

Ordinances & Administration Committee
Monday, December 7, 2015 – 6:00 p.m.
1st Fl. Council Committee Room – City Hall
-Minutes-

Present: Chair, Councilor Robert Whynott; Vice Chair, Councilor Bob Stewart (entered the meeting at 6:01 p.m.); Councilor Joseph Ciolino

Absent: None.

Also Present: Councilor LeBlanc; Councilor Verga; Councilor Fonvielle; Councilor Cox; Linda T. Lowe; Jim Destino; Chip Payson; Councilor-Elect Val Gilman; Councilor-Elect Sean Nolan; Councilor-Elect James O’Hara

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

1. *New Appointments:*

Gloucester Cultural Council

TTE 02/14/18 Dorothy Nelson

Ms. Nelson said she was asked to be on the Cultural Council by Martin Ray, a current member. She briefly reviewed her association with the Gloucester Veteran’s Writing Workshop at the city’s Veteran’s Center, the Gloucester’s Writer Center as well as her association with the Rocky Neck Cultural Center and other arts-related accomplishments. She said she is retired from teaching English and Writing at the University of Massachusetts, Boston. **Councilor Stewart** expressed his support for Ms. Nelson’s appointment.

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 City Council appoint Dorothy Nelson to the Gloucester Cultural Council, TTE 02/14/18.

Magnolia Woods Oversight & Advisory Committee

TTE 02/14/18 Richard Jabba

Mr. Jabba explained he is a lifelong resident, working as a Community Planner for the City of Boston, and was one of the key “preparers” of the Gloucester Community Development Plan 2001. Noting that his two sons were involved with the Fishermen Youth Soccer organization and play on the soccer pitches at Magnolia Woods, he said he’d been asked by Dean Sidell, a member of the MWOAC and President of the FYS organization to seek out this volunteer position. He said this was an opportunity to contribute to the city and to preserve a city resource.

Councilor Ciolino noted that the paperwork has yet to be completed to officially close the landfill at Magnolia Woods and asked that he and the Magnolia Woods Oversight & Advisory Committee place that matter on their agenda to move it forward to bring that matter to closure.

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 City Council appoint Richard Jabba to the Magnolia Woods Oversight & Advisory Committee, TTE 02/14/18.

2. *CC2015-041 (Stewart) Amend GCO Sec. 22-270 “Parking prohibited at all times” re: intersection of Washington & Tucker Streets*

Councilor Stewart reviewed that the Traffic Commission took up this matter at their Nov. 19 meeting and recommended the amendment to the ordinance for parking prohibited at all times and noted that this section of Washington Street is possibly the narrowest of the street’s entire length. In order for the two or three houses in that area have to walk around into the middle of the street in order to cross the road because of parked vehicles, he advised. **Councilor Stewart** and Councilor-Elect Gilman discussed briefly there was a resident who had expressed her opposition to this change to Councilor-Elect Gilman, and Ms. Gilman was advised to have the person who objected to the change to feel free to express her opinion at the upcoming public hearing on Dec. 15 or to submit her objection in writing to be read at the public hearing if she was unable to attend.

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 City Council Amend GCO Sec. 22-270 "Parking prohibited at all times", by ADDING: "Washington Street, southerly side, from its intersection with Tucker Street in an easterly direction to Andrews Street."

3. CC2015-043 (Verga, Lundberg, LeBlanc) Amend GCO Sec. 15-2 Stage Fort Park Advisory Committee

Councilor Verga said that the impetus for this draft amendment to the Ordinances came from a P&D meeting about an unrelated item on the Farmer's Market. At that time it was pointed out there was an oversight when creating the ordinance that they didn't include a representative of the Cape Ann Farmer's Market on the Stage Fort Park Advisory Committee, an organization that uses the park most frequently of all other users. He said that there are several loose ends in the ordinance that came forward reflected in the restructuring of the Fisheries Commission in being unable to find volunteers to fill the slots for specific named types of members as laid out in the ordinance. These amendments allows for that by adding a line, "to the extent possible" to cover that contingency. The amendments also account for allowing additional At Large members so that if no one is available from the Little League, or say, the Rotary Club, instead of holding up the filling out the Advisory Committee membership other committed members of the community can step into the open place on the Committee. He pointed out that the election of the Committee Chair and Secretary is also now enumerated in the ordinance with this draft proposal. He said that the DPW Director and Council appointee would be ex officio because the Committee is advisory and those two people would then be taking the advice of the Committee under consideration and so it didn't make sense they be voting members and that in turn allows more members from the community to be on the Stage Fort Park Advisory Committee. He said this is much of the Council did with their recommendations to the state for the Fisheries Commission revisions recently.

Councilor Whynott expressed his agreement that as the Mayor appoints members to the Committee and the Council confirms those appointments, it wasn't appropriate for city staff to be a voting member of a committee.

Councilor LeBlanc confirmed with **Councilor Fonvielle** that currently there are nine members of the SFPAC and all members generally attend the meetings. **Councilor LeBlanc** asked who would now be off of the SFPAC with this membership revision adding a Farmer's Market representative. **Councilor Verga** said there are nine members include Councilor Fonvielle and the DPW Director or his designee. He explained that those two positions and two would now become non-voting members of the SFPAC which opens slots for membership to the Committee to the public.

Councilor Ciolino pointed out that with the SFPAC as it stands; the Rotary Club has a fixed position of service to the park as does the Dog Park, the Little League as does the Garden Club. He said that the Cape Farmer's Market is a moveable event pointing out that they could be easily located downtown where they started. If they include a Farmer's Market representative, did it mean they had to include a representative from the Waterfront Festival or the ECV Cyclo-Cross event. He said the purpose for the creation of this advisory committee was with the intent to protect the valuable city asset of Stage Fort Park, and not for those of the park, not those who organizations use the park occasionally. The Cape Ann Market are visitors, he said, and are not protecting an asset and therefore would not support the addition of a Farmer's Market representative to sit on the SFPAC.

Councilor Fonvielle expressed his agreement with Councilor Ciolino. He said by making the Council appointee and the DPW Director ex officio doesn't mean they are non-voting members. He advised that neither or the SFPAC had been notified that these proposed amendments were in the works and were concerned they weren't consulted. He said it was ill-advised to go in this direction adding that they have to consider that these amendments would have a conflict with the membership. He said there was a letter to the Editor about the Farmer's Market and representatives from that organization came to the December meeting of the SFPAC. He advised that the SFPAC has an Ad Hoc Sub-Committee, comprised of three SFPAC members and Farmer's Market representatives and that this was a better way to come to a satisfactory resolution rather than having a Farmer's Market representative be a part of the SFPAC membership.

Jim Destino, CAO said that in adding in GCO Sec. 15-2(b) at the first of each calendar year the majority of the voting members present shall elect among their members a Chair and a Vice Chair he was concern that the language was open to interpretation. **Councilor Whynott** suggested adding the words, "present with a quorum." **Mr. Destino** said that he would advise adding language to the effect that, "...the Committee shall elect..." **Councilors Stewart** and **Whynott** expressed their agreement with Mr. Destino's suggestion. **Councilor Fonvielle** advised this was already the practice of the SFPAC.

Councilor Verga also expressed his agreement with the proposed language change but said that if ex-officio members can still be voting members then it should be added into the language that they are non-voting ex-officio members. He said that statement, "to the extent possible" was important to leave in the draft ordinance language.

Councilor Whynott said the membership for the Stage Fort Park Advisory Committee is about the protection and preservation of Stage Fort Park and that the Cape Ann Farmer's Market, the Cyclo-Cross, and the Waterfront Festival use the park for their purposes. If the Mayor wanted to appoint a member of the Farmer's Market who is a resident, then that would be okay, but it isn't something he wanted to be in the ordinance, he said.

Ms. Lowe notified the Committee that a woman commented by phone to her that she was opposed to allowing a representative of the Cape Ann Farmer's Market be given membership on the SFPAC because that organization has a commercial interest which was contrary to the purpose of the Advisory Committee. Councilor Whynott added that reiterated his point that that organization has a commercial interest and not necessarily an interest in the preservation of the park. Councilor Ciolino expressed his agreement that wasn't the intent when the SFPAC was created.

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 City Council Amend GCO Sec. 15-2 Composition; requirements; tenure by DELETING 15-2(a) and ADDING new 15-2(a) as follows:

"The Stage Fort Park Advisory Committee shall consist of up to nine members appointed by the Mayor and approved by the Council to a term of up to three years. Voting members shall represent the organizations with direct interest of the park and to the extent possible including representatives of the Gloucester Rotary Club, Gloucester Dog Park, Gloucester Little League, Friends of Stage Fort Park, recreation and gardening, and landscaping. Additional voting members may be "at-large" residents of the city. Additionally, the DPW Director, or his designee, as well as a City Councilor appointed by the Council President shall serve as non-voting ex officio members.

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 City Council Amend GCO Sec. 15-2 Composition; requirements; tenure by ADDING new Sec. 15-2(b) as follows: "At the first of each calendar year the Committee shall elect from among their members a Chair, Vice-Chair and a Secretary."

These matters will be advertised for public hearing.

4. CC2015-044 (Verga, Cox) Amend GCO Sec. 9-12 re: Prohibition of plastic checkout bags

Councilor Ciolino declared under MGL c. 268A that he is the owner of the Weathervane Shop on Main Street, and that his business would not be affected by the proposed ordinance amendment as his storefront is under the 2,500 square feet restriction.

Councilor Verga advised that this matter is not yet ready to move forward. He said he posted this matter on Facebook several days ago and had to date received good feedback on it. He said that Councilor Cox will shepherd the matter forward with the next Council with an ordinance amendment that will be further refined, once public input is taken into account. He explained that banning the use of check out at point of sale plastic bags by businesses larger than 2,500 square feet and having them use compostable bags in their place it will cut down on pollution in the city. He cited the fact that plastic bags take 20 to 1,000 years to break down. He explained that similar successful actions have been taken in other cities and towns in the Commonwealth, around the country and in regions throughout the world, including the entire European Union. He said he believed this will not create a hardship to businesses because of the square footage cutoff. **Councilor Verga** said this is something the city should be taking a lead role and adopt this initiative. He advised this matter will likely be on the state ballot in 2018, and said that the city should be ahead of that curve.

Councilor Stewart said that there are plastic bags that are biodegradable rather than paper bags which mean fewer trees are cut down.

Councilor Cox added that biodegradable plastic bags still have issues but compostable bags do not. **Councilor Verga** said one of the arguments he hears to not ban plastic bags is that dog owners use them to pick up their pets dog waste. He said that people spend hundreds of dollars a year on pets and that an extra \$100 a year spent on dog waste bags are a minor cost. He said that this initiative is a good thing for a city that has wind turbines that is

looking for cleaner energy options adding electric vehicles to its fleet, and heating its schools, converting to LED street lights. This is another way for the city to take the next step to move forward into the 21st century. **Councilor Cox** advised that there will be a community meeting on the matter as well.

Linda T. Lowe, City Clerk, said that the ordinance amendments before the Committee were prepared based on the ordinance in place in Brookline, Mass.

Councilor Whynott expressed his opposition to the banning of plastic bags. He said that he has never asked people to buy bags for disposing of pet waste, and that even with free plastic bags; people don't dispose of the bags appropriately still.

Councilor LeBlanc showed the Committee examples of plastic bags currently available in local stores.

Councilor Ciolino said paper bags are much more expensive for retailers which add to their overhead costs. There are some items that just don't work in paper bags, and plastic bags are necessary. He said this isn't a business friendly proposal, but he said he agreed there is improper disposal of plastic bags throughout the city creating unsightly situations. He said part of that problem is that recycling bins need tops because much of it blows out creating a littering problem. He said he would need to be convinced to get him to endorse the amendment.

Councilor Verga rejoined that it should be a matter to see how they can make it work rather than look for all the reasons why it won't work. He said there is no benefit to plastic bags which take petroleum to produce. He asked that the draft ordinance amendment go through the Committee and Council process openly and honestly.

Councilor Stewart said that the only way the plastic industry will mass produce bags that are biodegradable and compostable is if cities and towns ban the non-compostable and non-biodegradable bags. **Councilor Cox** said the big chain stores operate in states that have completely banned plastic bags successfully and continue to do business as usual.

This matter is continued to February 1, 2016.

5. *CC2015-037 (LeBlanc) Request City Council amend GZO Sec. VI definition of "Junk Yard" and Amend GCO Chapter 19, Sec. 19-30(b), Sec. 19-32, Sec. 19-1, Sec. 19-1(3), Sec. 19-1(4) (Cont'd from 11/09/15)*

Ms. Lowe said that what is before the Committee is to ensure that the Code of Ordinances reflects the Zoning Ordinance amendment just enacted by the Council on the definition of Junk Yard and amending related fees to make them current. The Committee voiced their endorsed for the changes to the Code of Ordinances as proposed.

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 City Council Amend GCO Chapter 19 "Second Hand Goods, Sec. 19-30(b) by DELETING the definition of "junk yard and ADDING a new definition of "junk yard" as follows:

"Junk yard or recycling center shall mean a site or facility used for the collection, storage, salvage, disposal, dismantling, processing, recycling, sale, or resale, of waste materials including paper, rags, cloth, metal, glass, batteries, rubber, parts from old or damaged motor vehicles and equipment, and other discarded goods and materials. These materials are generally but not necessarily stored in the open air or under a roofed structure rather than within a fullyenclosed building."

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 City Council Amend GCO Chapter 19 "Second Hand Goods, Sec. 19-32 by DELETING this section in its entirety and ADDING to Sec. 19-1 "License Fees" subsection (1) Secondhand furniture and articles \$100 (DELETE \$20); Sec. 19-1(2) Junk and/or old gold \$100 (DELETE \$20) and Sec. 19-1(3) Antiques \$100 (DELETE \$20)."

These matters will be advertised for public hearing.

6. *CC2015-038 (Stewart) Amend GCO c. 22, Sec. 22-269 "Stop Intersections" re: Leonard Street (Cont'd from 11/09/15)*

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 3 in favor 0 opposed, to allow the withdrawal of CC2015-038 to Amend Sec. 22-269 "Stop Intersections" as it relates to Leonard Street without prejudice.

7. *Returned from Council Public Hearing of 10/27 by City Council for clarification: To Amend GCO Chapter 9, Sec. 9-10 "Penalty for violation of Sec. 9-10" by DELETING Sec. 9-10 in its entirety and ADDING new Section 9-10 AND to Amend Chapter 1, Sec. 1-15 "Penalty for violation of certain specified sections of the Code" Chapter 9, Sec. 9-8 "Littering prohibited" by DELETING \$300 FOR EACH OFFENSE" and by ADDING \$50 PER DAY (or the amount allowed by MGL c. 40, §21 as amended) including the day the action of depositing the litter occurred and each day thereafter in which the litter remains for any part of the day" and ADDING after "Enforcing persons the words, "Building Inspector"*

Public Hearing 2015-057 at City Council on October 27, 2015 had an amended remaining motion which was at the time of its continuation referred back to the O&A Committee as follows:

That the City Council Amend GCO Chapter 9, Sec. 9-10 "Penalty for violation of Sec. 9-10" by DELETING Sec. 9-10 in its entirety and ADDING new Section 9-10 as follows:

"The Police shall recommend to the District Court that the Court fine the violator according to the severity of the violation up to \$200 per offense.

Councilor Stewart had offered at that time when fellow Councilors objected to adding the words, "Enforcing persons, "Building Inspector,"" to drop that aspect completely from any motion that would move forward before the Council.

Councilor Stewart said that the Committee and Councilors who were at the last Council meeting had expressed the opinion that they wanted the \$200 fine specific for each offense, not for, "up to \$200" for each offense.

Councilor Whynott said he would not vote to raise any fee and would be voting against the fee again.

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 2 in favor, 1 (Whynott) opposed, to recommend that the City Council Amend GCO Chapter 9, Sec. 9-10 "Penalty for violation of Sec. 9-10" by DELETING Sec. 9-10 in its entirety and ADDING a new Section 9-10 as follows: "The Police shall recommend to the District Court that the Court fine the violator \$200 for each offense."

Public Hearing 2015-058: The Committee confirmed it would vote to add \$200 per offense not, "up to" and that they would remove the words, "Building Inspector" as an enforcing person out of their original recommendation and vote as follows:

COMMITTEE RECOMMENDATION: On a motion by Councilor Stewart, seconded by Councilor Ciolino, the Ordinances & Administration Committee voted 2 in favor, 1 (Whynott) opposed, to recommend that the City Council AMEND GCO Chapter 1, Sec. 1-15 "Penalty for violation of certain specified sections of the Code," "Chapter 9, Sec. 9-8 littering prohibited by DELETING "\$300 for each offense," and by ADDING \$200 for each offense (or the amount allowed by MGL c. 40, §21 as amended)."

These matters will be taken up at the Council meeting of Dec. 15.

7. *CC2015-032 (Stewart) Amend C. 4, Art. II "Dogs" as most recently amended in 2014 by deleting Sections 4-15, 4-15(a), 4-16(b), 4-16(c) and 4-21(c); renumber Sec. 4-22 through 4-23; and adding new Sec. 4-22 "Enforcement and Penalties," and adding new Sections 4-15, 4-16(a) Rules and conditions for all dogs," 4-16(b) "Additional rules and conditions for large dogs," 4-16(c) "Locations where dogs must be leashed or at large with restrictions," 4-21(c), and 4-22 "Enforcement and Penalties" (Cont'd from 11/09/15)*

Assistant Police Chief John McCarthy explained he was before the Committee representing Police Chief Campanello who asked him to convey his opinions in reference to the proposed Dog Ordinance amendments, that their department will attempt to enforce anything the Council puts in front of them, however, the Dog Ordinance as it is currently written hasn't been in place and enforced for an entire year. He noted that the Chief has not had the time to assess the success or failures of the current ordinance. He said they would like to have at least a year and then to assess the situation before any further changes are made. He advised that the current proposed draft amendments were reviewed earlier in the day with the Animal Control Officers and advised that some of the

proposals such as voice control are not enforceable; that if someone is afraid of a dog there are actions that owners are asked to take; dogs aren't required to have a rabies vaccine until they are four months old. Wearing of a rabies tag by dogs is state law. All the items he named and others, he said, required further assessment by the Chief.

Councilor Stewart said that some of that need for assessment was because while he had met with a community group on this draft ordinance amendment, that he hadn't had an opportunity to meet with the Chief and the Assistant Chief before the draft was presented to the Council for referral.

Councilor Ciolino expressed his opinion that this matter should move forward to the Council after reviewing the updated draft ordinance based on the Committee's input from the last meeting of O&A.

Councilor Stewart said that as the sponsor of the Council Order to amend the ordinance, this has become such a complicated legally technical matter requiring input from the DPW Director, from the Police Chief through the Assistant Chief, and that it would be premature to report anything out to the Council. He suggested this matter be continued to the next Council.

Councilor Whynott said this proposed draft ordinance amendment is almost completely unworkable. Many of the things that were placed in the draft were based on wishful thinking, and that he wouldn't put the draft ordinance forward to another Council. He said that he'd want to see it withdrawn or the draft will be vastly changed. He said he objected to sections in the draft that would allow dogs off leash on any public way or sidewalk and would never support that anywhere in the city especially in residential areas. He recalled for the Committee some of the precipitating factors that went into the Council passing the first Dog Ordinance in 1977. He said he would have to see that portion of the draft ordinance removed before he would vote to send the matter forward for public hearing.

Councilor Ciolino reiterated his call to send the draft ordinance to the Council and that they work on the current draft (dated 11/23/15 on file).

Councilor Stewart said that while the current restrictions are not fair to dogs and that he would prefer to leave this matter on the table for the next Council he asked to withdraw his Council Order.

Councilor LeBlanc offered the suggestion that Plum Cove Beach be added for off-season off-leash dogs. He recounted that when he had chaired the Ad Hoc Dog Committee at that time they had nixed the idea of allowing dogs off leash in the off season as there was a concern there wasn't enough of a buffer from the beach to the road. He said after going to the beach and making his observations, he has changed his mind and that it would be helpful to the residents of Lanesville to be allowed to use Plum Cove Beach instead of going to all the way to East Gloucester and West Gloucester on even and odd days just to walk their dogs off leash. He added that there is enough of a buffer for dogs to help prevent them from running out into the roadway. He said the rest of it, 99 percent of it the original ad hoc dog committee voted against those issues. He asked the Committee to make this one amendment, to give it a year and then see if it was working out. **Councilor Stewart** added that it takes a half hour to drive from Annisquam to Good Harbor Beach and Wingersheek Beach and endorsed Councilor LeBlanc's amendment.

Councilor Whynott expressed his concern at the proposal saying that he'd rather the entire Council Order be withdrawn and to let the next Council submit their own proposal.

Councilor Ciolino agreed with Councilors LeBlanc and Stewart that GCO Sec. 4-16(a) should be amended to allow off-leash dogs from October 1 to April 30 on odd days on Plum Cove Beach.

MOTION: On a motion by Councilor Stewart seconded by Councilor Ciolino, the O&A Committee voted 3 in favor, 0 opposed, to recommend that the City Council permit the withdrawal of CC2015-032 (Stewart) Amend C. 4, Art. II "Dogs" as most recently amended in 2014 by deleting Sections 4-15, 4-15(a), 4-16(b), 4-16(c) and 4-21(c); renumber Sec. 4-22 through 4-23; and adding new Sec. 4-22 "Enforcement and Penalties," and adding new Sections 4-15, 4-16(a) Rules and conditions for all dogs," 4-16(b) "Additional rules and conditions for large dogs," 4-16(c) "Locations where dogs must be leashed or at large with restrictions," 4-21(c), and 4-22 "Enforcement and Penalties," except to Amend GCO Sec. 4-16(a). "Dogs allowed on public beaches at certain times," by inserting the words, "and Plum Cove Beach" after the words, "Wingersheek Beach."

NOTE: All other sections of the Code of Ordinances related to the ordinances governing dogs remain in effect pursuant to the vote of the City Council dated October 13, 2015.

This matter will be advertised for public hearing.

A motion was made, seconded and voted unanimously to adjourn the meeting at 7:10 p.m.

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

DOCUMENTS/ITEMS SUBMITTED AT MEETING: None.