



Town of Burlington

ORDINANCE COMMITTEE MEETING THURSDAY, DECEMBER 17, 2015

The meeting convened at 7:00 PM, Thursday, December 17, 2015. Present were: Ed Jurkiewicz, president, David Goshdigian, secretary, Pat Miller, Dick Alden, John Derewonko, and David Wagner, members, Ginger Doherty, alternate, Ted Shafer, First Selectman.

Citizen Comment:

Jonathan Schwartz, member of the Conservation Commission, commented as a private citizen. Mr. Schwartz presented a revised proposed right to farm ordinance in response to the committee's concerns regarding whether the Conservation Commission should have enforcement powers under a right to farm ordinance. The revised ordinance deleted language that the proposed Conservation and Agricultural Commission would inspect and approve alleged nuisance the farming operation, and added language that stated questions and compliance concerns should be directed to the Burlington Land Use Office. He stated that, in his opinion, the Conservation Commission did not want enforcement powers and that the Board of Selectmen were debating whether to have a separate and independent Agricultural Commission.

Barbara Dolley expressed her continued concern about whether the person designated to enforce the right to farm ordinance would have the ability to unreasonably enter a resident's property.

John Hebert, chairman of the Conservation Commission, reported that the Conservation Commission has not voted on the proposed right to farm ordinance presented by Mr. Schwartz. Mr. Hebert stated that he would like the Conservation Commission to have some input on the proposed right to farm ordinance before it is presented to the committee. He reported that he has spoken to six different farmers in town and none is in favor of a municipal inspection component of a potential right to farm ordinance, but would prefer that any inspections be conducted by the Connecticut Department of Agriculture. Also, in response to questions from the committee, Mr. Hebert submitted that the Conservation Commission does not have the regulatory authority to enforce a right to farm ordinance, however, the Commission also never endorsed the Land Use Office component of Mr. Schwartz's proposed ordinance. Mr. Hebert also expressed a preference for a joint Conservation and Agricultural Commission because he characterized it as a duplication of effort.

There was no other citizen comment.

Presentation from Joan Nichols, Director of Member Relations and Community Outreach, Connecticut Farm Bureau Association

Joan Nichols reported that, regardless of whether Burlington adopted a right to farm ordinance, the state has a right to farm statute in place. She recommended that any ordinance should mirror the language in the state statute to avoid conflict. Ms. Nichols recommended that inspection and approval of any farming operations should go to the Commissioner of the Department of Agriculture, who would be the most familiar with common agricultural practices. She did opine that a right to farm



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ordinance could direct complaints to a land use office, which could then direct the complainant to the Commissioner of the Department of Agriculture. Ms. Nichols stated that a right to farm ordinance is not superfluous, and she did not know if it could usurp state law, but characterized it as a policy statement. She recommended that a right to farm ordinance be patterned after the model ordinance provided by the Connecticut Farm Bureau Association. Ms. Nichols stated that many municipalities do not have the ability to enforce a right to farm ordinance, and that municipal officials should direct complainants to the Department of Agriculture.

Ms. Nichols also provided the committee with a spreadsheet documenting towns that have joint or separate conservation and agricultural commissions. She also provided a copy of the town of Lebanon's enabling ordinance for a joint Conservation and Agricultural Commission. Ms. Nichols reported that the biggest advantage of a joint committee is the crosspollination of education by members of a joint committee, specifically, farmers who can educate those interested in conservation and vice versa.

Acceptance of November 19, 2015 Meeting Minutes:

Dick Alden moved to accept the November 19, 2015 minutes; John Derewonko seconded the motion. The minutes were accepted without changes unanimously.

Presentation from Consultants via Teleconference:

The committee made conference calls to two vendors who offer to organize town ordinances and post them on their website. The committee then discussed whether the town should hire one of the vendors.

General Code Conference Call

The committee first called Susan Owens, an account manager from General Code. Ms. Owens explained the process in general. She said that lawyer-editors review the current ordinances and then give recommendations—but not legal advice. She then stated that town counsel should review the company's draft of the ordinances as well. Ms. Owens also provided the committee with a proposed timeline that marked when certain tasks would be performed by both the town and the company. The town retains final control of the words, but the company controls the style of the code as it appears on the website.

Ms. Owens stated that there is a continuing annual fee of \$695, which is not guaranteed for any specific length of time but had not increased in recent years. She reported that training is included for town personnel, who would have access to additional features beyond the basic printing, e-mail, and searching functions that are available to the public. She stated that the town would not have to make any changes to its current website, and it could just provide a link to the ordinances, which would be hosted on General Code's website.

Ms. Owens also explained that there is an \$18 per page charge for additional ordinances beyond the original ones processed by the company. She elaborated, however, that the company works in page



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ranges, so if the town adds ordinances within the appropriate time there would not be additional charges until we exceed the upper limit of the range, which she stated could be up to 250 pages. The quoted price would hold, for example, if we removed 30 pages of the current ordinances and replaced that with 30 new pages. Ms. Owens also stated that we could add new legislation during the process up to a certain time without an additional charge. She explained that the additional pages added are hosted in a “New Laws” category on the website before they are ultimately moved over into the code.

With respect to the town’s rights at the end of its relationship with General Code, Ms. Owens reported that the town owns the code and can have hard and electronic copies of it. There is also no end use fee; the town can just take what it has at the end of the relationship.

Municode Conference Call

The committee then called Steffanie Rasmussen, an Assistant Vice President at Municode. Ms. Rasmussen gave an overview of the process with Municode. First, the company provides the town with a legal memorandum regarding their recommendations with respect to the existing ordinances. It would take the company approximately six months from the signing of the contract to produce the memorandum. Ms. Rasmussen stated that the town attorney should also review a copy of the memorandum. She explained the timeline for the project. The company will conference with the town and discuss their recommendations. Additional conferences beyond those scheduled in the quote are billed at a rate of \$150 per hour. She said that the company will help with the wording but they do not draft the ordinances. We could, however, get free access to Munipro, a database of ordinances serviced by Municode, which the town could use to research ordinances. The town retains control of the style of the code at the end of the process.

Ms. Rasmussen explained that if we adopted new ordinances during the process, or changed the current ordinances, those additions or changes would be covered within the quote provided. She stated that this policy would apply until the proofing stage of the review and publication process. There are usually two or three separate proofs of the code, but at a certain point there is a “proof upgrade” fee ranging from \$250 to \$1200 if material needs to be added. The fee is based on the amount of editorial effort required for the new material. The cost for additional pages is \$18 per single column page—dual column pages are more expensive because those pages can fit more words. There is no additional charge to update the website with new ordinances, which get posted to the “Ordbank,” where they are housed until they become integrated into the code.

Ms. Rasmussen stated that the town owns the code at the end of the process. She offered to add a copyright clause to the contract to this effect. The public would be able to download and print the ordinances from the Municode website.

Committee Discussion

At the conclusion of the two calls, the committee discussed whether the town should retain the services of either General Code or Municode. Pat Miller wondered whether the town would be duplicating costs because it pays someone to maintain the town website, and we are contemplating paying one of these companies an annual fee to maintain the town ordinances on their website. She wondered whether the person who maintains the town website could also help us post the



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ordinances. John Derewonko stated that the companies not only house the ordinances on their website, but also help integrate new ordinances into the existing ones. Pat also expressed concerns about the continuing cost of using these companies.

Ted Shafer indicated that we would have to present a proposal to the Board of Finance so they could approve the funds required to hire one of the companies.

Some members felt that using the companies would be helpful because it would allow this committee to focus on the substance of the current ordinances and drafting new ones. The time that it would take to organize the existing ordinances would prevent the committee from making significant substantive recommendations. Other members felt that it would be more productive if we did as much work as possible first, before submitting the ordinances to the company. Some members also wondered whether, based on the companies' timelines, too much time had elapsed to submit the ordinances and have a finished product before the expiration of the term of this committee.

The committee also briefly discussed the process of voting on a new code, and whether there would have to be a vote on the reorganization alone or a vote on whether to engage the services of an outside vendor. Ted stated that it was up to this committee whether to use the outside vendor, subject to approval by the board of finance. The committee also mentioned that it would have to determine the process by which the town would vote on new and amended ordinances—all at once or in groups.

The committee agreed to have a special meeting in January so that Mary-Jane Ugalde, Town Clerk, could give her opinion on this issue. At that meeting, the committee would also vote on whether to proceed with hiring one of the companies.

New Business/Items for January 21, 2015 Meeting

The following were proposed as new business and items for the next meeting: vote on the proposed right to farm ordinance, potential ordinances for repeal, and revision of the peddlers and hawkers ordinance.

There being no further business, the meeting was adjourned at 10:47 PM.

Respectfully Submitted,

David Goshdigian
Secretary, Ordinance Committee