



BOARD OF ALDERMEN
SHELTON, CONNECTICUT
Public Hearing on Ordinances
September 27, 2010

CALL TO ORDER/PLEDGE OF ALLEGIANCE

Aldermanic President John Anglace opened the Public Hearing at approximately 7 p.m. All those present rose and pledged allegiance to the Flag of the United States of America.

ROLL CALL

Aldermanic President John F. Anglace, Jr. – present
Alderman Lynne Farrell – present
Alderman John “Jack” Finn - present
Alderman Stanley Kudej - present
Alderman Eric McPherson – present
Alderman Noreen McGorty - present
Alderman John P. Papa – present
Alderman Anthony Simonetti – present

1. Amendment to Ordinance #817 – Open Burning Ordinance

Alderman Anglace asked Alderman Papa to explain the proposed changes.

Alderman Papa stated, this ordinance came to Public Health and Safety. This is an existing ordinance. We’ve had some changes to the existing ordinance. On the third page, number five, it reads, this is what has been changed, “when outdoor fire/burning causes embers to become airborne causing smoke conditions which pose a threat to life, health, safety as determined by the Fire Marshal. There were comments from the Aldermen that they would like to change “determined by the Fire Marshal” to “determined by State Statute, Fire Marshal.” We follow State Statutes. That’s the change we would like to make. The other change would be a penalty of a \$250 fine. Also, on the top of page 3 where it says prohibited acts – The following acts are prohibited – we added “brush, branches and other vegetation.”

Alderman Finn stated, people should understand that it’s still going to be okay for the children to go out into the back yard to barbecue their marshmallows. There are a number of rumors going around that the Board of Aldermen have this ordinance in front of us, and that it will place a burden on the Fire Department who will have to respond to a lot of nuisance calls – neighbors against neighbors – over open burning. Could we

still have the ceremony at the American Legion for the disposal of the flags? Yes. You can still do all of those things.

Alderman Papa stated, this came about by some people in Eric McPherson's ward that brought it to his attention. There was one individual burning constantly causing a lot of smoke pollution and embers to fly into the air.

Alderman McPherson explained, when it's not dry, when it's not windy, it's not a problem. We've had a period of severe dry conditions and windy days. Embers were blowing everywhere, the people were very upset. I've gotten a lot of calls on it.

Alderman Simonetti asked, what is the person burning?

Alderman McPherson replied, branches, wood, brush. He isn't burning it to cook – it's a chimenea [a freestanding front-loading fireplace oven with a bulbous body and a vertical smoke vent/chimney – a popular backyard and deck accessory]. I've seen it myself. The stove isn't very high, but the flames coming out of it were about 6-7 feet high. The embers were coming out of it and it's a safety hazard. The neighbors are complaining that they have to close their window because the smoke is blowing into their house. While the stove may be legal, nobody has the right to disrupt an entire neighborhood. We need to use a little common sense when we're using one of those.

Alderman Finn stated, according to State Statutes Section 446c, Air Pollution Control.

Alderman Simonetti is any burning of wood or garbage at all going to be considered pollution?

Alderman Papa stated, if you want to burn brush, go to the Fire Marshal and get a permit. But if you're doing it day in and day out in a neighborhood which the houses are close together, it's a problem. In the neighborhood in question, most of the lots are 50 x 100 – the houses are pretty close. It might be a little bit different than say areas where people have an acre of land or more.

Alderman Simonetti stated, if the chiminea is used properly, it's not a problem.

Alderman McPherson stated, another issue was when we had a rainy period the person is burning wet wood, and that causes tons of white smoke dissemination.

Alderman Anglace stated, I know the problem, let me suggest a couple of things. In Section 1 of the ordinance, Item ii, Grills or Outdoor Fireplace is defined as "any metal or masonry structure used for the sole purpose of cooking outdoors." What you described a few minutes ago is a chiminea - which would fit that description. If you don't want those used, under ii you have to put those in as an exception, "except those kinds of things" because they're not used for the purpose of cooking – they're just doing what you don't want done – they're creating smoke and embers throughout the neighborhood.

Alderman Simonetti stated, you can cook on a chiminea. You can.

Alderman Anglace stated, the issue with this that you have to define whether or not those are allowable under Section 1Bii because it certainly would fit the description and the Fire Marshal would have no jurisdiction. If you want it prohibited, you have to put it in there.

Alderman Simonetti stated, I see a lot of people who now have chimineas, they're smaller burning pieces that they put right on their porch so they can have a real fire just to sit around for warmth or as Alderman Finn said, a couple of marshmallows for the kids. It's not the grill, which is probably only 20 feet away with a propane tank on it, but they don't think of that. They do that and they're made, you can buy them in Sears or Home Depot and some have a grid that goes over them to keep large embers from falling out, but small embers will definitely get out.

Alderman Anglace stated, the issue is that the chiminea fits the metal or masonry structure and is an acceptable use. So if the complaint is that one of those is causing embers and smoke throughout the neighborhood and you want to regulate that, then I think you have to put something in to prohibit that particular use. I don't know. That item would not require an open burning permit. That's the basis of what I'm saying here. This issue that was brought up once before in an open burning situation – there was a one-acre property back to back with another one-acre property. The person in this property was constantly burning twigs and brush. The person over here got all the smoke. So the Fire Marshal – they were doing it legally, the Fire Marshal was granting permits. When I got into it I asked the Fire Marshal, why are you issuing a permit? You can withhold the permit. Don't issue a permit. We have a place where you can bring those things and deposit them without burning them. So the person getting all the smoke wouldn't have to put up with any more smoke. The person who is doing it would have a place to bring their clippings. The Fire Marshal would stop giving permits and there is no more burning and the person brings their sticks and brush and dropped them off legally with the City.

Alderman Papa stated, the only time I've heard about somebody having a problem is when Alderman McPherson brought this up. I've never had a complaint called in to me about somebody burning. So we have one individual who is causing a situation in this neighborhood...

Alderman Anglace stated, but he doesn't fit the bill; he's doing it properly. The chiminea would fit the bill as a grill or an outdoor fireplace under the definition. You have to put that in as a prohibited use if you wanted to. You have to rethink that.

Alderman Simonetti stated, if you go back to the President's comment, "grill or outdoor fireplace, any metal or masonry used for the sole purpose of cooking outdoors." I know for years my uncle had a very large outdoor masonry structure. He did not cook on it. He just burned garbage in it. For years, at the property at Madison. There was no cooking on it at all because there was no grill of any kind. I don't know how the Fire Marshal is going to enforce this.

Alderman Papa stated, the thing is, if nobody makes a complaint to the Fire Marshal about this, it's not an issue.

Alderman Anglace stated, a prohibited act under this ordinance in Section 4, is the kindling or allowing to be kindled an outdoor fire for the purpose of disposing of garbage, brush, branches or other vegetation. So your uncle would have been in violation, and that would be controlled. Now maybe you have to build on that, and this person who is burning is probably burning logs or small pieces of wood to have a fire that he enjoys having. But he's building smoke and it's going to everybody else and it's destroying other people's rights.

Alderman McPherson stated, this particular gentleman has a huge pile – it's branches...

Alderman Anglace stated, I think you might be covered in Section 4V , it says, "when outdoor fire burning causes embers to become airborne and causing smoke conditions"... That might make that practice an illegal practice under the ordinance.

Alderman Finn stated, when this was presented to our clerk this afternoon, on page two of seven, toward the bottom, number five. I have no idea why the Fire Marshal sent this to us. I don't know if he's opposed to the ordinance or in favor of it. It says here in the State Statutes where an ordinance of a local municipality can prohibit certain acts.

Alderman Anglace stated, I didn't speak with him, but the Fire Marshal left me a message that he wouldn't be able to be at the meeting tonight but that he doesn't oppose what is drafted. This information came from Welch, Teodosio, Stanek & Blake – it's background information from them. I didn't have a chance to read it because I got it just before the meeting.

But I want to make a couple of other comments. As you look through the ordinance, under Section 2a, the second sentence, "to assist such enforcement the Fire Marshal is authorized to enter any yards for the purpose of detecting and extinguishing fires created without compliance to this ordinance." I would suggest that you insert the words "private property" in place of "yards." That speaks better to the purpose that we're trying to accomplish.

In Section 4iii, it says "the location of storage outside a building of any combustible material in such manner or condition as to pose a threat to life..." Here's the way I'd word that – "storage of combustible material outside a building in such manner or condition as to pose a threat to life or property." Those are the changes – it doesn't change the meaning. The intent is a lot clearer now than when we came in. With the Board's permission, we'll now take public comment on it.

Alderman Papa stated, you said the Fire Marshal is in favor of this?

Alderman Anglace replied, yes.

PUBLIC COMMENT

Tony Agvent – Pine Street

I'm just curious now. In my area, we get together sometimes Friday night, Saturday night, get a little campfire going, have a few beers, sit out there, shoot the breeze with the neighbors. No one complains. Is that going to have to come to a halt? This is an open pit – a fire pit – stone. That's cool?

Alderman Simonetti stated, according to the ordinance, as long as it's not interfering with anybody else's property; the embers aren't going to fall on someone's house or anything like that. It shouldn't be a problem. Alderman Finn brought up that this is not something to stop people from enjoying the type of thing you're talking about.

Mr. Agvent stated, thank you.

Alderman Finn stated, the only exception would be if all of a sudden you and your neighbors don't get along any more, and your neighbors call the Police Department, and the Police Department in turn calls the Fire Department.

Alderman Anglace asked three times if any other member of the public wished to address the Board. There were none.

ADJOURNMENT

At approximately 7:24 p.m., Alderman Simonetti MOVED to adjourn; SECONDED by Alderman Papa. A voice vote was taken and the MOTION PASSED 8-0.

This hearing was immediately followed by a workshop of the Board of Aldermen.

Respectfully submitted,

Patricia M. Bruder
Clerk, Board of Aldermen

Date Submitted: _____

DATE APPROVED: _____

BY: _____

Mark A. Lauretti
Mayor, City of Shelton