

Ordinances & Administration Committee
Monday, October 5, 2015 – 6:00 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

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

Also Present: Councilor LeBlanc; Councilor Fonvielle; Jim Destino; Police Chief Leonard Campanello; Chip Payson

The meeting was called to order at 6:02 p.m.

Councilor LeBlanc sat in for **Councilor Stewart** until 6:09 p.m. Upon the arrival of **Councilor Stewart** there was a quorum of the City Council which was broken at 6:40 p.m. when **Councilor Fonvielle** left the meeting.

1. Reappointments & Appointments:

Zoning Board of Appeals Jane Remsen TTE 02/14/17

The Committee acknowledged that it was in receipt of a memorandum from the Chief Administrative Officer (on file) withdrawing Ms. Remsen's name as an appointee to the Zoning Board of Appeals. It was noted that although Ms. Remsen's background met certain criteria for her appointment to the ZBA, she had not met the residency requirement of residing in the city for three years (see GZO Sec. 1.4.1 "Membership").

MOTION: On a motion by Councilor Ciolino, seconded by Councilor Whynott, the Ordinances & Administration Committee voted 2 in favor, 0 opposed, 1 (Stewart) absent, to accept the Administration's withdrawal of Jane Remsen as appointee to the Zoning Board of Appeals.

EDIC Barry Pett TTE 07/01/18 (Cont'd from 10/05/15)
J. Ronald Ross (Cont'd to 11/09/15)

Mr. Pett came before the O&A Committee to express his desire to continue to serve on the Economic Development Industrial Corporation (EDIC) and has been its Vice Chair since 1991. He and the Committee briefly discussed some of the initiatives that may be coming forward to encourage economic development in the city. **Mr. Pett** highlighted that the EDIC is waiting to see if grant funds will be released to do a study to see about opening up a new exit off of Route 128 that may possibly open more area for a potential industrial park as there is no more land available in the city for such an endeavor. There are also environmental considerations for the potential industrial park which will need to be taken into consideration, he noted. He noted a scarcity of industrial lots citing one lot in the Blackburn Industrial Park and two lots in the Cape Ann Industrial Park that remain available. He also mentioned the EDIC is finishing up an agreement for emergency access for the Blackburn Industrial Park which he emphasized is not related in any way to a Rockport access road.

The Committee universally endorsed Mr. Pett's reappointment.

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the City Council reappoint Barry Pett to the Economic Development Industrial Corporation (EDIC), TTE 07/01/18.

Councilor Stewart then sat at the Committee table at 6:09 p.m. and **Councilor LeBlanc** left the table.

2. Memorandum from General Counsel re: Amendment to GCO Sec. 5-19. "Inspection of buildings erected on pilings" and Report of Ad Hoc Committee on same (Cont'd from 08/17/15 & TBC to 11/09/15)

Councilor Whynott explained that the Ad Hoc Committee was not yet ready to make a recommendation for amending the Code of Ordinances for Sec. 5-19 and at the request of General Counsel the matter was continued to Nov. 9.

This matter is continued to November 9, 2015.

3. A) *CC2015-027 (Verga) Council request to O&A & Animal Control Officer to review the impact of the off-leash change to allow dogs on beaches enacted on November 18, 2014, GCO Sec. 4-16(a); and after review to enact this amendment (Ref'd to Animal Control) (Cont'd from 08/31/15)*

This agenda item was taken in conjunction with Item #3B). This matter is now considered closed with the conclusion of Item #3B at the Committee level.

- B) *City Council Vote of November 18, 2014 regarding GCO Article 2 "Dogs" Section 4-15, 4-16, 4-19 and 4-20 (Cont'd from 09/14/15)*

Police Chief Leonard Campanello noted he had forwarded a memo to the O&A Committee in late August regarding the impact of the new dog ordinance and its current status in light of the addition of a new Animal Control Officer and other matters related to dogs (memo on file). He said enforcement has stepped up and that the ordinance as it is now is manageable. He noted that since his department hired a new dog officer in October, and giving a three month grace period from the institution of the new dog ordinance using that time to educate the public, it has resulted in increased enforcement that started in January. There hasn't been much of an attitude shift among dog owners based on the Animal Control Officers' encounters when writing tickets, he said, but the Animal Control Officers have a better ability to monitor the areas affected by the ordinance. **Councilor Whynott** said that Chief Campanello sounds as if he thinks the current ordinance was working, in terms of enforcement. **Chief Campanello** suggested that it was still early as the ordinance has really only been in place since January with only eight months of data. He said he couldn't speak for the Council or citizens whether or not increased enforcement and ticketing is what is needed or wanted. He said his department now finds that that the Animal Control Officers are better able to enforce the current ordinance. **Councilor Whynott** said that at the least the ordinance is somewhat enforceable. **Chief Campanello** said it was adding that is not a perfect system.

Councilor Stewart suggested that the Council vote of 2014 should be extended for six months in order to exert pressure on the Council to change or improve the dog ordinance for this or the next Council, that extended it for an unlimited length of time removes any impetus for change. He said the purpose of the expiration date was to give the changes to the ordinance a one-year trial period to assess its success or to highlight what areas needed to be improved. He suggested the extension should be to April 30, 2016 which he said will be in the spirit of what was offered by Councilor Verga but would also keep pressure on the Council to continue to review and improve the ordinance.

Councilor Ciolino said the ordinance could be extended for a year and didn't see an issue leaving the ordinance intact for the time being. He said Councilor Stewart's order is still on the O&A agenda and while there will be turnover in Councilors with the new term starting in January. The Council Order will remain in place until that discussion is concluded and recommendations are made to the Council, he said.

Councilor Whynott pointed out that what the Council instituted in November 2014 not everyone was happy with the dog ordinance enacted a year ago but just as many people were pleased with it and that he had heard both sides. He said from a variety of input he has received the current ordinance is working. **Councilor Stewart** interjected that he would be amenable to extending the ordinance on the books for one year. **Councilor Whynott** pointed out this vote being taken by the Committee was to keep the ordinance intact on the books while the Committee continues to work through Councilor Stewart's order which he reminded would be taken up for the first time on Tuesday, October 20 in Kyrouz Auditorium at 6:00 p.m.

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor, 0 opposed, to recommend that the vote of the City Council taken on November 18, 2014 to amend the Code of Ordinances, 4-15, 4-16, 4-19 and 4-20 be reenacted with an effective date of November 18, 2015 and extended to December 18, 2016.

Cindy Dunn, 7 Rose Lane, discussed with the Committee the process by which the matter of the single item agenda concerning Councilor Stewart's order would be handled. **Councilor Ciolino** suggested that at the Oct.20 meeting will be an opportunity to gather information from the public in order to better inform the Committee in their ongoing deliberations on the matter. It was also explained that the meeting of Oct. 20 was a public meeting, not a public hearing, although the Chair indicated he would be amenable to hear public opinion on a limited basis. It was also clarified that the just voted recommendation to the Council to extend the current dog ordinance comes up under "For Council Vote" at the Oct. 27 City Council Meeting. There is no public hearing involved and that it is not

anticipated that public opinion will be solicited at that time. **Councilor Whynott** added that a Councilor may amend a motion that comes before the Council under For Council Vote.

4. ***CC2015-031 (LeBlanc) Request Traffic Commission to conduct speed study & investigate whether Kent Circle should be a one-way street and to amend GCO Sec. 22-270.1 "Resident Sticker Parking" re: Kent Circle (TBC to 11/09/15)***

This matter is continued to November 9, 2015.

5. ***CC2015-033 (Cox) Request to amend GCO Sec. 22-269 "Stop Intersection" by adding a stop sign on Shepherd Street for eastbound drivers on Shepherd Street at its intersection with Pleasant Street (TBC 11/09/15)***

This matter is continued to November 9, 2015.

6. ***CC2015-034 (McGeary) Amend GCO Sec. 22-145 "General Prohibitions" by deleting paragraph (a) in its entirety and adding a new paragraph (a) and amend Sec. 22-291 "Tow-away zones" re: Wise Place***

Councilor McGeary whose order asked that the Committee continue this matter to its Nov. 9 meeting in order to allow time for the Conservation Commission to further review the suggested changes to the Code of Ordinances as this area is under its jurisdiction of the Conservation Commission.

This matter is continued to November 9, 2015.

7. ***Outstanding Parking Issues remaining for Atlantic Road referred back to the O&A Committee from the September 8, 2015 City Council meeting (Cont'd from 09/14/15)***

Ron Garry, 209 Atlantic Road, noted having lived on Atlantic Road for nine years said that people park on Atlantic Road which creates congestion on both sides of the roadway. He mentioned that he had emailed a 10 point memo to the three Councilors as to why that having parking along Atlantic Road was not a good idea. He reviewed that Atlantic Road hotel and inn owners pay about \$121,000 a year in taxes, and suggested if he was a business owner on the Back Shore, one the draws of the area is for people to park their cars, register at the inns and hotels and walk up and down the road to admire the vista. It is that vista, he said, that drives people to the inns in the area that are responsible for paying considerable amount in taxes to the city. He said as a former business owner if parking is allowed on Atlantic Road that appeal will be diminished if 10 parking spaces were created. **Councilor Whynott** informed Mr. Garry that he was only intending to create three spaces that are directly across from the city-owned property on the water side of Atlantic Road. He noted that Jan Bordinaro, a hotel owner on Atlantic Road, is no longer against the parking. He explained that the parking for three cars is directly opposite city owned land is all brambles with a stone wall behind that. He said the sole reason to create this parking area is that there should be a legal place for people to pull over that they know they'd not be breaking the law particularly on weekends. He pointed out that it is far enough away from the beach that it won't be used for beach parking. He said that this is a city that encourages tourism which is one of its strongest industries and this parking area will help to support that effort. The Council has already made it illegal to park on the water side of Atlantic Road now, he pointed out. He said it will be 30 minute parking only. He said they don't have metes and bounds yet in order to amend the Code of Ordinances, but he assured the parking area will be on city property and blocking no one's view. He suggested that there would be two signs reading, "Observation Point – 30-minute parking only." **Mr. Garry** also expressed his concern about policing and noted that he had never seen anyone tagged on Atlantic Road for illegal parking.

Councilor Ciolino said that this location was chosen when they had their site visit most of the neighbors whose property fronts Atlantic Road said they didn't want the parking in front of their property. He noted the only people that weren't represented were the owners of the Ocean View Inn whom he said should be informed. He pointed out that several days ago when the ocean was roiled up due to a storm, and many people came out to see the view. He said once one car parks, cars begin to park behind the other and driving on Atlantic Road becomes dangerous. He suggested that parking will continue to occur for the beaches on the Atlantic Road side streets and that distance is not an inhibiting factor. He said he has seen families dropped off at Good Harbor Beach and cars being driven as far away as High Popples and Grapevine Roads, their drivers hiking back to the beach. He said he continued to object any changes to parking on Atlantic Road. This isn't a good idea and is a dangerous precedent, he said. **Councilor Ciolino** said that the Ocean View Inn owns the property that the spaces will be in front of. **Councilor Whynott** said what is proposed is on a public road. The property in question that the lay-by will be alongside has a property line

further back into the brambles and is hard to discern from the road. He assured that metes and bounds will be set within the ordinance. He showed the Committee a map created by the city's Engineering Department (to be placed on file).

J. Michael Faherty said there is a layout for Atlantic Road laid out by the county commissioners twice which are readily available at the Registry of Deeds and at the city's Engineering Department. He pointed out that once the roadway passes the Atlantis Inn it widens. He said the road is 50 feet wide in that location and continues on in that fashion which is not a narrow road.

Mr. Faherty highlighted that Atlantic Road is a public road. Expressing he appreciated Councilor Whycott's attempts at a compromise, he said he didn't know why this particular road is so special and all other public roads are not. He pointed out that Farrington Avenue which Atlantic Road flows into has beach parking and no one raised any issues when that beach parking was instituted on a seasonal basis in front of people's homes. He noted he owns property which fronts on Rocky Neck Avenue which is a public way and anyone can park in front of his property as the roadway is part of the public domain. He said Atlantic Road shouldn't be treated differently than any other public roadway. He cited that the road's layout doesn't include anyone's front yards.

He noted that he owns a guest house on Rocky Neck. He said he frequently advises guests of different natural spots to visit in the general area, and tells them to go along the Back Shore. He said without exception, these guests tell him the Back Shore is really special but complain that there was no place to park as they would have liked to get out of the car to enjoy the vista. He reminded the Committee that these visitors are paying 11.7 percent of their bill to excise tax to the city which is considerable. Creating three spaces should be able to be done, he said, adding that to deny people the right to park on a public street is parochialism. He concluded his remarks by saying that Atlantic Road is a public street and people who front on a public street don't have a veto power as to what happens on a public street -- there should be parking available on it.

Councilor LeBlanc said he agreed with Mr. Faherty completely. The lot lines are further back than the roadway, he pointed out. For a half hour these new legal parking spaces will allow people to enjoy the view. He suggested there should be more than three parking places that up to 10 parking spaces would be appropriate.

Mr. Garry said at any given time there are people parking on Atlantic Road -- the way it stands now parking is ongoing -- once there is one car another parks behind it and it mushrooms. **Councilor Whycott** suggested that 10 spaces may be too many but that he would consider it.

Councilor Stewart said he understood Mr. Garry's concern noting that there are weekends in the summer in Annisquam where he lives that it isn't possible to get into his garage due to roadway congestion. He pointed out the city want tourists to visit, to frequent its restaurants, stay in its inns and hotels, and take advantage of its attractions. He said what is being put forward is a compromise between folks who don't want any parking on Atlantic Road and those that want all sorts of parking on Atlantic Road. He said he respected Councilor Ciolino's opinion, but four or five parking spaces would be appropriate.

Councilor Ciolino said he has never had any tourist comment to him that people can't park on Atlantic Road. He cautioned that the institution of the parking spaces will mean people will park for hours in those created spaces and that which was intended for temporary parking will end up as beach parking.

Councilor LeBlanc said there is no parking in the summer on Atlantic Road and that is when the visitors want to be able to enjoy the beauty of the Back Shore. He said he now wouldn't agree to 10 parking spaces being created, but suggested six would be good. This baby step will be a positive thing for tourism, he said, and if it doesn't work out, the ordinance can always be amended.

Councilor Whycott reiterated that the Committee won't be able to vote on this matter without metes and bounds but anticipated the information will be available by the time of the Nov.9 O&A meeting.

This matter is continued to November 9, 2015.

A motion was made, seconded and voted unanimously to adjourn the meeting at 6:50 p.m.

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

DOCUMENTS/ITEMS SUBMITTED AT MEETING:

- **Engineering Department map of Atlantic Road drawn up for Agenda Item #7 for Councilor Whycott**