

## Ordinance Review Committee – Meeting Notes 12/17/2020

COMMITTEE MEMBERS: CLLR. BARRY CONNELL (ABSENT), ATTY. JIM CONNELLY, CLLR. JARED EIGERMAN (ABSENT), MOLLY ETTENBOROUGH, CITY CLERK RICHARD JONES (ABSENT), CLLR. AFROZ KHAN (CHAIR), CHIEF CHRIS LECLAIRE, GREGG OGDEN (ABSENT), ATTY. MARK REICH (CITY SOLICITOR), LT. RICHARD SIEMASKO (ABSENT), MIKE STRAUSS, RON THURLOW (ABSENT)

### Meeting Discussion

The purpose of the meeting is to review a draft guidelines document outlining the criteria for reviewing the ordinances and get an update by assigned reviewers on their progress and findings.

Cllr Khan started the meeting and went through the city's web page to show where all the documents will be posted and available for the public as well as committee members.

<https://www.cityofnewburyport.com/city-council/pages/ordinance-review-committee>

The committee approved the meeting notes from 11/18/20. The meeting formats will involve checking in with the teams to see if there are any questions that have been noted during the review.

#### 1) Process for Review

- Chair Khan talked about the one drive where all the chapters are located for editing. She shared that a key aspect of open meeting law is not to deliberate outside of our meeting time. Attorney Mark Reich shared that he has been exploring the one drive realm and emphasized that the concern is not to deliberate and exchange comments via email which falls into deliberation. In terms of having a document that is just being edited is fine and then discussing the document at our meetings works well.
- Molly Ettenborough asked if teams can deliberate over email the comments that they are making. Atty Reich said that there is a sub-committee rule of open meeting law as well but at this point, as individuals that are assigned to review without any authority should be fine.
- Atty Connolly asked if changes should just be made by deleting. Atty Reich reviewed the process that was discussed with Cllr Khan. The process will be that we should be using "track changes" with redlines. Nothing should just be eliminated/deleted.
- Cllr Khan showed on the one-drive how one can go there and select Track Changes. She also walked through the Review Guidance to distinguish when additional types of tracking should be used. All Non-substantive edits can simply be redlined but non-substantive can be highlighted in Yellow. The reason is that this will involve actual "rewrite" that the committee needs to go through in more detail together before presenting it all to the council for vote.
- Mike Strauss shared that he's been using the Comment function to note specifics that will help the committee when we deliberate. It's like track changes but puts a comment in the margin that poses the question and maybe who can deliberate and modify. Atty Reich clarified that anything that goes beyond the non-substantive change, should be highlighted AND with a comment.
- Cllr Khan indicated that by the first meeting in June we need to have all of this done and presented. She wanted people to know though that if there are changes that need to happen soon, we can bring it up sooner since there are three councilors on this committee.

## 2) Review Findings and Questions

- Jim C. asked about small expenses that someone will incur when doing something. Should we go through some language to reference to a larger table that will be updated annually. The schedule can be updated.
- Atty Reich confirmed that he can send general language to insert where fees/permits are mentioned. Anywhere there is a fee, just highlight it, put a comment that we will reference and if the fee amount needs to be changed, just make a comment about it. Then when we report, we can then create that table with the listing of table of fees. Just to note if we adopt the fee schedule would we just make it an annual review.
- Mike S. asked about the following aspects based on his review:
  - “promulgated”, “promulgated, pursuant to” and “pursuant”. Is that the right language, should it be changed or simplified? Atty Reich said its used quite a bit but lately trying to avoid that in municipal codes. If there is question for simplifying by group, highlight for group discussion.
  - “thereunder” and “hereunder” – Atty Reich said these are not always needed but should be looked at in context. If the sentence can convey the intent “herein” and “therefore” plain English is beneficial.
  - For fines there was “shall in order to the city” which means shall be paid to the city. This is not always a consistency in saying that the fines go to the city. Atty Reich said to highlight just to make sure the intent is clear and where fines will go in terms of non-criminal disposition fines need to be a set dollar amount; cannot say up to or not more than.
  - Chapter 8 has a section on not using “roundup”; it talks about not using and fines including contractors not to use. Seems to be missing that any RFP for contractors would include that language. Is that something that can be included in the ordinance? Atty Reich thinks that the city can flag this as the law of the city as a policy issue but does not have to be in the ordinance and the city’s procurement office can flag it.
  - Section 8-81 references W.E. Atkinson Co. Molly E. clarified that it’s the name on the building but where Jack Rabbit Running store is. All other boundaries mention streets.
  - Section 8-6 notes “as stipulated here” is mentioned many places which needs to be cleaned up. Atty Reich said it’s a requirement and not a stipulation.
  - Mercury Thermometer reference is made in a few sections. Molly E. clarified that in those cases just reference the state law. Atty Reich agreed stating that additional stringency is in local law but if we are repeating state laws, we need to have them right. In some cases they have been repealed. This should be highlighted in YELLOW for review and change. At some point Atty Reich will need to look at each citation.
  - Chapter 15 notes specific uses of water where “outdoor watering ban” is included. This seems to be contradictory or a “not” is missing.
  - Water carried may be one word, two words. Atty Reich said it should be hyphenated.
  - pH definition is defined but seems to be wrong. Clarification should be moles/liter. Afroz clarified that these should be highlighted in YELLOW and redlined in terms of how it needs to be changed.
  - Reference to section 14-73 states “hair and fleshings” but not easy to understand what that is. Molly E. said it would be nice to update this to actually include flushable wipes. Afroz

emphasized that it's important to use the document on OneDrive with all the edits and highlights. The guidance is not to delete but save with your initials or edited. This way if you want to go back to the clean version, we have that.

3) Next Steps for Deliberating Matters

- a) Committee members should make sure they go through their sections by our next meeting so we can go through Chapter 1 through 4. The intention is to go through the sections in Yellow and see what types of changes need to be incorporated.
- b) Atty Reich: A report would be created discussing how we developed the changes. We need to create a document that can be voted on and adopted. Comments and highlight can not be "adopted". There should be two versions; a working version and an adopted version. This effort is only a review and update. Policy decisions are to be done by the councillors.
- c) Molly E. noted that folks should put all their substantive findings and comments that can help with policy into one document. Cllr Khan shared that a spreadsheet can be used for people to add their general suggestions.
- d) Atty Reich emphasized that the non-substantive matters do not need to be debated; only the substantive items should be debated and noted in the spreadsheet. Changing titles and references are substantive. Molly E. shared that giving examples is helpful to explain for the non-substantive types of issues.
- e) Next meeting on January 20<sup>th</sup> at 6:30pm. We will go through Chapter 1 through Chapter 4.

Meeting adjourned at 8:00pm.