Meeting Posting

Notice of Public Meeting – (As required by G.L. c. 30 A, c. §18-25)

Proposed Agenda – Rev 2

- Review & approve prior meeting minutes
- Small Cell Wireless Facilities in Rights of Way warrant article
- Stretch Building Code warrant article
- Preparation for May Town Meeting
- Any other business
- Adjourn
DATE: May 7, 2019
PLACE: Town Hall Annex – Meeting Room B

Committee Members:
Present: Wendy Guthro, Sandra MacKay, David Miller, Adam Tigges, Larry Warfield  Absent: None
Other Attendees: Selectman Tigges

Topics
1. Approval of meeting minutes

The chairman recapped the minutes of the previous meeting for the benefit of Selectman Tigges. No corrections were offered by the committee.

Motion: To approve as submitted (Move: Guthro, Second: Mackay, 4-0-1)

2. Small Cell Wireless Facilities

Selectman Tigges gave a brief background of Small Cell Wireless Facilities and a history of Burlington’s activities to date. Unfortunately, much of the control has been delegated to wireless providers by the FCC. There are some aspects that municipalities can impact.

The most significant protections are the adoption of principles and processes governing application submissions and the adoption of design standards to which these facilities must conform. This was impressive because very few communities implemented such standards prior to the FCC deadline of April 14 and thus have little to no control over wireless applications.

The purpose of the bylaws (general and zoning) is to ensure that that it is clear that there are processes, procedures and rules in place with which applications must comply. The general bylaw covers facilities in the public ways which are under the control of the Board of Selectmen and a zoning bylaw covers those on private property through the Planning Board.

There was a wide ranging discussion that after some time distilled down to the following key points that we are asking the Small Cell Wireless committee’s attorney to address.

a) We would like the first subsection of the proposed bylaw to contain a definition of the term “Small Cell Wireless Facility”. This definition should be in the form of a reference to the applicable FCC laws and decisions defining such facilities and drafted to automatically adapt to future changes by the FCC in the future.

b) In the current section 1.43.2 it states the “Board of Selectmen shall adopt and from time to time amend …”. The Board of Selectmen have already adopted these policies, rules and regulations. Since there was a FCC deadline that standards must have been defined by, would stating that they must be adopted at this later date open the town up for potential challenges? Should this be left as the “Selectmen shall time to time amend policies, rules, etc.”?
c) Also section 1.43.2 references the issuance of special permits. Normally in Burlington the special permits usually refers to those granted by the Planning Board. Is there a special reason for this term, or could a more generic term like permit or approval be substituted to avoid confusion?

d) Finally in section 1.43.2 the committee felt that everything after the second sentence was covered by the policies, rules and regulations in the first sentence. Such an enumerated list could be viewed as limiting. If there is a legal reason they must be listed we believe it should be modified to specify that the list is “including but not limited to”.

Two minor formatting issues we would like addressed to make the proposed bylaw more in line with the standards the committee is trying to implement across all bylaws.

a) The reference to our bylaw in section 1.43.2 should be “Article XIII Section 1.43”

b) All the sub sections 1.43.1, 2, etc. should be indented

The committee decided to meet on May 14 to review any changes and vote on our recommendation to Town Meeting.

3. Stretch Building Code

The committee reviewed Town Administrator Sagarino’s email response to our questions. Selectman Tigges described why this is important for Burlington and how many of the town’s actions in the last few years facilitate our compliance with the state’s criteria.

*Motion: To recommend adoption by Town Meeting (Move: Warfield, Second: Guthro, 4-0-1)*

4. Adjourn *(5-0-0)*