

TOWN COUNCIL MINUTES
Town Hall Council Chambers
October 7, 2013, Monday

Present: Arthur Mathews, President
Patrick O'Connor, Vice President
Francis Burke, Councilor
Robert Conlon, Councilor
Kenneth DiFazio, Councilor
Jane Hackett, Councilor
Ed Harrington, Councilor
Thomas J. Lacey, Councilor
Brian McDonald, Councilor
Michael Smart, Councilor

Not Present: Michael Molisse, Councilor

Also Present: William McKinney, Chief Financial Officer
George Lane, Town Solicitor
Kathy Deree, Town Clerk
Richard Swanson, Town Auditor
James Clarke, Director, Planning & Development
Abby McCabe, Economic Development Planner
Walter Flynn, Chair, Planning Board
David Chandler, Planning Board
Sandra Williams, Planning Board
Richard Grimes, Chief, WPD
Joseph Comperchio, Capt., WPD

Recording Secretary: Mary Barker

President Mathews called the meeting to order at 7:30 PM. After the Pledge of Allegiance, Town Clerk Kathy Deree called the roll, with one member absent. President Mathews reported that Councilor Molisse had a prior family commitment.

ANNOUNCEMENTS

Councilor Burke announced several walking activities during the month of "Walktober" - walk to school day October 9, 2013--a 5K walk/run at Great Esker Park on October 14, 2013 a "Stock our Shelves" walk to benefit the Weymouth Food Pantry on October 18, 2013, the Senior Walk for Fitness at Pond Meadow Park on October 16, 2013 and Story Walk in Kids' Landing Park October 21-26, 2013.

Councilor Conlon announced the town will accept surplus barrels and recycling containers dropped off at the DPW Monday through Saturday from 7AM-7PM, October 1-31st, or residents can call 337-5100 for more information. He also announced

constituent office hours on October 8, 2013, 10-11AM. Councilor Conlon also thanked the Mayor and her staff for the success of the recent Great Pumpkin Give Away.

President Mathews announced that a Special Town Council Meeting is scheduled for Tuesday October 8, 2013, at which time the Starwood Corporation plans to present legislative reform recommendations for the Southfield development.

MINUTES

Education Committee Meeting Minutes of April 22, 2013

A MOTION was made by Vice President O'Connor to approve the minutes of the April 22, 2013 Education Committee meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

Budget/Management Committee Meeting Minutes of May 20, 2013

A MOTION was made by Vice President O'Connor to approve the minutes of the Budget/Management Committee Meeting of May 20, 2013 meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

Budget/Management Committee Meeting Minutes of May 30, 2013

A MOTION was made by Vice President O'Connor to approve the minutes of the May 30, 2013 Budget/Management Committee meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

Budget Management Committee Meeting Minutes of September 3, 2013

A MOTION was made by Vice President O'Connor to approve the minutes of the September 3, 2013 Budget/Management Committee meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

Economic Development Committee Meeting Minutes of September 3, 2013

A MOTION was made by Vice President O'Connor to approve the minutes of the September 3, 2013 Budget/Management Committee meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

Town Council Meeting Minutes of September 3, 2013

A MOTION was made by Vice President O'Connor to approve the minutes of the September 3, 2013 Town Council meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

Budget/Management Committee Meeting Minutes of September 23, 2013

A MOTION was made by Vice President O'Connor to approve the minutes of the September 23, 2013 Budget/Management Committee meeting and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

Town Council Minutes of September 23, 2013

A MOTION was made by Vice President O'Connor to approve the minutes of the

September 23, 2013 Town Council meeting and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

RESIDENT AND COMMUNITY COMMENT

PUBLIC HEARINGS

13 113-Rezoning Application for 1267 Washington Street- Application submitted by Michael Krause of ETI Realty, LLC- Map 5, Block 446, Lot 17-from Highway Transition and Industrial-1 to Industrial-1

A MOTION was made by Vice President O'Connor to open the public hearing on 13 113-Rezoning Application for 1267 Washington Street, and was seconded by Councilor Smart. This was published on September 11, 2013 and September 18, 2013.
UNANIMOUSLY VOTED.

Chairman Walter Flynn called the Planning Board meeting to order. A motion to open the public hearing and waive the reading of the public notice was made by David Chandler and seconded by Sandra Williams. UNANIMOUSLY VOTED.

Michael Krause, owner of ETI Realty, LLC, 1267 Washington was invited to the table. He is requesting a change in zoning so he can construct an auto repair business on the site. The lot is currently in the HT (Highway Transition) and I-1 (Industrial-1) zone and he is requesting the current Highway Transition zoning be removed and the property rezoned I-1 (Industrial-1) only.

The process was reviewed at President Mathews' direction. Mr. Krause reported he spoke with planning staff and Town Council. The owners held a public open house and invited everyone within a 300' radius of the property. All of the residents from Argyle Court, abutting the south section of the property, were present, as well as a few of the residents across Washington Street who had some concerns. Mr. Krause assured them that he would work to rectify the noise, dust and access to the property (that were concerns under the prior ownership) and will repair the fence on the property. He spoke with the previous owner who will continue as a tenant, and he provided a notarized letter that he will cease the screening operation that will also resolve the dust and noise issue since fill will no longer be dropped off for screening. Mr. Krause has offered to replace the fence with materials agreeable to the neighbors and has erected a temporary fence. The meeting overall went well.

Council President Mathews noted that the public hearing is about the rezoning only. Site plan review and formal presentation will take place later. Councilor DiFazio asked the purpose of the original dual zoning designation and if there are any adverse impacts to the change to single I-1 zoning. Mr. Clarke responded that the original rezoning was put in place when there was a moratorium and the current designation created zoning in 2009- HT. Two new zoning designations were created: HT and R-2 and the area on the map he provided was zoned HT to prevent overdevelopment in the formally B-2 zoning area. It runs a mile along Washington Street and the residential property in the area

(including Argyle Court) was rezoned R-2. Part of the purpose of the rezoning was to prevent what has occurred here; a lot in two different zoning districts, because in this case there is a use not allowed in the HT zone, but is in the I-1 zone. Most of the area to the rear is the Weymouth Industrial Park; all zoned industrial. They tried to follow the lot lines, but this is a case where it did not happen.

Councilor Smart reported that the matter was heard earlier in the Ordinance Committee meeting, and he asked the applicant to briefly review the type of business and the shared driveway. Mr. Krause responded that the property is accessed off of Washington Street, and two other businesses are on the right of way; S&E Auto and a shipping business. The building directly behind it is under agreement with S&E Auto. All three businesses are accessed along the right of way. He proposes an auto repair business that will operate repair and office tasks weekdays until 5PM and a half day Saturday, with no operation on Sunday. Councilor Burke asked if the property has any physical frontage on Washington Street. It was confirmed that it does not. Allowing it will therefore not change the character of the neighborhood along the highway. There were no comments from the Planning Board at this time. Additionally, there were no comments from the public.

A MOTION was made by Vice President O'Connor to close the public hearing on 13 113-Rezoning Application for 1267 Washington Street and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

A motion was made by Sandra Williams to close the Public Hearing on behalf of the Planning Board and was seconded by David Chandler. UNANIMOUSLY VOTED.

President Mathews noted that the Planning Board will make its recommendation to the Town Council and it will then be referred to the Ordinance Committee.

At 7:50 PM, there being no further business, the Planning Board adjourned its meeting.

13 119-Licensing of Junk Dealers & Dealers in Precious Metals

A MOTION was made by Vice President O'Connor to open the public hearing on 13 119-Licensing of Junk Dealers & Dealers in Precious Metals and was seconded by Councilor Smart. This was published on September 27, 2013. UNANIMOUSLY VOTED.

Police Chief Grimes and Capt. Comperchio presented the request for a modification to Section 9-601, specifically line 5 of the ordinance adding language relative to the disposal of metals to include "any other means of disposing." It's targeted to jewelry or metal items that could be destroyed that might be evidence in a crime. Line 6, regarding the reporting system was also revised. The current language provides for dealers to report items daily to the police department in the form of a fax; it can be difficult to discern distinguishing marks on the items allowing a victim of a crime to readily identify an item. Capt. Comperchio provided examples of faxed transmissions to the Council. The change would alter the manner in which items are submitted; licensees will be required to complete and provide an transmittal data sheet accompanied by a color photograph of

each purchased item that will identify any unique markings as well as a color photograph of a MA driver's license, MA identification card or valid identification card of the seller to be transmitted electronically. The intent is that this will continue to be a daily requirement and mirror the requirements in place at 65 other Massachusetts cities and towns. This is the overall driving factor for the request for a modification; it will upgrade the quality of the data transmission.

Council President Mathews asked how the insertion of item #9-2 compares to the current language. Chief Grimes noted that item 9 is almost redundant to item #5 and item #4 also addresses it. The goal is to make the language inclusive and take minors out of the mix. Councilor Smart asked how many businesses in town offer cash for precious metal. Chief Grimes responded that there are 19 in town, but 4-5 are active and 5-6 actually turn in slips. Councilor Smart asked if they could speak to penalties involved for violations. Chief Grimes responded that the fine runs from \$50-250 for a violation in the current language, but this part is not modified in the proposed changes.

Councilor Harrington asked if there will be specific standardized equipment and reported that he agrees with the proposed change, but would like to see a further requirement to include a photograph of the person selling the goods, and that the department develop standards for the quality of the photograph. Councilor Conlon concurred with Councilor Harrington. Councilor Burke asked if the change in the ordinance will then require all 19 businesses, that are licensed to deal in the items, to turn in daily slips. Chief Grimes responded that 6-7 businesses are actively doing business as purveyors of metals and the other 12 are not doing transactions.

The following public comments were heard:

Linda McDonald, 58 Laurel Street, opposed requiring a private citizen who pawns or sells items to have his/her photograph forwarded to the police department. She noted this is an assumption of criminal activity and she is concerned with an individual's right to privacy. Capt. Comperchio responded that the department does not assume this. She asked if the department goes around to the shops and reviews their ledgers on a regular basis, and she suggested the police are asking the pawnshop to do the police department's job. President Mathews asked how long the ordinance has been in place. Chief Grimes responded that the recording aspect has always been in place; it is the quality of the submission and the technology of the transmission that is proposed to be changed.

A MOTION was made by Vice President O'Connor to close the public hearing on 13 119-Licensing of Junk Dealers & Dealers in Precious Metals and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

13 123-Public Consumption of Marijuana Ordinance

A MOTION was made by Vice President O'Connor to open the public hearing on 13 123-Public Consumption of Marijuana Ordinance and was seconded by Councilor Smart. This was published on September 27, 2013. UNANIMOUSLY VOTED.

Chief Grimes reported that the measure was drafted by Capt. Comperchio and he reviewed the change in the language. It is based on the new statutory language regarding the possession of one ounce or less of marijuana. He read the language of the ordinance:

*“SECTION 6-102: Public Consumption of Marihuana (Marijuana),
Tetrahydrocannabinol or Marihuana (Marijuana) Infused Products.*

- (a) Prohibition – No person, whether in or upon a vehicle, motor vehicle, conveyance or in or upon any bus or other passenger conveyance operated by a common carrier, or on foot, shall burn, smoke, ingest, or otherwise use or consume marihuana (marijuana) tetrahydrocannabinol or marihuana (marijuana) infused products as defined in M.G.L.c.94c, s.1, as amended, and 105 C.M.R. 725.004, while in or upon any street, sidewalk, public way, footway, passageway, stairs, bridge, park, playground, beach, recreation area, boat landing, public building, schoolhouse, school grounds, cemetery, parking lot, or any area owned by or under the control of the Town of Weymouth; or in any place accessible to the public, or on private land or place without the consent of the owner or person in control thereof.*
- (b) Enforcement – This ordinance may be enforced through any lawful means in law or in equity by the Mayor, or duly authorized agents, or any police officer of the Town of Weymouth, including, but not limited to, enforcement by criminal indictment or complaint pursuant to M.G.L. c.40, s.21, or by non-criminal disposition pursuant to M.G.L. c.40, s.21D. Whoever is found in violation of this ordinance shall, when requested by an official authorized to enforce this ordinance, state his true name and address to said official. The fine for a violation of this ordinance shall be three hundred dollars (\$300.00) for each offense. Any penalty imposed under this ordinance shall be in addition to any civil penalty imposed under M.G.L. c.94C, S.32L.*
- (c) Seizure of Controlled Substances – All controlled substances being used in violation of this ordinance shall be seized, held and disposed of in accordance with M.G.L. c.94C, s.47A.*
- (d) Severability – If any provision of this ordinance is determined to be invalid or unenforceable by final judgment or order of a court of competent jurisdiction, the remaining provisions shall continue in effect to the extent permitted by law.”*

Capt. Comperchio explained that basically the language change would add an additional financial penalty to the existing civil penalty. If not paid, then the party would be required to appear in district court. Chief Grimes reported that it is a preemptive move with the decriminalization of marijuana.

Councilor Smart asked where the language was derived from and if it is any way in conflict with the ballot question approved last year. Capt. Comperchio responded that the language is similar to what has been drafted in other towns and guidelines provided by the state. Solicitor Lane reported that he worked with the police department to craft the ordinance language. One of the threshold questions was whether the new marijuana ordinance is consistent with it and it is. The proposed ordinance authorizes the addition of

penalties. He also noted that under federal law, public consumption is still outlawed. It was clarified that there is no conflict with the newly enacted legislation.

Kevin Harris, 14 Fort Point Rd. opposed the ordinance change and reported that it addresses a problem that doesn't exist. People are not publicly consuming marijuana in public. He is disappointed that Council is addressing this topic when there are so many other issues including the funding of schools, the blight on 3A and overall funding which need attention. He notes the prevalence of drugs and said he would be willing to support the police in the effort if it would close every known drug house in town. He recommended the Council table the issue until such time as a problem with public consumption arises.

Chief Grimes responded that he takes exception to the comment that public consumption is not happening--it is. With decriminalization the shift to a civil infraction did not decriminalize it; it changes the penalty for infraction. He notes that marijuana is still a gateway drug, and the department must start at the bottom. With advent of med marijuana, the police need to have enforcement action. This was issued by the exec office of public safety who obviously thought it was of value.

Linda McDonald, 58 Laurel St. opposed the ordinance. The current general law has a fine for adults. Minors are also subject to the fine and also must attend drug awareness training. She noted the gateway theory has not been proven. She took issue with that language in the ordinance regarding private land, and asked what the department will use as evidence of violation. Capt. Comperchio responded that it is based on an officer's training experience. There is no testing protocol. Ms. McDonald noted that the SJC of Massachusetts ruled that the smell is not sufficient proof to search. She asked how many \$100 fines have been levied this year and how many for alcohol. Capt. Comperchio responded that 19 violations were issued but he did not have the alcohol statistics. She noted there is already a smoking ordinance in place. This ordinance is redundant and silly and the police are trying to create an issue that isn't there to strengthen their drug fighting capabilities.

Lyn Frano, 31 Eisenhower Rd. and town Substance Abuse Prevention Coordinator-supported the ordinance. With the decriminalization, there will be a change in the perception of risk and harm in this community and across the state. Young people today see there isn't any consequence for smoking marijuana and without it, the use will increase. As in those states that have already decriminalized it, it's been proven that use is on the rise. We don't want to normalize it. It is a proactive approach that many other cities and towns in the Commonwealth will be taking with the anticipated issues with medical marijuana.

Kathy Olson, Health Teacher, WPS supported the ordinance. She has been a teacher for over thirty years who has taught health the last ten. She is very concerned that what used to be marijuana use by 7th and 8th graders has become more 4th, 5th and 6th graders who think it is ok. These kids are starting before the brain is ready for it and it is evident in their early 20's that it skews their academic, focus and concentration. This problems

needs to be addressed with younger students. There is no drug awareness program for grades K-4 and very limited for the middle school levels. She also noted that her mother was the victim of a recent carjacking that was publicized, and the perpetrator had a lengthy arrest record and did not have any health education in school.

Jacob Moran, 33 Congress St. and Co-chair Substance Abuse Prevention spoke in favor of the ordinance and provided a teenager's perspective. If someone can get pulled over and if there is the chance of having a criminal record or a fine attached, it might discourage the activity. Smoking in public affects others around them-secondhand smoke and secondhand high. His mother has MS and does not use her drugs in public.

Andrew Moran, 33 Congress St. spoke in favor of the proposed ordinance. He noted those who disagree believe it goes too far, but the idea is for prevention. He sees a lot of kids in the high school who use drugs. Smoking in public happens. There are asthmatics who can't deal with the inhalation. He personally does not like inhaling smoke when walking by smokers. He would like to be in public without having to inhale other's smoke.

Kevin Harris noted there is a law in place regarding smoking marijuana in public. What the Council is deciding is whether to add on to that law. The last three presidents admitted to smoking marijuana and there may be one or two councilors that have partaken. There have been 21 instances over the course of three-quarters of a year. What are they stopping? There is no epidemic. Adding an additional fine or additional laws appears to be implemented simply to say we are doing something about drugs- he recommended doing something else about drugs. Focus on the real issues; this is not one.

Jake Fidrocki, 156 Academy Ave. spoke in favor of the ordinance. He noted that it is considered an illegal substance and should not be used in public. Because it is illegal there is no reason not to have more laws against its use including in public. It is a problem in the community.

Lyn Frano, noted that the DPH provides guidelines that a person receiving medical marijuana can receive up to 10 oz. for a 60 day supply. Research by Dr. Kevin Hill of McLean Hospital indicates that even those addicted to marijuana will likely not use more than 4 oz. per month. A lot will be diverted from personal consumption to the community and when you increase use you will also see an increase in harm and risk.

Linda McDonald, noted that 60% of Massachusetts voters were in favor of this and wanted lawmakers to focus on other things. It's no different than bar patrons on a Sunday afternoon for a game and there aren't police out there waiting for them. Alcohol wreaks havoc all the time. This is redundant and overkill. All the anecdotal evidence is not necessarily statistics supporting that 4th graders are smoking marijuana. It's not necessarily true; kids exaggerate just like adults do. Stick with the issue; they seek to impose on higher fine on what people of MA voted for. One of her pet peeves is people parked on sidewalks and police aren't ticketing. The police don't like that it was

decriminalized and this is public safety organizations way of attempting to gain control back. It won't show up on a C.O.R.I. or preclude public assistance.

Jake Moran noted that it is just a battle of opposing sides; that from a medical standpoint, it's not so bad. Statistics show that children follow their parent's suit in medicine use. They learn everything from parents and they learn from them that it isn't bad. It will gateway into harder stuff quickly. There are drugs that are more dangerous.

Claire Coughlin, 422 Commercial St. noted that she believes marijuana is safer than drinking, but she agrees with the ordinance. If it discourages one or two; it will allow the police to concentrate their efforts. It is not a waste to make a proactive approach. She suggested setting a stronger initial threshold and back down later if necessary.

A MOTION was made by Vice President O'Connor to close the public hearing on 13 123-Public Consumption of Marijuana Ordinance and was seconded by Councilor Smart. UNANIMOUSLY VOTED.

COMMUNICATIONS AND REPORTS FROM THE MAYOR, TOWN OFFICERS AND TOWN BOARDS

13 124-Fiscal Year 2014 Proposed Supplemental Operating Budget

CFO William McKinney requested on behalf of the Mayor that the Town of Weymouth raise and appropriate the sum of \$140,309,091 which is \$698,688 greater than the amount of the annual Appropriation of \$139,610,403 voted by Council on June 3, 2013 in measure 13-068 to provide for all the expenses for the maintenance and operation of the Town's several departments and activities for fiscal year 2014 by re-appropriating the following line items in the following amounts:

REVENUE				
Line Item	Description	Original Appropriation	New Appropriation	Increase
11450410.415206	Meals Tax	0	\$400,000	\$400,000
11450410.460009	Homeless Transport	0	\$148,688	\$148,688
11460410.413214	Motor Vehicle Excise	\$5,000,000	\$5,150,000	\$150,000
			Total	\$698,688

A MOTION was made by Vice President O'Connor to refer item 13 124-Fiscal Year 2014 Proposed Supplemental Operating Budget to the Budget/Management Committee and was seconded by Councilor Smart. Councilor Lacey noted that a detailed breakdown of spending for Parks/Recreation was requested and CFO McKinney reported that it is included in the backup material that was provided in the Councilors' packet. UNANIMOUSLY VOTED.

ADJOURNMENT

The next regular meeting of the Town Council has been scheduled for Monday, October 21, 2013. At 8:51 PM; there being no further business, a MOTION was made by Vice President O'Connor to adjourn the meeting and was seconded by Councilor Smart.
UNANIMOUSLY VOTED.

Respectfully submitted by Mary Barker as Recording Secretary

Approved by Council President Arthur Mathews