

Ordinances & Administration Committee
Monday, February 3, 2015 – 6:00 p.m.
1st Fl. Council Committee Room – City Hall
Minutes

Present: Chair, Councilor Robert Whynott; Councilor Robert Stewart; Councilor Joseph Ciolino
Absent: None.

Also Present: Councilor Verga; Councilor LeBlanc; Councilor Cox; Mayor Sefatia Theken; Jim Destino; Donna Compton; James Pope

The meeting was called to order at 6:05 p.m. Matters were taken out of order.

There was a quorum of the City Council when Councilor Stewart entered the meeting at 6:11 p.m. At that time Councilor Verga sitting in for Councilor Stewart left the Council table, and Councilor Cox also entered the meeting at the same time. Councilor LeBlanc left the meeting at 6:47 p.m. Councilor Verga left at 7:12, and there no longer was a quorum of the City Council.

1. Management Reappointments (Cont'd from 01/05/15):

Purchasing Agent

Donna Compton

TTE 02/14/16

Mayor Theken briefly reviewed Ms. Compton's extensive qualifications saying that she was an outstanding employee and an asset to the city. **Councilors Whynott** and **Ciolino** also lauded Ms. Compton's performance.

MOTION: On a motion by Councilor Verga, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed to recommend that the City Council reappoint Donna Compton as Purchasing Agent, TTE 02/14/16.

2. Development of an advisory ballot question under City Charter Sec. 9-7 for the November 2015 election as to whether the city should discontinue fluoridation of its public water supply and that whether under City Charter Sec. 9-7 the Council should submit a Home Rule Petition to the State Legislature for a Special Act authorizing the discontinuance of fluoridation notwithstanding MGL c.111, §8C

Councilor Stewart offered draft language for the Committee's review for an advisory ballot question regarding the question of whether to continue fluoridation of the city's public water supply and whether the Council should submit a Home Rule Petition to the State Legislature (placed on file). **Jim Destino**, CAO, asked that whatever language the Committee develops that it be reviewed by the Legal Department. Having reviewed Councilor Stewart's suggested draft language he offered that it was appropriately phrased, but that it needed wording to indicate it is an advisory question.

The language as presented read: "Shall the City Council, subject to the approval of the Mayor, file with the Massachusetts Legislature a home-rule petition to exempt the City from the requirement of General Laws, Title XVI, Chapter 111, Section 8C, that it continue fluoridation of the public water supply, and if such home-rule petition is approved, shall the City Council direct the Department of Public Health and the Department of Public Works to discontinue the fluoridation of the City Public Water Supply."

Linda T. Lowe, City Clerk, said the Council has no authority over fluoridation of the city water supply and therefore this has to be an advisory question to be placed on the municipal ballot. After the advisory ballot question is voted in November 2015, then the Council acts based on the advice of the voters, she noted. She also offered that the reference to Charter Sec.8-7 is incorrect and should be changed to Sec. 9-7

The language offered by Councilor Stewart is to be forwarded at the request of the O&A Committee to General Counsel for review to be crafted as an advisory ballot question for the November 2015 election.

This matter is continued to March 2, 2015.

3. CC2014-050 (LeBlanc) Request speed study on Gloucester Avenue from its intersection with Maplewood Ave. to its intersection with Madison Ct. and to determine whether there should be a posted speed limit; and whether there should be a crosswalk on Gloucester Ave. in the vicinity of #53 (Cont'd from 01/05/15)

Councilor LeBlanc noted that the Traffic Commission at its Jan. 15 meeting did not recommend that the state be petitioned for a speed limit change for Gloucester Avenue from its intersection with Maplewood Avenue to its intersection with Madison Court.

As to the issue of a crosswalk, the Commission recommended that a crosswalk installation in the vicinity of #53 Gloucester Avenue would be appropriate, to which **Councilor LeBlanc** expressed agreement saying that crossing the street at the 53 Gloucester Avenue is akin to playing chicken. **Councilor Ciolino** also agreed.

MOTION: On a motion by Councilor Verga, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council approve, pursuant to GCO Sec. 21-6 and MGL c. 38, §25, a crosswalk for public safety purposes be installed in the vicinity of Gloucester Avenue #53.

This matter will be presented under Committee Report.

4. CC2014-040 (Verga) Request to review the matter of requiring that all meeting notices and agendas for all public meetings of all City boards, commissions and committees, including City Council and School Committee, be posted on the City's website (returned from City Council 12/16/14)(Cont'd from 01/05/15)

Councilor Verga said Suzanne Egan, former General Counsel had some questions regarding the posting of agendas but she left before submitting her concerns to the Committee.

Mr. Destino said that the issue is two-fold -- the city's ability to post meetings on the website and the logistics to do so.

James Pope, IT Director, said there is no technology barrier to allowing boards, committees, commission or city staff to do posting of events, agendas and minutes on to the city's website. It is operationally where the questions lay.

Councilor Whynott asked if there was a way to set it up to insert a notice and it goes to go up automatically. **Mr. Pope** briefly explained the particulars of the actions that would need to be taken which take about five minutes to post an agenda and an event on the city's website calendar. **Mr. Destino** added that board, committee or commission minutes shouldn't be posted until they've been accepted and voted on by their respective board, committee or commission. It isn't the minutes, but uploading the agendas which have to be date stamped and goes through the City Clerk's office, not the IT Department, although IT would help the Clerk's office. It was discussed that such a process, considering the many boards, committees and commissions involved would take a lot of time and effort in the Clerk's office and would take one person at least part-time.

While the O&A Chair and several staff said this is a good idea, **Mr. Destino** said it remains that the logistics to get it done would need some research to see how other cities and towns manage this and any associated pitfalls.

Ms. Lowe said she agreed with the principals and motives, but there is no point proceeding with a new approach unless it complies with the Open Meeting Law. All agendas, not just meeting notices, with a new system will have to show a "time stamp," if the website serves as a second venue for posting the meeting notices to be compliant with the Open Meeting Law ("OML"). The state recognizes a website is accessible 24/7. Posted agendas have to have the time stamp in the Clerk's office, or the time stamp on the website that essentially date/stamps the notice and it must show on the face of the posted agenda. Minutes are less problematic as the minutes must be promptly filed, at least to the City Clerk's office, it was noted, and how the minutes go to the website is not as great a concern. She said that she's not seen anything yet that proves out all the concerns as well as the person who would manage this new system, ensuring that meeting notices are proper and posted in a timely manner. She concluded by saying when this system is implemented, it must be done correctly and be compliant with the Open Meeting Law.

Councilor Whynott said that there are certain issues that arise about posting agendas and **Ms. Lowe** discussed further some of the issues faced now by her office and how there are pitfalls including people sending agendas to be posted outside normal business hours.

Mayor Theken agreed the concept is great but that investment in the staff would have to be made as with the technology. The members of the committees, boards and commissions, all volunteers, may not be able to handle the technology.

Councilor Ciolino briefly reviewed GCO Sec. 2-64(b), said that the boiler plate is in place. There is no action necessary, he said, but the problem is the implementation by the City Clerk. The mechanism to enforce the ordinance is not in place, he said, and it is a budget issue. **Mayor Theken** pointed out that there is no money now to hire a person and that Ms. Lowe will have to put this in her budget and see if the money can be found. **Mr. Destino** said someone has to take ownership in the Clerk's office to get it done. As to the posting it is informational as to

minutes and can be submitted to Mr. Pope, he suggested. He said there is a need to find a better system. It is time and money, he pointed out.

Councilor Verga expressed his disagreement by saying that the City Clerk posts agendas at the Police Station and at City Hall. If the state recognizes the city's website it is almost a wash to post on it by removing the action of posting at the Police Station as the website becomes the 24/7 venue. The minutes are a bonus, he said. It is about the posting of the agendas so that the community knows what is going on. He said this dilemma should be viewed as how it can work and there is a way to make the function technologically accessible in order for residents to see all the meetings that are taking place.

Mr. Destino said it is not just the ability to put up the physical agenda, but ensuring agendas are posted appropriately. He said that the IT Department is ready, but the City Clerk's office has to be able to get the information to the IT Department and that the issue is staffing in the City Clerk's office. **Mr. Pope** said there were two options – now speaking of the website as the second venue not the Police Department. The Committee, Ms. Lowe and Mr. Pope discussed the need for public facing date/time stamps for agendas posted on the website, which at this time is a barrier and to ensure the posting is done within the appropriate 48 hour window per the OML.

Ms. Lowe said she is not complaining about staffing, and agrees this is a good idea but wants this to be done properly to ensure there are no violations of the OML. The time stamp is the issue, as is the law itself. She said she spoke to the OML division of the State's Attorney General's office, explaining they post their meeting electronically and she said there is a way to time/stamp the agendas. If there is a way to do it, it needs to be assured that the precise time that the posting happens is distinct and complies with all aspects of the OML.

Councilor Cox said that the Mayor's office and the City Clerk's office and Council are here to support the Boards, Committees and Commissions. The Boards consists of volunteers and usually they are older, as computer savvy. She said she didn't want this entire burden to be placed on the IT Department. That department should be able to set up the process, but another staff member has to be responsible to put up the agendas. The whole process needs to be on the website, she said, regardless of the notice of the agendas, but what happens if the website goes down for 24 hours? This is a long way from being finished but that there is good progress being made. She said this function should be housed in the Clerk's office, not IT.

Councilor Stewart asked if they could develop a procedure for posting agendas, determine if it is feasible and learn how Ms. Lowe would propose to do this, and would the process require another staff member for the Clerk's office to manage this function.

Mayor Theken suggested that there could be a trial period to post agendas. **Councilor Whynott** spoke to the staffing in the City Clerk's office and suggested that when times get tough that half time person will be taken way. **Mayor Theken** said she would like to see Mr. Pope and Ms. Lowe work on the situation and as soon as they say it is ready to go they will

Joel Favazza, 25 Acacia Street, said as an attorney he had approached Councilor Verga in May of 2014 which precipitated this matter. He said it was great that logistics are being worked out, but of importance is that the calendar posting events/meetings be concentrated on as it has subscription-based functionality. If that posting goes up, and a person subscribes to the city's "Notify Me" system, a person will get an email saying that a meeting is taking place as soon as the event is posted. If a board didn't comply with the 48 hours window, they can't have a meeting, he agreed, and if it was attempted it would not be legal. In addition for posting the agendas, it is getting the events on the calendar, he said. **Mr. Pope** said anyone can subscribe to the city's calendar of events and they can subscribe separately for different boards, committees or commission they may be interested in. Uploading an agenda is a separate action from placing the meeting on the city's event calendar.

Mr. Destino suggested the City Clerk put a policy together and work with Mr. Pope with the physical steps to comply with the OML for agendas. In the least it can be reevaluated for how much time it will consume by staff, he said. To just do it without a process in place may not be the most appropriate action to take, he cautioned.

Councilor Ciolino said problems will increase as technology improves and then to see if there is money that could possibly be budgeted for a half-time person to assist the Clerk's office if it is determined that it is necessary, he insisted. **Ms. Lowe** reiterated that the problem of minutes is many boards, committees and commissions don't do them and don't submit them to the Clerk's office at all. In a brief discussion between **Councilor Whynott** and **Mr. Destino** it was also suggested that there should be a meeting of all boards, committees and commissions to advise them of their responsibilities to the city and other matters which used to be done yearly. **Councilor Cox** volunteered to assist.

Mr. Pope and **Ms. Lowe** would meet to work on the procedural issues and report back to the Committee at its next meeting.

This matter is continued to March 2, 2015.

5. *CC2015-001 (Verga) Request P&D & O&A Standing Committees together and in connection with City Council Order 2014-039 regarding the position of the Executive Director of the Fisheries Commission, assure that the structure of the Fisheries Commission be consistent with the requirements of the Special Acts governing the commission particularly the requirements of Chapter 361 of the Acts of 1980 and Chapter 740 of the Acts of 1981 (Referred to P&D Committee in tandem)*

Councilor Verga said he has a call into State Rep. Ann Margaret Ferrante to work with her to write something new to reflect what the Fisheries Commission does now and what is needed for the future for the city's fisheries. He reviewed the P&D Committee's discussion on this matter from his Committee's Jan. 21 meeting. He is suggested that the acts be scrapped and write a new draft for a Home Rule Petition. The Magnuson Act doesn't stand in the way of the Home Rule Petition to revise the Fisheries Commission, **Ms. Lowe** said. **Councilor Whynott** acknowledged that the Fisheries Commission Executive Director is an important position.

Mayor Theken said she is suggesting that the Fisheries Commission Executive Director be part-time and that funds be found, and discussed that there are multiple issues that need to be embraced for the Fisheries Commission. **Councilor Whynott** agreed that the need for a part-time Executive Director is very necessary. **Councilor Ciolino** discussed with Mayor Theken about combining jobs in Community Development for the Harbor Planning Director and Director of Economic Development. She also offered the Administration's assistance to Councilor Verga to help to arrange a meeting with Rep. Ferrante to move the matter forward at a faster pace.

Mr. Destino said the Administration would like to get the Commission settled and the Executive Director position as well and wants the two issues to coincide.

This matter is continued to March 2, 2016.

6. *CC2015-002 (Cox) Request the O&A and Traffic Commission review the parking restrictions in GCO Chapter 22 for Elm Street in the area between the intersection of Federal Street and Elm Street and the intersection of Main Street and the vicinity of 9 Elm Street and amend GCO Sec. 22-270, Sec. 22-273 and Sec. 22-274 (Referred to Traffic Commission in tandem)*

Councilor Cox explained that Bob Ryan, Chair of the Traffic Commission forwarded recommendations to amend the Code of Ordinances regarding Elm Street in the Council Order to remove redundancies and make parking on Elm Street more appropriate. The Committee, it was noted, had the recommendations as made by Mr. Ryan after the Commission's site visit on Saturday, Jan. 31, which in turn was forwarded to the Councilors via email (on file) previous to the meeting for their review. She advised there was no impact to any businesses in the immediate area after having surveyed and informed them of her intentions. As the Committee had appropriate recommendations from the Traffic Commission which **Councilor Cox** also endorsed, and after a discussion with **Councilor Ciolino** allaying some minor concerns, and the Committee voted to recommend to the City Council the following measures:

1) MOTION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Sec. 22-274 "Two Hour Parking," by DELETING "Elm Street, westerly side, from Main Street to Federal Street."

2) MOTION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Sec. 22-273, "Parking Prohibited between certain hours on certain days," by DELETING, "Elm Street, easterly side, from Federal Street to Main Street."

3) MOTION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Sec. 22-270, "Parking Prohibited at all times," by DELETING "Elm Street easterly side, beginning at a point on the curbing 11 feet south of the boundary line of the properties numbered 17 and 19 Elm Street to a point on the curbing 78 feet north from such first mentioned point."

MOTION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Sec. 22-270, "Parking

Prohibited at all times,” by ADDING “Elm Street, easterly side, from a point beginning 260 feet in a northerly direction from its intersection with Main Street for a distance of 135 feet.”

4) MOTION: On a motion by Councilor Stewart, seconded by Councilor LeBlanc, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council Amend GCO Sec. 22-291, “Tow Away Zone” by ADDING “Elm Street, easterly side from a point beginning 260 feet in a northerly direction from its intersection with Main Street for a distance of 135 feet.”

These matters will be advertised for public hearing.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:22 p.m.

Respectfully submitted,

**Dana C. Jorgensson
Clerk of Committees**

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- Draft Language from Councilor Stewart related to an advisory question for the November 2015 municipal ballot regarding whether the city should continue to fluoridate its public water supply and if voters advise not, to petition the state via a Home Rule Petition to remove fluoride from the city’s public water supply