

Bylaws Cmte Meeting Minutes
May 18, 2015

MEMBERS PRESENT-

Jonathan Meindersma
Kim D Hopewell
Kevin McCormick
Marc Frieden
David Mercurio

6 p.m. Meeting Call to Order

Review of Town Meeting Articles to Amend the Town Bylaws

A-

Article 20- Authorization to Amend Article XIV of the General Bylaws Licenses and Permits

Existing Bylaw
Town of West Boylston General Bylaws

ARTICLE XIV - LICENSES AND PERMITS

Section 1

The Selectmen may license suitable persons to be the collectors of, or dealers in, or keepers of shops, for the purchase, sale, or barter of junk, old metals, or second hand articles, and no person shall be a dealer in, or keeper of a shop as aforesaid without a license. The Selectmen may make suitable rules and regulations governing the conduct of such business.

A29 Feb 5, 1940

Town Meeting Action

Article 20- Authorization to Amend Article XIV of the General Bylaws Licenses and Permits

To see if the town will vote to amend Article XIV of the General Bylaws by inserting the bolded, italicized language;

Section 1

The Selectmen may license suitable persons to be the collectors of, or dealers in, or keepers of shops, for the purchase, sale, or barter of junk, *gold, silver, platinum or jewelry*, old

metals, or second hand articles, and no person shall be a dealer in, or keeper of a shop as aforesaid without a license. *All materials taken in trade shall be held for a minimum of (30) days before the resale, trade, melting, changing the appearance of or any other means of disposing thereof. Audit sheets shall be submitted to the Chief of Police on a weekly basis with record of all transactions, including the date of sale, amount, seller's name and address, date of birth, driver's license number and an itemized list and description of each article. Each Licensee shall also take a color photograph of each item purchased and a color photograph of each person selling said items. Each Audit Sheet shall be legible and written in English. The required reports and photographs may be stored and transmitted electronically if the format is approved by the Chief of Police.* The Selectmen may make suitable rules and regulations governing the conduct of such business.

Or take any other action relative thereto.

Discussion

This article makes improvements to the General Bylaws to strengthen the oversight of businesses who purchase gold and silver or other valuables. This article is proposed by the Chief of Police.

The sole purpose of this bylaw is to add specific language to the existing bylaw that states that items take in trade by a premise licensed by the Town, (gold, silver, platinum or jewelry, old metals, or second hand articles) shall be held for 30 days. Audit sheets of these transactions will be submitted to the Police Department with specific information such as who sold the items and on what date.

The reason for this change in the bylaw is that items such as jewelry that have been stolen from a household are sometimes taken directly to a collector and sold. The collector may then melt down the jewelry for the gold content. This immediately destroys the jewelry and any means to identify the piece as stolen. By adding these specific words to the bylaw, the collector would have to maintain the piece of jewelry intact for 30 days so that if it is discovered that it actually was stolen, it could be returned to its rightful owner. This small change in the bylaw would enhance with the investigation of criminal activity and assist in returning items stolen to their rightful owners.

Motion-

Motion to approve- David Mercurio, Second- Marc Freiden
Unanimously voted to approve

Final Version as Amended Town of West Boylston General Bylaws

ARTICLE XIV - LICENSES AND PERMITS

Section 1

The Selectmen may license suitable persons to be the collectors of, or dealers in, or keepers of shops, for the purchase, sale, or barter of junk, gold, silver, platinum or jewelry, old metals, or second hand articles, and no person shall be a dealer in, or keeper of a shop as aforesaid without a license. All materials taken in trade shall be held for a minimum of (30) days before the resale, trade, melting, changing the appearance of or any other means of disposing thereof. Audit sheets shall be submitted to the Chief of Police on a weekly basis with record of all transactions, including the date of sale, amount, seller's name and address, date of birth, driver's license number and an itemized list and description of each article. Each Licensee shall also take a color photograph of each item purchased and a color photograph of each person selling said items. Each Audit Sheet shall be legible and written in English. The required reports and photographs may be stored and transmitted electronically if the format is approved by the Chief of Police. The Selectmen may make suitable rules and regulations governing the conduct of such business.

Article 21 – Authorization to Amend the General Bylaws of the Town by Adding Article XXXVIII – CIVIL FINGERPRINTING

B-

NEW BYLAW

Town Meeting Action Town of West Boylston General Bylaws

Article 21 – Authorization to Amend the General Bylaws of the Town by Adding Article XXXVIII – CIVIL FINGERPRINTING

To see if the town will vote to amend the General Bylaws of the town by adding the following,

ARTICLE XXXVIII - CIVIL FINGERPRINTING

Criminal History Check Authorization

A. The Police Department shall, as authorized by Massachusetts General Laws Chapter 6, Section 172B^{1/2}, conduct State and Federal Fingerprint Based Criminal History Checks for individuals applying for the following licenses:

- Hawking and Peddling or other Door-to-Door Salespeople (Licensing Authority: Police Department)

- Manager of Alcoholic Beverage License (Licensing Authority: Board of Selectmen)
- Owner or Operator of Public Conveyance, i.e., Limousine Service (Licensing Authority: Board of Selectmen)
- Dealer of Second-hand Articles (Licensing Authority: Board of Selectmen)
- Pawn Dealers (Licensing Authority: Board of Selectmen)
- Hackney Drivers (Licensing Authority: Board of Selectmen)
- Ice Cream Truck Vendors (Licensing Authority: Board of Selectmen)

B. At the time of the fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's criminal history records. The Police Chief shall periodically check with the Executive Office of Public Safety and Security ("EOPSS") which has issued an Informational Bulletin which explains the requirements for town bylaws and the procedures for obtaining criminal history information, to see if there have been any updates to be sure the Town remains in compliance.

C. Upon receipt of the fingerprints, the individual's consent and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this bylaw to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in this bylaw.

The Town authorizes the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Systems (DCJIS), and the Federal Bureau of Investigation (FBI), and their successors, as may be applicable, to conduct fingerprint-based state and national criminal record background checks, including FBI records, consistent with this bylaw. The Town authorizes the Police Department to receive and utilize State and FBI records in connection with such background checks, consistent with this by-law. The State and FBI criminal history will not be disseminated to unauthorized entities.

Use of Criminal Record by Licensing Authority

D. Licensing authorities of the Town shall utilize the results of fingerprint-based criminal record background checks for the sole purpose of determining the suitability of the subjects of the checks in connection with the license applications specified in this by-law. A Town licensing authority may deny an application for a license on the basis of the results of a fingerprint-based criminal record background check if it determines that the results of the check render the subject unsuitable for the proposed occupational activity. The licensing authority shall consider all applicable laws, regulations and Town policies bearing on an applicant's suitability in making this determination. Factors that shall be considered in making a determination of fitness shall include, but not be limited to, whether the record

subject has been convicted of, or is under pending indictment for a crime, that bears upon the subject's ability or fitness to serve in that capacity, including any felony or a misdemeanor that involved force or threat of force, possession of a controlled substance, or a sex-related offense.

Licensing authorities of the Town are hereby authorized to deny any application, including renewals and transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this by-law.

Fees

E. The fees charged by the Police Department for the purpose of conducting fingerprint-based criminal record background checks shall be established by a vote of the Board of Selectmen. The Town Treasurer shall periodically consult with Town Counsel and the Department of Revenue, Division of Local Services regarding the proper municipal accounting of those fees.

A portion of the fee, as specified in Mass. Gen. Laws Chapter 6, Section 172B¹/₂, shall be deposited into the Firearms Fingerprint Identity Verification Trust Fund, and the remainder of the fee may be retained by the Town to be expended by the Police Department to help offset costs associated with the administration of the fingerprinting system, subject to Town Meeting appropriation or deposited in a revolving account if and when one is established for that purpose.

Regulations

F. The Board of Selectmen is authorized to promulgate regulations for the implementation of this by-law, but in doing so it is recommended they consult with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute, the FBI's requirements for access to the national database, and other applicable state and federal laws.

Effective Date

G. This by-law shall take effect upon approval by the Attorney General, so long as the requirements of G.L. c.40, Section 32 are satisfied.

Or take any other action relative thereto.

Discussion

This article adds a new section to the General Bylaws which addresses the use of fingerprinting by the Police Department. This article is proposed by the Chief of Police.

The sole purpose of this bylaw is so that the Police Department may legally utilize our State and Federal Fingerprint Based Criminal History Checks for Individuals applying for various licenses. This bylaw would bring the Police Department into compliance with the Executive

Office of Public Safety and Security (E.O.P.S.S.) and allow us to check for these criminal history records. These prints would only be taken with the Applicants full knowledge and consent and would only be used for the sole purpose of determining the individuals suitability for the specific license in which they applied for. The fee collected would be distributed per State Law. For an example, if an individual applied for and Ice Cream Truck Vendors License and the criminal history records check revealed a conviction of rape on this individual, they would be denied their request but the information would not be disseminated. This bylaw basically enhances Public Safety.

Motion-

Motion to approve- Kim D. Hopewell, Second- David Mercurio
Unanimously voted to approve

**Final Version as Amended
Town of West Boylston General Bylaws**

Article XXXVIII - CIVIL FINGERPRINTING

Criminal History Check Authorization

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B. At the time of the fingerprinting, the Police Department shall notify the individual fingerprinted that the fingerprints will be used to check the individual's criminal history records. The Police Chief shall periodically check with the Executive Office of Public Safety and Security ("EOPSS") which has issued an Informational Bulletin which explains the requirements for town bylaws and the procedures for obtaining criminal history

information, to see if there have been any updates to be sure the Town remains in compliance.

C. Upon receipt of the fingerprints, the individual's consent and the appropriate fee, the Police Department shall transmit the fingerprints it has obtained pursuant to this bylaw to the Identification Section of the Massachusetts State Police, the Massachusetts Department of Criminal Justice Information Services (DCJIS), and/or the Federal Bureau of Investigation (FBI) or the successors of such agencies as may be necessary for the purpose of conducting fingerprint-based state and national criminal records background checks of license applicants specified in this bylaw.

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Licensing authorities of the Town are hereby authorized to deny any application, including renewals and transfers thereof, for any person who is determined unfit for the license, as determined by the licensing authority, due to information obtained pursuant to this by-law.

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F. The Board of Selectmen is authorized to promulgate regulations for the implementation of this by-law, but in doing so it is recommended they consult with the Chief of Police, Town Counsel and the Massachusetts Executive Office of Public Safety and Security (or its successor agency) to ensure that such regulations are consistent with the statute, the FBI's requirements for access to the national database, and other applicable state and federal laws.

Effective Date

G. This by-law shall take effect upon approval by the Attorney General, so long as the requirements of G.L. c.40, Section 32 are satisfied.

Duly motioned, seconded and unanimously voted that Marc Freiden make the recommendations of approval on town meeting floor.

Duly motioned and seconded to dissolve the meeting at 6:30 p.m.

Kim D. Hopewell

Town Clerk