

**TOWN COUNCIL MINUTES
ORDINANCE COMMITTEE
November 24, 2020
Zoom # 811 8624 1366**

Present: Kenneth DiFazio, Chairman
Rebecca Haugh, Councilor
Christopher Heffernan, Councilor
Arthur Mathews, Councilor

Absent: Brian Dwyer, Vice Chair
Joseph Callanan, Town Solicitor

Also Present: Councilor Ed Harrington
Robert Luongo, Planning Director
Kathy Deree, Town Clerk

Recording Secretary: Mary Barker

Chairman DiFazio called the meeting to order at 6:32 PM. Clerk Kathy Deree called the roll with one member absent. Councilor Dwyer was unavailable. Councilor Mathews reported that Solicitor Callanan asked to be excused and Christine Howe was invited but unable to make it.

20 117-Town Council Zoning Ordinance Amendment to Section 120-64.7.1 Billboard Relocation Overlay District (One Year Moratorium on New Permit Issuance)

This measure was referred to the Town Council on November 16, 2020.

Councilor Mathews provided an overview of the measure. Its intent is to make sure before a second billboard goes up, that Cove Outdoor fixes the first one. A neighborhood agreement was signed on December 18, 2019, by the Mayor, Ed O’Sullivan (Cove), Amy Kabilian, Ed Palmer, and Ruth Pacino. None of the work in that agreement has been done. Several versions of agreements have come out and most proposals allow Cove to erect a second billboard before fixing the first. He doesn’t think it’s the right approach given Cove’s financial issues and other items that were discussed. He wants to address the guidelines later on in a later agenda item.

The Council drafted a letter to the administration and talked about having the planning director update those guidelines, and as of today, they have not been developed. There are a number of things to address; moving 613 to 611, then changed again and move off the table. The most recent meeting with neighbors, hosted by the solicitor and Ms. Howe, they stated that the moratorium could be lifted at any time as soon as the terms of the agreement are met. Public hearing is scheduled for December 7. This a fluid document; he’d like to listen to the constituents and make sure the residents in the vicinity of the 611 area aren’t left high and dry. The proposed moratorium will force them to complete these things before they can move forward. In some conversations with neighbors, they don’t plan to live up to any of the conditions. If it is not legal, why did the solicitor put it out for signature? He is willing to listen to the committee, Planning Board. He read the proposed language of the moratorium:

“That the Town of Weymouth amend Section 120-64.7.1 as follows:
Add a new section E. to the Billboard Relocation Overlay District as follows:

“A moratorium shall be in effect for the duration of one year regarding all electronic billboard issuances of new permits. This moratorium may be lifted only if Cove Outdoor, LLC, or its successor, fulfills all obligations included in the ‘Remediation Agreement for Neighborhoods Near the 611 Pleasant Street Digital Billboard’ dated December 18, 2019.

This one-year moratorium would be in effect one year from the date it is adopted by the Town Council. This will allow the Planning Director to amend the guidelines, as outlined in this ordinance and should include installation of light blocking technology, limitations on both height and size of boards, hours of operation, content of advertisement; and any actions which would mitigate the effects of electronic billboards on the residents in the affected neighborhoods.”

Councilor Mathews reviewed the responsibilities under the Agreement. In it, the light blocking technology will be installed at the same time the board is lowered. Plantings were to take place and haven’t happened. A tree cutting permit was to be acquired, and fencing installed; again, not done. This is why the moratorium is necessary before the town issues another construction permit. In conversations with the neighbors, he learned that Cove did not plan to abide by the agreement. Why then would the Mayor sign it? He wants input from the residents and the Planning Board.

Councilor Haugh asked to be included in this since the original intent was to reduce billboards, and now they know that the North Weymouth ones are not coming down; maybe not ever. The ultimate goal is to mitigate 611 as soon as possible. The intent of the ordinance change was for a reduction in the number of billboards in town and in the long run it doesn’t appear that will happen.

Chair DiFazio reported that the Ordinance Committee reviewed the measure on November 19, 2020, and the unanticipated adverse impacts. The 611 billboard was erected and agreement signed without input from neighbors or Council and Cove obtained a permit to put the board up. The Council told the administration about the adverse impacts and gave them a recommendation that the guidelines were lacking and recommended they look into heavier requirements or a special permit process for billboards in the town of Weymouth. No one wants to live in a town where the Town Council has to impose a moratorium, but the town hasn’t remedied what they asked for a year ago. They are asking the administration to impose the requirements and potentially, this is the methodology required to ensure it gets done. Unfortunately, it’s come to this point. The Planning Board will review this and give their recommendation.

Councilor Heffernan agreed. This is a long-term issue that the Council has been working through with incomplete information and no dialog with the administration. They need to take action as this language says to make sure this Council continues to promote clarity and transparency and this is one of the ways they can do right for the constituents in the affected neighborhood.

Councilor Mathews noted that Cove has done one thing; they got a permit and cut down trees over the summer and now the highway traffic is viewable from the neighborhood. It makes it even worse for the neighbors. It’s worse than last year, and with the leaves down it is clear at night and it has to be addressed. Residents gave him photos from their windows at all different elevations. It looks like a drive-in movie. It has to be lowered if it stays at 611, and must have light blocking technology installed. This is the 2nd winter these neighbors have had to put up

with it, and they have had countless meetings and discussions. The administration has talked to them about giving them an out with not lowering the board at 611 if they can't get a permit from the state for more tree cutting. The board has to be lowered. Between the Council and Ordinance Committee there has been approximately twenty meetings deliberating this.

The chair asked the committee members for their opinions. He asked had anyone heard that the administration and these companies could have come to an agreement, without knowing ahead of time? Last year when they reported out, they spearheaded negotiations before anything was in writing or a plan was proposed. He doesn't sense that this is still the case. Plans are being released to certain parts of the community and the Ordinance Committee hasn't received anything since the beginning. If this is the way it's going to go, it leaves them and the citizens at a disadvantage. Once it's completed they won't have any recourse. He asked Councilor Mathews what effect the moratorium has on the 613 board?

Councilor Mathews responded that two permits from the state were approved, and another submitted for 0 Finnell. One building permit for 611 has been issued. If this passes the Town Council, it prohibits Cove from obtaining a building permit for the second until they fix 611. That's the intent.

Councilor Heffernan noted that as far back as last year, they weren't on the same page as the administration because they weren't informed. With this, they can potentially gain some control and slow the process. It is the best route at this time.

Councilor Haugh pointed out that she was taken aback by the North Weymouth removal plans and didn't know they had to wait until leases expired, before the communication was sent out in October. They are getting their information from residents. Cove is advertising on 611 and is in default with Needham Bank, so where is that money going, other than their pockets? If Cove abided by the agreement, they wouldn't be going this route. The only thing Cove actually did was dim 611 slightly for the residents. She confirmed that they are not getting information.

The chair responded that when he gave the presentation last year, they tried to keep positive but there was a lot of negative comments. It seems to be getting worse and the measure has merit and may be a necessity. The original deal was the North Weymouth boards would come down within a year or so. Anything not cast in stone became not cast in stone. This seems like it never got any better. No agreement is going to be okay. He doesn't know why they are proposing a plan with a 0 Finnell board; it shouldn't be part of 611 or 613. There are a lot of people who don't want that board and there are easement, waiver and access problems. This will put them right back into another unwanted board and someone else will be aggrieved. He doesn't want to be back here again. He highly suggested they don't have an agreement that ties into Finnell Drive.

Councilor Mathews pointed out that at the neighborhood meeting with the solicitor and Ms. Howe, it was stated that Needham Bank had not been paid for a year, and the Council was told by the administration that the town was going to forego its revenue to mitigate the problems. Weymouth hasn't received anything; where is the money? Sure; they invested some in tree cutting. It's making advertising revenue, but none is coming to the town, so, why haven't they begun mitigation?

Councilor Haugh pointed out that the ordinance says they can have up to 3 billboards, even though the town has said they would entertain three. With all the talk, she would hate to see 3 billboards on Route 3. The chair agreed.

20 100-Citizen Petition-Request to Change Zoning Ordinances- Section 120-64.7.1

This measure was referred to the Ordinance Committee on September 8, 2020. The committee met and deliberated on September 22, 2020, September 29, 2020, October 6, 2020, October 27 and November 10, 2020. A public hearing was jointly conducted with the Planning Board on November 9, 2020. The Planning Board rendered a decision supporting the measure at its meeting on November 17, 2020.

“Per M.G.L. Chapter 40A, Section 5, the undersigned registered voters in the Town of Weymouth request of the Town Council the following changes to the Town of Weymouth Zoning Ordinances:

§120.64.7.1 Billboard Relocation Overlay District

Eliminate Section C.

No more than three electronic billboards are the only permitted use within the Billboard Relocation Overlay District and are subject to the approval of a billboard reduction and relocation agreement or development agreement for the reduction and relocation of billboards in compliance with this Section.

Insert a new Section C as follows:

No more than TWO electronic billboards are the only permitted use within the Billboard Relocation Overlay District and are subject to the approval of a billboard reduction and relocation agreement or development agreement for the reduction and relocation of billboards in compliance with this section.

Insert New Section E.

Section E.

Construction of billboards and related facilities and structures within the billboard relocation overlay district shall be subject to a special permitting process by the zoning Board of Appeals.

A decision shall not be rendered on an application for a special permit until the Zoning Board of Appeals has made its findings. Said finding shall include but not limited to the following:

- 1. Demonstrate compliance with the regulations of the Office of Outdoor Advertising*
- 2. Demonstrate that no residentially zoned property or pre-existing nonconforming property or other property used for residential purposes, excluding hotels or motels, is within a one-thousand-foot radius of the proposed location.*
- 3. Demonstrate that the proposed location does not adversely interfere with the use of adjacent properties, including but not limited to, increasing noise or vibration, casting a shadow on, or causing a flicker on adjacent properties.*

4. *Demonstrate that the proposed billboard is in harmony with or suitable for the surrounding area and would not do significant damage to the visual environment. In making the determination, the special permit granting authority may consider, among other factors, health, safety, general welfare of the public, the scenic beauty of the area, the physical, environmental, cultural, historical or architectural characteristics of the location and area, proximity of the proposed billboard to schools, or places of worship or open space, architectural characteristics of the location and area, the structure, height, and size of the sign, and the number of signs on the premises and in the area where the billboard is to be located.*
5. *No flashing lighting shall be allowed. Flashing shall be defined as changing natural or artificial light or color effects by any means except as may occur when panels or messages change on electronic/digital billboards.*
6. *No sexually oriented, sexually provocative or adult-oriented businesses as defined in Article XIII, §135-1302 shall be advertised on a billboard.*
7. *The Panning Board shall determine the number of annual hours the billboard shall devote to public service announcements during a calendar year.*
8. *Financial or other compensation to the Town, including but not limited to removal of existing nonconforming billboards, to mitigate the impact of the proposed billboard on the Town, in a form and/or amount identified in an agreement approved by the Office of the Mayor and the Town Solicitor.”*

The chair summarized the intent of the measure. Eliminate current section C and add a new section C to limit to no more than 2 billboards in the district. Thus far, if there isn't a permit for 613, they would have to follow the new ordinance. The first is up; it is now a nonconforming structure. If not permitted yet, it sets forth requirements to put it up.

Councilor Mathews also summarized action so far. The public hearing was held and closed and they received a recommendation from the Planning Board, which he read into the record:

“The Planning Board met on November 18, 2020 to deliberate Citizens’ Petition 20 100. Following a joint public hearing with the Weymouth Town Council on November 9, 2020 the public hearing has been closed, no additional testimony was accepted. The board considered the opinion of the town solicitor, Joe Callanan, offered in a memo September 22, 2020, which deemed Citizen Petition 20 100 to be repetitive of measure 10 109; thus invalidating the current request. The board further discussed the negative visual impact of the billboards on adjacent neighborhoods, in the stated goal of lessening the unintended impact. In summary, the board found consensus in supporting the efforts of residents most impacted of the existing ordinance while recognizing that measure 20 100 would not eliminate any existing billboards, the board voted unanimously, 3-0 to recommend favorable action to the town council.”

Councilor Mathews responded that, in that, they supported the citizen's petition. He then reviewed the proposed changes:

- *Construction of billboards and related structures within the billboard relocation overlay district shall be subject to a special permit process by the Board of Zoning Appeals. A decision shall not be rendered on the application for a special permit until the Board of Zoning Appeals has made its findings. Said findings shall include but are not limited to...*

Councilor Mathews continued reviewing 1-8 of the additional language.

They relied on the Mayor and his administration and the planning director to develop guidelines after the highway transition zoning was approved, which would address the issues discussed over the past 1.5 years. None of them were, so they are now relying on the Board of Zoning Appeals to issue the permit, but they aren't giving enough guidelines in this proposal. He suggested the addition of language in five specific areas and shared it with the committee:

Insert the following:

1. All electronic billboards must have light blocking technology installed
2. Maximum height of electronic billboard must not exceed 35 feet; and include language limiting the dimensions of the sign- and he deferred to the other members to determine the language.
3. Hours of operation cannot occur outside of 7:00 AM and 10:00 PM
4. Content displayed on billboards cannot be sexually graphic, tobacco, alcohol or marijuana related, including paraphernalia
5. Proponent must advise abutters located within 2,000 feet of proposed billboard structures regarding new installation and/or modifications to existing.

It was noted that the State has a 500-foot notification. At 611, only a handful of neighbors were notified. 80% of the whole neighborhood did not receive notification. They need to extend the notification area. Adding additional language will help the BZA. Inserting it also into the neighbors' agreement will go a long way to helping the BZA and the abutters. It won't affect 611 but a building permit hasn't been issued for the second one. He recommends input from Ms. Swain and Mr. Delaney because it is their petition.

The chair noted the additions add a #9 and #10 and then modifies some of the ones proposed. Besides the size of the board, if they vote yes, that would be the result. What's proposed is to eliminate section C and add new section E with the inclusion of the additional language.

Councilor Mathews added that they do this all the time. They have public hearings and then make revisions to the proposals.

Councilor Haugh addressed edit #2 – the standard largest billboard is 14'h x 48'w- says maximum height of 35 feet includes the pole, or at the top? The 35' should be the top with the pole. It doesn't have to be voted tonight. They can meet again after tightening the language. The guidelines still haven't been updated.

Chair DiFazio clarified that the 35-foot limit is to the top of the billboard.

Councilor Haugh suggested they insert language-- 35-feet is the highest point.

Councilor Heffernan agrees with the changes. They need to be as comprehensive as possible going forward. Leaving any room for interpretation or vagueness results in unintended consequences. He suggested they meet again next week to polish the version before submitting to make sure the product is the best possible version.

Councilor Haugh added “total” before maximum height. She noted that this is the absolute largest in the industry.

Councilor Mathews responded that the next size is 10.5 x 36.

Ms. Swain responded that anything they added is great. She has a grave concern about what is allowed by OOA- the permit submitted for Finnell called for 50’ billboard, and the section calling for restricted hours was left blank. If the state issues a permit for a 50-foot high billboard and no hours of operation are noted, how can’t they stop it. She was told by the solicitor at the last meeting that on December 10, 2020, the OOA was issuing a permit for 0 Finnell. Councilor Mathews responded that the solicitor is not present. If this passes, he would ask the Ordinance Committee to convey the changes to Mr. Romano after the December 7th meeting. Ms. Swain responded now the town has a structure ordinance with height maximum. Councilor Mathews responded that’s why 35 feet was added to here. Ms. Swain pointed out that in order to apply for a state permit, they had to sign off that they were in compliance with the town’s zoning ordinances. The permit was submitted for property abutting R-1, which is not allowed. The information was not provided and they had to hire an attorney to get the information. She is glad to see they are taking a stand. No matter where you put them, none is good.

Amy Kabilian reported on what is happening in neighborhood. Cove dimmed the lights as requested, beginning on Friday. Today, half of the board was shut off. The new proposal is for half at 611 and half at 613. She wouldn’t be in favor if they don’t lower 611. She hopes they can stick to the remediation agreement to lower and install light blocking technology, and plantings. She hopes this will help Cove to do what they should. She hopes these changes can be applied even on a board already in operation. Application is being heard at OOA- she hopes this goes through first.

Chair DiFazio noted the moratorium will help Amy’s neighborhood the most. This measure looks forward and whatever comes next must comply with the neighborhood agreement- if it passes. This measure looks forward and whatever happens next will have to comply if they vote to pass it. Both functions together are the best way to move forward.

Councilor Mathews agreed that the moratorium is to help 611- to get Cove to fulfill their agreement. The other will help going forward. If they can pass both, they can agree to send correspondence to the state – so they know the whole story of what is going on in town. They haven’t heard from the Town Council and it’s time they do.

Chair DiFazio suggested this isn’t to frustrate the administration, but they are at their wit’s end. It’s been two years, and more negative information is coming out. If and when they vote, they may hear it spoiled the administration’s plan, but its because they have no alternative.

Councilor Harrington was recognized and added that no one has done what they were supposed to do. They have to contain and control. One of the moving pieces is that Bristol is a business

person. He spoke with the younger Mr. Bristol a few weeks ago and he asked what his plan is, and could they maintain status quo while they negotiate. Can they tie it up- does he have patience. If another opportunity was presented or there was a protracted delay or moratorium, it might happen that an opportunity comes around to develop that land. The possibility exists that the land could be maintained open space if a billboard goes at the very end. It's a lonely stance; no one in his district supports it. The owner has the right to develop that property to its utmost potential. It's hard to let that possibility go without bringing to their attention. Losing the open space is the price that may have to pay if they pursue this route. It has to be considered.

Councilor Mathews responded that there is a history with Bristol. If a one year moratorium is going to force him to develop that land, then he, as the district councilor will send a letter to the building department to request no building permit be issued until he fulfills his obligations to the town with regard to other projects; specifically, the traffic signal at Pleasant Street and Libbey Industrial Parkway that he agreed to do a long time ago in a mitigation agreement for Alexan at Arbor Hill with then Planning Director Jim Clarke. If he asserts this, Councilor Mathews will do the same and block any development. The Town Council will send a letter to the Mayor and planning department to meet the obligations that are overdue. He has no patience for that. Councilor Harrington did not suggest that Mr. Bristol would leverage development over the town; this was a concern of Councilor Harrington's. He just wants them to realize that 45 acres hangs in the balance should they move forward with this; are they willing to take that chance?

Councilor Haugh thanked Councilor Harrington, understanding that he wants what is best for the neighborhood. This land was an alternate site for the compressor station, and could have been developed at any time. They are in this position because of implied threats. Where is the guaranty they will get the 42 acres? Nothing in the original agreement has been abided by, and there have been a lot of empty threats since the ordinance was passed three years ago.

Chair DiFazio noted that they have somewhat identified what measure 20 100 is going to look like. It's a good idea to wait until the next ordinance committee meeting; take the changes discussed and be prepared to have a final discussion that includes any additions/questions.

Councilor Mathews agreed and noted that Vice Chair Dwyer is also not present and should have a chance to weigh in on the suggested proposal changes. He suggested they meet again prior to the public hearing.

Mr. Delaney agreed that there should be control and if this is the only control that the Town Council can execute, then it's a good idea. He agreed with Councilor Haugh that there have been a lot of threatening proposals without documentation to support them. Cove has done nothing they said they would, including remediation for 611, and Mr. Bristol has used a proposal for a 40B development as a ruse to get the Council to pass the ordinance. Eversource is not moving forward with an easement release, as Mr. McClary has said. In speaking with Sean Southworth of Eversource, Mr. Delaney learned that Mr. McClary represented himself as an agent of Weymouth operating in the town's best interest. Mr. Southworth requested documentation to confirm this but none was created or sent to him. Eversource at this time has not issued any easement or considered it. In their opinion, Mr. McClary has not provided proof of his agency on behalf of the town of Weymouth. Per the project manager, the easement is how they intend to access the site for the billboard. Mr. Delaney agrees with the committee's position and is

grateful for the Planning Board's support of the vote. He is also in favor of a moratorium to gain some control.

Chair DiFazio reported that Mr. McClary is present and has asked to speak. He doesn't feel they need to but if it is the will of the committee he will allow it. Councilor Mathews agreed to leave it to the discretion of the chair. If Mr. McClary is here, he hopes he hears the message loud and clear and understands how serious the situation is for them. The other members agreed.

Mr. McClary asked why Cove wasn't invited? He has a different perspective. He said there is a lot of misinformation and he would like to be able to answer in real time. He asked for meetings to publicly say what they have been doing to remedy this. This is a public/private partnership. He filled out the application and responded to Mr. Southworth, who isn't the lead person. He is following through with everything that was asked of him. The easement runs over 3 underlying properties, and he has to make sure he has their permission. Billboard ad revenue is going to be used for funding the purchase of open land from the Bristols. Whatever agreement Bristol has with the town is not his concern. To suggest that he has been misrepresenting himself is unfathomable. There have been many meetings and many potential solutions. It was never represented they could do some of the things but they are not the permitting agency. They have met major hurdles through all this is, and can't promise anything they can't deliver. Finnell is interesting- they don't know if they will get the permit. How has no one recognized this is a nonbinding agreement. There are a lot of moving parts. They are willing to move forward. If they can't get a binding agreement they cannot move forward. He explained plans for Finnell. He does not understand why their voice isn't being heard.

Councilor Mathews explained to him that meetings they host are public meetings. This is the first he came to and was allowed to speak. The charter vests the sole authority to enter agreements with the Mayor. There are things that will be addressed. He takes issue with some of things he said; they never do something they couldn't commit. In the agreement with the Mayor, the North Weymouth boards were to come down in a year. Now they learn it's not until the end of the leases. It was the reason they were in favor. The Town Council was sold a false bill of goods.

Mr. McClary responded that they already took down 2 faces. There are punitive issues with the rest. When they were shut down for 16 months- that's when they went to get the 3A boards, and learned Clear Channel would not engage. Now they are coming down as fast as they can get them down.

Councilor Mathews responded that he has seen the communications from Clear Channel- before the agreement was signed, they objected that Cove did not have the right to remove their boards. The town was sold a false bill of goods.

The remediation agreement stated if they couldn't get them down within a year, there would be punitive actions. They shut the sign down for other reasons. The second they turned it on, the residents responded negatively. Cove has been trying to find a solution; light blocking technology and lowering the board.

Councilor Mathews countered; the billboard was not off for 16 months. To say the neighborhood agreement is nonbinding; then, why sign it? In his mind, it's valid. Mr. McClary

noted it is stated in the second line of the agreement. Councilor Mathews disagreed with the assertion and asked why did Cove sign? Mr. McClary responded that he didn't draft the document.

Chair DiFazio has reservations about letting Mr. McClary speak. He suggested Mr. McClary watch the meetings and if he has a problem, he should convey them in writing to the Mayor in the future.

Councilor Mathews suggested that the best place to have him to speak is at these meetings. They are recorded and what is said is on the record.

Chair DiFazio responded that he should be working with the Mayor. The committee and the Council are not party to the contract. If he thinks they are getting the wrong information, he can convey it through the Mayor. It's not the committee's job. The citizen petition and the moratorium are what is before them, and should go forward.

Mr. McClary objected to the fact-finding without allowing all parties to speak. The chair suggested he convey any information he wants them to know through the Mayor.

Chair DiFazio noted that the third item he wants to discuss is not on the agenda. On October 14, 2020, the Auditor forwarded a memo to the Mayor with a list of questions. He noted that they have not received a response. Councilor Haugh noted that some Councilors campaigned on the fact that the 3A boards would be taken down. She is disheartened to learn that Clear Channel states in 3 letters that Cove had no right to do so. That information should have come willingly from the administration. Councilor Heffernan agreed he is not happy that they still have no answers. He also noted that the agreement may have been nonbinding but it was signed in good faith by the neighborhood representatives. He is particularly disappointed with the administration and Mr. McClary's organization. The chair reported that the topic will carry over to the next meeting.

ADJOURNMENT

At 8:35 PM, there being no further business, a MOTION was made by Councilor Mathews to adjourn and was seconded by Councilor Heffernan.

A roll call vote was taken:

Councilor Haugh-Yes, Councilor Heffernan-Yes, Councilor Mathews-Yes, Chair DiFazio- Yes.
UNANIMOUSLY VOTED.

Respectfully Submitted by Mary Barker as Recording Secretary

Approved by Kenneth DiFazio as Ordinance Committee Chairman
Voted unanimously on 19 January 2021