

**TOWN COUNCIL MINUTES  
ORDINANCE COMMITTEE  
Town Hall Council Chambers  
October 6, 2008**

Present: Kevin Whitaker, Chairperson  
Arthur Mathews, Vice-Chairperson  
Brian McDonald  
Michael Smart

Absent: Ed Harrington

Also Present: Patrick O'Connor  
Robert Conlon  
Victor Pap  
Frank Fryer  
George Lane  
Michael Gallagher  
Jeff Richards

Recording Secretary: Diane Hachey

Chairperson Whitaker called the Ordinance Committee meeting to order at 7:05 PM. He stated that he would like to have this be a working meeting and stated that no report of committees would occur. He additionally noted that Councilor Harrington would not be in attendance this evening.

**Gasoline Prices-Buyer Beware**

Jeff Richards (representing the Department of Weights and Measures) approached the Committee. Mr. Richards confirmed that Richard Ziegler of his office inspects gas stations on a regular basis. He then distributed a copy of the Weights and Measures standards from the Division of Standards and explained that they are the regulating authority and not the Licensing Board. Mr. Richards stated that the town is waiting for a ruling by the state, as they have not issued a clear ruling on this issue and until then his department is suggesting clear indication of the cash versus credit price, by the gas stations.

Mr. Yazbeck was introduced as a station owner who was appearing voluntarily before the committee to offer testimony to assist the committee in its deliberations. During the meeting it was made clear on several occasions that Mr. Yazbeck's attendance was voluntary and to help the committee better understand the industry and not due to any practices at his station. Mr. Yazbeck explained that many of the major credit card companies (Visa, Master Card etc.) charge a nominal fee to the stations for credit transactions (typically 2%), and are prompt in their payments back to the station. He stated that he as the owner does not pass this fee onto his customers. The "Fleet" credit card charges 3 cents (more per gallon), in addition to a substantial delay in payment. Therefore, he charges those customers a slightly higher price for utilizing the Fleet Charge. He does clearly disclose this additional charge to his customers and

noted that he had checked with the state to insure he was in compliance on this. Mr. Richards confirmed this.

Chairman Whitaker asked Mr. Yazbeck the manner in which the higher charge is displayed as that is the issue that seems to be of concern. Mr. Yazbeck confirmed that a rectangular sign, approximately 2 inches by 5 inches wide is displayed on the pump but not on the street sign. Chairman Whitaker indicated this is where he believes there is a problem, especially in Weymouth where there are no self-service stations allowed. Chairman Whitaker indicated he did not believe a consumer observing a price displayed on the street would know to look at a small sticker located on the pump as they drive past it, or then have to turn around and try to read it from the driver's seat while looking backwards. He indicated there seems to be a disconnect between the regulations and their intent. This is not to say the stations are not following the law, but perhaps the law needs to be corrected so that consumers know what they are being charged when they place their order.

Councilor Mathews asked if through the Board of Licensing Commissioners an ordinance could be developed.

Mr. Richards confirmed that the Division of Standards is the regulating authority and this would need to be mandated by them.

Councilor Mathews recommended that the Committee forward a letter to the Division of Standards addressing this concern.

Solicitor Lane agreed with Councilor Mathew's recommendation and reiterated that an ordinance at the town level is not recommended.

A discussion occurred concerning the powers of the Town Council to regulate advertising of pricing under the council's legislative powers or through changes in zoning by-laws. Solicitor Lane indicated the Council would need to proceed with caution in areas that are preempted by state law and have been the subject of recent opinions of the Attorney General. The issue was left open for further review.

Chairman Whitaker questioned which percentage of stations charge different prices for cash versus charge transactions.

Mr. Richards estimated that 70% of stations in Weymouth fall under this category.

Councilor Smart questioned the number of stations who were found to be in non-compliance when investigated by the Weights and Measures staff.

Mr. Richards confirmed that approximately 7 (seven) stations were non-compliant.

Councilor O'Connor attested to the character of Mr. Yazbeck and expressed his understanding of the need to pass on charge card fees to customers.

Councilor Smart asked when we expect to hear from the Division of Standards.

Mr. Richards said he would follow-up on the status and Councilor Smart requested that he forward said findings to the Chairman of the Ordinance Committee.

Chairman Whitaker extended his gratitude to Mr. Richards and Mr. Yazbeck for their attendance and comments on this important issue.

Susan DeChristoforo approached the Committee and noted that she does not want gas stations to incur losses as a result of credit card companies accessing fees and feels that it is the consumers right to have the cash versus the charge price clearly displayed up front and not after the sale. She appreciates the Committee addressing this situation.

Chairman Whitaker will wait for a report from Mr. Richards and revisit this issue if necessary, as this situation may work itself out through the state's interpretation.

### **07 131-Proposed Ordinance Change to Section 3-326-Community Preservation Committee**

Councilor Mathews explained his intent in withdrawing this measure. He spoke with Mayor Kay and determined that this proposed ordinance change was an issue with prior administration but is not currently an issue under the current administration. Additionally, he cited that this proposed ordinance could cause potential issues with the Fogg Library as an example, since it would require that the Mayor act within a 30-day time frame. To this end, Councilor Mathews motioned to withdraw measure number 07 131, seconded by Councilor Smart and voted unanimously by the Committee.

### **08 095-Proposed Ordinance Tenant Identification**

Chairman Whitaker entertained a motion to continue this agenda item as the hour is late. Councilor Mathews motioned for continuance, seconded by Councilor Smart and voted unanimously.

### **Notice from Utility Companies Prior to Work Commencement**

Chairman Whitaker noted that Mr. Irving Murstein raised this issue initially and it was referred to the Ordinance and Public Works Committees. Councilor Whitaker reminded the committee that he had contacted the Department of Public Works Director on behalf of the Committee previously to discuss the issues raised. At the time there was a change in Administrations occurring and Mr. O'Connor felt there was an opportunity within our existing code of ordinances and regulations for the issues raised to be addressed. Chairman Whitaker indicated he is only raising the issue now as an opportunity to follow-up on this topic and he will forward a letter to the District Councilors to inquire if procedures put in place by the Department of Public Works are working sufficiently. Councilor Mathews motioned for the letter to be sent, Councilor Smart seconded and the committee voted unanimously.

**ADJOURNMENT**

At 7:35 pm, there being no further business, A MOTION was made by Councilor Mathews to ADJOURN and was seconded by Councilor Smart and UNANIMOUSLY VOTED.

Approved by: \_\_\_\_\_  
Kevin Whitaker, Chairperson

Respectfully Submitted by: Diane T. Hachey-Recording Secretary