

**TOWN COUNCIL MINUTES
ORDINANCE COMMITTEE
Town Hall Council Chambers
September 19, 2005**

Present: Paul J. Leary, Chairperson
Michael Smart
Arthur Mathews
Kenneth DiFazio

Not Present: Colin McPherson

Also Present: George Lane, Town Solicitor
Michael Molisse

Recording Secretary: Janet Murray

Chairman Leary called the Ordinance Committee Meeting to order at 6:35pm.

05 026 – Proposed Amendment to Responsible Employer Ordinance (REO) – tabled from June 6, 2005

This item was tabled at the June 6, 2005 meeting.

Immigration Reform Control Act (IRCA) of 1986 established the W9 form which requires that employees obtain vital information including a Social Security Number. However, this Act did not require verification of the Social Security Number and the applicant's immigration status. This verification can be done through the Social Security Administration and through a service provided on the internet.

Councilor Mathews had previously expressed concern that the scope of the number of contracts under the REO under \$10,000 and \$200,000 would be worth the effort. He noted that there are approximately 400 such contracts. Mr. Casimiro stated that he spoke to James Keefe, the Town's Procurement Officer.

Councilor McPherson expressed concern that there would be too much paperwork. Mr. Keefe had stated that there is a reporting procedure in place that this verification could be added to.

Councilor Leary noted that this measure only affects the contracts under the REO. Other measures would have to be submitted and passed in order to expand this.

Solicitor George Lane expressed concern regarding moving forward with this on a local level. He noted that a court case involving immigration status is a federal issue and not one of local authority. He noted that this case was in New Hampshire.

He stated that an employee's Social Security number is required when filling out the federal Form W9. It was his opinion that this information and verification should be handled at the federal level.

Solicitor Lane stated that it was possible that the Privacy Act of 1974 would preclude the Town from taking this action. If the Town were to take such an action, it could lead to a discrimination suit.

Robert Casimiro stated that the Social Security Number is already required on the W9 form. This ordinance would require an additional step of verifying that the Social Security Number is valid and belongs to the individual who is using it.

Councilor Mathews asked Solicitor Lane if the Privacy Act of 1974 makes reference to Social Security Numbers. Solicitor Lane responded that this Act states that a reason for disclosure must be given.

Councilor DiFazio questioned what is currently in place. Mr. Casimiro stated that he believes that the Town receives a copy of the W9 Form.

Solicitor Lane stated that the Social Security Administration has a caveat on the website that states that if an employer intends to use this information to justify taking adverse action against an employee, this may violate state or federal law and be subject to legal action.

Councilor Leary stated that the Ordinance does not make it clear who would enforce it.

After further discussion, it was decided to recommend continuation of this matter until further written documentation from Solicitor Lane of the information presented this evening is submitted.

A MOTION was made by Councilor Smart to CONTINUE the discussion on Item #05 026 and was seconded by Council Mathews and UNANIMOUSLY VOTED.

05 090 – Precious Metal Ordinance

Police Chief Thomas and Officer King appeared before the Ordinance Committee. Chief Thomas stated that he is looking for support on an amendment to the Precious Metals Ordinance. The reason is to have a better control of the sale of used gold and jewelry.

Officer King stated that after an incident involving fenced items, he became aware that the current system was not working well. He noted, specifically, that the reporting has become lax and not well regulated.

The Precious Metal Ordinance would be amended to increase the number of days an item must be held from 15 days to 30 days.

The amendment would also require that each licensee submit a report each day, for the preceding day on an approved form from the Police Department. The information submitted would include the item bought/sold, the seller's name, as well as a picture of the item.

Solicitor Lane stated that this amendment would place responsibility on the precious metal dealers.

Councilor Leary stated that the price paid for the item should also be listed. Chief Thomas stated that this would be added.

Councilor DiFazio stated that the 30 days should begin from the date of the report being filed.

It was noted that a Public Hearing is required.

A MOTION was made by Councilor DiFazio to move to the Council with a FAVORABLE REPORT, Item #05 090, as amended, pending a public hearing, and was seconded by Councilor Molisse and was UNANIMOUSLY VOTED on a 4-0 vote.

05 095 – Review of Charter – Timelines for Budget

Solicitor Lane stated that there has been discussion regarding the changing of the date for the submission of the budget. There was also a question as to whether the Town had to wait until the ten (10) year review period to make a change. He stated that this review period is independent of any intermediate Charter change.

He stated that there is a provision to use the ballot, but he noted that this is cumbersome. It was his opinion that the best way to affect this change of budget time would be to have the Mayor approve and forward a measure to the Council to have the Council by majority vote, draft and forward an act of the legislature amending the Charter. This would be the most expeditious way.

Councilor Mathews stated that he believes that this change would be helpful to the Town. He noted that with the current time requirements, the Mayor is attempting to submit a budget before the State has released the Cherry Sheet.

A MOTION was made by Councilor DiFazio to TAKE UNDER ADVISEMENT Item #05 095 and seconded by Councilor Molisse and UNANIMOUSLY VOTED on a 4-0 vote.

At 7:15 pm, there being no further business, A MOTION was made by Councilor Smart to ADJOURN and was seconded by Councilor Mathews and UNANIMOUSLY VOTED.

Approved by: _____
Paul J. Leary, Chairperson