

**Town of Cape Elizabeth  
Ordinance Committee Minutes**

September 19, 2017

12:00 p.m.

Town Hall

Present:     Patty Grennon, Chair  
              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 2:00 p.m. The minutes of the August 8, 2017 meeting were approved 2-0.

Public Comment

Penny Jordan, 21 Wells Rd - Why is the prohibition on polystyrene tied to the food establishment? The plastic bag charge should apply to all retail stores. Don't change the food establishment definition because the change will hurt farm stands and farms.

Caitlin Jordan, 83 Old Ocean House Rd - Whether intended or an oversight, removing words from the food establishment definition creates a requirement that farm stands need to get a health permit. This will hurt farm stands because they can't comply with the health permit rules. If you restore the food establishment definition, can we consider changing it to accommodate current activities such as cooked lobsters and eggs? Why not apply the bag fee to all stores?

Mary Ellen Chadd, 191 Fowler Rd - Her farm leases land. Their farm stand is more like a wood shed and would need capital improvements to get a permit. Was the definition change unintentional?

Austin Chadd, 191 Fowler Rd - He is co-owner of the Green Spark farm. They operate a CSA, harvest 2 times a week with a simple system, using a 3-door cooler. Don't apply grocery store rules to a farm stand.

John Greene, Manager, Ram Island Farm - He supports previous speakers.

Frank Strout, Cape Farm Alliance - He supports local farmers.

Bill Bamford, Maxwell Farm - He supports farmers.

Jay Cox, Old Christmas Tree Farm, Sawyer Rd - The food establishment definition should not change.

### Plastic Bags and Polystyrene Foam

Councilor Caitlin Jordan has recused herself from participating on this item and Council Chair Jamie Garvin is participating as a committee member. Councilor Ray had made plans to be out-of-town prior to the scheduling of the meeting. Councilor Grennon stated that well meaning changes have had unintended consequences. The committee agreed to not delete any words from the Food establishment definition.

The committee discussed applying the .05 cent charge to all retail stores, not just food related retail. Ms. Law explained that the proposed ordinance was modeled after the Portland and South Portland ordinances, where there are many more retail stores. The number of plastic bags used are much higher at food establishments. Cape could make the charge apply to all retail stores. Non-food stores have not been contacted by the Recycling Committee, but there are not many (est. 5-8).

Councilor Garvin asked if we want the Recycling Committee to do advance work regarding single use bags with non-food stores. Ms. Law said there is no reason to exclude non-food retailers in Cape and the Recycling Committee can contact them. The committee named the businesses in town that might be impacted.

The committee decided that the wording changes to make the .05 cent charge apply to all retail stores will be shaded green.

Councilor Garvin asked about the need to use polystyrene foam for seafood and cooked seafood. Private citizen Caitlin Jordan said the polystyrene foam keeps it warm. Ms. Law said that the need to use polystyrene foam for shipping is a red herring. Except for shipping, there are reasonable alternative products to use. Shipping is an exception in the proposed ordinance.

Ms. Caitlin Jordan suggested that if we are tweaking the food establishment definition, we should allow cooked as well as live seafood to be exempted from a health permit. Eggs and cooked lobster are offered now at farm stands now, and we can be more farm friendly.

Committee members decided that further changes to the food establishment definition, and exemptions from the health permit, were beyond the scope of the Polystyrene foam and single use bag proposals. Changes to the Health permit

could be a bigger issue, and will not be wrapped into today's work. Councilor Garvin noted that no enforcement action was currently under way.

Ms. Law noted that there is no sales receipt required for bag sales and this should be changed in the ordinance. Caitlin Jordan suggested that the requirement that an informational sign be posted that a bag fee will be charged should have a time limit. The committee agreed the sign requirement was not burdensome and should remain.

Councilor Garvin moved that the ordinance changes as outlined be sent to the Town Council for review at the October 11 meeting with a public hearing to be noticed for November 5th. The motion passed 2-0. Ms. O'Meara will revise the cover memo to include how the bag fee will apply to all retail stores. The final draft amendments and cover memo will be sent to Ordinance Committee Chair Patty Grennon for review and approval.

#### Public Comment

Jay Cox - He supports expanding the bag charge to all and then reaching out to stores to see if it impacts sales.

Penny Jordan - Thanked the committee.

The meeting adjourned at 2:51 p.m.