

Ordinances & Administration Committee

Remote Meeting

Monday, June 14, 2021 – 6:00 p.m.

-Minutes-

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

Other Councilors Present: Councilor Val Gilman; Councilor Jen Holmgren; Councilor John McCarthy

Also Present: City Clerk, Joanne Senos; Assistant to CAO, Chris Sicuranza; DPW Director, Mike Hale; Clerk of Committees, Sherry Karvelas

The meeting was called to order at 6:01 p.m.

*This meeting was conducted remotely through ZOOM
All votes conducted by ROLL CALL*

Chairman Nolan announced consistent with the Governor's orders suspending certain provisions of the Open Meeting Law and banning certain gatherings such that an in person meeting of the Ordinances & Administration Standing Committees is not possible, this meeting will be conducted by remote participation. The public may not physically attend this meeting but every effort will be made to allow the public to view and listen to the meeting in real-time and participate when necessary. Additionally, all votes taken by the Committee during this and future remote meetings will be by roll call vote. If you are calling in on a phone you can press Star 9 (*9) to request to speak. If you are watching on a computer or device there is a “raise hand” button that you can tap or press to request to speak. Please use either of these options to be recognized to speak.

Matters were taken out of order.

1. Management Appointment

Chief Administrative Officer Nicole Kieser TTE 2/14/22 (Cont. from 3/15/21)(To Be Withdrawn)

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor O’Hara, the Ordinances & Administration Committee voted by ROLL CALL 3 in favor, 0 opposed, to accept the withdrawal of the appointment of Nicole Kieser as Chief Administrative Officer, TTE 2/14/22

2. Boards, Commission and Committees Appointments

Human Rights Commission Michea McCaffrey TTE 2/14/22

Summary of Discussion: Ms. McCaffrey stated she grew up in Beverly and graduated from Beverly High School and moved to the City approximately six years ago. She stated she was part of the Gloucester Racial Justice Team who realized the Human Rights Commission (HRC) needed more diversity. She submitted her application to the HRC, which was a full commission at the time. She stated the Gloucester Racial Justice Team then petitioned to have more seats added to the HRC. She stated she wanted to be part of making sure the City was an inclusive and welcoming community for everyone.

Councilor LeBlanc thanked Ms. McCaffrey for stepping forward to be part of the HRC. **Councilor O’Hara** welcomed Ms. McCaffrey to the community and thanked her for her positive energy. **Councilor**

Nolan welcomed Ms. McCaffrey to the City and thanked her for volunteering. **Councilor Holmgren** thanked Ms. McCaffrey for volunteering and welcomed her to the HRC.

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the Ordinances & Administration Standing Committee voted by ROLL CALL 3 in favor, 0 opposed, to recommend that the City Council appoint Michea McCaffrey to the Human Rights Commission, TTE 2/14/22

Licensing Board

John Orlando (*fulfilling unexpired term*)

TTE 5/31/26

Summary of Discussion: **Mr. Orlando** stated he had been serving the City off and on for over 40 years, volunteering for different committees while running two businesses, the Harborview Inn and Art Jewelers. He stated he had downtown retail experience and hospitality experience and stated he had what it took to help the City. **Councilor LeBlanc** stated the City Council was looking forward to working with Mr. Orlando. **Councilor O'Hara** stated Mr. Orlando had done a lot for the City and stated he looked forward to Mr. Orlando's energy in moving the City forward. **Councilor Nolan** complimented Mr. Orlando's garden and thanked him for volunteering to serve. **Assistant to the CAO, Chris Sicuranza** stated the appointments of Ms. McCaffrey and Mr. Orlando were part of the Administration's bigger effort to find quality candidates to serve on the City's important boards and commissions.

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the Ordinances & Administration Standing Committee voted by ROLL CALL 3 in favor, 0 opposed, to recommend that the City Council appoint John Orlando (fulfilling an unexpired term) to the Licensing Board, TTE 5/31/26

The **City Clerk, Joanne Senos** stated there was a quorum of the City Council at 7:15 p.m. **Councilor Nolan** read the names of the O&A Committee members in attendance and City staff who were attending via Zoom.

3. CC#2021-006 (Gilman/Cox/McCarthy/O'Hara/Memhard): City of Gloucester Code of Conduct Resolution (Cont. from 5/17/21)

Summary of Discussion: **Councilor Gilman** asked to share the following document:

For Review at O and A Monday, June 14, 2021

Green font includes requested changes/requests of O and A

Red font are changes that were made based on new information

Gloucester City Council Code of Conduct Resolution (Deleted) City of

WHEREAS: On this xx day of xxxx in the year 2021

WHEREAS: The professional conduct and civility of City Councilors is of paramount importance to the City of Gloucester. The concerns of constituents are often diverse and divided, therefore, maintaining a public forum and work environment where people can disagree through civil debate remains at the forefront of a healthy democratic process.

(ADD) WHEREAS: This resolution covers all actions and communications whether spoken or written including but not limited to all electronic communications including social media.

WHEREAS: City Councilors shall work with the chain of command, specifically through the Mayor and/or Chief Administrative Officer, to enlist the support and skills of city staff in addressing the needs of the community.

WHEREAS: The authority of the City Council, the "governing board" can only be

exercised as a Board, regardless of our individual vote until the decision is rescinded, set aside, or amended.

WHEREAS: City Councilors will abide by the Open Meeting Law and regulations and see that those requirements are communicated and followed. Except for matters taken up in Executive Session, all decisions of City Councilors shall be made in public.

(DELETE) WHEREAS: The City of Gloucester strives to create and maintain a workplace in which people are treated with dignity, respect and tolerance. We have a long history of diversity, strong community ties, and civic engagement. For this reason, the City has zero tolerance for unlawful harassment and discrimination as described in the City of Gloucester Anti Harassment and Discrimination Prevention Policy in the Employee Handbook.

(ADD) WHEREAS: City Councilors should comply with the City's Anti-Harassment and Anti-Discrimination Policy. In addition, City Councilors must comply with all applicable laws, including without limitation, the following; The Open Meeting Law, Procurement Laws, and the Ethics/Conflict of Interest Statute (G.L.c. 268A)

WHEREAS: Conflicts of interests, violence, ethics violations, or discrimination on the basis of race, sex, sexual orientation, age, handicap, religion or national origin are unlawful and do not reflect the values of the Gloucester community.

WHEREAS: City Councilors are expected to maintain civility in all discussions and debates, and not tolerate speech or behavior that is belligerent, disrespectful, threatening, abusive or disparaging as this behavior impedes the democratic process, encourages hard feelings and divisiveness, contributes to voter and staff alienation. Dialogue should focus on issues and refrain from personal criticism.

WHEREAS: City Councilors who witness unprofessional decorum in public meetings, that is contrary to the spirit of this code of conduct should call a "POINT OF ORDER" using parliamentary procedure.

WHEREAS: City Councilors who are a bystander or witness of unprofessional behavior, hostile work environment or problem situations, can positively support the victim by first, letting them know they are not alone, second affirming that the behavior is not acceptable and third, can be of help by identifying resources for further follow-up. Bystander intervention is about empowering yourself to be part of the solution.

WHEREAS: A productive working environment where everyone is striving for a sense of mutual respect, trust, collegiality, and inclusion, is an environment where things are going to get done, and done well.

WHEREAS: (ADD) The enforcement of the Code of Conduct is summarized as follows:

- It is the role of the Council President/Board Chair, to enforce the code of conduct as needed. (1)
- Any City Councilor who has violated the Code of Conduct should be promptly asked by a Standing Committee Chair, Council President/Vice President, or any member of the City Council, to apologize. If the infraction occurred at a public meeting, the apology should be made in public, ideally at the time of the incident or in discussion at the next scheduled meeting. If the infraction was not witnessed by members of the public, an apology should be made promptly, and the victim should acknowledge that the apology has been accepted. The Council President should note that the Code of Conduct violation has been duly resolved.
- Enforcement of the Code of Conduct could include a decision by the governing board to publicly reprimand or censure.
- If a member of an elected board repeatedly violates the tenet of the Code of Conduct, he or she may be asked to attend a training session offered by MIIA. (1)
- It is the responsibility of all City Councilors, to request that the Council President holds an annual governance meeting where a self assessment of

the compliance to the City Council Code of Conduct be placed on the agenda.

- It is the duty of all elected officials to self police and hold themselves accountable to the Code of Conduct.

WHEREAS: (ADD) At the beginning of every term, the City Clerk shall have each elected official sign a statement that they have read this Code of Conduct Resolution. This signed acknowledgement will be kept on file and remain easily accessible to everyone, including municipal officials, employees and the public.

(ADD) In the event that any member declines to sign the form, that fact shall be noted by the City Clerk on the form.

WHEREAS: I have read and understand the City of Gloucester's Code of Conduct and will comply with the requirements set forth in this document.

Steve Leblanc, Council President /Ward 3 City Councilor

Valerie Gilman, Council Vice President/Ward 4 City Councilor

R. Scott Memhard, Ward 1 City Councilor

Barry Pett, Ward 2 City Councilor

Sean Nolan, Ward 5 City Councilor

Melissa Cox, At Large City Councilor

Jen Holmgren, At Large City Councilor

John McCarthy, At Large City Councilor

Jamie O'Hara, At Large City Councilor

Credits to:

MMA Policy Committee on Personnel and Labor Relations Best Practice

Recommendation: Conduct and Civility of Public Officials January 2020 Volume

5 Number 3

Harassment Issues: What Elected Officials Need to Know by Tami Tanoue,

Executive Director 2018 CIRSA (Colorado Intergovernmental Risk Sharing Agency)

Code of Conduct Board of Selectmen/Selectwomen Policy Town of Auburn 2018

Code of Conduct Holden Selectboard 2014

Code of Conduct Policy Board of Selectmen Town of Southborough 2016

MMA/MIIA Webinar of May 13, 2021 lead by Attorney Regina Ryan (1)

Submitted by Councilor Gilman for O and A review on June 14, 21

Councilor Gilman highlighted the changes made to this version of the document. She stated the name of the document, per Councilor Nolan's suggestion, was now Gloucester City Council Code of Conduct Resolution. She stated **Councilor LeBlanc** suggested adding to the enforcement section and highlighted that section [highlighted in green in the document]. She explained that MIIA suggested offering training sessions to repeat violators of the tenet of the Code of Conduct and explained that it was the duty of all elected officials to self-police and hold themselves and each other accountable.

Councilor Gilman stated the Mayor, through the Human Resources Director, sent out a version of the Code of Conduct and asked the City Council to review it. **Councilor Gilman** explained the red text as suggestions to add to the document after viewing the document sent out by Human Resources.

Councilor Gilman stated, at the suggestion of the Mayor and Human Resources Director, the document was reformatted as a policy instead of a resolution. She stated she took the same words and batched them into Purpose, Applicability, Code of Conduct, Enforcement and Education.

Councilor LeBlanc asked for examples of violations. **Councilor Gilman** stated it was of her opinion that this was being done proactively for the future and the types of violations would be things that are covered in the Code, which was treating each other with dignity and respect. She added that if a mistake was made at a public meeting, for instance, there should be an immediate apology or an apology given at the next meeting. She stated this document should be used as a template moving forward.

Councilor O'Hara stated at City Council meetings there could be contention, but did not believe there was any intent to purposefully hurt anyone else. He stated a lot of this was common sense in treating people with dignity and respect. He stated putting this into a formal document was difficult. **Councilor LeBlanc** added that **Councilor Gilman** raised this issue recently when allegations were made against a City official. He stated at that time there was a lot of hostility happening. He added he agreed with Councilor O'Hara's remarks about dignity and respect and added that there was a lot of passion within debate at City Council.

Councilor McCarthy stated the City Council needed to create a standard that all councilors accepted. He stated he believed there would need to be a consensus of the City Council before anyone was reprimanded or public action be taken. He stated he agreed with **Councilor O'Hara** and stated the City Council was elected officials who received judgment in the voting booth in the "court of public opinion". He stated a conduct standard should be in place that all councilors tried to adhere to. He stated this was a good faith effort on the City Council to hold themselves accountable and was a step in the right direction. He respectfully asked the Committee to move this matter forward.

Councilor Memhard stated the goal was to have the City Council behave with each other and the public in a professional manner. He stated he appreciated Councilor Gilman's efforts, as well as that of the Administration, on the research that had been done to make sure this Code of Conduct fit the City in an appropriate way. He stated the City Council needed to set a standard and this was an appropriate next step.

Councilor LeBlanc added he did agree with the sentiments of others, but wanted to avoid the situation of someone playing a victim due to someone else being honest. **Councilor Nolan** stated this City Council was a strong City Council. He stated he would support moving this matter forward.

Members of the Committee agreed to waive the reading of the motion.

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the Ordinances & Administration Standing Committee voted by ROLL CALL 3 in favor, 0 opposed, to recommend that the City Council adopt the following Code of Conduct:

Gloucester City Council Code of Conduct

I. Purpose

The professional conduct and civility of City Councilors is of paramount importance to the City of Gloucester. The concerns of constituents are often diverse and divided, therefore, maintaining a public forum and work environment where people can disagree through civil debate remains at the forefront of a healthy, democratic process.

II. Applicability

This policy and all its sections covers all actions and communications whether spoken or written including but not limited to all electronic communications including social media.

III. Code of Conduct

City Councilors should assume the following conduct:

- Councilors shall work with the chain of command, specifically through the Mayor and/or Chief Administrative Officer, to enlist the support and skills of city staff in addressing the needs of the community.
- The authority of the City Council, the “governing board” can only be exercised as a Board, regardless of our individual vote until the decision is rescinded, set aside, or amended.
- City Councilors will abide by the Open Meeting Law and regulations and see that those requirements are communicated and followed. Except for matters taken up in Executive Session, all decisions of City Councilors shall be made in public.
- City Councilors should comply with the City’s Anti-Harassment and Anti-Discrimination Policy.
- City Councilors must comply with all applicable laws, including without limitation, the following: The Open Meeting Law, Procurement Laws, and the Ethics/Conflict of Interest Statute (G.L c. 268A)
- Conflicts of interests, violence, ethics violations, or discrimination on the basis of race, sex, sexual orientation, age, handicap, religion or national origin are unlawful and do not reflect the values of the Gloucester community.
- City Councilors are expected to maintain civility in all discussions and debates, and not tolerate speech or behavior that is belligerent, disrespectful, threatening, abusive or disparaging as this behavior impedes the democratic process, encourages hard feelings and divisiveness, contributes to voter and staff alienation. Dialogue should focus on issues and refrain from personal criticism.
- City Councilors who witness unprofessional decorum in public meetings, that is contrary to the spirit of this code of conduct should call a “POINT OF ORDER” using parliamentary procedure.
- City Councilors who are a bystander or witness of unprofessional behavior, hostile work environment or problem situations, can positively support the victim by first, letting them know they are not alone, second affirming that the behavior is not acceptable and third, can be of help by identifying resources for further follow-up. Bystander intervention is about empowering yourself to be part of the solution.
- A productive working environment where everyone is striving for a sense of mutual respect, trust, collegiality, and inclusion, is an environment where things are going to get done, and done well.

IV. Enforcement and Education

It is the duty of all elected officials to self police and hold themselves accountable to the Code of Conduct.

The enforcement of the Code of Conduct is summarized as follows:

- It is the role of the Council President/Board Chair, to enforce the code of conduct as needed.
- Any City Councilor who has violated the Code of Conduct should be promptly asked by a Standing Committee Chair, Council President/Vice President, or any member of the City Council, to apologize. If the infraction occurred at a public meeting, the apology should be made in public, ideally at the time of the incident or in discussion at the next scheduled meeting. If the infraction was not witnessed by members of the public, an apology should be made promptly, and the victim should acknowledge that the apology has been accepted. The Council President should notate that the Code of Conduct violation has been duly resolved.
- Enforcement of the Code of Conduct could include a decision by the governing board to publicly reprimand or censure.
- If a member of an elected board repeatedly violates the tenet of the Code of Conduct, he or she may be asked to attend a training session offered by MIIA.
- It is the responsibility of all City Councilors, to request that the Council President holds an annual governance meeting where a self assessment of the compliance to the City Council Code of Conduct be placed on the agenda.

V. Distribution and Consent

At the beginning of every term, the City Clerk shall have each elected official sign a statement that they have read this Code of Conduct Resolution. This signed acknowledgement will be kept on file and remain easily accessible to everyone, including municipal officials, employees and the public. In the event that any member declines to sign the form, that fact shall be noted by the City Clerk on the form.

I have read and understand the Gloucester City Council Code of Conduct and will comply with the requirements set forth in this document.

Steve LeBlanc, Council President/Ward 3 City Councilor

Valerie Gilman, Council Vice President/Ward 4 City Councilor

R. Scott Memhard, Ward 1 City Councilor

Barry Pett, Ward 2 City Councilor

Sean Nolan, Ward 5 City Councilor

Melissa Cox, At Large City Councilor

Jen Holmgren, At Large City Councilor

John McCarthy, At Large City Councilor

4. CC#2021-009 (Holmgren): Request the O&A Committee review the Human Rights Commission's proposed amendments to the 2020 City Council Civility Resolution (Cont. from 5/17/21)

Summary of Discussion: Councilor Holmgren informed the Committee that the Human Rights Commission just voted on this matter and would be ready to bring the matter to the next O&A meeting.

This matter was continued until July 19, 2021.

5. CC#2021-011 (LeBlanc): Ordered that the O&A Committee review and discuss the temporary relief granted to businesses during the State of Emergency regarding the extension of seasonal liquor licenses, and possible action

Summary of Discussion: Councilor LeBlanc offered an amendment to the Council Order to add outside seating. He stated guidance from the State was ever-changing and wished to keep this order in the forefront to be ready for any change to help the City's businesses succeed. He requested General Counsel to look at this Council Order.

MOTION TO AMEND: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the Ordinances & Administration Committee voted by ROLL CALL 3 in favor, 0 opposed to AMEND CC#2021-011 to include outside seating

This matter was continued to July 19, 2021.

6. CC#2021-012 (Memhard): Ordered that City Council consider adopting pilot changes to the 2019 Beach & Stage Fort Park Regulations re: regulations relating to surfing at Good Harbor Beach

Summary of Discussion: Councilor Memhard stated in February of 2020 the Cape Ann Surfers Union (CASU) presented at City Hall. He stated CASU had reached back out recently and asked for a reconsideration and adoption of legislation in the regulations to allow for broadened surfer access. Councilors LeBlanc and Nolan stated this matter was for discussion only.

Courtney Hayes, 1057 Washington Street thanked Members of the Committee for allowing her to speak this evening. She stated she was a member of CASU and read a statement highlighting the details of the CASU proposal.

Councilor LeBlanc asked Ms. Hayes where the surfers would park. Ms. Hayes stated they would have to park in the parking lot. Councilor LeBlanc asked who the expanded hours would benefit. Ms. Hayes stated it would be limited by parking access. She stated she did not think these changes would bring in a large volume of additional surfers. There was a discussion regarding how surfers would be policed. Ms. Hayes added this was a pilot program and if surfers did not comply then that would be the end of the program. She stated the five lifeguards she had spoken with felt capable of policing the surfers. She added there would also be self-policing.

Councilor O'Hara stated since this matter was discussion only he thought it was unfair to debate. He stated he had concerns since the City's lifeguards had enough responsibility to deal with and to add this would only bring additional stress and tremendous liability to the City. He relayed a story of surfers showing up at 5 p.m. on a hot day when the beach was still full and when lifeguards were gone for the day and stated it was an unfavorable scene at times. He reemphasized that he was concerned about the City's liability regarding this matter. **Ms. Hayes** reiterated that the small changes that CASU was asking for was an attempt to create opportunities to surf when there were very few or no swimmers in the water which, she stated, would not be a liability for the City. She stated CASU wanted to empower the lifeguards to call surfers out of the water when swimmers entered the water. She stated she believed the lifeguards felt they did not have that discretion.

Councilor Nolan stated that the Ordinance stated that surfing ended at 9:00 a.m. He stated if the surfers were committed to self-policing but were not getting out of the water at 9:00 a.m. then those surfers were breaking the law. He stated it would be difficult for him to move forward with this matter. He stated the City had a chain of authority with the lifeguards reporting to the Department of Public Works. **Ms. Hayes** wished to clarify that the ordinance stated surfing was prohibited from Memorial Day to Labor Day between the hours of 9:00 a.m. through 5:00 p.m. except with the permission of the lifeguards.

DPW Director, Mike Hale stated the Department of Public Works would not support this matter. He stated approximately 75% of the year was open to surfing the beach, not including the less than 100 days of summer that they still can surf except from 9:00 a.m. until 5:00 p.m. The **DPW Director** relayed a story that happened last year when the police had to be called because a surfer would not get out of the water at the request of the lifeguards. He stated a previous City Council voted these restrictions for a reason and stated the time presently available to surfers was adequate. He reemphasized that the DPW would not support this matter.

Councilor Nolan suggested guidelines be set via the law and not via weather to avoid any confusion. He stated he felt ill-prepared to move forward at this time. **Councilor LeBlanc** stated he didn't feel comfortable moving this forward without a motion. **Councilor Memhard** stated it was his intent to submit this as a Council Order requesting consideration of the O&A Committee to advance it as a pilot program to be discussed and vetted by the City Council and, if possible, put into place for next season. He stated the matter was referred also to the Administration and the DPW Director had weighed in.

The **City Clerk, Joanne Senos** offered an explanation stating when this order was submitted it was sent to the Administration with the expectation that Administration would come back with amended regulations or a recommendation, which did not happen. She stated the regulations were written to say "all beaches" so all the regulations would need to reviewed and amended because of that language. She stated there was no motion offered as she did not know what the recommendation would be from the Administration or the DPW Director.

This matter was continued until July 19, 2021.

7. CC#2021-013 (Holmgren): Amend GCO Ch. 22, Sec. 22-270.1 "Resident Sticker Parking Only" (6:00 a.m. – 6:00 p.m., May 1st to September 15th) and Sec. 22-291 "Tow-Away Zones" by ADDING Marshfield Street

Summary of Discussion: **Councilor Holmgren** stated a constituent had informed both her and **Councilor LeBlanc** of this matter. She stated the constituent relayed that when parking was unavailable on Bond Street, last summer people would then turn onto Marshfield Street and park there. She stated that this street was on the list from last summer, but was mistakenly left off the list this year. **Councilor Nolan** added that every street on the Resident Sticker Parking Only list had residents that asked for their streets to be added to the list. **Councilor LeBlanc** added that the resident stickers were only \$5 for five years.

This matter will be advertised for public hearing for July 13, 2021.

COMMITTEE RECOMMENDATION: On a motion by Councilor LeBlanc, seconded by Council O'Hara, the Ordinances & Administration Committee voted by ROLL CALL 3 in favor, 0 opposed to recommend that the City Council amend GCO Ch. 22, Sec. 22-270.1 "Resident Sticker Parking Only" (6:00 a.m. – 6:00 p.m., May 1st to September 15th) and Sec. 22-291 "Tow-Away Zones" by ADDING Marshfield Street.

8. CC#2020-003 (LeBlanc): Request review of City Charter pursuant to Sec. 10-1(b) (Cont. from 5/3/21)

Summary of Discussion: Councilor LeBlanc stated that every year ending in a "0" was a charter review year. He suggested that as a council they try to recruit members for a committee for the review. The City Clerk added that at the last charter review there were eight members on the committee. Councilor LeBlanc suggested reviewing a section of the charter at a time. The City Clerk stated that they could review a section at a time and when it came to vote on all of the amendments, if any, then all the amendments could come forward at once. Councilor Nolan added that this exercise was not to rewrite the charter, but for minor changes and technicalities. Councilor LeBlanc suggested Administration put a notice on the website advertising the charter review.

MOTION: On a motion by Councilor LeBlanc, seconded by Councilor O'Hara, the Ordinances & Administration Committee voted by ROLL CALL 3 in favor, 0 opposed to adjourn the meeting at 7:30 p.m.

Submitted by Sherry Karvelas, Clerk of Committees

Documents submitted at the meeting: None.

Meeting Recording: <http://gloucester-ma.gov/1097/Past-Remote-Public-Meetings>