



CITY COUNCIL

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By City Clerk at 8:49 am, Feb 19, 2021

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ORDINANCE & RULES SUBCOMMITTEE

AGENDA: FEBRUARY 25, 2021
REMOTE
6:00 PM

Topic: Ordinance & Rules Subcommittee Feb. 25, 2021
Time: Feb 25, 2021 06:00 PM Eastern Time (US and Canada)

Join Zoom Meeting

<https://us02web.zoom.us/j/85432174545?pwd=RUITclJDUlhiUmFwN1Ija211cWkwZD09>

Meeting ID: 854 3217 4545
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CALL TO ORDER
PUBLIC PARTICIPATION

DISCUSSION

1. Continued Discussion Regarding Order 2021-015 - Upon Request of the City Council to refer a draft ordinance to create Neighborhood Area Groups to the Rules & Ordinances Subcommittee

2. Continued Discussion Regarding Order 2020-083 -- Upon Request of City Council to refer a proposed Political Activity on Municipal Property Ordinance to the Ordinance & Rules Subcommittee for review and a recommendation to the City Council

NEXT STEPS AND UPCOMING MEETINGS

ADJOURN

TO: Framingham Council
FROM: John A. Stefanini
DATE: 28 January 2021
RE: Neighborhood Area Groups

MEMORANDUM

As you know, our neighbors and neighborhoods, places of worship and activities, small businesses and schools, connect us together like a jigsaw puzzle. Our respect for our human differences is our foundation, but it is the activities, associations and places that connect us that make Framingham special. In this time of quarantine, national conflict and ugly discourse we need to remind ourselves that the things that bind us are so much stronger than those things that divide us.

Our neighbors -- former Town Meeting Members and community activists, newcomers and townies -- remain eager to work with our Council, boards and committees, and the Mayor to ensure that residents' voices are heard and guarantee each neighborhood retains their unique characteristics and vitality.

Newton, Boston and other cities have effectively harnessed this by establishing neighborhood groups and giving them a strong voice in local decision-making. These groups would work to preserve and promote neighborhoods, essential to a healthy, vibrant, and thriving community. In Framingham, these Groups would:

- Represent neighborhood interests with municipal boards;
- Evaluate impacts of and propose mitigation for local development projects;
- Propose beautification, signage and capital projects;
- Secure support and funding for annual block party, cleanup days, and Crime Watch;
- Get advance notification of municipal-related public works or utility projects;
- Evaluate municipal services;
- Suggest sustainability strategies;
- Access and disseminate information through City lists and website; and,
- Establish permit parking.

These groups of active neighbors would be self-selecting. Duly organized neighborhood associations would be able to petition the City for formal recognition.

The Mayor would annually assess the strengths, challenges, and needs of our neighborhoods and make recommendations to the Council for positive changes to our ordinances and municipal practices to create a neighborhood blueprint for Framingham. It will serve as our road map for promoting, preserving and protecting our neighborhoods.

Well organized neighborhood groups like Friends of Saxonville, have demonstrate great success in interacting with local and state government. In Coburnville and Tripoli, we have recently formed such a group and already see better communication amongst neighbors, timely action from City decisionmakers, and a stronger sense of community. With support, our neighborhoods will connect newcomers and townies to bring the Framingham renaissance that we desire.

Attached are my initial thoughts on how to accomplish these goals. As always, I welcome your thoughts and ideas.

Attachment

Ordinance to create Neighborhood Area Groups

Be it ordained by the Framingham Council, as follows:

SECTION 1.

Article II of the Framingham Ordinances is hereby amended by adding at the end thereof the following new section:

Section 33: Neighborhood Area Groups

33.1: Purpose

Our neighborhoods -- places of worship and activities, small businesses and schools -- connect neighbors together to build community. It is the activities, associations and places that connect us that gives each neighborhood its own identity and history. Together, these diverse neighborhoods are pieces of our community fabric, and woven together by our common values.

Neighborhood Advisory Groups (Groups) will assist each neighborhood in strengthening the bonds of its neighbors, defining its unique identity, and building a sense of community by harnessing our neighbors' expertise, experience and energy. These Groups give our neighborhoods a louder voice to preserve and promote neighborhoods, essential to a healthy, vibrant, and thriving community and will expand self-governance to our neighborhoods.

33.2: Neighborhood Areas

33.2.1 Establishment

The council may, upon petition of area voters, establish one or more neighborhood areas to represent or provide services that the Neighborhood Area Group (Group) is authorized to undertake, provided that the council shall not authorize more than one for any given area of Framingham:

(a) A petition may be submitted to the council requesting the establishment of a neighborhood area. The petition must be signed by 10 percent of the voters residing in the area, but not fewer than 250 such residents. The petition shall describe the territorial boundaries of the proposed service area, the Group's name, and shall indicate the size of the Neighborhood Area Group.

(b) Upon receipt of the petition, the council shall submit the petition for verification of signatures to the City Clerk and, within 30 days following verification, the council shall hold a public hearing on the question of whether or not the requested neighborhood area shall be established. The hearing may be adjourned from time to time but shall be completed within 60 days of its commencement.

(c) Within 30 days following the public hearing, the council shall by resolution approve or disapprove the establishment of the requested neighborhood area.

(d) A resolution approving the creation of the neighborhood area may contain amendments or modifications of the area's boundaries, functions, or the size of the neighborhood area group as set forth in the petition.

33.2.2 Boundary Changes

The council may, on the initiative of the council or pursuant to a request from a neighborhood area group accompanied by a petition signed by at least 20 per cent of the voters residing in the area to be added or deleted, enlarge, diminish or otherwise alter the boundaries of any existing neighborhood area following the procedures set forth in subsections (b) to (d), inclusive, of section 2.1 above.

33.2.3 Considerations in Setting Boundaries

In establishing neighborhood area boundaries and determining those services to be undertaken by a Group, the council shall study and take into consideration, but not be limited to, the following:

- (i) the extent to which the area constitutes a neighborhood with common concerns and a capacity for local neighborhood initiative, leadership and decision making with respect to city government;
- (ii) city agency authority and resources which may appropriately be needed;
- (iii) population density, distribution and growth within a neighborhood area to assure that its boundaries reflect the most effective territory for local participation and control; and
- (iv) citizen access to, control of and participation in neighborhood area activities and functions.

33.2.4 Dissolution of a Neighborhood Area

- (a) The council may, after a public hearing, dissolve a neighborhood area on the initiative of the council or pursuant to a petition signed by at least 20 per cent of the voters living within the neighborhood area; and
- (b) The council shall give notice, in a newspaper of general circulation covering the neighborhood area, of its intention to hold a public hearing on a proposed dissolution. The notice shall be given not less than 14 days before the date of the public hearing.

Section 3: Neighborhood Area Groups

33.3.1 Election; Vacancies

(a) A Neighborhood Area Group (Group) shall be duly organized as a non-profit entity with an 7 to 19 member executive committee, with membership open to all residents of the neighborhood area as set out in the Group's bylaws. While the Group may collect dues, it is not required to participate in Group meetings and to vote on Group actions. The Group's membership shall be open to all Framingham voters residing within the neighborhood area. The Group's composition shall reflect the demographic and geographic diversity of the service area.

(b) The Group's executive committee shall be elected at-large by and from voters residing in the neighborhood area at an annual meeting each year as stated in Group's bylaws. The district councilor and district school committee member who represent any portion of the area included in a neighborhood area shall serve, ex officio with no power to vote, as members of the Group.

(c) A vacancy in the executive committee shall be filled by the Group by election at a duly posted meeting. Members so appointed shall serve for the remainder of the unexpired term and until their successors are qualified.

33.3.2 Powers and Functions

A Neighborhood Area Group may exercise any powers and perform any functions within the neighborhood area expressly authorized by the council, which may include but not be limited to:

(i) represent neighborhood interests with mayor, council, school committee, and multiple member bodies;

(ii) self-help projects, such as supplemental refuse collection, beautification, minor street and sidewalk repair, establishment and maintenance of neighborhood community centers, street fairs, block parties, and festivals, community gardens, cultural activities, recreation and housing rehabilitation;

(iii) acceptance of funds from public and private sources;

(iv) advisory or delegated substantive authority or both, with respect to such programs as a community action program, urban renewal and other physical development programs, crime prevention, health services, and recreation;

(v) evaluate impacts of and propose mitigation for local development or signage projects before local permitting authorities finalize approvals;

(vi) evaluate municipal services;

(vii) suggest sustainability strategies;

(viii) disseminate information through City lists and website;

(ix) propose traffic or parking improvements, including a resident parking sticker; and

(x) expenditure of monies to support neighborhood area projects.

33.3.3 Compensation; Meetings; By-Laws

(a) Members of a Group shall receive no compensation but may receive reimbursement of actual and necessary travel and other expenses incurred in performance of official duties.

(b) A Group shall adopt by-laws providing for the conduct of its business and the selection of a chair, vice-chair, treasurer, and clerk. Copies of the Group's by-laws shall be posted on the municipal bulletin board and made available to the public upon request.

(c) A majority of the Group's executive committee shall constitute a quorum for the transaction of business, but business should be transacted at a regular meeting

whenever possible where all area residents are invited and have an equal vote. Each member entitled to vote shall have one vote.

(d) The Group shall adhere to the uniform procedures governing multiple-member bodies in accordance with Article I, Section 7. The group shall keep a notification list and notify area residents of all meetings and decisions of the Group.

33.3.4 Annual Report

Each Group shall make an annual report of its activities to the mayor and council which shall be posted on the municipal bulletin board.

33.3.5 Financial Records

Each Group shall keep complete financial records which shall be subject to inspection and audit by city.

33.3.6 Meetings

The Group shall meet as necessary to carry out its duties, but in any year shall hold no fewer than six meetings, including an annual meeting.

SECTION 2.

Article II of the Framingham Ordinances is hereby amended by inserting at the end of Section 1 the following new subsection:

1.11 Neighborhood Advisory Groups

The mayor shall annually assess the strengths, challenges and needs of Neighborhood Area Groups and make recommendations to the council for changes to ordinances and municipal services to create a neighborhood blueprint for Framingham. It will serve as our road map for promoting, preserving and protecting our neighborhoods.

SECTION 3.

Article I of the Framingham Ordinances is hereby amended by inserting at the end thereof the following new section:

Section 6. Neighborhood Advisory Groups

6.1 Multiple member bodies and municipal officers shall provide advance notification of any municipal-related public works or utility project taking place or public hearing for a license or permit sought within or adjacent to the Group's area. Multiple member bodies shall solicit mitigation plans from a Group for development projects within a Group's neighborhood area.

6.2 Multiple member bodies, upon the request by vote of a Group, make time on its agenda to hear the concerns and ideas of the Neighborhood Area Group.

6.2 Upon the request of a Neighborhood Area Group, multiple member bodies and municipal officers shall waive all necessary fees for permits and licenses, and provide technical and financial assistance, for said Groups to conduct an annual neighborhood block party. And

municipal officers shall make reasonable accommodations during regular hours of operation for Groups to utilize public meeting spaces at no cost to the Group.

SECTION 4.

Severability

If any provision of this ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 3.

Effective Date

This ordinance shall take effect immediately.

From Petrini on 2/17/21 re: Neighborhood Area Groups Ordinance

Good morning. As always, thank you for your assistance. We will make these adjustments and do the further investigation. Be safe. John

From: Christopher J. Petrini <cpetrini@petrinilaw.com>

Sent: Thursday, February 18, 2021 7:34 AM

To: John A. Stefanini

Cc: George P. King; Maureen McKeon; Christopher Brown

Subject: RE: Neighborhood Area Groups draft ordinance City Solicitor Comments

John,

Thank you for sending us the Neighborhood Area Groups draft ordinance. Here are our comments on the current draft:

1. The proposed ordinance refers to “Neighborhood Area Groups” and “Neighborhood Advisory Groups” in different sections. It is not clear if there is any actual distinction between these groups or if these are typos and the term should be the same throughout the ordinance.
2. SECTION 2, which proposes a new Article II, Section 1.11, is inconsistent with the separation of powers in the Charter, specifically Article II, Section 3(b) which prohibits the council from giving directions or orders to any municipal officer or employee. I therefore recommend editing the first sentence of the section to add the language shown in yellow highlight as follows:

“The mayor **may periodically** assess the strengths, challenges and needs of Neighborhood Area Groups and make recommendations to the council for changes to ordinances and municipal services to create a neighborhood blueprint for Framingham.”

3. SECTION 6.2 [sic] (the second one on pg. 4) provides for waiver of fees and technical and financial assistance for annual neighborhood block parties. While the Council should consult further with the CFO on this point, in my opinion a special fund may need to be established under G.L. c. 44, s. 53I for this purpose.

Thanks,

Chris

Christopher J. Petri
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Framingham, MA 01702
Tel. (508) 665-4310
Fax (508) 665-4313

cpetri@petrilaw.com

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Petition to prohibit the use of public resources or property for political activity

Be it ordained by the Framingham Council, as follows:

SECTION 1.

In addition to the strict adherence to the spirit and letter of Massachusetts state ethics, campaign finance, and election laws limiting political activity, electioneering, and fundraising by municipal employees, with municipal resources, and at municipal facilities, except as allowed by law or listed below, no municipal resources, facilities, real or personal property, or employees, including the City Seal, may be used for any fundraising, campaigning, or electioneering related activity, except:

- 1) Public forums or debates sponsored by a community group and duly permitted;
- 2) The personal campaign gear held or worn by an individual;
- 3) Collection of signatures for a petition by an individual; and,
- 4) Political rallies duly permitted.

Provided further, that under no circumstances may political signs, materials, or paraphernalia be left unattended on any public property or in any public facility.

SECTION 2. Severability.

If any provision of this ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 3. Effective Date.

This ordinance shall take effect immediately.

Email From Petrini 2/17/21 re: Political Activity on Town Property

John,

Thank you for providing this draft ordinance. I have two principal comments based on this draft:

1. Given that political activity of public employees and the use of public resources for the same is already heavily regulated by G.L. c. 55 and G.L. c. 268A, it is not clear what the first part of Section 1 in the ordinance is attempting to further prohibit. We went back to review the video recording from the Committee's 2/11 meeting but for whatever reason there is no discussion of the ordinance on the recording. Please advise if this was previously discussed at a R&O meeting.
2. I am concerned that the complete ban on political signs, materials or paraphernalia in the second paragraph of Section 1 raises First Amendment issues and exposes the City to a risk of litigation. Sign restrictions/regulations at the local level is a heavily litigated area in First Amendment jurisprudence and we should do we can to avoid further litigation against the City as it is the predominant cost driver of the City legal budget. The proposed complete ban on political signs, materials or paraphernalia is a content-based restriction on speech that will need to meet the strict scrutiny standard of review to pass constitutional muster if challenged in court. The City would need to show that the ban serves a compelling government interest and is narrowly tailored to serve that interest. Reed v. Gilbert, 135 S. Ct 2218 (2015). There is no statement in the ordinance to show what the interest is that is being served and why a ban on political signs only is narrowly tailored to serve that interest.

I encourage the Rules & Ordinance Committee to carefully consider these issues before deciding to advance the ordinance to the full Council for a first reading.

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- 1) Public forums or debates ~~sponsored by a community group and~~ duly permitted;
- 2) The personal campaign gear held or worn by an individual;
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~~Provided further, that under no circumstances may political signs, materials, or paraphernalia be left unattended on any public property or in any public facility.~~

SECTION 2. Severability.

If any provision of this ordinance shall be held to be invalid by a court of competent jurisdiction, then such provision shall be considered separately and apart from the remaining provisions, which shall remain in full force and effect.

SECTION 3. Effective Date.

This ordinance shall take effect immediately.

Email from Petrini 2/24/21

Please include this email with the materials for Thursday night's O&R meeting -- thank you.
John

From: Christopher J. Petrini <cpetrini@petrinilaw.com>

Sent: Wednesday, February 24, 2021 9:04 AM

To: John A. Stefanini

Cc: Christopher Brown

Subject: Neighborhood Area Groups and Political Activity draft ordinances City Solicitor Comments

Thank you John. We have reviewed the revised versions of both the Neighborhood Area Groups and Political Activity Ordinances. All of the issues we raised on the Neighborhood Area Groups ordinance have been addressed and we are comfortable with the ordinance as revised.

For the Political Activity Ordinance, we see you removed the language which we believe raised potential First Amendment legal challenges so that is a positive development but we are still not certain what the remaining portion of the ordinance is intended to achieve beyond what Chapter 268A and Chapter 55 already provide in restricting the involvement of public employees and the use of public resources in political campaigns. We recommend you add a purpose section more clearly defining the intended goal of this ordinance.

Thanks,

Chris

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-----Original Message-----

From: John A. Stefanini <jastefanini@framinghamma.gov>

Sent: Sunday, February 21, 2021 12:04 PM

To: Christopher J. Petrini <cpetrini@petrinilaw.com>

Cc: Christopher Brown <cbrown@petrinilaw.com>

Subject: RE: Neighborhood Area Groups draft ordinance City Solicitor Comments

[EXTERNAL SENDER]

Thank you for your input. I have incorporated all of your suggestions into the attached redraft which the Subcommittee will discuss this Thursday at 6:00 PM. Be safe. John?

From: Christopher J. Petrini <cpetrini@petrinilaw.com>

Sent: Thursday, February 18, 2021 7:34 AM

To: John A. Stefanini

Cc: George P. King; Maureen McKeon; Christopher Brown

Subject: RE: Neighborhood Area Groups draft ordinance City Solicitor Comments

John,

Thank you for sending us the Neighborhood Area Groups draft ordinance. Here are our comments on the current draft:

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"The mayor may periodically assess the strengths, challenges and needs of Neighborhood Area Groups and make recommendations to the council for changes to ordinances and municipal services to create a neighborhood blueprint for Framingham."

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Thanks,
Chris

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-----Original Message-----

From: John A. Stefanini <jastefanini@framinghamma.gov<mailto:jastefanini@framinghamma.gov>>
Sent: Friday, February 12, 2021 10:43 AM
To: Christopher J. Petrini <CPetrini@framinghamma.gov<mailto:CPetrini@framinghamma.gov>>
Cc: George King <gking@framinghamma.gov<mailto:gking@framinghamma.gov>>; Maureen McKeon
<mmckeon@framinghamma.gov<mailto:mmckeon@framinghamma.gov>>
Subject: Neighborhood Area Groups draft ordinance

[EXTERNAL SENDER]

Good morning. The Rules Subcommittee met last night to review the attached draft ordinance. We seek your counsel and advice regarding it before we submit it back to the full Council for its first reading. If at all possible, we would welcome your comments before our meeting next Thursday. As always, you are welcome to join us. Thank you. Be safe. John

One Framingham - Focused on the Future

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