

**TOWN COUNCIL MINUTES
ORDINANCE COMMITTEE
Town Hall Council Chambers
July 25, 2006 - Tuesday**

Present: Susan Kay, Chairperson
Michael Smart, Vice-Chairman
Arthur Mathews
Thomas J. Lacey
Kevin Whitaker
Greg Shanahan (arrived at 7 PM)

Also Present: George Lane, Town Solicitor
Utility Representatives Joe Carroll/Keyspan, Steve Bretton/National Grid and
Penny Kane/Verizon

Recording Secretary: Susan DeChristoforo

Chairman Kay called the July 25th, 2006 meeting of the Ordinance Committee to order at 6:30 PM.

06 125 - Utility Applications/Petitions Proposed Changes

Councilor Mathews took a moment to explain that he brought this Measure before the Committee, referring to a memo he sent to the Town Council on June 12, 2006 on the matter. He said the issue was before them tonight because of problems constituents reported to both him and the Town Councils' office in regard to the manner in which notification is given to abutters/residents by the utility companies re. public hearings and proposed utility work. He went on to explain that some of the residents did not realize that utility/pole work would be performed in front of their homes and have asked him for help. He explained he was proposing to add a section to the Municipal Code that would require abutters also receive all the necessary documentation/detailed plans submitted by the utility companies to the Town.

Councilor Mathews acknowledged that those interested residents had the right to come to Town Hall during working hours to review all the pertinent documentation submitted to the Town by the utility companies, but residents pointed out to him that time period did not work for them because they worked. Again, he was proposing they change the procedure by having the utility companies send those abutters a copy of the documentation sent to the Town Council to review prior to their hearing. Councilor Mathews felt by handling it in this manner, it would streamline the process and allow those with any concerns to call the Town Councilors prior to the hearing. Then if necessary a meeting could be set up prior to the public hearing to discuss their concerns.

Councilor Mathews went on to say that he was proposing a new Section after 2-302; i. e., Section 2-303 and then read the following into the record:

SECTION 2-303 REQUIREMENTS OF UTILITY COMPANIES AT TOWN COUNCIL PUBLIC HEARINGS

- (a) All Utility Companies are required at least (7) seven days prior to the scheduled public hearing, to notify in writing, all direct abutters of the proposed work.
- (b) All utility companies must provide to both the Town Council and all direct abutters as stated above, a detailed map and all pertinent back-up documentation outlining the proposed changes. This is required so that the Town Council all direct abutters are given all the necessary information for discussion at

the public hearing.

(c) Failure to adhere to the above by the Utility Companies could result in a negative vote by the Town Council.

In closing he said he realized it was a work in progress and wanted to open up the meeting to hear from the utility company representatives who were present this evening as well as Town Solicitor Lane.

Town Solicitor Lane stated that on June 30, 2006 he was asked about the requirements in regard to these types of public hearings and he referred to Chapter 166, Section 22, which states that information needs to be submitted ahead of time to allow for review. He noted that Councilor Mathews proposed application appears to meet all legal requirements including the seven- (7) day's advance notice to abutters, acknowledging that the abutters have a significant interest too.

Councilor Whitaker said he saw it as a two-prong effort. The first allows more time for residents to review the proposal by the utility companies and the second gets the information out to them. He said he had no problem with the objective, but did feel that the Ordinance was not worded correctly. He said that it is not traditionally a 'penalty' ordinance and that he would rather see it as a regulation or a guideline. He suggested that the proposed application could be referred to committee - allowing possibly 6+ weeks and he thought there was a mechanism for this. He stated he had issue with an ordinance that did not have an enforceable penalty included in the ordinance.

Councilor Kay commented that she also has received comments from constituents for the same reason as Councilor Mathews. She said there may be times when they may need to impose 2-9B although at this point she was in favor of Councilor Mathews' proposal - but first she wanted to hear from the utility companies.

The first speaker was Steve Bretton of National Grid. Mr. Bretton explained that his company usually submits a sketch of the pole location, but wanted members to know he saw no problem with the abutters receiving a copy of this information. He then reviewed the process, which included the following, three items: filling out an application, a sketch of the pole location and drawing up the abutter's list. He said this package is forwarded to the Telephone Company who signs off on it and sends it to the Town. At that point the abutters are notified of the hearing by the Town Council's office.

Councilor Kay wanted to clarify that he was suggesting the map accompany the notice to the abutters and Mr. Bretton responded 'yes'.

Councilor Lacey commented that the pole number and the lot number could be confusing. He told members that Lisa Van Winkle in the Town Council office is responsible for notifying the abutters.

Councilor Mathews wanted to speak to Ms. Hachey on how the procedure works and he also wanted all utility companies to be apprised of this.

Ms. Hachey came before the Committee and informed members that the Town Council's office only sends out a postcard to the abutter's seven (7) days prior to the public hearing, notifying them of the time/date of the hearing - with no details of the public hearing. She said if they are interested they are informed that they can come into the office and review the paperwork, adding she could understand how it could be confusing. She said that many call with questions.

Councilor Kay asked if this was the process with all utility companies and Ms. Hachey responded 'yes'.

Councilor Mathews then asked Ms. Hachey if all of the utility companies send her an abutters' list and she replied 'not always', most of the times she researches the abutter's list herself.

Councilor Kay noted that other communities do it differently and they could consider their procedures too.

Next speaker was Penny Kane of Verizon. She told members that most of their utility work takes place underground. In the past she has sent in the petition and the Town would notify the abutters and place the notice of the public hearing in the newspapers 10 days prior. She suggested that they could include a Verizon contact person in the public notice, allowing those with questions to call them directly. She told members that she would take the draft of Section 2-303 and have their legal department review it to see how it works in conjunction with the MGL.

The last speaker was Joe Carroll, Keyspan representative. He explained to the members that his company primarily deals with repair/emergency leaks, adding they work directly with the DPW Director. He said that he realized how the abutter's notices could be confusing, adding that on larger projects they supply information and a contact person. He went on to say that in some instances Keyspan deals in ongoing work and they could be waiting for other utilities and it might be their responsibility to send out the notice to the abutters. He further explained that some times delays could be between the notice and when the work actually begins.

Councilor Kay referred to those instances when there is an Emergency Status declared - stating that at those times the Town Council gives special consideration to the circumstance. She said that's why there is nothing definite to report re. 2-9B/Emergencies, adding they would be open to comments from the DPW in those instances.

Councilor Mathews interjected that it was not his intention to interfere with Emergencies, adding he was open to a more simple, detailed plan that abutters could understand. In closing he said he viewed this as a work in progress. (Councilor Shanahan arrived.)

Councilor Smart commented that it appeared Councilor Mathews was looking for more information for the abutters prior to the hearings.

Mr. Carroll said that his company sends out the notice and try to advertise in the newspaper too, providing a contact number for those who are interested. He said they try to coordinate the schedule with the DPW and the work they are doing.

Councilor Smart stated that he saw this as more work for the Town Council's office, adding he would like to see the utility companies responsible for drawing up the list and notifying the abutters in the future - and sending out the required information. This information, he noted, should be more than a map and should include a simple detailed plan detailing the proposed work.

Councilor Kay said she felt the information that the abutters get should be the same information that is submitted to the Town Council, which she commented, was pretty easy to understand.

Councilor Whitaker commented about the Council's office doing this additional work, adding he wasn't sure if it was the Town's responsibility. He went on to say, if the responsibility is determined to be that of the Town, he was suggesting that the notice of the public hearing go on the Town's website where this information could be scanned in. He felt it could be a time saver for all.

Councilor Smart emphasized that he felt the utility companies should be totally responsible for notification of the public hearing and that the I.T. Dept. shouldn't be involved.

Councilor Kay commented that it appeared that each utility company did it their way and she would like to simplify it, adding that she thought that Mr. Mathews proposed ordinance was fine. She said at this point she would first like to review the procedure that is in place with those involved in the process, then at that point recommendations could be made. She asked all present to comment on the proposed Measure and return it to the Ordinance Committee.

Councilor Lacey asked the Verizon rep "after you have done your patching, does it remain your responsibility".

Ms. Kane responded 'yes' - clarifying that within 30-60 days the site is reinspected. Next, she said, they wait until it has gone through a 'frost/thaw' period, then it is reinspected - adding, yes we are responsible for more than 6 months.

Councilor Whitaker said he was seeking the opinion on what the Town's obligations are through the Town Council's office.

Councilor Kay pointed out that they also have a Measure on their agenda with regard to a double-pole situation and would like to have a brief discussion on that also with the utility reps - but not take any action on it tonight.

A MOTION was made by Councilor Mathews to continue action on Measure 06-125 until the next Ordinance Meeting and report to the full Town Council and was seconded by President Smart and UNANIMOUSLY VOTED.

06 126 - Utility Applications/Petitions Proposed Changes

Councilor Leary appeared before the Committee with James Cicchese-who had previously forwarded correspondence to the Council office relative to his concerns with the double pole locations in town. Councilor Leary noted that Diane Hachey obtained for them a listing of double pole locations-one from this year and the other from last year, and in reviewing the list he noted that the number of double poles had almost doubled since last year. Councilor Leary further noted that the progress of removing poles is very slow. Mr. Cicchese commented that there were 35 streets in the town which contained a total of 177 double poles. He realizes that the poles are under the jurisdiction of National Grid and involved telephone, cable and alarm companies. Additionally, he cited that Hingham, Quincy and Braintree are experiencing the same problems. His concern is that often times the pole is cut off and remains on a lot, which is not safe or aesthetically pleasing.

Councilor Kay commented that this situation was not a new issue for the Council. She said that she spoke with the Fire Chief on this and found that approximately 50% of the poles have fire alarms on them, with some active and some not. She said they are starting to remove them in South Weymouth and North Weymouth. The Chief told her that they have only one staff person to do this, adding this situation would be pursued further.

Ms. Kane/Verizon told members that she was present this evening at the request of her Manager. She said she realizes some areas could be a problem and they can concentrate on them. She informed the Board that the process can be complicated with so many parties involved, adding that each company must do there own work and this can take time, adding she appreciated the members' patience. She stated that the double pole problem would not go away as they are constantly upgrading.

Councilor Kay noted that she saw Academy Avenue (adjacent to Town Hall) had nine (9) double poles and that some other streets had as many as thirteen (13). She said her concern is the increase over last year. She told those present that she was looking into creating some type of program to eliminate some of them.

Members were told the sequence is: 1st Electricity - 2nd the Alarm company and 3rd Cable Company.

ADJOURNMENT

At 7:25 PM, there being no further business, a MOTION was made by Councilor Mathews to ADJOURN and was seconded by Councilor Leary and UNANIMOUSLY VOTED.

Approved by: _____
Sue Kay, Chairperson