

***Town Council Ordinance Committee
May 18, 2011 at 7:00 PM
Town Council Chambers***

Present: Chairman Michael Smart
Arthur Mathews
Brian McDonald
Ed Harrington

Not Present: Kenneth DiFazio

Also Present: George Lane, Town Solicitor
Daniel McCormack, Director of Public Health

Chairman Smart called the Town Council Ordinance Committee Meeting to order at 7:10 PM.

11 042-Ordinance Review Committee Recommendations

Chairman Smart announced that this is the second meeting on the aforementioned measure. He would like to continue reviewing the changes as submitted by the Ordinance Review Committee (ORC) and highlight those items which are not simply grammatical. The committee has the option of accepting all suggested changes, rejecting all suggested changes or accepting a portion of the suggested changes.

Councilor Mathews noted that in the definition section there appears to be additions (namely “fiscal year”).

Mr. McCormack noted that the ORC felt that since “fiscal year” was mentioned numerous times throughout the ordinances, that a definition was warranted. The question arose if this is considered a substantive change, of which the ORC is not the appropriate venue. Mr. Lane noted that many references in the code of ordinances are defined by Massachusetts General Law, and he suggests that in order to avoid conflicts that this should be deleted.

Councilor Harrington motioned to delete the language added to the definition section entitled “fiscal year”, motion seconded by Councilor McDonald and voted unanimously.

Councilor Mathews motioned that the language “shall” which appears in section 2-208(a) entitled “Chief of Staff” remains, motion seconded by Councilor Harrington and voted unanimously.

Regarding section 3-103 on page 21 (Council Review of Certain Appointments) line 2-language was added as follows: “Said report shall be made”. Mr. Lane was asked if this is considered a substantive change to which he responded that this is simply a change to the sentence structure, does not alter the meaning, and is therefore not considered a substantive change. The committee concurred.

Section 3-216 on page 28 (Memorial Committee)-Mr. McCormack explained that the committee felt that there were inconsistencies in this section as “shall” appears in the first sentence and “may” in the second sentence. The Ordinance Committee feels that these changes amend the meaning intended, Mr. Lane concurred, and Councilor Harrington motioned to reject the suggestions made to section 3-216 (a) and (b) and leave as is, motion seconded by Councilor Mathews and voted unanimously.

Section 3-327 (Sealer of Weights and Measures) page 40- Councilor Mathews believes that this is a substantive change as this involves the job description of a department head, Mr. Lane agrees. Councilor Mathews noted that the committees’ intent is good but this is not the proper venue for this change, and suggested that this should be submitted to the Council as an ordinance change through the Mayor’s Office.

Councilor Harrington motioned to not adopt the suggested changes to section 3-327 and leave as is, motion seconded by Councilor McDonald and voted unanimously.

Section 3-330 (Town Solicitor) page 41-Mr. Lane noted that although the marked-up version indicates numerous corrections, none are to be considered substantive in nature. The committee concurred.

Dan McCormack noted that section 4-205 e (1) (Department of Municipal Licenses and Inspections/Division of Health and Sanitation Inspection) no edits were made, the section was highlighted by the ORC with the intent to review at a later date. He asked that the committee disregard these highlighted sections.

A discussion ensued regarding the existence of numerous versions of the code of ordinances. Mr. McCormack explained that Diane Hachey maintains the original, electronic document, and updates accordingly as the Town Council approves ordinance changes. As updates are made, the document housed on the website is revised accordingly. The spiral bound book, which was published in December 2006, had revisions made to it during its time at the printer, and the hard copy was therefore out of date. Unfortunately the document the ORC used during its first several meetings was not inclusive of all revisions, therefore the committee had to restart their efforts.

Section 5-100 (Financial Regulations) page 68-Councilor Mathews noted that two title sections have been added. Mr. McCormack explained that there were inconsistencies and the committee strived for consistency with other chapters. Mr. Lane ruled that this is not considered a substantive change, or changing the meaning or law, but is descriptive in nature. The committee concurs.

Section 6-1204 (Body Art Definitions) page 84-Councilor Harrington motioned to reject the language “shall refer to” included in the definition of ‘cosmetic tattooing” and “shall mean” included in the “Customer or Client” definition and leave as they are. Mr. Lane concurs with motion, which is then seconded by Councilor Mathews and voted unanimously.

Section 7-101 (b-3) (Building Construction) - Councilor Mathews noted that the language included “will” now reads “shall”. George Lane noted this may be considered a substantive change.

Councilor Harrington motioned to reject the suggestions to section 7-101 (b 3) and leave as in the existing ordinance, motion seconded by Councilor Mathews and voted unanimously.

Sections 7-301 and 7-401 page 129-Councilor Mathews questioned why definitions were deleted. Mr. McCormack noted that this section is not strike throughs but underlined to indicate reformatting.

Councilor Mathews asked that Diane Hachey work in conjunction with Dan McCormack to format a finalized document to submit to Council and requested that Dan prepare an executive summary and power point for presentation to Council. He also requested that each Councilor receive a copy of the committee’s changes.

Section 9-201 (g) Regulation of Food Vendors page 165-Mr. McCormack indicated that “shall” is removed because of grammar not a meaning change. Mr. Lane noted that this is considered a non-substantive change and all committee members agreed.

Section 9-601 (a #3 and #4) (Regulations Applicable to Class III Licenses) suggested changes (“provide” to “require”, “shall” to “display” and “provide to “ require”) –Mr. Lane rules that these are simply clarifications and do not change the meaning and are therefore not considered substantive changes. The committee concurs.

Chapter 13 Appendix A page 211 entitled “Heavy Vehicle Restrictions”-Mr. McCormack noted that these revisions were not included in a prior revision, as a result of Diane Hachey concurring with the Traffic Engineer and the police department. Mr. Lane noted that these changes would be considered substantive in nature. The committee decided to verify that all of these revisions have been previously approved by the Town Council, therefore Councilor Harrington motioned to strike all changes in Appendix A, motion seconded by Councilor McDonald, and voted unanimously.

Chairman Smart requested that Diane Hachey investigate this matter.

Councilor Harrington noted that while the ORC did not recommend any substantive changes, many department heads were involved in the process and took ideas back to their areas for future possible submission of revisions to the Town Council. The discussions were lively and he commended the committee members for their hard work and efforts.

Mr. Lane noted that the Mayor has made it very clear that non-substantive changes only are to be made to the code of ordinances. He requested assurance from this committee that this will occur. He commended the committee for their extremely thorough review of their assignment. Chairman Smart assured Mr. Lane that all changes recommended to Town Council will be non-substantive in nature.

Councilor Mathews motioned for favorable action to the full Town Council on measure number 11 042—to accept non-substantive changes to the Ordinance Review Committee’s suggestions, as amended by the Town Council Ordinance Committee. Motion seconded by Councilor Harrington and voted unanimously.

Chairman Smart reviewed going forward. This measure will appear on the Town Council agenda on May 23rd, with a memorandum included in the packets that the revised document will be at the Councilors’ places, in addition to a hard copy in the Town Council Office. It was additionally noted that both the document and power point presentation will be assessable on the town’s website.

With no further business to attend to, Councilor Mathews motioned to adjourn at 9:05 PM motion seconded by Councilor McDonald and voted unanimously.

Respectfully Submitted by

Diane T. Hachey as Recording Secretary

Approved by Michael Smart, Chairman of the Ordinance Committee