

**Town Council
Ordinance Committee Meeting Minutes
Town Hall Council Chambers
31 January 2023 at 6:30 p.m.**

Present: Kenneth DiFazio, Chairperson
Gary MacDougall, Vice Chairperson
Arthur Mathews-Councilor
John Abbott-Councilor
Lisa Belmarsh-Councilor

Also Present: Richard McLeod, Town Solicitor
Kenan Connell-DPW Director
James McGrath-Assistant Town Engineer
Owen MacDonald, Town Traffic Engineer
Lieutenant Brian Morse, Weymouth Police Department

Recording Secretary: Janet P. Murray-transcribed via recording

Chair DiFazio called the Ordinance Committee meeting to order at 6:30 p.m. He pointed out that there is no recording secretary and that the meeting minutes will be transcribed from the meeting recording. He asked that anyone who speaks to identify themselves and further noted that there is a Weymouth resident who will be video recording tonight's meeting.

22 135 – Town Council Code of Ordinance Amendment, Section 8-408 – Openings in Street Restricted

Councilor MacDougall stated that he is looking for favorable action on a change to Code 8-408. He stated that the term, "In General", leaves it open for interpretation that permission can be granted to open a street prior to the 5-year restriction without Council approval. Removing "In General" will ensure that there is no room for interpretation or ambiguity and ensure that the code will be followed.

Chair DiFazio inquired if this measure has been reviewed by the administration. Mr. Kenan Connell, Director of Public Works, and Jim McGrath, Assistant Town Engineer appeared before the committee.

Mr. McGrath began the discussion by talking about the normal responsibilities prior to paving a road. He pointed out that comments are made about putting in a new water main, a new gas line, a cable line, or whatever the case might be. He continued that getting all of these capital plans lined up from all these entities to coordinate a road paving project is impossible. Or if we did, we would be limited to one or two roads a year. He stated that the town has approximately 1000 roads in inventory. He pointed out that DPW is trying to catch up; 10 years ago, town roads were almost impassable with all the potholes and deterioration. He continued that there is a shorter lifespan for the roadways these days.

He continued that if you figure a 10 to 12-year lifespan before you see reflective cracking, and the need for repairs etc. the town is very limited. There is also a very limited window to build these roads during the summertime which is about four or five months. He added that this is a lot of work to try to coordinate. New homeowners or people that are looking for new services, new gas lines, or to change their heating systems also request work to be done. Road opening permits are put through a rigorous approval process. If they come in a year or two after they do pave a road, and look for a hardship letter or some kind of reasoning that makes good sense.

Mr. McGrath stated that they need some flexibility because they would be unable to get the permissions needed to do all of these things prior to paving a road. He continued that to lock somebody out, including people that would be buying a home, would be a little excessive. He added that utility companies such as the Department of Public Utilities oversee things too and the town cannot supersede them in regard to a gas emergency. In fact, DPW is not even notified of that until after the excavation.

Mr. McGrath stated that street opening permits are handled through the Engineering Department. A letter detailing the reason for opening within the 5-year moratorium is required. He added that there are different instances that they talk about and try not to let people dig in a 5-year moratorium, but sometimes it just can't be helped, such as in the case of a person whose oil furnace has died.

Councilor DiFazio questioned whether they could still work within the parameters that are in place right now if the words "In General" were removed.

Both Mr. Connell and Mr. McGrath stated that they prefer to see the term "In General" remain in the code as it allows for more flexibility.

Councilor MacDougall stated that his concern is that developers have been allowed to open streets that are still within the 5-year moratorium. He asked if coming to the Council for approval was feasible.

Councilor Abbott noted that there is no provision within the ordinance for the Council to approve any exceptions.

Chair DiFazio clarified that emergency openings are allowed depending on the specific circumstances.

Councilor MacDougall stated that this would only apply to streets covered by the 5-year moratorium.

There was discussion about flexibility and what mechanism would be available for exceptions. Also, it was noted that there are times when one department requires an upgrade and the street is under the 5-year moratorium.

Mr. Connell stated that as many as 150 streets are in a moratorium period.

Councilor Abbott asked about how many requests for openings are from existing property owners and dwellings?

Mr. Connell stated that it is a small percentage and it is usually a gas leak. Most are not for new developments.

Councilor MacDougall asked if they should strike the whole ordinance. He noted that streets are opened even when they are in a 5-year moratorium and the neighbors don't have any say at all.

Councilor Belmarsh stated that the intent of maintaining the word "In General" is to preserve the road after being re-done, but tends to negate the intent.

Chair DiFazio asked if anything different would be done if the term is removed from the code?

Mr. McGrath stated that having the ordinance helps with new developments by giving the town the ability to require stricter methods to put the road back together and to refill roads that have been re-opened; the developer pays to fix the road.

Councilor Belmarsh questioned if it was worth considering adding what Mr. McGrath just stated.

Mr. Connell stated that they take each request on a case-by-case basis so he didn't believe that adding this content would be helpful.

Mr. McGrath noted that the Engineering Department indicates that a road is under a moratorium in their comments for new development/projects that have been submitted.

Mr. Connell stated that they have been able to hold National Grid accountable for paving with the support of the Town Council.

Councilor MacDougall made a motion to take measure 22 135 **under advisement** and was seconded by Councilor Belmarsh. UNANIMOUSLY VOTED.

22 138 – Traffic Regulations – Wharf Street at East Street

The Mayor submits the following measure to the Town Council:

“That the Town of Weymouth, through Town Council, pursuant to G.L. Chapter 40, & 22, and the Town of Weymouth Code of Ordinances, Section 13-104 (a), authorize the erection of signs regulating motor vehicle movements as follows:

Restricted turning maneuvers

- Location: Wharf Street at East Street
- Direction: Southwest bound
- Restriction: Right turn prohibited
- Time: All times

Owen MacDonald, Town Traffic Engineer, and Lieutenant Brian Morse, Weymouth Police Department, appeared before the Ordinance Committee.

Mr. MacDonald stated that the Francer property on Wharf Street has been redeveloped into 84 residential units. He noted that the residents of East Street expressed concern about increased traffic on East Street during the Board of Zoning Appeals hearing on this redevelopment. He added that this change was listed in the Order of Conditions.

Mr. MacDonald detailed the traffic change and noted that East Street is narrow and windy while Commercial Street is wider and less windy; it carries more traffic than East Street and is more suitable for traffic.

He noted the following potential impacts:

- Increase in traffic volume on Commercial Street but not sufficient to be noticeable
- Potential increase in the use of Unicorn Avenue for access to the length of East Street from the new development
- There are two side streets, Off Station Street and Off Wharf Street
- Osprey Overlook Park

In summary, Mr. MacDonald stated that it is not an issue of safety or mobility, but what works townwide and for the community.

Lieutenant Morse stated that over the past years, they have received complaints of speeding on East Street. He believes that this would be a good change when considering the addition of more vehicles in the area.

Councilor Mathews pointed out that the sewer main issues on East Street present a problem in going forward with this measure. He added that there will need to be a public hearing but would expect that this not go into effect until after the sewer main issue is resolved.

Councilor Abbott asked if this is only a restriction for traffic coming out of Wharf Street? Mr. MacDonald confirmed this.

Chair DiFazio stated there had been consideration of a stop sign at Unicorn Avenue but it didn't happen.

The date of the public hearing is March 6, 2023.

22 131 – Citizen Petition – Proposed New Building Moratorium

Chair DiFazio stated that this measure is a citizen petition proposing a new building moratorium. The committee last met on this matter on January 10, 2023, post public hearing. There was discussion amongst the committee as well as questions asked of both the administration representatives and the proponents of the citizen petition.

Councilor Belmarsh expressed concern that the town doesn't know how much water we have. She reported that the amount reported to the Public Works Committee was 4.46 million gallons per day; however, the number that the administration gave in their PowerPoint was 4.25 million gallons. She continued that the permitted allowable water volume under the current water management act with the permit that we have allows for 5.0 million gallons per day. She pointed out that there is still a question if the number is finished water or raw water. According to the administration's representation, we are using 84% of the permitted daily use maximum daily demand.

Councilor Belmarsh stated that there are still a lot of unanswered questions as well as the need for the Department of Environmental Protection (DEP) permit renewal. She asked if the Council could send a letter to DEP asking for answers to these questions of:

- What is our water level?
- Are we utilizing finish or raw water?
- Will these amounts change?
- When will the permit be issued?

She questioned if the committee should hold off on a decision on the moratorium until a response is received.

Councilor MacDougall concurred with Councilor Belmarsh about there being many unanswered questions about well #1, surface water, operation of the sluice gate, mitigation fees, and home metering. He stated that the 24% leak rate is a big concern.

Councilor Mathews stated that his inquiry to DEP would be about more oversight and for a representative to come in for a meeting. He added that he would like to see an increase in mitigation fees.

Councilor Mathews pointed out that this measure needs to be voted out by the full Council by March 6, 2023. He stated that the building department cannot accept any new building permit applications on any proposals that are bigger than what's being proposed in this moratorium. He added that the town could be losing revenue. He stated that he did not think that a moratorium was the right approach. He would like to see more oversight from DEP as well as an increase in mitigation fees from developers. He would suggest sending a communication/correspondence to DEP regarding this.

Councilor MacDougall stated that he would like to see a water and sewer advisory committee established.

Councilor MacDougall made a motion to establish an advisory committee for the Town Council. The committee would be established as the Water and Sewer Advisory Committee, which would assist the Council in carrying out its legislative responsibilities by providing them and the public with information about water and sewer for the town of Weymouth. This committee would also recommend, create, and modify ordinances if needed, zoning codes, rules, and regulations which can help protect, conserve, and improve the water and sewer resources of the town of Weymouth in perpetuity.

Councilor Belmarsh seconded the motion. The following discussion ensued:

Councilor Mathews questioned if this needs to be submitted as a measure.

Chair DiFazio responded that he would like to see more specifics and that it be submitted as a measure.

Solicitor MacLeod agreed that this motion should be submitted in writing.

Councilor MacDougall withdrew his motion and will submit it as a measure to the Ordinance Committee. A second and a vote was not required.

Councilor MacDougall stated that he will submit a recommendation to the Ordinance Committee referencing "3-101b of the code of ordinance."

Councilor Mathews suggested that if this committee is formed, it could be an appropriate opportunity to invite DEP for a more detailed discussion regarding outstanding issues and have more people involved as is being suggested.

Chair DiFazio stated that he has attempted to be very patient and listen to both sides of the argument about a moratorium and whether or not there's anything that this Town Council or administration needs to do, in response to the citizens requesting a moratorium. For the same reasons that he is not sure a moratorium does anything for the town, he is just as displeased with the effectiveness of the response to the questions that this committee has asked the administration to respond to. He continued that he is usually very happy with all the work done by the administration. He pointed out that this isn't a reflection on DPW by any means. There are many unknowns after he has read all of the notes about what we're really doing with our water system. He stated that now is the time to straighten out the issues and make it public and transparent.

Chair DiFazio noted he does not want to have a moratorium but at the same time added that we just can't say no to a moratorium and pretend this all didn't happen and that we didn't have all of these questions that have been articulated very clearly. He urged the administration to take that seriously and hopefully get to the point where at least he feels comfortable that if we don't have a moratorium, we have something in place that provides confidence in the public water system.

Councilor Abbott stated that he appreciates the petitioners coming forward and bringing this issue to the Council's attention. He thinks it has brought it to the public's attention even more so and one of the big things that came out of it is the MWRA discussion. He thinks that it is important for this Council and for the public to have access to the most up-to-date and most accurate information possible. He added that he applauds the proposal from Councilor MacDougall to create a standing committee that will oversee this and report to the Council. He understands that this has less teeth than the petitioners may have wanted, and he will support it; if Councilors need more time and it would be appropriate to use a full allotment of time through March 6 which is an additional 34 days he would be amenable to that also. He doesn't think that

there is a drastic loss of revenue for the town or that there are developers walking away from projects over a 34 day delay in this process. He would like to see this Council take concrete active steps; understanding that they may not be satisfactory to everybody involved. But it will represent a way forward for the Town Council to stay more involved and on top of this issue, as this is not going to be the last time that water issues are a subject in the coming months or years.

Councilor Belmarsh stated with regard to revenue, according to the administration's presentation, the total annual revenue impact of a moratorium will be about \$2.6 million, as indicated on the submitted slide deck. The town's budget for fiscal 2023 was \$190 million. The \$2.6 million is about 2% of the budget. She continued that the town's auditor stated that the free cash certification from last year was \$15.8 million which includes the \$10 million that was received from the host community agreement for the compressor. The amount remaining after the fiscal year 2023 measures that utilized free cash will be about \$6 million.

Councilor Belmarsh stated that she understands that revolving accounts are not put into free cash or to implement free cash into the operating budget; however, this is a one-time use. She continued that if there is concern about revenue, the town does have some money in free cash to make up that difference for the period of time if there is a moratorium put in place.

Councilor Belmarsh stated that she thinks the subcommittee proposal was extremely thoughtful and worked collaboratively with the planning department and the developers who wanted to come in, especially around the Jackson Square redevelopment and she does not want to see that negatively impacted in any way. She feels that it is important for the planning department to have the ability to take these parcels of land, work with people in the town, and make sure that they are growing in a great way for Weymouth.

Councilor Belmarsh further noted that Southfield has a moratorium right now although it is different; their developments are a much larger than potentially a block in Jackson Square or Weymouth Landing. However, they are not allowed to build because of water, which is what this moratorium is requesting. She noted that some people are saying that this is outrageous and that we shouldn't be implementing a moratorium, however, we already have because we are concerned about water. She stated that it is the citizens of Weymouth who have really done the lion's share of the research, the advocacy, and the support for this conversation. She likes the idea of a committee but is concerned about this committee's access to the same information that the Council has been requesting as it has been very difficult for the Council to obtain answers. She stated that holding off on the vote is a good idea.

Councilor Belmarsh stated that she believes a letter needs to be sent to DEP voicing the request to have the order of conditions and the renewal permit acted upon so that they know the Town Council is considering the water issue and we're looking to make a decision with regards to water. Also that we would like to know whether the DEP will be able to issue the permit or has further concerns and if they could get back to us in a couple of weeks with that status. She added that she would like to see if DEP can be nudged for a response that we can take into consideration before we actually vote on the moratorium before it expires.

Councilor Mathews stated that there's nothing prohibiting any individual Councilor from reaching out to representatives from DEP to inquire about the status of anything. He noted that what he was looking to ask DEP was for more oversight about a water ban implemented earlier in a drought situation that the town was in this past summer. He stated that he would rather send one strong letter to DEP or if the committee is established, invite them to come in to answer questions. He added that it seems like DEP has spoken to the constituents that have reached out to them and have had direct contact and actual meetings with them.

Kenan Connell, Director of Public Works, stated that the Council has heard from staff and that Mr. Tower has been here and given quite a bit of information that he thought covered some of the points questioned tonight as still being unclear such as the well, and whether it's raw water or finished water. Mr. Connell stated that he has these answers, and he thought they were communicated. There's a lot of discussion about growth in the community and whether or not we should join MWRA or not. At some point in the future, we've got to do something, because we're not going to be able to continue to grow under Proposition 2 1/2 with no growth and that'll be problematic in itself.

Mr. Connell stated that he appreciated the comment that it's not a reflection on the DPW but he feels like it is. He stated that DPW has a good relationship with DEP and they communicate with them on a regular basis. It has been about nine years that we've been waiting for them to come back. He clarified that Union Point is under a moratorium because of sewer, not water as the sewer infrastructure improvements that were tied to that development are going to have to be improved upon in order for them to grow anymore. He stated that it may be a good idea for more direct interaction maybe under the Public Works Committee. But we certainly want to answer any and all questions as transparently as possible.

Mr. Connell stated that DEP has had a lot of questions presented to them already because they get back to him eventually. He noted that they have had DEP at their location many times. As far as the Council asking them questions, he stated that he doesn't know how they will view that. Normally questions would be asked by our administration.

Councilor Belmarsh stated that she appreciated the clarification. She continued that she is taking this information as it comes through either the presentations or the questions/answers that have been going back and forth. She stated that DEP answered one of those questions in an email that stated that Weymouth has been operating under finished water. However, DEP noted that it was raw water and that is a decision that still has to be decided. Also, there is a 7% to 9% difference between raw versus finished water.

Mr. Connell stated that there was a difference in the way other people reported compared to the way it is now reported. He added that it is identified and known by both parties that we're reporting as finished instead of raw.

Councilor Belmarsh stated that an email was received from the DEP on January 6, 2023, that says when towns registered in the 1980s, raw versus finished was not specified, and some like Weymouth have been using finished water as a measurement. This is an internal state DEP issue that needs to be discussed this month. She stated that she wanted to be clear that it's not like

we've been doing it all along and it's a done deal. It is her understanding it still needs to be decided, whether it is just DEP checking it off or signing it and saying, yes, we agree, you choose finished water. She stated that this is going to potentially establish the level of water that we can use.

Mr. Connell stated that the conversion will be identified, but it's not going to change where we are. It's not going to change the amount of production we're doing. It's not going to change the criteria that we go by as far as the level of the pond.

Councilor Belmarsh asked if we are asking for more water.

Mr. Connell stated that we are not asking for additional water in the permit request.

Councilor Belmarsh asked if there is any indication as to when the EPA may actually respond with an update on the permit.

Mr. Connell stated that they haven't indicated anything. He added that he will discuss with the Mayor and Mr. Langill about inquiring with DEP.

Councilor DiFazio stated that he probably has about 30 questions left to answer.

Mr. Connell stated that he has a small staff with a large scope. They handle roads, parks, trees, maintenance, vehicle maintenance, building maintenance, and sewer issues. He stated that they are trying to make things work and are not political.

Councilor DiFazio stated that he thinks they will have another meeting when the Council receives Councilor MacDougall's proposed ordinance.

There being no further business, Councilor Mathews moved to adjourn. Councilor Belmarsh seconded. The motion was UNANIMOUSLY VOTED.

Minutes submitted by Mary Barker as Recording Secretary

Approved by Chair Kenneth DiFazio
Voted unanimously on 6 March 2023