**, noted he sits on the Waterways Board and looked forward to working with Ms. Tibbetts.

MOTION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint Karen Tibbetts to the Waterways Board, TTE 02/14/16.

Historical Commission Rep. to Community Preservation Committee TTE 02/14/19 David Rhineland

The Committee briefly questioned Mr. Rhineland about his taking on the added responsibility of the Historical Commission's representative to the Community Preservation Committee (CPC). **Mr. Rhineland** said that he replaces Tom O'Keefe of the Historical Commission as the representative to the CPC. He said that historic preservation is important and that there are more projects coming forward for funding. He expressed his confidence and pleasure in adding the CPC responsibilities to that of the Historical Commission. He confirmed his Certificate of Completion of the State Ethics Test was on file with the City Clerk

Councilor Theken said that Mr. O'Keefe served the CPC very well and that Mr. Rhineland will be a great addition to the CPC.

MOTION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council appoint David Rhineland to the Community Preservation Committee as the Historical Commission Representative, TTE 02/14/19.

Councilor Paul McGeary entered the meeting at 6:07 p.m.

2. Memorandum from Planning Director re: new FEMA FIRM Maps and proposed amendment to Sec.

12-27 of the GCO Floodplain Management

Gregg Cademartori, Planning Director, explained the following: That the city is in receipt of a letter in early January from the Chief of the Engineering Management Branch of the Federal Insurance & Mitigation Administration indicating that the final flood hazard determination has been made affecting the City of Gloucester's Flood Insurance Rate Maps (FIRMs) as well as all of Essex County including other counties in Massachusetts. Preliminary maps have been available in the office of the Community Development Department and on the city's website since July 2013. There was a recent reminder from FEMA sent to the city reminding it to adopt the maps dated April 2. Adoption of this revision will put the new mapping products into effect as of July 16, 2014.

There has been a great deal of discussion regarding the accuracy of the maps. There are different tracks that can be taken to adopt the maps or challenge them. It was noted that newspapers have reported some communities have challenged the maps. Failure to adopt the maps puts all homeowners and business owner who have flood insurance at risk. If there is movement or a desire to challenge the accuracy of the maps, it would be on a parallel track. If a community failed to adopt the maps by July 2014 then every policyholder is at risk. That is the absolute base minimum requirement for communities to participate in the federal flood insurance program as well as citizens in that community to be able to afford such sizable insurance.

Councilor Whynott recalled the concerns expressed about FEMA FIRM by J. Michael Faherty at a recent City Council Meeting and had Mr. Cademartori had discussions with Mr. Faherty on the subject. **Mr. Cademartori** responded as follows. He had spoken with Mr. Faherty who expressed his concern for renovation or new construction where it has an implication as to what that project might look like based on where the property is located on the flood plain and what the designation is which has a direct correlation to the State building code. He noted the state has adopted the International Building Code. Whatever standard is specified for a particular flood zone it has to meet those construction standards. It may have implications affects the elevation of a first floor and there may be challenges associated with that. Mr. Faherty is dealing with projects that affect the floor area for a new building where the elevation of the first floor could be in question. **Mr. Cademartori** suggested there may be challenges associated with that elevation as to how it would be instituted. He pointed out this is a national program and a national standard. Responding to an inquiry by **Councilor Whynott**, **Mr. Cademartori** explained that an existing building will be dealt the same as it is now. If it is below base flood level they pay a certain flood insurance premium, and suggested maybe even a higher premium because that property is at risk. If they do nothing, they may be impacted by increases in premiums but there is nothing compelling them to do something to that building. It is more about renovation or new construction that will have a much greater impact, he noted. He reiterated that the draft flood plain maps have been available through FEMA and the city's website. He said there are people right now who are not designated in the flood plain but will be as of July 16. He pointed out there is a graduated process as to how the flood insurance premiums come into play. For many property owners although this matter has been in the news of late, they won't realize there is an issue with their insurance until their mortgage holder contacts them to contact their insurer to add flood insurance, he said.

Councilor Cox asked if the city had registered an appeal with FEMA. **Mr. Cademartori** said the city has not initiated an appeal nor had the city received money to initiate one. He pointed out that there is no deadline. There was a comment period where some communities treated it as an opportunity to file additional information or perform additional studies to combat the new designations of flood plain for those communities, he said. He noted there is always the possibility for providing additional information and studies in a specific format by FEMA who make a determination in a specified process. **Councilor Cox** asked if not having a Conservation Agent currently on staff hindering the process. **Mr. Cademartori** said it did not.

Councilor Verga asked if some communities were looking at their zoning to assist homeowners as to height exceptions with homes that will need renovation or new construction where first floors will need to be raised up from base elevation for homes in the new flood plain areas. **Mr. Cademartori** said such a situation would be a good case for a height variance request, adding that it is the shape or topography of the site that would lend support for an actual variance. He said he didn't think there were too many instances where people have done that proactively. He suggested some properties in a flood plain may not be able to do any construction in those areas. It is something he said that could be addressed through variance processes or in some areas to specifically redefine the base elevation of the site would be so to be afforded the same height and zoning considerations as any other property in the city. **Councilor Verga** and Mr. Cademartori discussed briefly whether that particular issue as a zoning matter should be discussed at the Planning & Development Committee and then put it back to O&A for its consideration. Councilor Verga suggested that if someone is losing the first 10 feet, instead of having to go through the Zoning Board of Appeals process, he suggested it may be worth a discussion on possibly amending the zoning ordinances. **Mr. Cademartori** said it may be worth waiting to see what the impact might be rather than designing an ordinance

around 1 or 2 percent of the properties in the city in haste. He said that if it appeared there were a great number of property owners seeking variances through the ZBA then it would be a worthwhile matter for discussion. He suggested that there are a number of considerations for homeowners that a height exception may be the least of their concerns initially.

Councilor McGeary said the city doesn't give up any right to appeal by adopting the flood plain maps; that if at some point the city wanted to appeal the methodology or the actual map the city doesn't give up the right to appeal the maps if it adopts the FEMA FIRM maps. **Mr. Cademartori** said they do not. He noted on an individual property basis if someone disagrees they can file for a Letter of Map Amendment or a Letter of Map Revision by an individual property owner or by a grouping of properties. **Councilor McGeary** observed that the town of Rockport challenged the FEMA methodology. **Mr. Cademartori** said there a number of ways to model what the potential flood risk is. Rockport chose to use a slightly different methodology which FEMA didn't say was wrong, but said it is another right way to look at the maps. It was Rockport's providing another evaluation of what the risk might be.

Councilor Whynott asked if there was a sense that possible mass premium increases due to properties now being included in the FEMA FIRM flood plan maps that many people will sell their homes because of the map changes. **Mr. Cademartori** explained that: There was federal legislation that has put a cap increase on premium increase for the next 4 years because if these were implemented and also utilize the actuarial method of determining flood insurance premiums there may have been some very significant increases that people would have to carry. They have asked for a financial plan of feasibility so that someone isn't hit with going from \$1,000 to \$12,000 in one year. The maximum increase is an 18 percent increase per year for the next four years.

Councilor Cox said that those people not in the flood plain before and now may be is that 18 percent still applicable. **Mr. Cademartori** said for a new policyholder, similar to what was done in 2012 for the last updating of the flood maps from 1992, there were some folks brought into the new flood plain areas. There is an easing to bring people into the (federal flood insurance) system. He suggested it is a similar process where one is not expected to jump directly to a premium of someone who has had a property in a flood plain for the last 20 years.

MOTION: On a motion by Councilor Theken, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Chapter 12 Marshlands, Art. II Wetlands, Sec. 12-27 Floodplain Management by DELETING Sec. 12-27 in its entirety and ADDING a new Sec. 12-27 as follows:

Floodplain area boundaries and base flood elevation data. The floodplain areas are herein established which include all special flood hazard areas within the *City of Gloucester* designated as Zone A, AE, or VE on the Essex County Flood Insurance Rate Map (FIRM) issued by the Federal Emergency Management Agency (FEMA) for the administration of the National Flood Insurance Program. The map panels of the Essex County FIRM that are wholly or partially within the City of Gloucester are panel numbers 25009C294G, 25009C0309G, 25009C0311G, 25009C0312G, 25009C0313G, 25009C0314G, 25009C0316G, 25009C0317G, 25009C0318G, 25009C0319G, 25009C0338G, 25009C0432G, 25009C0451G, 25009C0452G, 25009C0453G, 25009C0454G, 25009C0456G, 25009C0457G, 25009C0458G, 25009C0459G and 25009C0476G dated *July 16, 2014*. The exact boundaries of the Floodplain Areas may be defined by the 100-year base flood elevations shown on the FIRM and further defined by the Essex County Flood Insurance Study (FIS) report dated *July 16, 2014*. The FIRM and FIS report are incorporated herein by reference and are on file with the Building Inspector, City Engineer and City Planning Offices.

This matter is to be advertised for public hearing.

3. CC2014-016 (Whynott) Whether the City Council should vote to consolidate the polling places for Wards 3 and 5

Councilor Whynott said he has asked for the opinion of the Police Chief and Chair of the Traffic Commission to weigh in on the traffic/pedestrian safety of two locations for polling places in Ward 5 suggested for Ward 5 - Wellspring House at 302 Essex Avenue, or West Gloucester Trinitarian Congregational Church at 488 Essex Avenue. He noted there were no concerns expressed about the Magnolia Library but that he did have concerns for the two suggested new possible locations.

Councilor Theken noted the Committee was not waiting on any further considerations for the Ward 3 polling places consolidation. **Councilor LeBlanc** said that there was no reach back whatsoever from anyone in his ward at all regarding the consolidation of the ward's polling places to Gloucester High School.

Councilor Whynott commented that no one wants change, but that sometimes there were good reasons for the change. He recalled the moving of the voting at the American Legion building to the city's Veterans' Center on Emerson Avenue, that Lanessville's polling place was moved twice during his tenure as City Clerk, as well as a recent Ward 2 consolidation during his time with the City Council. **Councilor Cox** said that the Ward 2 consolidation has worked well and endorsed the consolidation of Ward 3's polling places at the High School. She discussed briefly some particulars with the Committee on her ward's polling place consolidation and the use of the Lady of Good Voyage Church property. **Councilor Theken** encouraged **Councilor Cox** to speak with the new pastor to familiarize him with the polling place process.

Councilor Fonvielle noted he has submitted information on his ward's consolidation regarding an on-line poll he conducted and made the following statements regarding the proposal to consolidate Ward 5 polling places to Gloucester High School: The City Clerk supports the consolidation of the Ward 5 polling places by indicating it would make the Clerk's office more efficient and save the city money. Ballot box transportation, because of the distances involved, makes it difficult for her office to ensure ballot security and timely transportation of more ballots when needed and obtaining prompt results. She has also pointed out that many voting issues would resolve because the legislature will pass a bill for early voting in this legislative session. **Councilor Fonvielle** pointed out that the legislature has yet to take that action, but suggested this would not involve a majority of his ward's voters. It still means people need to go out of the ward to vote under the Clerk's plan. He also noted the Clerk has cited larger towns that do consolidate, but that Ward 5 is bigger than a large majority of towns in the state. There is a strong community sentiment, he pointed out, against consolidation and asked why his constituents should be inconvenienced. He also pointed out that the Clerk wants more input from Ward 5, but that he has had about 200 people give him formal input which he noted was a considerable number. There were 181 people who responded to his on-line poll, and that national pollsters use a sample of 1,200 people to represent the entire United States. The number of respondents to his on line poll would equate to 94 percent as interpreted by those polling standards. He reviewed some of the results of his poll (on file) with the Committee. **Councilor Fonvielle** said that people of Ward 5 have a sense of being done to rather than being in charge of their own affairs. The polling place consolidation to Gloucester High School would be perceived as the city doing something negatively to the ward, he said.

Councilor Whynott said it is not just on the sentiment of the City Clerk. He said he ran 40 elections as City Clerk and knows what all of the problems are that are faced in running citywide elections. He explained briefly the process of how the City Clerk and a Constable transport the ballots to the polling places and back to City Hall in the evening, it involves security for the ballots not having to transport them long distances in order to assure verification of custody. When there is a voting machine problem at the same time in two disparate polling places across the city, which does happen, or fulfill the need to bring more ballots to a polling place that is running low, it becomes very difficult logistically. It is not just about cost savings, he pointed out. He noted he also spoke to Bob Ryan, Traffic Commission Chair and head of Cape Ann Transportation Authority, to have all buses stop at the high school so that there would be additional rides to the polls on Election Day. He pointed out that not everyone has a ride to the polls, and that this would be an added service for the convenience of the Ward 5 voters. He said people don't like change even if there a myriad of good reasons.

Councilor Theken pointed out that elections only happen twice or three times a year. She said she understood about the polling place being unavailable at the West Parish School now that it is to be torn down and a new one built which creates the need to find a new polling place during that time, but did not necessarily agree on moving the Magnolia polling place out of Magnolia.

Councilor Verga said it would be easier to accept if everyone was to go to one polling place or three polling places equidistant and move them to one place, but it is not the case. He said there are many city funding mandates that Magnolia and West Gloucester pay for but don't benefit from such, citing the CSO project as an example. He said there is not a lot of support for the Ward 5 consolidation. He pointed out that Ward 4 and Ward 1 have polling places that are just as difficult but they are not contiguous. To say that 50+ percent of the land mass is close to the High School is not true, he pointed out as did **Councilor Fonvielle**. Councilor Verga said that if the High School had been presented as a temporary site for the West Parish polling place during the demolition and reconstruction of West Parish School it may have been a different situation. **Councilor Fonvielle** added that the High School is not that great a site for a polling place. He said parking isn't near the building, which for older people can be difficult and suggested there were American with Disability Act (ADA) concerns as well. **Councilor Whynott** disputed the ADA accessibility by Councilor Fonvielle by pointing out many ADA accessibility options at the high school.

Councilor LeBlanc commented that West Gloucester residents who live quite far out from the mainland after a day at work would have to drive through West Gloucester to the High School which was a great deal further at the end of a work day.

Councilors Theken and **Whynott** agreed that there is a need to find an alternate to using West Parish Elementary School. The Committee discussed with **Councilor Fonvielle** possible locations to relocate the polling place for West Gloucester and it was suggested by Councilor LeBlanc that he explore a possible option for the Jehovah's Witness Kingdom Hall. **Councilor Theken** suggested that Councilor Fonvielle take a ride with the Chair of the Traffic Commission and/or the Police Chief or his designee to view the suggested locations of the West Parish Trinitarian Church and Wellspring House on Essex Avenue prior to the next meeting of the Committee.

David Morro, 26 Long Hill Road said that people do walk to the polling places in Magnolia. He suggested there would be many voters who may stop going out to vote if the polling place was moved to the high school.

The matter of polling places consolidation for Wards 3 and 5 was continued to May 19, 2014.

4. CC2014-017 (Verga/Cox) Request the O&A Standing Committee review an ordinance for Council Enactment re: that the City shall lease no property or structure unless funding is approved by a 2/3rd Majority of the members of the City Council

Councilor Verga explained this Council Order initiative is being brought back to the Council which he reminded the Committee and Councilors present that had been voted forward last November and subsequently vetoed by the Mayor, and that there weren't enough votes for an veto override. This call for a reintroduction of the initiative, he said, has to do with the St. Ann's School lease where the Council had no choice but to vote for the funding of the lease with no forewarning. He agreed with many that public input or light of day needs to be shed on these leases. A one year lease is one thing but for more than that, like with the City Hall Annex at Pond Road which is a 15 year lease, and no end in sight with the leasing of the Charter School for the school district offices, but the city is stuck with perhaps not funding the lease, and then where would the city be, he said. This is, he pointed out, about letting the Council know about what is going on. He observed he had no idea what was going on with the St. Ann's School lease until he read it in the newspaper.

Councilor Cox, co-author of the Council Order said the Council had been told in November that information would be shared to give them a heads up on St. Ann's if that was a viable option to house West Parish students as a swing school. She said she got a call from the newspaper asking her feelings on the St. Ann's lease, adding that she was informed that the paper had a copy of the lease but the Council didn't. She said this lack of information provided by the Administration appeared to her as disrespectful to the Council as a legislative body. She noted as the ward councilor, she had no communication on the lease or the ramifications for her ward by leasing the building from the Administration. She announced she was fully in support of the ordinance amendment. Councilor Verga added that this is about being locked into something that now can't be undone. St. Ann's wasn't a situation where there was a time crunch; rather, it was presented as a fait accompli. He also cautioned there is still the Fuller site to come forward with the YMCA possibly leasing the building and/or the property.

Councilor McGeary said he opposed the ordinance amendment. Under the City Charter, the Mayor is quite clearly the person who contracts for the leasing of property under Section 2-52. The spirit of the charter is that the Mayor is the Chief Administrative Officer. As to St. Ann's, while he said it could have been handled better, as a Councilor he noted that he went over to St. Ann's during the walk through it was known what the dimensions would be and costs, but not the actual final number wasn't known but the ballpark figure was. He suggested that in the Council Order it would require a 2/3 vote to approve a lease by the Council but that the city's budget is passed on a simple majority vote and so did not see the reason to require a 2/3 vote of the Council to approve a lease.

Councilor Whynott pointed out if the Mayor was transferring funds for a lease, at least the Council would be aware of the attempt at the funding. He said the Council got hit twice, but he pointed out he supported the mayor's veto because he is agreed with the separation of power as stated in the charter. The Council should be informed though, he said, when something large happens. While he did not know how he would vote on this ordinance amendment, he said but that he wanted to institute forewarning of a lease negotiation to the Council. **Councilor McGeary** agreed there could be pre-notification of a lease. **Councilor Verga** said he would be okay with a simple majority vote. He added that there should be a mechanism to know what is happening, but not necessarily on the particulars of the negotiations. He said he would support the amendment but that it didn't need have to be by a 2/3 majority vote of the Council. **Councilor Cox** added that the things that are not regular still should be formally presented to the Council. **Councilor McGeary** said that a provision of prior notification for a lease of more than one year being entered into by the city is when the Council should be notified in a speedy manner, and if not then any Councilor can put an order in at that point. **Councilor LeBlanc** expressing he understood the fine line between the duties of the Council and the Administration agreed the Council should be notified within so many days that negotiations are underway on a lease. **Councilor Whynott** suggested that if there would not be enough notice then

it would then trigger the vote of the Council. **Councilors Verga and Cox** discussed a dollar amount that could also trigger a vote of the Council if not pre-notified of a lease negotiation.

Councilor McGeary said he would compose a compromise amendment to regarding a lease of more than 12 months and/or over \$250,000 a year to act as the trigger. The Committee and the other Councilors present agreed this was acceptable and would review Councilor McGeary's compromise language and take it up at the next O&A Committee meeting.

This matter is continued to May 19, 2014.

5. *CC2014-018 (Cox) Amend GCO Chapter 22, Sec. 22-270 "Parking prohibited at all times" and Sec. 22-291 "Tow-away zones re: Fire Department Personnel Parking-TBC 06/02/14"*

This matter is continued to the June 2, 2014 O&A Committee Meeting.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:13 p.m.

**Respectfully submitted,
Dana C. Jorgensson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Letters of attestation, newspaper articles, resume and personal statement on background of Karen Tibbets by Ms. Tibbets