

**MINUTES OF THE TOWN COUNCIL
ORDINANCE COMMITTEE
Town Hall Council Chambers
June 23, 2014 - Tuesday**

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

Not Present: Ed Harrington, Councilor

Also Present: Michael Parker, Animal Control Officer
Solicitor George Lane

Chairman DiFazio called the Ordinance Committee meeting to order at 6:00 PM.

A motion was made by Vice Chairman Smart to take the third agenda item out of order and was seconded by Councilor Hackett. UNANIMOUSLY VOTED.

Discussion on proposed revisions to 6-801 of Code of Ordinances “Dogs and Cats”

Chairman DiFazio reported that a petitioner requested a change. She is a Weymouth resident. Copies of the petition were given to the Town Council and the Ordinance Committee. On June 16, 2014, the issue was referred to the Ordinance Committee. The petitioner would not be present but asked that a statement be read into the record:

*“What the So-Called “Cat Leash Law” is REALLY About
Lorraine Nicotera*

A recent Patriot Ledger article about this proposed Weymouth town ordinance I sponsored has triggered hysterics among cat lovers. The media fanned the flames of misinformation.

It’s time for cooler heads and the facts to prevail.

I, too, love cats and want them—and their human families—to be safe.

That is why I proposed this ordinance, similar to one in Quincy, which would require cat owners to take responsibility for their pets by containing them. The proposal does not mandate leashing them, although that is an option some owners choose. It simply requires keeping cats indoors or in a secure outdoor enclosure, or at minimum, their own property.

That this common sense law would lead to the “herding and summary killing” of free-roaming cats, as some have claimed, is rhetoric designed to inflame and distract. It simply is not true. Under the terms of this ordinance, the Animal Control Officer must make a concerted effort to locate the cat’s owner. People who care about their cats would be searching too. The first call typically is to Animal Control.

Free-roaming cats are at both ends of the food chain. They kill smaller mammals and birds and are killed, often in horrific ways, by larger predators, including disturbed people. They ingest toxins and are hit by cars. On my block alone, I’ve seen the heartbreaking sight of three owned, collared cats, dead by the side of the road.

If unfixed, free-roaming cats contribute to the overpopulation problem that results in millions of healthy cats euthanized each year for want of a home.

They also are at greater risk for diseases like feline leukemia.

And they are far more likely than indoor cats to contract toxoplasmosis, a potentially lethal disease they can

transmit to humans.

Yet many people who wouldn't dream of allowing their dogs to wander far and wide—because that is illegal—simply open the door to a dangerous world for their cats.

When I was growing up some 45 years ago, dogs roamed at will. The notion of containing them seemed as crazy to dog owners then as the notion of containing cats seems to some owners now.

Municipalities across the country have enacted indoor-cat ordinances with good results. And veterinary behaviorists say cats can be perfectly happy indoors-only.

According to Stephanie Borns-Weil, DVM, "Indoor lifestyles are not only safer for cats but can be very satisfying if owners provide an enriched environment and plenty of attention, affection and play time. It does require more effort to keep a cat indoors. But you will be rewarded with a healthier cat and a stronger human-animal bond."

In domesticating dogs and cats, we have made them dependent on us for their wellbeing. It took a law for dog owners to assume responsibility for the safety of their pets. It's time for cat owners to assume equal responsibility."

She additionally submitted a 2 page summary sheet with a redline of section 6-801 and supplemental materials including sections of other town's codes and what appears to be a summary regarding predatory on birds. Mr. Parker was invited to come before committee.

Michael Parker reported that he has read the proposal and there currently is no state law regarding indoor restraint of cats. In the proposed Changes- section B- owner or keeper will not permit to trespass private property; Animal Control has fielded 3 complaints for trespassing cats. (During this discussion, Councilor Mathews arrived, at 6:11PM). Cats are considered personal property- the town would be required to hold them for 7 days, and it requires housing, feeding and veterinary care. Once impounded, a cat must be quarantined separately for ten days. Cats tend to run when approached and need to be trapped; the traps would have to be set and checked regularly. All of this costs money and manpower. He also noted section two of the proposal is more of a leash law; he has never had a complaint about owners not picking up after their cats, although they do have issues with feral cats. The department works with someone who traps feral cats, spays/neuters and administers immunizations and then releases them. He does not believe the proposed regulation changes would benefit the town, and enforcement would put a burden on the town.

There was a brief discussion regarding cats as "personal property" and it included Solicitor Lane for review of some of the definitions. Solicitor Lane noted that unlike other personal property, cats are a living thing. He is concerned also with the unenforceability of such an ordinance, and the number of people it would require to do so. The biggest issue; however, is caring for the animals for what could be an extended time. Then there is the issue of disposal; cats can't be adopted out unless they are first spayed/neutered.

Vice Chairman Smart noted he couldn't imagine leashing a cat. Mr. Parker responded that putting a fixed collar on a cat could put it in danger of getting hung up on it. It was also noted that coyotes are more prevalent and are keeping the feral cat population under control in many areas.

The committee, Solicitor Lane and Mr. Parker have had a chance review the supplemental materials from the proponent and it was noted that most are by-laws and ordinances from other towns/cities. Solicitor Lane noted that the majority of the materials provided are informative and interesting. He noted a hearing process would be required. Proving a case for an at-large cat or public nuisance will be difficult. What determines it- at large three or more times in a twelve-month period? He believes they are years away from putting cats under similar control as dogs.

Chairman DiFazio noted that in review of the summary material, the prior complaints have either been resolved or are in the process. He does not see a problem based on the history. He noted that the committee takes the citizen's recommendations seriously.

Vice Chairman Smart noted that it is difficult to enact a law when there aren't sufficient resources to enforce it.

Solicitor Lane noted that the proponent has taken the existing language from the dog ordinances and transposed it with "cat"; however there is a big difference between animal behavior.

A MOTION was made by Councilor Mathews to forward Discussion on Proposed Revisions to 6-801 of Code of Ordinances "Dogs and Cats" to the full Town Council with a recommendation for NO ACTION and was seconded by Councilor Hackett. Chairman DiFazio thanked Ms. Nicotera and asked Mr. Parker to inform the committee if the activity increases. UNANIMOUSLY VOTED.

14 078- Amendment to the Zoning Ordinance-Registered Marijuana Dispensaries

Chairman DiFazio noted this matter was referred to the committee on April 17, 2014. The matter was deliberated by the Ordinance Committee on May 27, 2014, and a joint public hearing was held on May 19, 2014 with the Planning Board. The Planning Board issued a favorable recommendation in a 4/0 vote on measure 14 078.

Mr. Clarke and Mr. McCormack addressed the committee. Mr. McCormack noted there were more questions around the licensing aspect. Chairman DiFazio noted that the joint draft minutes from the previous committee meeting were provided. Mr. Clarke reviewed the recommendation from the Planning Board. It includes a summary, a rationale, and changes to the original proposal. He also reviewed why it was not a special permit. Chairman DiFazio noted there were not changes to the original zoning part of the proposal. Mr. McCormack stated there were several questions posed at the last meeting that he has responded to in writing in a Q&A format.

Vice Chairman Smart noted the fees are the existing licensing fees; is there any indication from the administration as to the proposed fee structure? Mr. McCormack agreed the fees should be set as high as possible. The existing fees are just a point of reference. They have discussed the process and fees with several departments. The Mayor is going to ask each department to put a cost on review and enforcement of the ordinances to determine a fee schedule. The section breaking down security requirements was taken from DPH and has been added to the ordinance. CORI requirements were discussed and will be a requirement.

Chairman DiFazio noted that a Planning Board member was concerned that Weymouth's requirements be tight rather than rely on the state to follow through. He believes it is well served. Solicitor Lane also agreed. He attended the discussion and briefly reviewed the minutes from the joint meeting. They will need to investigate the CORI closer; whether they are entitled to require it. Mr. McCormack noted there was some discussion of the use of marijuana products at an RMD; use is allowed for the education of users, but general use is prohibited within the establishment. Chairman DiFazio asked if they could enforce and will the fine curb. Mr. McCormack responded that the DPH is the lead enforcer, but it allows the town regulatory authority as well, and the fining process was reviewed. It will be a Board of Licensing process. If there is enough concern with violations, they can request additional help from the state. Appointments will not be added.

There was a lot of discussion regarding hardships and Mr. McCormack has asked the DPH if they can provide the town a list of hardship cases. It is being reviewed by their legal department. He is also waiting for a response as to whether the town may limit the type and amount of paraphernalia that will be allowed to be displayed at a facility and the maximum allowable fine is also pending. None of these will affect a change to the ordinance; it will be a notification process. Vice Chairman Smart asked if the administration will set the fines once the ordinance is in place. Mr. McCormack responded that the fine structure is now set at the maximum allowable \$300 and then suspensions. It is spelled out twice in the ordinance in the fine section. Suspension is a much more effective tool.

Solicitor Lane asked if the suspension process was discussed with legal counsel. Mr. McCormack responded that the fines are taken from the tobacco regulations. Solicitor Lane responded that this is potentially far more damaging than tobacco. He suggested looking further at the fine stage for serious infractions. Mr. McCormack responded that he will contact legal counsel again, but believes her response will be that it is allowable. Solicitor Lane noted he was in agreement with comments made by Mr. Mathews at the prior meeting, and believes it may need a more flexible standard on violations. It should be explored further. Mr. McCormack responded that he will make contact.

The committee was provided with a final red-lined copy of the amendments.

Vice Chairman Smart read from an email received- while use is prohibited within a certain distance from a school, it may need to be an allowed use within the school when it is used as emergency shelter. Mr. McCormack responded that he did not think they could prohibit a citizen from bringing in medical marijuana in a shelter. They are allowed to bring other prescription medication. The regulations do not apply when there is an emergency and a school becomes a shelter; state of emergency applies. He is unsure whether adding language is needed. He will look into it before the next meeting, but is unsure as to who to ask for clarification. Chairman DiFazio suggested they might want to know before making a recommendation to the full town council.

Barring any other questions, the committee is satisfied with the matter. The Town Council must vote the matter within 90 days from the close of the public hearing (August 17, 2014). The licensing piece does not have a timeline attached to it. Chairman DiFazio asked if they were to move forward on the zoning portion, could they hold off and vote the rest at a later date. Mr. Clarke and McCormack were in agreement. The moratorium expired last month.

Councilor Mathews responded that the only issue he would have is if there are any changes made to the zoning component after a vote is taken. Mr. McCormack responded that the only changes will be made to the licensing portion. DPH has said it has not accepted any applications yet. Councilor Mathews asked if five applications have been submitted for Norfolk County. Abby McCabe responded that three are in the first phase and they are not accepting applications at this time.

Chairman DiFazio asked the committee's pleasure on a vote- and whether to handle both measures at the same time. Councilor Hackett responded yes; she does not want to see this held up in committee with summer schedules and unavailability. The second vote can be taken with the proviso to the full Town Council that it is pending the responses to the two questions. Solicitor Lane responded that vote at Council can be subject to amendment.

A Motion was made by Vice Chairman Smart to forward measure 14-078- Amendment to the Zoning Ordinance-Registered Marijuana Dispensaries to the full Town Council with a recommendation for favorable action and was seconded by Councilor Hackett.

Councilor Mathews noted he was not in favor of the proposed locations, but the alternatives were not good either. He will vote in favor because it is being reduced from three to one potential location.

Councilor Smart echoed the comments and noted it is not an endorsement of marijuana but an effort to comply with the state and DPH. He acknowledged all of the staff involved in vetting the matter and will support the measure.

Chairman DiFazio noted that by limiting the locations, excluding them from residential areas, and limiting their visibility the proposal, meets all objectives and he intends to support. UNANIMOUSLY VOTED.

14 079 –New Proposed Ordinance Section 9-700-Licensing of Registered Marijuana Dispensaries

Chairman DiFazio noted that the committee was provided with a summary of the changes that have been made since the joint meeting, and the redlined draft of the proposal dated May 27, 2014. A total of four changes were made to the draft ordinance.

A MOTION was made by Vice Chairman Smart to forward measure 14 079 –New Proposed Ordinance Section 9-700-Licensing of Registered Marijuana Dispensaries to the full Town Council with a recommendation for favorable action, as amended and was seconded by Councilor Hackett.

Councilor Mathews noted he will support and is pleased with the reduction from three to one location. It has been thoroughly vetted, so that if anyone attempts to open a facility, the guidelines with it will be strict.

Vice Chairman Smart noted this received a similar vetting as the tattoo ordinance did; all to protect the residents and keeping in mind this is a medical use.

Chairman DiFazio noted he preferred this covered in an ordinance rather than a special permit process. Two issues are outstanding; fines structure and use in a school in an emergency shelter; Vice Chairman Smart amended his motion pending responses to these. UNANIMOUSLY VOTED.

ADJOURNMENT

At 7:12 PM, there being no further business, a motion was made by Vice Chairman Smart to adjourn, seconded by Councilor Mathews and unanimously voted.

Approved by Kenneth DiFazio as Chairman
Respectfully submitted by Mary Barker as Recording Secretary
Voted unanimously on 4 August 2014