

**TOWN COUNCIL MINUTES**  
**Joint Ordinance and Environmental Committees**  
**Town Hall Council Chambers**  
**September 14, 2015, Thursday**

Ordinance Committee

Present: Kenneth DiFazio, Chairman  
Michael Smart, Vice Chairman  
Jane Hackett, Councilor  
Arthur Mathews, Councilor  
Patrick O'Connor, Councilor

Environmental Committee

Present: Brian McDonald, Chairperson  
Jane Hackett, Councilor  
Kenneth DiFazio, Councilor  
Thomas J. Lacey, Councilor

Not Present: Robert Conlon, Vice Chair (Environmental)

Also Present: Carolyn Murray, Interim Town Solicitor  
Jeff Richards, Director, Building Department  
Robert Luongo, Energy Advisory Committee Chair  
Eric Schneider, Principal Planner  
Michael Parker-Animal Control Officer

Recording Secretary: Mary Barker

Chairman Ken DiFazio called the Ordinance Committee meeting to order at 7:04 PM.

**15 090-Proposed BOH Regulation #33 (Bodyworks Regulations)**

Chairman DiFazio reported that this issue was referred to the Ordinance Committee on January 5, 2015. The matter will be taken up with the minutes (which were tabled in June). He provided background; the matter was referred by the Council on January 5, 2015 and the committee met on March 2<sup>nd</sup>, March 30<sup>th</sup> and June 4<sup>th</sup>. The discussion was left in committee pending a ruling from the Town Solicitor whether the matter should be considered as a regulation or an ordinance. On June 18, 2015 Solicitor Lane filed a response via memo making it clear that the regulation should not be superseded with an ordinance. Mayor Kay also submitted a memo to the committee supporting her position.

Chairman DiFazio noted that Section 13, last paragraph of the Board of Health regulation needs to be amended to read "...per this regulation..." During the discussion, at 7:08PM, Councilor McDonald arrived. Councilor Mathews requested a copy of the materials noted be provided to Robert Montgomery Thomas, the constituent who brought the request forward.

A motion was made by Councilor O'Connor to forward measure 15 090 to the full Town Council with a recommendation for No Action and was seconded by Vice Chairman Smart. UNANIMOUSLY VOTED.

A motion was made by Councilor O'Connor as a point of information, to strike the words "per this ordinance" in the last paragraph and replace it with "per this regulation", and was seconded by Vice Chairman Smart. Councilor Mathews recommended that the Board of Health be notified to revise their regulation. Councilor O'Connor withdrew the motion.

A motion was made by Vice Chairman Smart to take the minutes of the Ordinance Committee meeting of June 4, 2015 off the table and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

A motion was made by Councilor Mathews to approve the minutes of the Ordinance Committee meeting of June 4, 2015, as amended, to include Solicitor Lane's memo dated June 18, 2015 and was seconded by Councilor Hackett. UNANIMOUSLY VOTED.

#### **15 090-Proposed Amendment to Animal Control Ordinance**

Chairman DiFazio reported that this measure was referred to the Ordinance Committee on June 15, 2015. The committee met on September 14, 2015.

Animal Control Officer Michael Parker was invited to the table. He reviewed the suggested changes to the ordinance with regard to farm animals, Kennel licenses and the keeping of cats and ferrets are current separate Board of Health regulations. The Animal Control Officer has no authority to enforce Health Regulations. In his discussions with Health Department Director McCormack and the State's Division of Animal Health, all matters pertaining to animals should be included in the ordinance and not a health regulation. This cleans things up; the Health Dept. would still have jurisdiction over the ordinance and the ability to enforce it.

Chairman DiFazio noted the Ordinance needs to be renumbered. He noted three regulations need to be rescinded because of inconsistencies as they currently stand and pass the proposed as an ordinance. Councilor Mathews requested a one-page summary cover letter with the specific changes be provided, since the version they received does not show the changes highlighted. Mr. Parker responded he can do this. This matter is scheduled for a tentative public hearing on October 19, 2015. He asked if this can be done by then. ACO Parker responded he will meet with Solicitor Murray and put the changes together.

#### **15 094-Ethics Reform Bill-Redesignation of Liaison to the MA Ethics Commission**

Chairman DiFazio reported that this measure was referred to the Ordinance Committee on August 24, 2015 by the Mayor's Office. No one present from the Mayor's office. He asked if the Mayor discussed this measure with Solicitor Murray. She responded that when the Ethics Reform law was passed it required the town to name a liaison to the Ethics Commission and the former designee was the Town Solicitor. A discussion was held with the pending retirement of Solicitor Lane and the Mayor suggested that the

Human Resource Director, as custodian, be the likely designee. Chairman DiFazio noted that Directors' powers and duties are outlined in the Code of Ordinances and section B may need to be amended. Councilor Mathews requested a letter from the Administration outlining rationale, pro and con for the change. He was not aware there was an issue. The only backup provided was the statute itself. Vice Chairman Smart reported he hasn't spoken with the Administration, but suggested that as the Town Solicitor has retired and an interim solicitor has been named, perhaps the administration is moving the responsibility with the HR Director until that is resolved.

Councilor Hackett asked why it needs to be a Mayoral appointment or why it comes before the Town Council. Ms. Murray responded that it comes from the statute; it simply states that each city or town will designate someone to be appointed as the designee. Councilor Hackett responded that if the appointment of Solicitor didn't come before the Council, then why should this? Chairman DiFazio replied that they could research it to find out why. Councilor Mathews noted that anything that comes up as ethics related results in an opinion from the Solicitor. How will that change if the designation is with the HR Director? He prefers keeping it with the Solicitor.

Chairman DiFazio suggested keeping the matter on the committee's agenda and requested someone from the administration appear at the next meeting to discuss further.

#### **Update on Sexual Offender Ordinance by Solicitor Murray**

Interim Solicitor Murray reported that the Supreme Judicial Court recently struck down an ordinance passed in the City of Lynn regarding residency requirements of sex offenders. A number of towns are reviewing their own ordinances. In light of this, she is in discussion with the Mayor regarding the town's similar ordinance. She expects something will be brought before the Council in the form of a measure.

Councilor O'Connor asked what specific MG law this refers to? Ms. Murray responded that the SJC's decision noted how much the legislation has "entered the field." There were a slew of statutes noted in the decision and many were ruled inconsistent with provisions of state law. Councilor O'Connor noted as a proponent of the town's Sex Offender ordinance, he would like a thorough examination of theirs. The ordinance has made a big impact on the restrictions. He will urge the Mayor to do whatever she can legally to keep this ordinance intact.

At 7:35 Chairman McDonald called the Environmental Committee meeting to order.

#### **15 106-Amendment to the Zoning Ordinance Solar Photovoltaic Installation**

Bob Luongo, Energy Advisory Commission Chair and Eric Schneider, Principal Planner, were invited to review the amendment. This is a part of the process for Weymouth to become a Green Community.

Eric Schneider, Principal Planner, reported that part of the Green Community designation requires the town have at least one district zoned by right for large scale ground-mounted

photovoltaic installations. They reviewed the existing map and what is allowed by right. They recommend two districts; the Public Open Space (POS) and Industrial-2 (I-2) locations, and both although by right, would require site plan review. They also recommend that in the I-1 district, a special permit be required for the use.

In the ordinance, they also are codifying the existing practices in the Planning and Building Departments. Currently small, ground-mounted installations are treated as an accessory use and regulated as such. The language is added to the proposed ordinance. Two new definitions are added to differentiate between small- and large-scale and the definitions are directly from the Department of Energy recommendations. The ordinance is a collaborative effort by the Building and Planning Departments and cleaner than the other alternative of adding language to each zoning district for by right and special permit and consistent with how the town has handled similar cellular and solar energy. They currently are reviewing a rezoning of the property by the Back River where the landfill is from Planned Industrial Park (PIP) to Public Open Space (POS) to accommodate a large-scale solar installation.

Chairman DiFazio noted the small designations are all by right in all except the Highway Transition zone and questions why. Mr. Schneider noted the reason is sight line concerns and reflective issues. They added in site plan that for all installations, regardless of district, Planning and Building has the right to request a traffic study to address these issues. Mr. Luongo noted that roof-top mounted units are allowed but not ground-mounted. Councilor DiFazio asked for the rationale why it is allowed by right in the I-2 and POS districts? He asked how many places in town it could include. He asked for a summary where they could go by right.

Councilor Hackett asked if Public Open Space includes any park? They reviewed the map. Mr. Luongo responded that Public Open Space includes all parks. Councilor Hackett asked if it includes Webb or Stella or both? Mr. Luongo responded that it includes all parks; all are zoned POS.

Bob Luongo reviewed the Green Community initiative application. It is a program that over 150 communities have been designated, and demonstrates that the community is environmentally responsible. By adopting the five criteria the town will save money and the taxpayers will save in the end. The Mayor supports pursuing the designation. The designation allows the town to apply for state grant funding. Weymouth may be eligible to receive \$250,000 that can supplement projects and adopting siting for an energy facility or alternative generating facility has to allow large-scale ground mounted and the criteria stipulates that it can't be conditioned on variance or special permit.

Councilor Hackett noted that by right, one person has the authority to approve a solar installation in any open space in town. Mr. Schneider responded that there is also a size consideration. She asked if there are aesthetic regulations. Mr. Schneider responded that there is nothing specific but the state law language is strict. There is some reason to be wary of trying to put in specific aesthetic limits. A reasonable commercial enterprise

would limit the use of parks and playgrounds due to size. Chairman McDonald asked why the language would include parks at all; and questions if there a way around including public parks and playgrounds? He understands the need to show the state, but doesn't think including all the public parks should be a part of the consideration. Mr. Luongo responded that they could create an overlay district that could float over specific parcels of land. They could place an overlay district over the prime area, the former landfill.

Councilor Lacey asked where in the process is the application, the timeline for the five criteria and a thorough overview of the plan. He is sensing the initiative is pretty significant and they don't have enough information to make an informed decision. Mr. Luongo responded that there are two issues. The deadline for the application to be designated a Green Community is October 23, 2015. The other is looking at a private sector entity building a solar facility on the landfill site. The zoning needs to work with the private entity. The five criteria include two in discussion at this time: the ground-mounted solar facility and adopting the Stretch Energy Code. A third criteria is the fuel efficient vehicle policy: where it is reasonable and possible that the town will purchase energy efficient vehicles (other than those exempted, such as emergency vehicles). Councilor Lacey asked if a private gas compressor facility would satisfy any of the criteria. Mr. Luongo responded no; it does not meet the condition of alternative energy source. The idea is not to encourage the use of fossil fuel. There is no deadline for the solar facility. The Green Communities initiative is an annual application.

If they do not meet the deadline with all five criteria on October 23<sup>rd</sup> they can reapply next year. Robert O'Connor reviewed quickly the five criteria. Chairman McDonald asked when the public hearing is scheduled. Jim Clarke and Diane Hachey have tentatively scheduled for October 5, 2015. Councilor Lacey suggested scheduling another meeting if necessary after the public hearing comments are complete. Councilor Mathews noted that the public does not have the opportunity to comment at site plan review. Mr. Schneider responded that site plan review is the strictest scrutiny possible and still qualifies for Green Community contention. Councilor Mathews suggested that one of the sites should not be subject to site plan review. He suggested designating only the landfill area and leave the others as special permit; it wouldn't be as controversial. He suggested taking their comments back to rework and still meet the deadline. What benefits does the town gain by getting the designation? Will it force the town to replace aging vehicles? Bob Luongo responded that the designation will allow the town to save energy costs. The energy reduction costs (20% within 5 years) will save the town money and then eligible for grants for energy work needed in town. The town will not be forced to replace vehicles. Trucks over a certain size would be exempt. They've inventoried gas usage for all vehicles in town to meet the reduction qualification.

Councilor Mathews asked if the town does not meet the goals, would the town lose? Mr. Luongo responded that an annual audit will determine their status and they can rework the goals. The purpose of the program is for the town to reduce its reliance on fossil fuels. Robert O'Connor noted the town will be eligible for an initial grant of \$220,000 and thereafter would qualify for competitive grants, as long as the funding holds out.

Chairman DiFazio noted that the incinerator site current zoning would need to be changed or reshuffling what is site plan review. He noted that public open space is under the town's jurisdiction so the only one that could bring a plan forward for anything in those areas would be via the town's initiative. Mr. Luongo responded that the town would contract with a private entity that would construct the facility and then sell the energy back to the town at a discount. Some are protected under Article 97 and would require an act of the Legislation. Chairman DiFazio noted if they intend to meet the October 23<sup>rd</sup> date they will have to move quickly. Vice Chairman Smart asked who would negotiate any joint public/private ventures. He urged the town to be diligent in reviewing credentials to be sure projects are not run by unskilled craftsmen. Mr. Schneider noted that negotiating the purchase of power would be by the Mayor and not a benefit to the residents by the town. It's a slow process and nothing is on the table yet.

Vice Chairman Smart asked who would ultimately review the plan in a joint public partnership? Mr. Luongo responded that the Planning Department would. Councilor O'Connor agreed with the majority of the committee that the POS zoning needs to be addressed as it leaves the town too vulnerable. He is all for solar energy but his state house office gets lots of calls from citizens who were taken. The process is a guaranteed rate reduction subsidy from the federal government and because it's an emergent market, there are some bad players.

A motion was made by Councilor Lacey, for the Environmental Committee to keep this item in committee, schedule another meeting after the public hearing, and was seconded by Councilor Hackett. He noted the October 23<sup>rd</sup> date is at high risk. Councilor Hackett agreed; they need more to make an informed decision; what are they committing to and what's the best way to meet the criteria? If they have to spend \$750,000 to gain \$250,000 and have to meet state mandates, then she is not in favor of it.

There was a brief discussion of the current zoning with Jeff Richards. Any construction must meet the current setbacks and special permit requirements. The current zoning does not allow for private solar farms. Vice Chairman Smart asked what accommodations are being made to warn and train firefighters with regard to safety around solar panels. Is special signage required? There is more that needs to be discussed. UNANIMOUSLY VOTED.

A motion was made by Vice Chairman Smart, for the Ordinance Committee to keep this item in committee until after the public hearing, and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

### **15 107-Building Construction-Adoption of Massachusetts "Stretch Energy Code"**

Jeff Richards presented the measure. He reported that the town codes have not kept up; while they are using updated codes- aligns with current 2014 code. Next year the state proposes to adopt the 2015 International Energy Code and Weymouth will mirror. Code requirements more aligned with SEC. He reviewed the new building construction requirements. The intent is to build up to today's standards and add a HERS rating. Every new commercial above a certain size or a new home or large addition will have to meet

the new code. 150 cities and towns in Massachusetts have adopted; Weymouth has not. This follows along with MA 2015 code requirement and local code has to match. The change puts Weymouth's code in line with the state's.

Chairman DiFazio asked if this will apply to all building permits. Mr. Richards responded not necessarily; only new construction and large additions. Chairman DiFazio asked if it will apply at Southfield. Mr. Richards responded yes.

Councilor Mathews asked what the financial impact will be with today's versus the new standards. Mr. Richards responded that only the addition would be subject to the new code- the insulation value and windows in the addition would have to meet the new HERS value. Mr. Luongo noted the change would add about \$3,000 to the average newly constructed home and the energy savings would be about \$500 per year. Councilor Mathews asked who would be responsible for the HERS testing. Mr. Richards responded that it would be the independent contractor's responsibility. Chairman DiFazio asked if there is any advantage to getting this measure passed quickly. Mr. Richards responded no.

A motion was made by Councilor Lacey, for the Environmental Committee to keep this item together with 15 106 in committee and was seconded by Councilor Hackett.  
UNANIMOUSLY VOTED.

A motion was made by Vice Chairman Smart, for the Ordinance Committee to keep this item together with 15 106 in committee and was seconded by Councilor O'Connor.  
UNANIMOUSLY VOTED.

## **ADJOURNMENT**

At 8:36 PM, there being no further business, a motion was made by Councilor Lacey, for the Environmental Committee to adjourn and was seconded by Councilor Hackett.  
UNANIMOUSLY VOTED.

At 8:36 PM, there being no further business, a motion was made by Vice Chairman Smart, for the Ordinance Committee to adjourn and was seconded by Councilor Mathews. UNANIMOUSLY VOTED.

Respectfully submitted by Mary Barker as Recording Secretary

Approved by

Chairman Kenneth DiFazio-Ordinance Committee

Chairman Brian McDonald-Environmental Committee  
Approved unanimously on 13 October 2015