

TOWN COUNCIL MINUTES
Ordinance Committee
February 17, 2022

Present: Kenneth DiFazio, Chair
Gary MacDougall, Vice Chair
John Abbott, Councilor
Lisa Belmarsh, Councilor
Arthur Mathews, Councilor

Also Present: Robert Luongo, Dept. of Planning and Community
Development
Owen MacDonald, Traffic Engineer
Lt. Brian Morse, WPD

Absent: Joseph Callanan, Town Solicitor

Recording Secretary: Mary Barker

Chair DiFazio called the meeting to order at 6:00 PM.

**22 001-Citizen Petition- Request to Change Zoning Ordinances- Section 120-64.7.1
Billboard Relocation Overlay District**

Chair DiFazio reported that this measure was referred to the Ordinance Committee on January 3, 2022. He suggested the committee reconsider their vote of February 7, 2022 to forward the petition to the full Town Council with a recommendation for favorable action based on subsequent circumstances. The committee's vote was held prior to the committee considered the comments offered at the joint public hearing with the Planning Board, and the Planning Board's recommendation following their deliberation and received on February 14, 2022. He read the Planning Board's recommendation into the record:

“On February 8, 2022 the Planning Board met to deliberate Citizen Petition 22 001 following a Joint Public Hearing with the Weymouth Town Council on February 7, 2022. As the public hearing had been closed following the joint hearing, no additional testimony was accepted.

The Board considered the testimony of the applicants as well as the opinions put forth by Planning Department Staff.

After reviewing the zoning map for the Billboard Overlay District, the Planning Board was unable to identify areas within the district that would be guaranteed not to negatively impact neighboring residential areas.

As such, the Board saw no benefit in keeping the billboard overlay district in place and agreed with the goals of the citizen's petition to remove it in its entirety. On the vote, the Planning Board voted unanimously to approve the petition, 5-0.

The chair explained that he sent a request to the Planning Department to determine how to effectuate what the Citizens Petition seeks to accomplish, with regard to the Ordinance in place. What do they expect to accomplish? It's easy to say get rid of the overlay district, but the overlay section of the ordinance has several parts. Eric Schneider put together a recommendation for the committee: In summary it would be to delete that not only the district itself, but also sections A, B, C, D, E, and F. The Solicitor has not had a chance to review the recommendation nor advised whether this is the proper way to accomplish the change, and is not present.

Director of Planning Luongo asked for a correction; whether the committee made its vote prior to the public hearing. Councilor Mathews confirmed it and added that it should be to delete in its entirety section 120-64.7.1- A, B, C, D. That's the Citizens Petition. He was not at the last Ordinance Committee meeting due to a work commitment, but he would not have recommended the committee take any vote prior to the public hearing or having received the Planning Board's recommendation. If this committee had motioned to adopt the language in the Citizens Petition, it would have included A, B, C, and D only. There was no reference to a recommendation to delete E or F. if that is the recommendation that goes forward, so be it.

Chair DiFazio responded that he is concerned with having a recommendation that didn't take into consideration a public hearing or Planning Board's vote, so he requested an opinion from the Solicitor. The Solicitor emailed him a response stating that reconsideration is a good idea, based upon comments from public hearing and Planning Board and he agrees this is the better alternative and the proper course to take.

Councilor Belmarsh motioned to reaffirm the vote taken on February 7, 2022 after considering the Planning Board's recommendation and the testimony from the joint public hearing, and forward measure 22 001 to the full Town Council with a recommendation for favorable action and was seconded by Councilor Abbott. Councilor Abbott confirmed the action is simply to back out the previous vote and move forward again based on the information that wasn't available at the prior vote, and resolved to the committee's satisfaction. The chair responded that this vote remedies the situation that excluded having the public or Planning Board input. Councilor Mathews abstained, as he was not present for the last vote. Voted 4-0 with one abstention.

The Chair continued, that as he put together the change to the overlay itself and all its subparts for tonight's meeting, he asked the Planning Department for the proper way to do what the citizens petition wants.

Mr. Luongo responded they would be amending language and maps. The first map (Bristol property off Pleasant Street) which is 300 feet within Route 3, so that map would be eliminated. The second map would be Finnell, and it would disappear with the

removal. In the ordinance overlay, it includes sections A, B, C, D, E, F. Before the overlay district was set in place, the first sentence states, "Billboards of any kind are prohibited outside the limits of the billboard overlay district" Before the billboard overlay district came into effect, that line read, "Billboards of any kind are prohibited within the Town of Weymouth." It was amended with the overlay and needs to be amended to, "Billboards of any kind are prohibited within the Town of Weymouth." In the petition, sections A, B, C, and D are deleted. They did not want to remove E and F, which restrict billboard size, type, height and proximity to a school or park. By design the petition intended to keep E and F in the zoning although it doesn't make sense logically. He suspects the reason is the myriad of confusion as to whether the moratorium was legal, and whether the prior citizen petition that was passed was legal- the town Solicitor's opinion was that it was illegal. So, the question is if some of these billboards are grandfathered. There is a permit for 613, but not a building permit. The Solicitor has ruled that they are grandfathered regardless of whether the amendments are in the original billboard overlay district. He isn't sure how the Solicitor would rule. If somehow there was an end run around this, the petitioners would want the protections of sections E and F. The Chair asked if the single line should be modified if they didn't remove E and F. Director Luongo responded that it clearly was the intent of the Planning Board when they voted to not allow any billboards in the town. Logically, eliminating the district, that language should go away, as it doesn't make sense. There is some discretion within the zoning language so long as the intent remains.

The Chair asked the committee whether they would vote to delete A, B, C, D or amend the sentence above.

Director Luongo reminded the committee the original language was no billboards allowed, period.

Councilor Belmarsh agreed to remove the current language. Councilor MacDougall concurred, as did Councilors Abbott and Mathews. Director Luongo agreed it would be illogical to keep E and F in but it is his understanding that the petitioners would prefer to keep it in. Councilor MacDougall asked if keeping E and F would create ramifications, considering there is an ANR. Director Luongo responded that he has not signed the ANR. He has some concerns. No one has a clear picture anymore. The chair asked if not keeping E and F would have any adverse effect on the objective, they could move forward. Councilor Abbott noted that the heading is to be deleted, and how can there be subparagraphs. Councilor Mathews responded that the language would have to be changed. Councilor Belmarsh noted keeping it in doesn't work. There are currently two billboards in play. They do not want to lose the opportunity to potentially control what they may or may not look like. They still want to control it. if one of the billboards goes forward, it would follow the current language and not the amended language. She would want to have a discussion with the Solicitor and what the impact would be. If they keep it, they need to consider amending it. Director Luongo asked if Councilor Mathews recalled whether the Solicitor ruled E and F was not valid zoning. Councilor Mathews responded that F would likely not hold up in a court of law, but Cove never challenged it in court, and in fact applied for a special permit. The Solicitor put in writing that they

would have to go before BZA. They had said they could do mitigation work sooner if they hadn't been burdened with the special permit requirement. Section E has been used by the Solicitor and section F was not challenged by the parties to the agreement. Director Luongo responded that the Solicitor recommends adding E and F. The petitioners do not want that. Councilor MacDougall asked if there are time restrictions if they were to keep in E and F but would want to address them at a future point. He would want to consider keeping them in as it is safer than taking out. The chair responded that the solicitor didn't ask for E and F.

Councilor Mathews responded that the committee will not take testimony after the close of the public hearing. The petitioners had reasons for not including E and F. They might want to reconsider the moratorium at some future point.

Councilor McDougall motioned to forward to the Town Council, reconsidering the vote taken on February 7, 2022, amending the first sentence to, "billboards of any kind are prohibited", strike sections A, B, C, and D of 120-64.7.1 and revise the zoning maps, and forward to the full Town Council with a recommendation for favorable action. The motion was seconded by Councilor Mathews. Unanimously voted.

22 015-Vicinity 12 Columbian Street

Traffic Engineer Owen MacDonald presented the measure with Lt. Morse from WPD.

The owner of a new coffee shop to the left of the Cameo Theatre is currently occupied by a small coffee pastry take out establishment. The owner is requesting two 20-minute parking designation spaces. The effect on traffic and safety would be neutral. Lt. Morse added that DPW inadvertently placed a 20-minute sign, which has been removed, when it was determined the town does not have a 20-minute ordinance on the books. When the sign was removed and cars were ticketed, they were appealed. The request was at the request of the business owners.

The Chair asked if the spot is at the front of the Cameo, which generally has patrons there for two hours. Mr. MacDonald responded that movie prime time is later in the day, but he believes the two business owners conferred and agreed. The Chair asked that he make sure to speak to the owners prior to the public hearing. Councilor Abbott asked if any other business has 20-minute parking? Lt. Morse could not recall any. This is strictly a take-out business. Councilor Abbott asked if this were to spread to other take-out businesses, would it make enforcement difficult? Lt. Morse responded yes; the clock starts ticking once the police observe a violation, not when the call is placed. Councilor MacDougall asked how much hospital spillover is on that street now? Lt. Morse responded that there is a lot. He would also want to know that the other business owners are okay with it. the Chair asked if they really want to open this Pandora's box. Lt. Morse responded that the owners have been told the police department will not be proactively enforcing this. The Chair asked if the administration could send notification to the business community there ahead of the public hearing. Mr. Luongo responded he can once the hearing date is set. He also noted that those spaces may be eliminated when the construction begins later this year with lane reconfiguration in the square. This will be a temporary solution. The owners will likely be back once the construction is done. This is

not for the general area. Mr. Luongo responded that the merchants wanted to keep all parking spaces, and they worked with them to accommodate their needs in the redesign. This is a small business, and it's all take-out. Hopefully they will come to the public hearing and make their case. Councilor Mathews noted his concerns- he worries it will become a precedent, and second, the police aren't going to leave more important calls for parking violations here. The public hearing takes place and will likely be voted in March, then in a few months, the spots will be removed for construction (gone in perpetuity?). If the reconfiguration eliminates them permanently, there is then an ordinance on the books they'll have to address.

Director Luongo noted that the owner has the tendency to take matters into his own hands- if he sees parkers in the spot, he confronts them. He wants the parking specifically for his shop. The town received a state grant for this, and three things will be done: parking management plan, marketing plan for appropriate uses, and proposed zoning changes based on the marketing plan. Over the next few months, all will be discussed. It will be implemented after the improvements are completed. Councilor Mathews asked if the town has jurisdiction over the alleyway? Mr. MacDonald responded that there will be angle parking to the left of the alleyway.

Councilor Mathews asked if the traffic engineer is putting this forward as a recommendation or is he disseminating information on behalf of the business owner? Mr. MacDonald responded that the effect on traffic flow and safety is neutral, and he is just passing on the request. It is not a citizen initiative. Lt. Morse added that this will be an added responsibility on the police to enforce. Councilor Mathews asked how many daily calls the police department fielded when the original sign was inadvertently placed and the amount of resources allocated to one location while sector cars are patrolling. He will wait for the public hearing. The calls made were from the business owner.

ADJOURNMENT

At 7:02 PM, there being no further business, Councilor Mathews motioned to adjourn and was seconded by Councilor Abbott.

Respectfully Submitted by Mary Barker as Recording Secretary

Approved by Ken DiFazio as Ordinance Committee Chairman
Voted unanimously at the 7 March TC meeting