

MEMORANDUM

TO: Public Safety Committee

FROM: Mary Costigan
Associate Corporation Counsel

DATE: February 6, 2009

RE: **Minutes of the Public Safety Committee Meeting held on
January 13, 2009**

Councilor Skolnik, Chair of the Public Safety Committee, convened the meeting at 5:02 p.m. with Councilors Waxman and Donoghue present.

The Committee voted unanimously to approve the minutes of the December 9, 2008 meeting as amended.

The Committee then took action on the following items:

1. Domesticated Chickens

Mary Costigan reviewed the item for the Committee, which first came before it in February, 2008. She said the Committee referred the item to the Planning Board because of current wording in the Land Use ordinance referring to domestic animals. The Planning Department decided the policy should be set by the City Council; the brief references in the Land Use ordinance could be amended to reflect the changes regarding chickens. She noted that the draft ordinance is based on the South Portland ordinance, with the exception that the proposed Portland ordinance has no permitting requirement. Councilor Donoghue asked why there was no permitting component. Mary Costigan referred the question to Planning Director, Penny Littell.

Penny Littell explained that the only benefit of permitting is a revenue generator. She stated that she believed there were not going to be enough permits taken out to pay for the staffing required to enforce those permits. She said there also was no vaccination requirement or limitation on certain species of chickens, which limited the need for a permit.

Councilor Skolnik said he also had wondered about the lack of permitting. He asked how many animal control officers the City had.

Mary Costigan answered that there was one and introduced Debra Estrella.

Animal Control Officer Deb Estrella stated she was in favor of permitting because she felt she needed a way to monitor the fact that chickens were being kept properly. She said keeping chickens was very different from keeping a dog or a cat. She noted that she is the City's only animal control officer, and she works 40 hours per week. She stated she is concerned there's little coverage when she's not on duty for proper inspection and enforcement action.

Councilor Skolnik asked if there were other departments that could assist with inspections.

Mary Costigan said the only others may be building inspectors, who are not necessarily qualified to ensure healthy chickens.

Councilor Skolnik said he would anticipate a need for more personnel to enforce the ordinance, should it pass the City Council. He asked if the animal control office had been part of last year's staff reductions.

Deb Estrella responded that her office had been cut by one full time employee. She added that the regular police officers assist her on rare occasions. She said she didn't think City health officers have enough knowledge to know what a healthy chicken looks like, and therefore would be unable to fully approve any inspection. She said that while sanitary aspects are part of a health inspector's purview, the City's animal rules also govern sanitary aspects.

Councilor Skolnik asked what the coyote population of the City was like.

Deb Estrella answered that they live primarily in wetland areas and wilder places like Evergreen Cemetery. She noted that their primary prey is rodents, sometimes housecats if they're lucky, but coyotes keep their distance from humans. She said it fell to the state animal control to try to capture them if the population was becoming a problem.

Councilor Skolnik asked if coyotes attack chickens, and if she thought chickens would be safe if kept according to the ordinance.

Deb Estrella answered both coyotes and foxes prey on chickens. She added that coyotes would be attracted to the chickens by scent, but if they were properly sheltered according to the ordinance there would be no problem.

Councilor Waxman asked about building codes for henhouses.

Mary Costigan noted that separate structures need building permits.

Penny Littell explained that in the current ordinance a 12X12 shed has a 5 foot setback from the property line and the proposed ordinance includes a 25 foot setback from a neighboring building for a henhouse, but the common prefabricated

shed doesn't need a building permit. If someone built a larger chicken coop, they would need a building permit and to meet applicable setbacks.

Councilor Skolnik asked if the henhouse could be attached to a primary residence.

Penny Littell answered that it wasn't safe for chickens and humans to share the same living space.

Councilor Skolnik asked what the rationale behind number of chickens was.

Penny Littell responded that she couldn't recall specifically, but she believed it was an arbitrary number based on other local town ordinances.

Councilor Skolnik then opened the floor for public comment and reminded the attendees of the rules for addressing the Committee.

Jan Beitzer, speaking as the president of her condominium association, said she wanted to speak to two issues. First, she and her condo association supported instituting a permit fee associated with chicken ownership, so the City would know where the chickens are and how they're being taken care of. Second, they would like to see the number of chickens limited to four because of the human density in the City. Personally, she has concerns about birds of prey and cats attacking chickens, but she and her condo association support the proposed ordinance.

Payson Robinson of Great Diamond Island explained he had originally requested the ordinance change in a letter to Councilor Donoghue, which he read to the Committee.

Liz Wanser of Cape Elizabeth said she has neighbors who have chickens. They are so quiet she doesn't notice them, nor does she see coyotes running around. She said she supports the proposed ordinance, but would like to see a licensing policy added.

Tammy Robinson of Great Diamond Island explained she is Payson's mom. She asked for clarification with regards to the designation of a lot, specifically whether a property owner who has a double lot can have more chickens. She stated she was concerned that three laying birds won't produce enough eggs to feed her older son, let alone her family, and would like to see number of chickens increased. She noted that chickens are happier when they're in groups. She said she believed permits were a good idea because chickens need to be well cared for in order to be healthy. She said she also believed that well constructed henhouses will stop coyotes.

Councilor Skolnik asked if she had ever owned chickens, and if so what problems did she have with coyotes.

Tammy Robinson replied that she did not currently have chickens, but in her previous experience with chickens she'd never had a problem with coyotes. She added that there were very few coyotes on Great Diamond Island.

Councilor Skolnik closed the public comment segment and asked if the other Councilors had any further comments or questions.

Councilor Donoghue asked for clarification of the number of chickens "per lot."

Mary Costigan explained that no matter how many adjoining lots a landowner has, the limit is still three chickens. She said the maximum number of six chickens was only for a condominium complex which had a shared lot.

Councilor Donoghue then asked how South Portland operated its permitting of chickens, and additionally whether their system would work in Portland.

Mary Costigan answered that she was unsure of what South Portland actually does. She said any permitting system would create new expense in inspections, staff time in processing the permits and keeping track of the chickens.

Councilor Donoghue commented that he was unsure of how he would establish a fee structure, but he is in favor of permitting.

Councilor Skolnik said he was also in favor of permitting.

Councilor Waxman asked Payson Robinson for clarification of his intention to own chickens, whether as pets, as sustainable farming or as a life lesson.

Payson Robinson answered that he felt it was a little bit of all of those.

Councilor Donoghue suggested tying the number of hens to the area of a lot. He added he was in favor of a minimum and a maximum number of chickens as well.

Penny Littell suggested that solution brings up more questions, such as calculating the area of land with or without buildings, and whether in determining area the goal is more or fewer chickens.

Councilor Donoghue asked if Penny could review the proposed setback requirements. Penny read the proposed Section 5-404(b) from the agenda backup.

Councilor Skolnik asked if the henhouse was built 5 feet from an empty lot that was subsequently improved by a residence, if the henhouse would have to be moved.

Penny Littell responded no, it would be considered a grandfathered use.

Councilor Waxman asked if hens laid eggs without roosters around. The general consensus was in the affirmative.

Councilor Donoghue suggested that they simplify the ordinance by creating a maximum number of chickens, regardless of lot size or use.

Councilor Skolnik recommended six chickens per lot or two per condo unit to a maximum of six on the lot.

Councilor Donoghue made the motion to amend the ordinance to have a maximum of six chickens per lot or two per condo unit.

Councilor Waxman asked if the two per condo unit included apartments.

Penny Littell noted that condos are different than apartments, but there was still a limit of six chickens in the yard.

Councilor Skolnik asked for public comment on the proposed amendment.

Deb Estrella said that the problem with having only two chickens is that they use each other for body heat. She said she was concerned that so few chickens in a coop would be susceptible to frostbite. She said that six is a better number.

Councilor Skolnik suggested the committee could amend the ordinance to require heated henhouses.

Deb Estrella recommended against a heated henhouse because of the risk of fire. She said she thought three might be okay.

Councilor Skolnik asked if she thought the ordinance needed to state a minimum number of chickens.

Deb Estrella agreed that a minimum of three was important.

Councilor Skolnik asked for additional public comments on the amendment.

Tammy Robinson asked if the committee thought eight chickens would be better than six for body heat purposes.

Deb Estrella answered that she thought six chickens were sufficient for both body heat and city purposes.

Councilor Skolnik asked how much it cost to license a dog in the City of Portland.

Mary Costigan responded that it was \$6 or \$7. She added that South Portland charges \$25 for chicken permits.

Councilor Skolnik suggested that the City would need to charge more than \$6 to inspect and enforce the chicken ordinance, since fewer people would keep chickens. He said he was concerned that would make permit fee prohibitive. He said he was also concerned about the City's ability to enforce the ordinance and the public frustration which that brings.

Councilor Donoghue suggested there was no need for separate fee for chickens and dogs, since they would all be under the purview of the animal control officer.

Councilor Skolnik said that the animal control officer would have significant amount of inspection and enforcement in connection with chickens, which may warrant a second animal control officer.

Councilor Donoghue suggested the license fee could be increased to cover the extra expense of inspection and enforcement of the new ordinance.

Councilor Waxman asked if the City has had requests to raise chickens previously.

Mary Costigan said this was the first that she knew of.

Councilor Waxman then asked if there were complaints in South Portland or in Cape Elizabeth.

Liz Wanser said there had been no issues in Cape Elizabeth.

Deb Estrella answered there were no issues in South Portland, either.

Councilor Donoghue moved to amend the proposed ordinance to have a maximum of 6 chickens per lot. The motion passes 3-0.

Councilor Donoghue then asked how dog fees are established by the City.

Mary Costigan answered she wasn't sure if they were established by the state or by the City.

Councilor Donoghue made a motion to amend the ordinance to require a permit to keep chickens with a fee equal to that of a dog license. Seconded by Councilor Waxman.

Councilor Waxman pointed out that would be \$36 for six chickens.

Mary Costigan noted that there were different fees depending on whether one's dog was neutered or not.

Councilor Donoghue amended his motion to indicate the greater dog permit fee established by the City Clerk.

Amendment passes 2-1, chair in minority

Councilor Skolnik asked for a motion to recommend passage of the proposed ordinance to City Council.

Motion passes 2-1, chair in minority

2. Snow Shoveling

Mary Costigan explained Ms. Sheedy's volunteer program which clears sidewalks for seniors. She said that Ms. Sheedy has mentioned that she has more requests than volunteers, and Councilor Skolnik was interested in improving that. She said she discovered that the Munjoy Hill Neighborhood Organization had submitted a CDBG grant application in an attempt to improve volunteer services with a stipend, which is in the agenda backup.

Joan Sheedy of North Street explained that she thought up the snow shoveling project four years ago. Portland Triad put out a survey to people over 65 asking how they felt the City could be improved. She said the organization received 500 responses and noted that biggest concern was that the City ordinance that required sidewalks to be cleared within 24 hours after storm was not being enforced, which meant older people couldn't get out to run errands. She said she thought about the issue for two weeks and came up with a plan to go to community service groups that require volunteer hours for members. She stated the full name of project is "Free Senior Snow shoveling Project" because all the work is done with community service hours. She said she had worked on the MHNO subcommittee for the grant, but she hadn't seen the finished product until she arrived at the meeting this evening.

Councilor Skolnik asked if the CDBG grant was intended to help Ms. Sheedy's organization, or had she just been helping them write the grant.

Joan Sheedy said she had never had any idea of anyone else helping out on the project. She noted that in the agenda backup it said she's had to turn people away, but to clarify she's never had any difficulties. She had a waiting list of people to be shoveled out at the beginning of the year but she has found the volunteers to cover it. She has volunteers from Cheverus Honor Society, Deering Honor Society and Ingraham, as well as 25 pre-release prisoners, which is the most she's ever had. She noted that the MHNO requires people who ask for the service to have a reliable

income, but her program is completely free. She said the only payment volunteers get are community service hours and a pizza party at the end of the season to thank them. She said her program operates on a Sheriff's department grant of \$2,000, which she uses to buy the pizza, soda, and any shovels she may need as replacements or for new volunteers.

Councilor Skolnik asked if the MHNO grant application is to create a separate group of people paid to work only on Munjoy Hill.

Joan Sheedy said she doesn't think her project would work if some were paid and some got community service. She said the MHNO project is a separate entity. She stated her program was in no great need for volunteers and there was no waiting list of people who need shoveling services.

Councilor Skolnik asked if Ms. Sheedy's program could focus on other parts of the City if the MHNO had a program only for Munjoy Hill.

Joan Sheedy answered that she didn't know, she wasn't entirely sure how the MHNO program was going to work.

Councilor Skolnik asked Ms. Sheedy to explain the framework of her program.

Joan Sheedy said that each school group has a leader, often a teacher, who's responsible for sending the students out if there's three inches of snow or more. She said they go automatically, and the only problem she's had this year is one where the kids shoveled the lady next door to the lady who was supposed to be shoveled out.

Councilor Waxman asked how the program is publicized.

Joan Sheedy answered that she sends out press releases to the newspapers and also to the public access television channels 2 and 4. She mentioned that the media outlets have all been supportive.

Councilor Waxman suggested contacting the Play it Smart program out of Portland High School as another source for volunteers.

Joan Sheedy thanked her, and also publicly thanked Mike Bobinsky because he has been her go-to person in case of trouble. She said that when a case goes wrong and is going to the City, she goes to Mike and he mediates the dispute.

Councilor Donoghue said he was surprised that snow removal was going so well. He observed that walking has been easier this winter and wanted to thank her. He stated he thought the MHNO grant is a good idea and asked Ms. Sheedy to think about using some of the money to assist her program.

Joan Sheedy stated that she is on the Board of Directors of MHNO and had asked to be on the committee when the grant was put together so she could learn how to apply for a grant. She said she hadn't really intended on combining her program with MHNO's program, as she enjoyed running it and helping people with snow shoveling.

Councilor Waxman stated she has concerns about MHNO paying people to snow shovel while Ms. Sheedy's volunteer program doesn't.

Councilor Skolnik stated that he would like confirmation that the school and pre-release programs don't allow volunteer participants to be paid. He asked if Ms. Sheedy's service also shoveled for people who are disabled.

Joan Sheedy responded that in general the program is for people over 65. No one under 65 has ever asked.

Councilor Skolnik asked if she would be comfortable adding people under 65 if there were more volunteers.

Joan Sheedy responded that she'd be willing to try it out.

Councilor Skolnik thanked Ms. Sheedy for her presentation and her snow shoveling program, and said he really appreciated the service she's provided to the City. He then asked Mike Bobinsky to give an overview of the new program of sidewalk snow removal.

Mike Bobinsky said that overall the new program is going extremely well. He stated that in order to clear the expanded sidewalk routes, the department acquired more equipment. He said he is very pleased with the improved connectivity on peninsula, and he has received positive feedback from people seeing clearing going on. He said that sidewalk snow removal had become more consistent in outlying areas like Outer Congress and North Deering. He said that the department's winter staff has implemented the new plan with great success. He stated he continued to offer Joan's services to people who call dispatch with issues. He explained the sidewalk snow removal compliance requirements, and noted that the department hasn't had a chance to enforce the ordinance until that week because of the frequency of snow events. He noted that the number of complaints has gone down considerably, and surprisingly the first storm generated more complaints off peninsula than on peninsula. The City legal department has helped draft letters and notices to people off peninsula notifying them about the snow removal requirements. He also noted that the department is getting better at not plowing snow into sidewalks because of the consolidation of departments.

Councilor Donoghue noted that there's been a big improvement from last year. He said that some feedback he's received from constituents includes improving the use of the parking ban and the incidence of narrow streets.

3. Comprehensive Street Lighting Policy

Mary Costigan explained that this item was a request from Councilor Donoghue. His major concern is relighting areas with a high incidence of crime. She introduced Public Services Director Mike Bobinsky to speak about how lighting is done in the City.

Councilor Donoghue added that he was concerned specifically about the circular nature of complaints and that the system as a whole was complaint based.

Mike Bobinsky said he would go over the technical design specifications for city lighting as well as explain the operational perspective of the department. He said that the Public Services department works with Central Maine Power on light maintenance. He stated that all decorative lights in the Old Port are owned and maintained by City, as well as others such as Pearl Street and Chestnut Street. The department deals with issues on a complaint basis as well as through staff observation. He noted that staffing at CMP is limited, which increases the response time. He said residents can call the customer service office at DPS, which records the address closest to the pole, then a staff member goes to it, records the pole number and relays it to CMP.

Councilor Donoghue asked if there were specs for standards of light on existing streets, and if so, were those specs based on the volume of traffic, whether pedestrian or motorist.

Mike Bobinsky explained the standard specs: on an arterial, pole spacing is 160 feet, the height of pole is 30 feet; on a residential street spacing is 130 feet, and local streets spacing is 120 feet. On both these types of streets the height of pole is 14 feet. On collector streets spacing is 130 feet with a 30 foot pole height, and a residential collector the spacing is 60 feet, because of the increase in vehicular traffic. He said the department has required developers to install lights in new projects at the 120 foot standard, but usually poles are on one side of the street or the other. Collectors and arterials have poles which alternate sides of the street. He mentioned that Park Avenue is getting 11 or 12 new poles with lights, and the project may be completed in March.

Councilor Donoghue stated that his goal is to have adequate lighting in residential areas that may not carry much vehicle traffic but where people gather outside at night. He said he was unsure of how the standards help that situation.

Mike Bobinsky said that they are the standard technical specs for new streets and standard roads and collectors, and as such probably don't address that issue.

The department works on specific sites on a case by case basis when they can. He noted that the FY09 budget is \$1.2 million for all streetlights and park lights, so cost is an issue. He said his department has worked with councilors, with neighborhood groups and with City police to balance complaints of too much light, safety and funds. He said he believed that a case by case basis is the way to address some of Councilor Donoghue's concerns. He noted that CDBG funds were used as part of the Park Avenue project in response to a pedestrian being hit by a car.

Councilor Donoghue stated that he feels that spots need to be identified and worked on, but a councilor only has three years to work on getting the funding required. He said that the places that suffer the most problems have the least organizing skills.

Mike Bobinsky suggested putting in a budget line for "community needs" in the lighting fund.

Councilor Waxman asked if there was an ongoing list of hot spots where crime occurs.

Mike Bobinsky said the police website lists hotspots for crime.

Councilor Donoghue asked if the City has an agreement on standard wattage with CMP.

Mike Bobinsky answered that CMP notes if a light is dim, but sometimes the City doesn't notice them until it's too late. Standard lighting is 150 watts, but lights can go as bright as 400 watts.

Councilor Donoghue said he liked the idea of carving out a troubleshooting component of the Public Services budget. He said he'd also like to look at standards needed for pedestrian safety as well as vehicle use.

Mike Bobinsky said the department is working with Planning to update the technical specifications in relation to street design.

Councilor Skolnik thanked Mike Bobinsky and Councilor Donoghue for the dialogue, then asked for a motion to take up an unagendaed item regarding the prospective efforts of the committee to discuss entertainment license dispersal requirements. Councilor Donoghue so moved, seconded by Councilor Waxman, motion passes 3-0.

4. Unagendaed item – discussion of dispersal requirements

Councilor Skolnik explained that Councilor Donoghue had brought up the possibility of exploring ways to replace the City's dispersal requirement with some other measure of maintaining public safety. He noted that the state legislature's deadline for submission of bills is Friday, January 16. He then asked Mary Costigan what the City could legally do in relation to regulating alcohol service.

Councilor Donoghue clarified that he wasn't sure what the state would allow itself to do and what it would allow municipalities to do in regards to licensing a bartender. He asked if the City would benefit from putting in some sort of placeholder legislation until the Committee could come up with appropriate language.

Mary Costigan asked if the placeholder legislation would be in relation to bartender licensing. Councilor Donoghue responded in the affirmative. She then stated that the training requirements she had researched in response to the Committee's request last year were all set by individual states. She added there are no training requirements in Maine.

Councilor Donoghue noted that requiring training of bartenders opened up several other questions, including the creation of a new training business and whether a business' liquor license is contingent on bartender training. He stated that the committee can get a legislator to submit placeholder legislation until they can work out the kinks.

Mary Costigan stated that some legislators are comfortable doing that, some are not. She said she thought it would be easy and quick to draft training legislation because there are examples of it in other states that the legislation could be modeled after.

Councilor Donoghue asked if there were states that require licensing or training.

Mary Costigan clarified that there were no states that required licensing, but many states have training requirements.

Councilor Donoghue suggested that the City could use the convention that was used to put the entertainment license dispersal in place so the City could require training.

Councilor Skolnik asked if that was the kind of thing the City could do on its own.

Mary Costigan responded that it was possible, but she'd want to talk to Corporation Counsel Gary Wood first.

Councilor Waxman asked if the committee wanted to keep it as a city issue and not go to the state.

Councilor Skolnik explained that they were discussing options with the possibility of repealing the dispersal requirements. He asked Mary Costigan if she could get the materials she had researched last year.

Councilor Waxman suggested going to the state with a written bill and not a placeholder. She also stated that 21 Reasons, an organization for preventing underage drinking, are running a training program for bartenders, which may be a resource for the committee.

Councilor Skolnik said the committee would have to wait two years to submit a bill or get it in for Friday.

Councilor Donoghue asked if this item could be placed on the agenda for the committee's next meeting. He stated he was more interested in using the entertainment license as a way to implement a mandatory training program, rather than going through the state legislature. He then made the motion to adjourn, seconded by Councilor Waxman. The motion passes, 3-0.

The meeting adjourned at 7:05 p.m.