



Town of Burlington

ORDINANCE COMMITTEE MEETING THURSDAY, NOVEMBER 17, 2016

The meeting convened at 7:05 p.m., Thursday, November 17, 2016. Present were: Ed Jurkiewicz, chairman, Mike Vollono, vice chairman, Dave Goshdigian, secretary, Dick Alden, John Derewonko, Dave Wagner and Pat Miller, members, and Ginger Doherty, alternate member. Also in attendance was Ted Shafer, First Selectman.

Citizen Comment:

There was no citizen comment.

Acceptance of October 20, 2016 Meeting Minutes:

Ed Jurkiewicz asked to add the following italicized language to the discussion of the proposed Drone Ordinance in the October 20, 2016 minutes: "Ed noted that the ordinance states that this ordinance does not replace or supersede other statutes or regulations, therefore, Constitutional protections would still apply to drone use by law enforcement. *Ed also noted the qualifying language, for bona fide rescue, survey, or public safety personnel.* In response to comments"

Pat Miller moved to accept the October 20, 2016 minutes as amended, Dick Alden seconded the motion, and the motion passed unanimously.

Update Regarding General Code:

Dave Goshdigian reported that he sent to Deb at General Code the ordinances that the committee had voted to recommend to the Board of Selectman. He reviewed the e-mail response from Deb that stated that she would like to receive all new ordinances that the Town would like added to the code in early December, so that she can work on all the ordinances in December and provide the manuscript and legal analysis in January, 2017. She noted that she could flag these new ordinances as proposed in the manuscript, so that it is clear that they have not been approved at a Town meeting. Deb also reinforced that once we receive the manuscript and analysis in January we have 90 days to review and return it.

The committee discussed that we should distribute an electronic copy of the manuscript and legal analysis when we receive it from General Code, so that the members may review the materials as soon as possible. The committee may call an early January, 2017, meeting specifically to discuss the materials from General Code. Members noted that an early January meeting would be helpful because we have to prepare for the informational meeting scheduled for January 23, 2017, to discuss our work.

Dave Goshdigian then noted that he also sent to the town attorney the ordinances that the committee had voted to recommend to the Board of Selectman. The town attorney had some suggestions for the ordinances, which were distributed to the committee. The committee then discussed the comments from the town attorney, and voted on whether to adopt them.



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Discussion of Suggestions from Town Attorney:

Proposed Canvassers/Solicitors, Peddlers/Hawkers Ordinance

Pat Miller asked whether some of the suggestions were in conflict with state law. Specifically, she thought that she remembered from her research that canvassers and solicitors could not be required to get a license. The committee agreed to seek additional feedback from the town attorney before making an official recommendation to the Board of Selectman. The committee discussed and agreed that this ordinance should authorize the First Selectman to issue a permit, instead of a license.

Proposed Right to Farm Ordinance

The town attorney suggested deleting the following language: "solely because such activity resulted or results in any changed condition of the use of adjacent land." The committee voted unanimously to recommend this change to the Board of Selectman.

Proposed Alcoholic Beverages Ordinance

The committee agreed with the town attorney's suggestion to change § 4 (a) (1) to read, " a minor in the presence of his or her parent, guardian, or spouse, if such latter person has attained the age of twenty-one" The committee then discussed the town attorney's suggestion to add the following language to § 4 (b): ". . . provided such does not present a risk of injury to such minor or any other person." The committee was concerned whether this left too much enforcement discretion to determine whether someone is risking injury to a minor. Other committee members felt that existing constitutional law was enough of a protection against this danger. John Derewonko moved to reject this change, Mike Vollono seconded the motion, and the committee voted in favor of rejecting the change, six in favor and one (Alden) against.

The committee then discussed the town attorney's suggestions for § 5, which was to prohibit consumption or possession of alcohol "at all times on the rails-to-trails or property immediately adjacent thereto." The committee was concerned about the immediately adjacent language, which may be construed to apply to private property that is adjacent to the rails-to-trails. The committee also discussed the proper name for the property known as rails-to-trails. The committee agreed to refer to the property as the "Farmington Canal Heritage Trail, commonly known as rails-to-trails." The committee ultimately agreed that this clause should read that "the consumption or possession of alcohol shall be prohibited at all times on the Farmington Canal Heritage Trail, commonly known as rails-to-trails, or Town property immediately adjacent thereto."

The committee agreed with the town attorney's suggestion to change "insurance agent" in § 5 (b) (5) (D) to "insurance carrier."

The committee then discussed whether under General Statutes § 7-148 (c) (10) a written warning was required before issuing a citation. Ed Jurkiewicz commented that a written warning would work for enforcing some ordinances but not others. This enforcement question is a general



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concern for all ordinances, and the committee agreed that we need more feedback from the town attorney on this matter.

Proposed Winter Sidewalk/Hydrant Maintenance Ordinance

The town attorney suggested enforcing this ordinance by allowing the Town to clear the snow then billing the owner and, if the owner fails to pay, by placing a lien on the property for the amount owed. Some committee members thought that the ability to place a lien on property was too harsh a penalty for this ordinance. Dick Alden opined that it was an easy method for collecting the fine because property owners would be forced to pay off the lien before conducting certain transactions related to the property. Dave Wager suggested that the power of placing a lien may be abused, and that a property owner should have fair warning before there is a lien on the property. Mike Vollono moved to remove the lien language and replace it with the revised enforcement language that Ginger Doherty had suggested. John Derewonko seconded the motion, and the motion passed five in favor, one against (Alden), and one abstention (Jurkiewicz).

The committee agreed to the other suggestions proposed by the town attorney, which were minor changes in language.

Proposed Agricultural Commission Ordinance

The town attorney had no suggestions for this proposed ordinance.

Dave Goshdigian agreed to submit the questions raised in this discussion to the town attorney.

Discussion of Proposed Public Place Ordinance:

Mike Vollono reviewed the changes he made to this proposed ordinance in light of the committee's earlier discussions. The ordinance is enforced through the centralized infractions bureau, but as noted previously we need to discuss this enforcement mechanism with the town attorney. The committee discussed the enforceability of § 41-23 (b), which allows persons to be ejected permanently or temporarily from public places. The committee voted to remove this sentence of the proposed ordinance.

The committee discussed § 41-24 (a) (17), which prohibits persons from possessing or being under the influence of illegal drugs. Ed Jurkiewicz previously had suggested removing the prohibition of being under the influence because there was no bad act that occurred at the public place. For instance, someone could legally consume in another jurisdiction a drug that is illegal in Connecticut, then drive to the Town and be under the influence of that drug. The committee agreed to remove the under the influence language, but keep the possession language.

The committee discussed the merits of allowing camping on public places, which § 41-24 (23) prohibits without a permit. Some members believed that camping already occurs on public places by certain groups such as the boy scouts. Other members suggested that, if the camping in question was a nuisance, law enforcement had other means of putting a stop to it. After a discussion, the committee agreed to remove this subsection.



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Mike stated that he will send Dave Goshdigian a marked up copy of the proposed Public Place Ordinance that Dave will forward to the town attorney.

Report on Meeting with Town Attorney:

Ed Jurkiewicz and Dave Goshdigian reported that they met with the town attorney and Ted Shafer. They discussed the timetable set by General Code and, in light of that timetable, the need for the Board of Selectman to proceed with a Town meeting to approve any additional ordinances. Also, the informational meeting to present the Town with our work revising the ordinances as well as the proposed new ordinances was discussed.

New Business

Dave Goshdigian circulated a copy of a proposed Alarm Systems Ordinance and reviewed its provisions.

Items for December 15, 2016 Meeting

At the upcoming meeting, the committee will discuss the proposed Alarm Systems Ordinance, John Derewonko will report on a status update from General Code, the committee will discuss the issues referred back to the town attorney, and whether a special meeting will be called in early January.

There being no further business, Mike moved to adjourn, Dick seconded, and the committee voted unanimously to adjourn the meeting at approximately 10:24 pm.

Respectfully Submitted,

David Goshdigian
Secretary, Ordinance Committee