

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

Present: Susan Kay, Chairperson
Greg Shanahan, Vice-Chairman
Arthur Mathews
Greg Shanahan
Kevin Whitaker

Also Present: Robert O'Connor, Director/Dept. of Public Works
Fire Chief Leary
Police Chief Thomas
Councilor Paul Leary

Recording Secretary: Susan DeChristoforo

Chairman Kay called the Ordinance Committee Meeting to order at 8:45 PM.

06 125 Utility Applications/Petitions Proposed Changes

Chairman Kay noted that this Measure was continued from their September 14th, 2006 meeting as they had some unanswered questions. To respond to those questions, Bob O'Connor, Director of the Department of Public Works was present. She further commented that she felt it was a good package and members were all pretty much in agreement although there were some questions regarding Keyspan. Ms. Kay specified she only wanted to address those petitions that come before the Town Council.

In response to Ms. Kay's comments, Mr. O'Connor noted that Keyspan has been the most active of the utility companies with regard to Street Opening Permit Requests, which are required for every excavation in Town. He told members that most are one-week repairs, although there are times when leaks are detected or repairs need to be addressed, commenting some can't wait.

Mr. O'Connor went on to say that the second largest number of requests received are for service. He commented that there are utility companies that hire marketing firms to create incentives for hook-ups; such as, Hook-Up for a Fee, adding that it is rare for them to receive a work request for a 'main' extension.

Councilor Mathews told Mr. O'Connor that when he originally proposed the Ordinance, it involved residents only receiving a brief postcard as a means of notification, no details were included regarding the work order. His intent was to make sure residents/abutters received more detailed information; such as, a map/location, timetable and explanation of the work to be performed. He said that some utility companies who appeared before the Town Council were somewhat hesitant to do this, because they told the Council they deal with the DPW directly. He said that he understood that if the work order involves an emergency leak it would not be part of this newly proposed procedure. In regard to the proposed Ordinance change, he felt it would benefit the Council and the residents to know how it works.

Mr. O'Connor informed members that 95% of the work involves small trenches and that the utility company usually performs 4 to 5 excavations in a day.

Councilor Mathews spoke about the work performed on Springvale Circle.

Mr. O'Connor told Councilor Mathews that was considered to be a 'main' extension - and it takes a serious amount of time to complete this work.

Councilor Mathews asked Mr. O'Connor if he has seen the proposed procedure and he responded 'yes'.

Councilor Mathews asked if he felt the new procedure would impede his work, as this is what the utility companies told them when they appeared before the Council.

Mr. O'Connor said his goal is to see the work done in a timely manner, so the street can be paved as soon as possible.

Councilor Mathews told Mr. O'Connor that the residents did not know where the utility poles were to be relocated, with Mr. O'Connor replying 'that would not impede me'.

Councilor Smart wanted to let Mr. O'Connor know that he felt the Verizon representative that appeared before the Council was very rude, disrespectful and not informative. He added that he agreed with the intent that residents should have much more detailed information and that the utility companies should be the ones to supply it.

Chairman Kay referred to a letter she received from Verizon, stating she didn't feel they wanted to comply with what was asked of them by the Council and she wanted Town Solicitor Lane to review it, adding that they offer better services to other local communities. She told Mr. O'Connor that Solicitor Lane informed her that the Council has a right to require this. She then referred to the Ordinance addressing enforcement. She said she was in receipt of the September 12, 2006 Department Head memo in support of the Ordinance. There was also support of a section stating "failure to comply would result in continuation of their public hearing for non-compliance".

Councilor Smart interjected that the recommended change would not block any work of an emergency nature.

Chairman Kay recommended Atty. George Lane review the packet again and fine-tune it.

Councilor Shanahan supported the idea, with the understanding it would not interfere with the work of other Town departments.

Chairman Kay wanted to emphasize that it would be the responsibility of the utility company to obtain the list of abutters and send out the notification via certified mail - and that it would not be the responsibility of the staff in the Town Council Office.

Councilor Mathews said he was not sure they should pursue it as a Regulation or an Ordinance.

Councilor Smart stated that in his role as President of the Town Council, he would not allow the item/public hearing on the agenda if the packet was incomplete and this includes proper notification to the abutters/residents. Additionally, the information would have to be to the Town Council within a certain time period. He said that they would give them the information specifying what information they need to provide when they come in to file their application/petition.

Councilor Whitaker said he personally leaned toward making it a Regulation, adding that the Town Council rules might include an exception - if it affects the Town's greater interest; i. e., pavement issues or for safety concerns - where gas lines/access points are located.

Chairman Kay said they wouldn't need very detailed maps, just pretty much what is submitted to the Council for their review; i. e., indicating if a pole is going to be moved from one place to another - a simple map showing the locations.

Councilor Mathews referred to gas utility petitions, stating he would like to know the location of the cuts in the sidewalk.

Councilor Smart agreed, stating he did not see a need for the company's site utility plan.

Councilor Leary said he was looking for them to provide a better-scaled map, adding that his primary concern was with the poles.

A MOTION was made by Councilor Shanahan to continue discussion on Measure 06-125, Utility Applications/Petitions Proposed Changes, to allow for review by Town Solicitor Lane. Additionally, Mr. O'Connor could review the map, with the Town Solicitor's opinion coming back to the Ordinance Committee including his recommendation on it becoming an Ordinance or a Regulation - with the matter coming back before the Town Council and was seconded by Councilor Mathews.

Discussion:

Also suggested as part of the motion was the wording '*with no action to be taken if the utility company fails to comply with the requirements*'.

Councilor Mathews commented that he would lean towards the proposed change becoming a Regulation as opposed to an Ordinance.

Councilor Kay interjected that they would always have the option of changing it from a Regulation to an Ordinance if the procedure was not working.

Councilor Shanahan accepted the amendment to his motion.

UNANIMOUSLY VOTED

06 126 Utility Pole Removal Proposed Ordinance

Fire Chief Leary came before the Committee to address Measure 06 126.

Chairman Kay noted that discussion on this measure was a continuance from their 9/14/06 meeting. She explained that the primary issue was the large number of double poles that have remained standing in Town, many with fire alarms systems still attached and because of this, the second pole could not be removed. She asked the Chief to update the members on the status of the removal of the alarms on the double poles.

Chief Leary told the members that the removal has been slow because he is short staffed. He said he was pleased with National Grid's new program entitled "Ball in Your Court", explaining that when a second/double pole is installed, they will transfer the wires. Next the utility company informs the Police Department that it is up to them to remove the alarm system - hence "the Balls in Your Court". Right now there are "142" balls in the Fire Department's court, noting the number has decreased by 30 since the Council gave them the report. He said out of the 13 circuits they had, 7 are dead. He further explained that the Fire Dept. is in the process of converting them over. He said that they are in Year 2 of disbanding the old system. Further at the end of October Phase 2 will be off-line, with the goal of them all being eventually 'dead'.

Chief Leary then addressed Phase 3, which he said was moving along well. He said the work order call for the Fire Dept. to take the wire from one pole and install it on the adjacent pole. He told members that they are hoping to dismantle the system, but they need more personnel to do it in a timely manner. He said that occasionally they have firefighters working overtime who help out. At this point the person responsible for this work has been out sick.

Councilor Leary asked about a timetable and Chief Leary said he would have a better idea when he finds out about the funding in the spring, now they are looking at the overtime account. He explained that the work couldn't be done safely without another person below them. He then spoke about the work order, which listed the primary utility company do their job first, then the secondary and the third party was the Fire Dept. He also mentioned that they are now dealing with fiber optics which is new and here to stay. He reaffirmed all that presently the Fire Dept. has "142" Balls in their court.

Councilor Mathews asked how many firefighters were trained to do this work and the Chief replied 'one'.

Councilor Whitaker asked for the total number of double poles in Town and the Chief replied that he did not have an exact count, with Chairman Kay interjecting that there was a total of 388, with 142 being the responsibility of the Fire Dept.

Chief Leary told the members that the only other option to get the work done sooner would be to hire a private contractor.

Councilor Smart asked if they owned a standard bucket truck and the Chief replied 'yes'.

It was noted that over 200 were not the responsibility of the Fire Dept., yet the focus was being placed on them.

Councilor Smart wanted to know if the fiber optics would be the Town's responsibility and the Chief responded 'yes'.

Councilor Leary stated that he read from the Superior Court, a decision that the double pole must be removed within 90 days, emphasizing that was the law. He recommended that the DET is sent a notice every time there is a double pole situation, pointing out that they have 90 days to remove it.

It was noted that National Grid is responsible for one and two, with the Fire Dept. #3, Cable TV #4 and the Telephone company #5.

Chief Leary told the members that for a long time the Fire Dept. received no notification, but he liked the new program 'ball in your court' - which he felt was a big improvement.

Councilor Smart asked if there was a line item for this work and the Chief confirmed there was; i. e., Fire Alarm Maintenance, adding it does not cover overtime - but is for equipment and items of that nature. He further explained the removal process and spoke of different types of wiring, as well as, junction boxes.

Councilor Leary referred to the area south of the expressway, asking if the State was responsible for Route 3 where it intersects with Route 18 - and if so, were the poles in this area considered a priority and Chief Leary responded 'yes'. The Chief explained that the state pays them for removing the wiring, based on what a contractor would charge. If necessary in this situation, he would hire extra people to complete the work.

Councilor Mathews felt they should go back to the utility companies once more, because of the 200+ poles that are standing and are their responsibility.

Chairman Kay asked the Chief if he could identify which poles were the responsibility of the Fire Dept. and he said he could and would get the information back to them the first of next week - adding he would clarify which are active and which are dead.

A MOTION was made by Councilor Shanahan to continue discussion on Measure 06-126 Utility Pole Removal Proposed Ordinance and was seconded by Councilor Smart and UNANIMOUSLY VOTED.

06 125 Yard Sale Ordinance Review

Police Chief Thomas came before the Committee to address Measure 06 125.

Chairman Kay wanted to speak about the enforcement of the Yard Sale Ordinance with the Police Chief. She stated that some communities send the Police Dept. a copy of a Yard Sale Permit when it is approved, to keep them informed in case of any problems. She asked for his views.

Chief Thomas said he was okay with the present set-up. He noted that there was one location in town that has presented some problems, primarily due to the personalities involved. He told members that the first Yard Sale Ordinance limited the number of yard sales per year to (4) four and he felt that did an adequate job.

Chairman Kay felt if the petitioners filled out a form it would give them something to enforce.

Chief Thomas told members that it was not a usual source of complaints, and there was only one that he knew of, which he felt was due to the personalities involved and a lack of respect for the neighbors.

Chairwoman Kay asked 'do you only act on complaints and the Police Chief answered 'yes', adding they could bring about a parking issue.

Councilor Mathews asked if a person had more than four yard sales, are those complaining encouraged to call the Police Department and Chief Thomas replied 'yes'.

Councilor Leary asked if he condoned an illegal Ordinance, reading from the verbiage - referring to the portion that states "the property sold could only be that of the person applying for the permit"; commenting that many in Town were breaking this law.

Chairman Kay felt that the Ordinance needed to be rewritten and tightened up.

Chief Thomas said that if a person had more than (4) yard sales then he would enforce it.

Chairman Kay asked the Chief how he would know if a person held more than four yard sales and he responded that he wouldn't know on paper - not unless a person called six or so times, then they would have a paper trail.

Councilor Smart suggested they could amend the Ordinance so that there would be a paper trail.

When the Chief was asked if he received four separate calls on a location about a yard sale and there was no paper trail, would it be considered a violation and Chief Thomas said it would.

Councilor Whitaker said he didn't see chasing down yard sale violators as the best use of a police officer's time, adding if the Chief is content with the present situation then he was too.

Councilor Shanahan agreed with Councilor Kay - that the Ordinance needed to be tightened up.

Councilor Mathews read Councilor Shanahan's draft Ordinance, which included mention of non-profit organizations conducting a yard sale. He felt it was a good starting point.

The Police Chief said the new Ordinance was fine with him, but asked 'will it make my job easier?' The answer is no.

Councilor Mathews referred to the application form and asked the Chief if a person held a yard sale without filing an application, could a fine be enforced.

In further discussion it was noted that if they feel a fine is in order, then a public hearing would be required.

The Chairman agreed.

Councilor Smart commented that some people hold yard sales every week and he felt this needed to be addressed, with the Chief interjecting "then that would be viewed as a business".

Chairman Kay wanted to take more time to look at the proposal. She said the form requesting to hold a yard sale could be filled out at the Town Clerk's office or the Police Department, which would then create a proper paper trail.

A MOTION was made by Councilor Mathews to continue discussion on Measure 06 143-Yard Sale Ordinance Review until the next Ordinance Committee meeting and was seconded by Councilor Shanahan.

Discussion: Chairman Kay asked Councilor Mathews if his intent was to review Councilor Shanahan's proposal, with Councilor Shanahan interjecting that the administrative process would also need to be reviewed.

Councilor Smart wanted to point out that many don't realize the law exists, adding they would need to get the word out and make residents aware. He felt this could be the reason many do not register.

Chairman Kay accepted Councilor Mathews motion.

SO VOTED 4/1 (Councilor Whitaker was opposed)

ADJOURNMENT

At 9:50 PM, there being no further business, a MOTION was made by Councilor Shanahan to ADJOURN and was seconded by Councilor Mathews and UNANIMOUSLY VOTED.

Approved by: _____

Sue Kay, Chairperson