

**MINUTES OF THE TOWN COUNCIL  
ORDINANCE COMMITTEE  
Town Hall Council Chambers  
February 4, 2013 - Tuesday**

Present: Michael Smart, Chairman  
Jane Hackett, Vice Chairman  
Kenneth DiFazio, Councilor  
Edmund Harrington, Councilor  
Arthur Mathews, Councilor

Also Present: George Lane, Town Solicitor  
James Clarke, Director, Planning & Community Development  
Michael Coughlin, Director of Human Resources  
Capt. Joseph Comperchio, WPD  
Acting Chief Joseph Davis, WFD

Recording Secretary: Mary Barker

Chairman Smart called the meeting to order at 6:30 PM.

**13 005-Police and Fire Departments Acceptance of M.G.L. Chapter 31, Section 58  
Maximum Age Restrictions**

Solicitor Lane provided an overview of the measure for the committee. By a vote of the Town Council as legislative body, subject to the charter and with the approval of the Mayor, enactment limits the eligibility to the 32<sup>nd</sup> birthday at the date of the entrance exam for a candidate to be appointed to the police officer and fire fighter positions. Veterans can add up to four years of active military service to the age. The statute was upheld in a challenge in 2004 in federal court.

If accepted, under this section, no person shall be eligible to have his name certified for original appointment for the position of fire fighter or police officer, if such person has reached his thirty-second birthday on the date of the entrance examination. Any veteran shall be allowed to exceed the maximum age provision of this section by the number of years served on active military duty, but in no case shall said candidate for appointment be accredited more than four years of active military duty. By local acceptance, interpretation is that by vote of town council as legislative body, subject to the charter, which includes the approval of the Mayor, the matter becomes an acceptance of a general law and goes on the books. In 2004, there was a constitutional challenge to this particular statute, and at that time the federal court states that that statute was “rationally related to legitimate state interest of encouraging long-term commitment to police forces” and fire fighters, “ensuring physical fitness of the officers and reducing strain on a pension system.” Solicitor Lane noted earlier in the evening at the committee level, this position was reinforced by the police captain, fire chief and the HR director. He asked again that

the inquiry be directed to them for address. President Mathews agreed and Chief Davis Capt. Comperchio and Michael Coughlin returned to the table. Chief Davis noted that the measure would give younger veterans the chance at the job, and with the opportunity to earn a full retirement. Candidates taken over the maximum age do not have that opportunity. The current pension number is 32 years service at age 57. The fire department needs a balance of mixed ages. For years the department couldn't hire because of budget constraints. The average age of firefighters was 50. When candidates were hired, it resulted in a force of senior people and young candidates. The older officers retired within a short time and left the department devastated. There must be a balance in terms of age, and it requires hiring younger candidates. The senior officers will teach the younger ones and it is important to the balance of the department. Michael Coughlin reported that this supports some of the physical demands and the long period of training required by each of the departments. The age restriction is fairly moderate and thirty other cities and towns have adopted this statute, and he urged support. Capt. Comperchio noted this is a young man's job. The physical constraints and the hours of work supports the hiring of younger people.

A Motion was made by Vice Chairman Harrington that the Town of Weymouth through the Town Council, with the approval of the Mayor, accept Massachusetts General Laws, Chapter 31, §58A, providing for maximum age restrictions for original appointments to municipal police officer and fire fighter positions, and was seconded by Councilor Mathews. Unanimously voted.

#### **Overall Zoning Plans-Design regulations/guidelines as adopted by Zoning Board of Appeals**

Chairman Smart reported that this was referred at the request of Councilor Hackett. He invited James Clarke to the table to review the guidelines and what the Zoning Board of Appeals adopted on 1/9/13 after several months of review. Mr. Clarke provided the council with a copy of the Design Guidelines. The Design Guidelines were prepared several years ago as part of an overall review of zoning and they have been used internally at a staff level. Based on discussion with the Ordinance Committee, he felt it appropriate to give them a wider review through the Zoning Board of Appeals and have them adopted as part of their Rules and Regulations. The intent is to have it available and on to the website so that citizens can view the types of guidelines and the way they'd like to see the community, either new buildings or renovations, retail, commercial, office and residential, particularly multifamily. This does not pertain to single-family areas. The idea is to make the public, and architects or developers, know what is expected, so that they have an idea before submitting plans. Then it can be reviewed by BZA if special permitting is required. Hopefully by the time it gets to them, a plan will have already gone through these iterations and a good product will result.

Mr. Clarke also mentioned that there is no perfect design or layout and property owners have rights but the guidelines are based on many other communities. The guidelines are broken down by village center and comments on commercial areas and Routes 18, 53 and 3A. He reviewed what is included in the guidelines.

Councilor Smart acknowledged the hard work by Councilor Hackett, Jim Clarke and the BZA.

Councilor Smart noted this is not before the council for a formal vote for an ordinance change. No measure has been put forward; it is not up for a vote at this time.

At 7:05 PM, there being no further business, a motion was made by Vice Chairman Hackett to adjourn, seconded by Councilor Mathews. UNANIMOUSLY VOTED.

**Respectfully submitted by Mary Barker as Recording Secretary**

**Approved by Michael Smart, chairman of Ordinance Committee.**