DEPT./BOARD: Bylaw Review Committee

DATE: Tuesday, April 10, 2018

TIME: 6:45 PM

PLACE: Town Hall Annex – Meeting Room B

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

Proposed Agenda – Rev 1

1. Review & approve prior meeting minutes

2. Discussion of bylaws submitted for May Town Meeting
   2.1. Bring Your Own Bag
   2.2. Liquor License Home Rule Petition

3. New Business
   3.1. Bylaw Enumeration

4. Adjourn
DATE: April 10, 2018
PLACE: Town Hall Annex – Meeting Room B

Minutes

Committee Members:
Present: Wendy Guthro, Sandra MacKay, David Miller, Adam Tigges, Larry Warfield  Absent: None
Other Attendees: Stavan Shah, Sally Willard

Topics
1. Review & approve prior meeting minutes

During the review there was discussion of the substance and background of the issues for the benefit of members Guthro and MacKay who were unable to attend the last meeting.

While discussing the construction hours issue Chairman Tigges reported that he checked with the Police Department about enforcement. They stated that they can only enforce the town’s bylaws and do not enforce anything in the Planning Board’s decision document. Member Miller reported that he has been doing research on how other towns handle this issue and will be bringing forward a proposed modification to the bylaws.

Motion: To approve the minutes as amended (Move: Miller, Second: Warfield, 3-0-2)

2. Discussion of bylaws submitted for May Town Meeting

2.1 Bring Your Own Bag

Mr. Shah briefly presented the background, history and goals of the proposed bylaw and then fielded questions from the board. The goal was to encourage the use of reusable bags, but compromised at prohibiting plastic bags because of their more significant impact on the environment.

The consensus was that the article as presented is not ready for the May Town Meeting. Member Miller shared how the Zoning Bylaw Review Study Committee followed similar advice to their benefit. The committee has offered to work with Mr. Shah to develop a version that would be acceptable. The committee took no formal vote.

After we recommended that he withdraw the article, address the issues raised, and resubmit for September Mr. Shah decided that he would like to revise his May submission article in the weeks ahead. He plans to communicate with town meeting members via email and at the informational meeting before deciding to withdraw. The committee decided to hold over this item until our May 8 meeting to review any revised wording prior to taking a vote.

There were many questions asked, issues raised and advise provided. The following list is not exhaustive, but representative of the conversation. Because of the obvious issues the committee has not conducted a detailed review of the proposal to identify them all.

Advice to the Proponent
• Review similar articles that were successfully passed from towns with a similar sort of government structure (selectmen & representative town meeting).
• Consider asking the Conservation Commission to submit the article.
• Substantial changes to the proposal will require that he revisit all boards where he sought votes of approval or support.
• Town meeting generally views warrant articles unfavorably when they are significantly different than what was printed in the warrant with updates distributed the night of town meeting.
• Consider asking his contact at the organization who has been providing advice to attend Town Meeting to help him support and explain the article.
Technical Issues

- There is no warrant article in the proper form of a motion containing what is to be voted on at town meeting.
- The town has bylaws, not ordinances. This article must also identify where it should be inserted in our bylaws.
- The proposal must be changed to fit our bylaw format and style. The current proposal is unlike that in any of our other bylaws. There should be numbering of sections. The current lettering and numbering used is unlike any used in our bylaws.
- Overall the bylaw is too long, complicated and wordy. Several other towns which have recently passed similar bylaws have much simpler bylaws and should be considered as a starting point. Reading was recommended as a good example.
- Non-criminal fines are capped at $300. The compounding language could exceed that amount.

Detailed Issues

- The language of checkout bags and single use bags appears to have some conflicts and potential of causing unintended side effects.
- There are some issues because of the language of handled bags potentially impacting paper bags with handles.
- The bylaw appears to cover restaurants, shouldn’t the bylaw accommodate situations like the delivery or takeout of foods where leakage would be an issue without plastic bags.
- The town administrator does not appear to be the best employee to enforce this bylaw.
- Fines need to be added to the Non-criminal fines table (Art. I § 4.0)
- Labeling of bags – is the phrase “made from 40% post-consumer recycled content” an industry standard term? What’s the reference? Shouldn’t that language be “at least 40%”
- Use the second paragraph as the preamble to the article as it is clearer.

Arguments To Be Addressed

- Mr. Shah first presented this article as addressing plastic bag pollution, but then also expanded the argument to say it includes greenhouse gas / climate change. Member Miller pointed out there are studies that show that the lifecycle of a paper bag generates more carbon dioxide from logging, manufacture, through delivery than that for the plastic bag.
- Member Warfield shared information from an independent government study from Australia that found issues with both paper and plastic bags. In addition they found that the use of cotton in reusable bags is also problematic. Growing cotton is responsible for 24% of the global market for insecticides and 11% for pesticides. Additionally, a pound of cotton requires over 5,000 gallons of water, a thirst greater than any vegetable and most meats.
- There are health issues with cotton reusable bags if they are not used, cleaned and stored correctly.
- Are there alternative solutions, like providing residents with recycling for plastic bags so the town could sell the bags to facilities that use the bags for fuel?
- What is the impact on local businesses, especially small businesses? Which local businesses have signed on to support this bylaw? Mr. Shah said that he has talked with businesses in towns with similar bans, but not any Burlington businesses.
- Many people walk, take public transportation or COA vans to go shopping. Plastic bags make it easier to carry multiple bags. How does the ban affect those people?
- What about “decomposable” plastic bags?
- What is the economic cost of switching to paper and does that exceed the cost of paying fines? What is the enforcement mechanism if a business doesn’t pay its fines?
- What is the position of other committees to the bylaw as written? (Selectmen, Conservation, Board of Health)
- What is the impact on other retail businesses other than stores or restaurants which may incidentally use plastic bags in the course of their service?
- Should he consider changing the article to no free bags at all, but allow the consumer to purchase any bag paper or plastic from the cashier?
2.2 Liquor License Home Rule Petition

The committee had an informative discussion of the history of liquor licenses. Other than increasing the maximum number of establishments serving liquor governed by state law this article has no other impact on the laws affecting the laws governing the town. As such we chose to take no position on the article. The proponent will have to depend upon their counsel for the adequacy of the wording.

3. New Business – As the hour was late the committee did not consider any new business.

4. Adjourn (5-0-0)