



CITY OF CONCORD

New Hampshire's Main Street™

Public Safety Advisory Board

Minutes

August 31, 2020

Call to Order

Councilor Grady Sexton called the meeting to order at 3:00 pm.

Board Members Present: Councilor Grady Sexton (Chair), Mayor Jim Bouley, Lisa Brown, Councilor Candace Bouchard, Donald Carter, Steve Edwards, Councilor Fred Keach, Councilor Erle Pierce, Council Zandra Rice-Hawkins, Ann McKenna, Michael Russell, Pedro Altagracia

Members Excused:

City Staff Present: Police Chief Bradley Osgood, Deputy Police Chief Greg Taylor, Deputy Police Chief Steven Smagula, Deputy Police Chief John Thomas, Fire Chief Guy Newbery.

Introductions

Introductions of new members and existing members of the board.

Approval of Minutes

Councilor Bouchard motions to approve the July 27, 2020 minutes, seconded by Councilor Keach.

Minutes are unanimously approved.

Role of Public Safety Advisory Board

Mayor Bouley gives an overview of the purpose of the Public Safety Advisory Board as well as the role that the Public Safety Advisory Board. He states that it can be found in City Ordinance 2186 through 2415 Article 30-3-25.

30-3-25 - Public Safety Board.

(a)The Public Safety Board shall consist of fourteen (14) members:(1)Six (6) members of the City Council appointed by the Mayor and approved by the City Council; one of whom shall be named as Chair by the Mayor;(2)Eight (8) members from the general public appointed by the Mayor and confirmed by the City Council.(b)The members of the Advisory Board shall make an annual report to the City Council on the state of public safety in the City of Concord at the regular City Council meeting.(c)The members of the Advisory Board shall:(1)Recommend policy for the enhancement of public safety in the City of

Concord;(2)Recommend rules and regulations to improve public safety within the community; and(3)Consider special projects as referred by the City Council. (Ord. No. 2186, § I, 4-8-96; Ord. No. 2415, § IV, 2-11-02; Ord. No. 2708, § I, 3-10-08; Ord. No. 2783, § I, 3-8-10)

Backyard Chicken referral

Mr. David Hall, Code Administrator for the City of Concord gave an overview of the Backyard Chicken Referral as well as the ordinance governing a resident's ability to have chickens on their property. He states that the current ordinance has three basic categories to it. He said that if someone is going to do some type of processing of chickens then a farm production or agricultural setting. There is a 150 foot setback requirement in that environment. He said that for a single family who wants to have chickens on their property, there is a two acre minimum lot size, except for the RO where 1 acre is allowed. There is a 50 foot setback requirement. The third category allows up to 5 female chickens only if they are on less than an acre of land, and the setback for that is 30 feet.

City Solicitor, Jim Kennedy said that the original ordinance is now codified under Ordinance number 28-5-50. He said that the 30 foot requirement is what is being questioned recently.

Councilor Grady Sexton asked if she was correct in saying that there is currently a 30 foot setback and the current proposal is looking at reducing that setback to 5 feet.

Mr. Kennedy said that is his understanding.

Councilor Grady Sexton said that the recommendation comes to the Public Safety Advisory Board as approved by the Planning Board and asks Mr. Kennedy if that is correct.

Mr. Kennedy said that he would have to research that and that he believes that it was authorized by the Planning Board.

Mayor Bouley said that it was an item that came in through City Council, it was referred to the Planning Board and that the Planning Board held deliberations and a public hearing and made a recommendation to the Council. He said that the Council referred it to the Public Safety Advisory Board.

Mr. Carter asks if there is any requirement in regards to housing or restraints for the chickens and to keep them from moving around neighborhoods.

Mr. Hall said that chickens are permitted in several different districts. He said that chickens are not allowed to be free range chickens and that they are to be contained.

Mr. Carter asks Mr. Hall about whether chicken coups are needed.

Mr. Hall says that any property under an acre of size is required to have a chicken coup.

Mr. Altagracia asked if any of the complaints that have been obtained been in reference to other predatory animals being drawn to areas due to the chickens.

Mr. Hall said that the Code Administration is unaware of that, and that Code does not track that.

Chief Osgood said that the police department would have to do some research to see if they had any data concerning that.

Councilor Pierce asked Mr. Hall if any of the complaints concerned roosters.

Mr. Hall stated that about 6 of the complaints concerned roosters.

Councilor Pierce stated that in August of 2019 the Planning Board looked at the issue and voted 5-2 to pass it on to City Councilor for consideration. He said that the board recognized that many people like chickens as pets, and that was the determining factor on allowing a 5 foot setback.

Ms. Brown asked if selling eggs is prohibited by the ordinance and Mr. Hall stated that it is prohibited by the ordinance.

Mr. Edwards asked what the distinction is between why this is a public safety issue versus a public health issue as it related to the topic.

Councilor Grady Sexton asked Mr. Edwards if he's asking whether the board should be factoring in public health and public safety.

Mr. Edwards said that he is wondering why the PSAB is considering this other than a Public Health Board.

Councilor Grady Sexton stated that in 2011 the PSAB did research and determined that the 30 foot buffer was most appropriate. She said that the PSAB would be the committee to address issues in regards to Public Health. She said at the time the committee reviewed what may be best for the residents, as well as the chickens. She stated that the public safety aspects related to predator animals that may be attracted by the chickens, disease, insects, and waste contamination and whether or not chickens could cause traffic issues if they were loose.

Councilor Bouchard clarifies that this discussion is not about whether or not people should have chickens or not, the issue at hand is the setback requirements.

Councilor Grady Sexton agrees with Councilor Bouchard and states that today the committee is trying to determine the appropriate setback.

Councilor Bouchard follows up that this pertains to one acre or less.

Councilor Grady Sexton opens up the discussion to the public.

Stacey Brown refers to her daughter Fran and asks permission for her to speak first.

Fran Brown provides testimony on the benefits of raising chickens as pets.

Mrs. Brown provides her testimony in support of changing the setbacks on the ordinance. She stated that she submitted a right to know request in order to research complaints about chickens for the last ten years. She said that there were 17 complaints and 4 turned up unfounded. She said that there were 3 complaints about roosters, 1 complaint that someone had more than 5 hens, 3 complaints that people were not meeting their setbacks. She said that 6 of the complaints were about chickens free ranging. She stated that other towns implemented a fine for repeat offenders who let their chicken's free range. She said that there were no complaints about smells or vermin coming into the areas. She states that there are ways to detract vermin when raising chickens.

Gina Brochu, who is a neighbor to Mrs. Brown, testified to the board against changing the setback on the ordinance. She states multiple reasons for thinking that changing the setbacks are not a good idea and that changing the setbacks could cause further conflict amongst neighbors.

Mrs. Brown responds to Ms. Brochu's testimony. She stated a different neighbor submitted a letter in support of chickens and that she was unaware that the Brochu's had an issue with her chickens until last year.

Councilor Rice-Hawkins asks Mrs. Brown whether or not she was involved in the original ordinance development in 2011. She asks whether the individuals who signed the petition understood that they were signing to support chickens in general or whether they knew they were signing to reduce the setbacks.

Mrs. Brown said that she contacted Councilor Grady in 2011. She said that during the City Council meeting they discussed the difference. She said that when they got signatures on the petition that it was explained to those signing that the setback would be reduced to 5 feet and they also explained why the City Planner chose to reduce it, and that there were no complaints about noise or smell.

Councilor Rice-Hawkins said Ms. Brown had forwarded information to the board after speaking with a Master Gardner with UNH. The information was in support of the ordinance and compost. She states that it is recommended that there should be a 50 foot setback for backyard chickens.

Mrs. Brown states that she is talking about pets. She said that the ordinance is titled Keeping of Chickens as Pets.

Ms. McKenna asks if there was any discussion in the ordinance regarding the number of chickens. She states that it was her understanding that 1 chicken requires 4-5 feet. She asks if there is a criterion surrounding the number.

Mr. Hall states that the current ordinance just has up to 5 chickens of any breed may be kept on a lot of 1 acre or less in size and they must be female chickens.

Councilor Bouchard states that other cities in New Hampshire have a 20 foot ordinance. She said that there is probably a lot more information now than there was in 2011. She recommends forming a subcommittee in order to review the ordinance in its entirety. She said that she is in favor of people having backyard chickens as pets but believes that the committee needs to look at best practices.

Mr. Altagracia said that he agrees about reviewing the ordinance.

Councilor Pierce states that he would like to move the issue from this committee. He said that it doesn't appear to be a public safety issue and that he would like a recommendation from the committee in regards to whether or not this is a public safety or a public health hazard, and the committee can then make that recommendation to the City Council.

Councilor Grady Sexton clarifies that it is the role of the PSAB to look specifically at the public health and public safety aspects of the setback area. She states that the board should be looking at whether or not whether 5 feet or 30 feet is appropriate and whether or not the 5 feet would adversely affect public safety.

Councilor Pierce said that he wants to ensure that this stays in the role of the committee and that it is not made into a larger question of livestock versus pets. He states that it should stay specific to the public health and public safety aspects.

Mayor Bouley said that he would ask as a courtesy to read some of the information that has come in thus far. He asks to take this up next month so that the information can be reviewed.

Councilor Rice-Hawkins said that she also would like to come back next month in order to review the information but states that she wants it addressed in the next meeting so as not to prolong a resolution.

Councilor Grady Sexton asks Councilor Bouchard if she would be open to chairing a subcommittee and reporting back next month.

Councilor Bouchard agrees to chair a subcommittee. Councilor Pierce, Councilor Rice-Hawkins, and Ms. McKenna volunteer to also be on the subcommittee.

CALEA Report from Subcommittee

Councilor Grady Sexton states that the subcommittee has not yet met. She said they will meet and continue to keep people updated.

Chief Osgood stated that he wanted to discuss the cost benefit analysis of CALEA. He said that this fiscal year the City Council approved a Capital Improvement Project in which the Police Department could have a Space/Needs Analysis. He said that is going to be launched within the next couple of weeks and are hoping to have the report back in early 2021. He believes the report will address structural and safety issues that exist within the police department that would be important to know as they move forward with CALEA. He also said that it was discussed offline of having a Zoom type conference with the Manchester Police Departments Accreditation Manager and the subcommittee in order to educate the council about what this process would entail.

Update on Homeless Camps

Deputy Chief Steve Smagula said that homelessness continues to be a challenge for the police department and for the city as a whole. He said that they are not looking to criminalize homelessness but the department monitors what is going on in the encampments. He stated that most calls that the department gets are out of concern for the individuals. He stated there is an ongoing effort to refer the homeless population to various

resources. He said that they do not want to keep displacing them to one spot after another throughout the city. He stated that they will have to rely on partnerships to make the situation better.

Police Department Policy on Citizens Complaints

Councilor Bouchard stated that she received a phone call from a citizen who thought they were treated unfairly. She said that she followed up with Chief Osgood in order to understand what the citizen complaint process entails. She stated that after hearing the policy she felt that the process may be uncomfortable for the citizen.

Chief Osgood then gave an overview and read the policy statement. He stated the authority for internal investigations or complaints against the department and staff falls on the Deputy Chief of Administration who then reports to Chief Osgood. He said that if someone wishes to file a complaint against the department or a member of the department all of the personnel are instructed to refer the complainant to the on duty Watch Commander who is a Police Lieutenant, they are on 24 hours a day. The Watch Commander then tries to meet with the person in person; however they sometimes conduct telephone interviews. The Lieutenant takes down all information and asks pertinent questions about the complaint, what occurred, where it occurred. The Lieutenant then sends a report to their Deputy Chief. He said that all three Deputy Chiefs then weigh in on the complaint before it goes to the Chief. The Chief makes the final decision as to what will be done about the complaint and he said that 99.9% of the time it gets sent back out for follow up investigation. He said that they reach back out to the complainant to do a more thorough interview and will also interview witnesses if they are available. He said that the investigations should be done efficiently and no longer than 30 days unless the Chief approves an extension. He said that they always respond to the complainant to let them know that there has been a thorough investigation and have come up with a resolution. He said that he will seek consultation with the City Solicitors Officer, the City Prosecutor's Office and on occasion the Merrimack County Attorney's Office when necessary. He said he runs his decision by them, as well as the City Manager.

Councilor Keach asked Chief Osgood if a situation escalates where behavior may be criminal in nature and not just a violation of department policy, will it be referred to an outside agency or will it be handled internally?

Chief Osgood said that it has been done both ways in the past, however he is not suggesting there is a lot of behavior that is criminal in nature. He said that they consult with the County Attorney's Office of the City Prosecutors office to get guidance on what they believe. He said he has seen cases in the past where they have gone to an outside agency in order to maintain transparency.

Councilor Rice-Hawkins asked how it is determined which instances the County Attorney, City Prosecutor or City Manager would be consulted.

Chief Osgood answered that if they think that a law was violated they would go to a Prosecutor. He said that many complaints that come in are not involving an officer committing a crime; it is more so rudeness or something similar to that. He said that he would review that when necessary with the Solicitors office rather than a prosecutor.

Councilor Rice-Hawkins asked if demographic data is kept about the individuals who have filed complaints.

Chief Osgood said that demographic data can be extracted, and there are not many complaints so that data is easy to extract.

Councilor Rice-Hawkins said she thought it would be good to think about how to formalize that process a little bit.

Councilor Rice-Hawkins suggested meeting twice a month to review the Policing Task Force Review in order to get through that content by the end of the year.

Meeting was adjourned at 4:30 p.m.