



STATE OF CONNECTICUT – COUNTY OF TOLLAND
INCORPORATED 1786

TOWN OF ELLINGTON

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JAMES M. PRICHARD
Deputy First Selectman

MELINDA M. FERRY
SARAH D. COOK
DAVID E. STAVENS
RONALD F. STOMBERG
JOHN W. TURNER

SPECIAL MEETING
BOARD OF SELECTMEN (BOS)
TOWN ORDINANCE COMMITTEE (TOC)
May 13, 2019
Town Hall Commission Room A

Minutes

MEMBERS PRESENT: Ronald Stomberg, Melinda Ferry, John Turner

OTHERS PRESENT: James York, Fire Marshal; Dorian Famiglietti, Town Attorney; Lisa Houlihan, Town Planner; John Colonese, Assistant Town Planner/Zoning & Wetlands Enforcement Officer; Tom Palshaw, 120 Pinney Street

I. CALL TO ORDER:

Chairman Ronald Stomberg called the meeting of the BOS TOC to order at 5:51 p.m.

II. CITIZENS' FORUM: None

III. APPROVAL OF MINUTES:

A. February 6, 2019

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO APPROVE THE MINUTES OF THE FEBRUARY 6, 2019 TOWN ORDINANCE COMMITTEE MEETING.

IV. NEW BUSINESS

There was no new business.

V. UNFINISHED BUSINESS

A. Ordinance Regarding Ticketing

Attorney Famiglietti brought up the previous discussion of a cohesive ticketing/citations ordinance that would tie some of the other ordinances together. She found that the Town has a Citations Ordinance, Chapter 46, on the books that could be worked off of. This ordinance mirrors State Statute and patterned the procedure that Sgt. Santa had previously recommended. She is working on some changes to it, as there are some consistency and timing issues as well as some awkward wording. She shared the basic process that would take place in the event of a citation. The violation would be investigated by the individual responsible for enforcing that particular code, and the violator would receive a citation with a period of time in which to pay the fine. In the event of nonpayment, the issuing party has up to twelve months to take formal action, which would consist of a formal notice of the citation, what the violation was, and what is owed. The violating party can either pay the citation, or they can contest the citation with an appeal to the (BOS) stating why they don't believe they violated anything. If, at

this point, there is no payment as well as no appeal, there is a mechanism for the Town to go to court to have a judgment rendered.

James York asked for a clarification of 46-3, where it references the final period for the uncontested payment. Attorney Famiglietti said that this period will be set in the revised citation but that it can vary, as there's no automatic rule on this. This time period can be set by the enforcer of the rule being violated. She had the idea that the BOS could create a policy outlining the amounts of the fines for various violations; this policy could be examined and amended from time to time, as appropriate. Attorney Famiglietti is willing to work with departments to create customized citation forms to address individual needs, or she can come up with one that can be utilized across the board. A sample document was shown to the Committee members to give them an idea of what this form could look like. A list of all of the ordinances that will be tied into this citations process can be put together, so the members can think about appropriate fines for each type of violation.

Melinda Ferry asked about the levels and classes of fines that had been previously discussed; Mr. York responded that this was specific to the Fire Safety Permit Ordinance. He asked if a range of fees would be possible, with a particular fine within this range being at the discretion of the enforcement officer. Attorney Famiglietti stated that she would prefer a set fine amount, but she can look into a way of allowing for flexibility. Differing fines for repeat violators could also be incorporated into the final document. Mr. Stomberg felt that having a set document of what the violations and fees were would create less potential for claims of unfair fines or personal targeting.

Mr. York recommended following through with enforcement of citations and fines in order to establish a productive deterrent. He asked for more clarification of the 12 month time period. Attorney Famiglietti explained that the enforcement officer of the particular violation can decide to enforce the citation by sending a second notice anytime within 12 months. This period is established by State Statute. John Turner asked who was responsible for deciding when this enforcement would take place; Attorney Famiglietti responded that whoever issued the citation makes that decision. Mr. York would prefer a pre-established, uniform time period; he feels that it shouldn't be listed in the ordinance, but could be established in a separate policy.

Lisa Houlihan mentioned that Chapter 48 is currently in place for zoning- and wetlands-related instances; she asked if that would still be utilized once the revisions to Chapter 46 are finalized. Attorney Famiglietti responded that Chapter 48 would still be used, but it will be revisited to make sure everything lines up properly. It was decided that final recommendations between Attorney Famiglietti, Mr. York and Sgt. Santa should be provided to the Committee before any decisions or recommendations are made regarding this ordinance.

B. Right to Farm Ordinance

Ms. Houlihan shared that this came about through a Sustainable Ellington initiative that came out of the Conservation Commission; one of the action items of the initiative is to establish a Right to Farm Ordinance. This is essentially a policy statement by the Town, endorsing its status as a farming community; it establishes parameters that protect farmers operating under best practices from nuisance complaints. There are currently 30 towns in Connecticut that have such ordinances. The Conservation Commission had originally wanted to include more agricultural-related use and "agri-tourism" activities, such as corn mazes, to be protected under the ordinance, but Attorney Famiglietti found this to be overreaching what state law allowed for. The definition portion of the proposed ordinance simply cites related State Statute. The only reference to agriculture-related use in is the notification section of the ordinance; in the event that a residential subdivision or development is proposed adjacent to preserved farmland, actively-farmed land, or an agriculture-related use, such as property that has been previously permitted for a corn maze, there will be a note on the proposed plan that such activity may

occur on that property. Therefore, there is clear notice that the new building would be adjacent to and subject to these types of activity.

Mr. Stomberg expressed concern that one side or the other may be overly aggressive in their practices. Attorney Famiglietti shared that some of this right to farm protection is geared towards generally accepted farming principles and practices; excessive actions may not be covered. It was clarified that whether this ordinance is adopted or not, these protections are already provided for under State Statute, and these exemptions will exist anyway. The main purpose behind it is to protect who was there first. There is a provision that a farm must be established for a certain period of time in order to have reasonable expectations of protection. Mr. Stomberg reiterated that this ordinance just mirrors what is already in place, so its adoption would not be making a big change to what exists anyway.

MOVED (TURNER), SECONDED (FERRY) AND PASSED UNANIMOUSLY TO RECOMMEND TO THE BOARD OF SELECTMEN THE ADOPTION OF THE PROPOSED RIGHT TO FARM ORDINANCE [ATTACHED].

C. Proposal for New Ordinance Requiring Permit and Permit Fees for Specific Occupancies, Including a Review of Information Provided by the Fire Marshal

Attorney Famiglietti stated that very minor changes, such as a tank size limit and some wording cleanup, have been made to this ordinance; references to Chapter 46, in terms of the citation and appeals process, have also been added into this ordinance and the three other fire-related ordinances, listed below. No action was taken on this item.

D. Review Proposed Revisions as Recommended by the Fire Marshal

- i. Chapter 74, Article I – Fire Zones [74-1 through 74.6]
- ii. Chapter 74, Article II – Open Burning [74-7 through 74-11]
- iii. Chapter 17, Article II – Use of Outside Areas [17-11 through 17-14]

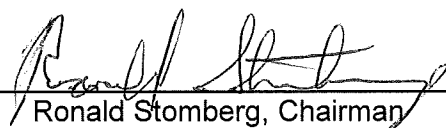
No action was taken on these proposed revisions.

E. Review Proposed Revisions to Ordinance Chapter 10. Alcoholic Beverages as Recommended by Sgt. Santa, Resident State Troopers' Supervisor

This item was not addressed, due to the absence of Sgt. Santa.

VI. ADJOURNMENT:

MOVED (TURNER) SECONDED (FERRY) AND PASSED UNANIMOUSLY TO ADJOURN THE MEETING OF THE BOARD OF SELECTMEN TOWN ORDINANCE COMMITTEE AT 6:29 P.M.

Submitted by 
Ronald Stomberg, Chairman