

**Town of Cape Elizabeth  
Ordinance Committee Minutes**

August 15, 2017

12:00 p.m.

Town Hall

Present:     Patty Grennon, Chair  
              Kathy Ray  
              Jamie Garvin

Staff: Maureen O'Meara, Town Planner, Robert Malley, Public Works Director

Guests: Kara Lavender Law, Recycling Committee Chair

Councilor Grennon called the meeting to order at 12:00 p.m. The minutes of the August 8, 2017 meeting were approved 3-0.

Public Comment

No members of the public were present who wished to speak.

Plastic Bags and Polystyrene Foam

Councilor Grennon began with a review of the proposed ordinance changes for polystyrene foam in the Health and Sanitation Code. The committee reviewed the reorganized definitions (alphabetical order) section. The exemption section was changed to reference a federal, state or local emergency rather than be declared by the Town Manager.

Councilor Ray asked about fresh dog food. The committee generally agreed that it would be treated similarly to butcher meat, which has an exemption to use polystyrene containers.

A "Severability" section has been added to the existing Article I. The committee agreed that this ordinance still needs review by the Town Attorney and there was insufficient time to get that done between last week's meeting and today.

The committee continued to review a new Article IV Single Use Carryout Bags in Chapter 11. A footnote has been added to the Single Use Carryout Bag definition explaining why this definition includes compostable and biodegradable bags. Ms. Law had nothing further to add or clarify to the footnote. She suggested, and the committee agreed, to add "residents and visitors" in the purpose section. The committee also replaced "incentivize" with "encourage."

The definition of "Store" was augmented to explicitly include "farmstand," which was added in response to a comment from private citizen Caitlin Jordan.

The same emergency language was added to exemptions as used in the polystyrene article. The enforcement section was also revised based on comments at last week's meeting with a warning, \$100 and \$250 fees. The committee completed the ordinance text review and moved to the draft cover memos.

The cover memo lists the meetings held, highlights of the ordinance amendments, information provided by the Recycling Committee. The committee prefers a cover memo that introduces and summarizes the thinking supporting the ordinance amendments. The committee agreed to add a reference that Ecomaine machinery clogs with plastic bags.

The committee and recycling committee members discussed the overall goal to reduce waste generation. Councilor Garvin described recyclables and the commodities market, which fluctuates. Recycled paper is now shipped to China and burned for energy. Councilor Ray noted that shipping recyclables to China is the antithesis of the goals of reuse, reduce, recycle.

Councilor Garvin explained that we, as a member of Ecomaine, adopt a policy waste hierarchy to reduce, reuse and recycle, with recycling to generate energy the last priority. We should start with reducing. There is less market demand right now for recyclable materials. If Ecomaine is low on source material, and we need to keep the temperature high, we burn some cardboard, especially if the cardboard market is depressed, as it is now. It is depressed with oversupply, driven in part by Amazon shipping. Councilor Garvin said that the Town Council should visit Ecomaine and noted that there is an open house September 30th with scheduled tours.

The committee agreed that Maureen would revise the wording to reflect the committee's concerns and submit it to the committee chair for approval. Councilor Grennon wants to note the Town Attorney review. A reference that the .05 bag charge is retained by the business was added to the cover memo.

### Public Comment

Caitlin Jordan, 83 Old Ocean House Rd - Why can't the exemption for shipping seafood include meat as well?

Kara Law provided background that the shipping company requires polystyrene.

In response to an inquiry if she had shipped meat before, she said she had shipped lobster meat that was not raw. She gave the example of pork chops.

#### Plastic Bags and Polystyrene Foam additional discussion

The committee decided to refer to perishable food, and to add the perishable food definition, based on the definition used by the FDA (federal Food and Drug Administration). Perishable food shipment was then added to the exemptions from the polystyrene prohibition.

The committee voted 3-0 to send the chapter 11 amendments to the Town Council for consideration, subject to review by the town attorney and approval by the Ordinance Committee Chair. Ms. Law asked about next steps and Councilor Garvin suggested the amendments would be on the September Town Council agenda with potentially a Town Council workshop in early October.

#### Domestic Fowl

Councilor Garvin left and Councilor Caitlin Jordan joined the committee.

No members of the public wished to speak.

Councilor Grennon asked Chief Williams to summarize animal complaint calls.

Chief Neil Williams reported that overall there are not a lot of non-dog, animal calls, but there have been complaints from the Ridge Road neighborhood. Under the state statute, domestic fowl can be regulated but the statute sets a minimum of 5 complaints within 30 days or more than 3 calls in 7 days. Anything less and the police cannot issue a summons, under state law. We have tried to work with the owner, who has referenced the limitations in state law. Chickens fly over the fence, so she leaves the door open so chickens can come home. She has now clipped the wings of the chickens so no problem right now. We've had the occasional goat call. Rarely a cat call because the cat is lost.

Councilor Jordan said the animal problems are usually an accidental release.

Chief Williams said the problem was frustrating because we try to work with people. We had been to the property multiple times and were considering a summons, when we learned that we could not under state law. Our approach is to work with people, involve the community liaison officer to mediate. We had a

rooster complaint yesterday for a property that is rented out and the owner lives in Portland, but the rooster lives here.

Councilor Jordan said people drop off roosters at her farm.

Councilor Grennon asked if a listing of animals or a general reference is preferred in the ordinance. He prefers the more general option 1. We would use this language when the animal complaints are not a one-time thing. The committee agreed the general reference to animals, rather than a listing, is preferred.

The committee and the Police Chief emphasized that a one-time, accidental animal release will be handled as a warning, and that repeated problems will result in a summons when mediation is not successful. The committee discussed the existing wording and agreed to leave the phrasing as is.

The Town Attorney will be asked to review this.

The committee reviewed and revised the cover memo. The Police Chief's presence at the meeting and his recommendations will be reflected in the cover memo.

The committee voted 3-0 to send the Domestic Fowl Amendments to the Town Council subject to Town Attorney review and Ordinance Committee Chair approval.

#### Next Meeting

The committee noted that there are no pending issues, so no new meeting was scheduled. The planner noted that the next issue that may be referred to the Ordinance Committee is the BB District Zoning Amendment currently before the Planning Board.

#### Public Comment

No member of the public was present.

The committee adjourned at 1:16 p.m.