

## **Bylaw Committee Meeting Minutes**

### **April 21, 2022**

The Bylaw Committee convened on April 21, 2022 in the back parking lot of the Wellfleet Council on Aging at 10:09 am. Present were members of the Committee: Chair Dawn Rickman, Sam Pickard, and Secretary Liz Stansell. No members of the public were present.

DR opened the meeting by verifying that all present had a copy of the most recent version (9) of the 2022 Annual Town Meeting Warrant which was delivered via email attachment from Rebekah Eldridge on April 8th. Discussion ensued as to whether in light of the phone call DR had received on April 18th from Helen Miranda Wilson indicating that only the petitioned article on Tree Preservation would be included on the Annual Town Meeting Warrant, the Committee should consider and issue recommendations for any of the other articles. DR detailed her repeated vain attempts via email and telephone to obtain a response from TA Charles Sumner on this matter over the last two days. DR remarked that she had recently read the minutes of the 2021 Annual Town Meeting which in over half of the Articles failed to note the Committee recommendations for those Articles. LS replied that she had personally delivered to Committee's recommendations to the Moderator on the floor of Town Meeting prior to its commencement and beyond that the Committee could do nothing to redress a failure to communicate the required recommendations to the Town citizens. After some debate on the advisability of discussing articles which might be further revised before their presentation at Town Meeting, the Committee agreed to discuss and issue recommendations on all of the potential Bylaw Articles on the version (9) before them. DR then confirmed that the articles the Committee proposed to review were numbers 44-45, 51-56 and 61. SP and LS concurred.

#### **Article 48 (version 9) - Article 41 (version 10)**

##### **Bylaw Amendment for Animal Control Bylaw**

DR queried as to why this article is titled Animal Control when it only addresses dogs with the exception of Section 15.7 which states no animals shall be left in parked vehicles. SP asked why we are revisiting Animal Control Bylaws when the Town passed a Bylaw at the 2021 ATM. DR replied that this Article differs from that one. LS noted that there is no basis for comparison between the two articles available within the pages of the Warrant for citizens to view simultaneously so they cannot make an informed decision as to the merits of this new version on Town Meeting floor. LS stated that this proposed Bylaw suffers from the same flaws contained in the Bylaw passed at 2021 ATM in that it preserves a stricter standard than the one in MGL particularly as regards it leaving animals in parked vehicles which is only prohibited under Mass General Laws under adverse temperature conditions and that this Bylaw also fails to provide the due process protections afforded to dog owners who are allowed a hearing prior to an adjudication of dangerousness under MGL whereas it is not clear in Wellfleet's Bylaw that a hearing is a necessary precondition to the Animal Control Officer determining that a dog is dangerous. DR added that provisions for licensing fees are inappropriate in this Bylaw because they should be administered by the Town Clerk's office and subject to periodic increases without

the necessity of amending the Bylaw to reflect those changes. DR also questioned why there is not written warning for 1st offense for an unleashed dog or dog waste when all other offenses under the Bylaw allow for an initial warning. SP added that it is unclear whether licensing provisions also apply to non-residents or part-time residents dogs. DR motioned that the Committee not recommend Article 48 due to its inconsistencies. LS seconded. The motion carried 3-0.

## **Article 51 (version 9)**

### **Wildlife Protection Bylaw**

DR remarked that this article should be entitled the “No Hunting Bylaw” as hunting can certainly be characterized as intentionally disturbing wildlife. SP and LS concurred. DR added that the correct term was “fisher” and not “fisher cat.” LS stated that there are multiple problems with this article and that it bears all the hallmarks of a piece of suburban legislation lifted from Brookline’s bylaws and inappropriately applied to a rural community. LS added that she could not find any MGL equivalent for this Bylaw. LS asked whether the underlying intent of this article was to address the rat problem which has afflicted many towns and if so, it was ill-suited to that purpose since it retained exceptions for the number one attractant to rats which are chicken coops. LS noted that securing chicken grain is hardly a solution as the rats also eat chicken feces and nor do rats have no problem with climbing suspended bird feeders. SP commented that it also allows exceptions for those who feed feral cats so those who are inadvertently feeding coyotes can continue to do so. DR queried whether Wellfleet was known for its population of feral cats? DR stated that the Bylaw fails to identify the enforcing agent with specificity and it should clearly indicate that the Animal Control Officer or the Wellfleet Police Department are the appropriate authorities. LS motioned that the Committee not recommend Article 51 due to its multiple defects. DR seconded. The motion carried 3-0.

## **Article 52**

### **Affordable Lots Zoning Bylaw**

LS asked why this article was even on the draft Warrant when it appeared by the first marginal comment that the Planning Board had not yet held any hearings on the proposed amendments? DR noted that it was unclear whether the Bylaw would allow for two houses on one lot and whether it would be retroactive. As it was apparent from the multiple marginal comments that the Bylaw should be subject to additional review and editing by the Planning Board and Town Counsel, DR motioned that the Committee not recommend Article 52. SP seconded. The motion carried 3-0.

## **Article 53**

### **Accessory Dwelling Unit Bylaw Amendment**

DR explained that the ADU petitioned article passed at the last Annual Town Meeting and this Article was requested by the Select Board not the Planning Board. LS queried why it was not kicked back to the Planning Board? DR replied that the change was in the word “Unit.” SP

remarked that this Bylaw allows owners to convert their sheds or garages into year-round dwellings and move into them during the summer so they can rent their houses and maximize their seasonal rental income. SP added that there is no restriction on the tenants of these ADU's subletting to short-term visitors, there is only the requirement that someone sign a year long lease. LS noted that as the owner could register a change of use at any time any enforcement could be thwarted by claiming the unit would no longer be used as a dwelling. LS motioned that the Committee not recommend Article 53. SP seconded. The motion carried 3-0.

#### **Article 54**

##### **Amendment to Wellfleet Zoning Bylaws, Cottage Colony**

SP observed that the vast majority of seasonal cottages in Wellfleet are condominiums currently owned by part-time seasonal residents, not year-round residents or locals. DR commented that condominium associations are able to prohibit their members from sub-letting or restricting the period of rentals to preclude any year-round leasing. LS questioned why any cottage owner would be motivated to undertake expensive renovations to upgrade to an all season dwelling in order to rent to a local year-round at a lower rent than could be made from seasonal short-term rentals through AirBnB, particularly as such owners would then also have the opportunity to enjoy the property themselves? DR remarked that typically only one cottage in a colony was able to be used year-round and the others had to be closed for the winter due to the reliance on a single water system. SP noted that many of these cottages already have heat due to being used in the shoulder seasons. The committee members briefly discussed the current asking prices for cottages on Kendrick Avenue and the potential for those to be rebuilt or remodeled as two story dwelling and the likelihood that the proposed article would contribute to increased duration of use as short term rentals, rather than achieving its stated objective. LS motioned that the Committee not recommend Article 54. DR seconded. The motion carried 3-0.

#### **Article 55 (version 9) - Article 43 (version 10) - Article 42 (Final ATM Warrant)**

##### **Amendment to Wellfleet Zoning Bylaws, Contractor's Yard**

SP noted that this was a Planning Board issue and was in response to what happened on Route 6. LS replied that it was another case of shutting the barn door after the horse had gotten out. DR queried if no additional contractor's yards were to be permitted, what about the smaller operators who might want to store lumber or equipment at home or on the job site? LS asked how much material was required to merit being defined as Contractor's Yard and shut down? DR motioned that the Committee not recommend Article 55. LS seconded. The motion carried 3-0.

#### **Article 56**

##### **Town Bylaw Amendment for the Natural Resources Advisory Board**

DR observed that the article was vague with respect both to the Town officials and Boards responsible for contributing assistance to the Natural Resources Advisory Board and the timeline for creation and implementation of the Harbor and Pond plans. LS and SP concurred.

LS added that the amendment's proposed deletion of the Harbormaster and Shellfish Constable from the Bylaw created confusion as to what expert oversight this Board should receive. DR motioned that the Committee not recommend Article 56. SP seconded. The motion carried 3-0.

#### **Article 61 (version 9) - Article 48 (version 10 & Final ATM Warrant)**

##### **Tree Preservation Resolution - Petitioned Article**

SP remarked that this appeared to be another article drafted in response to the lot clearing on Route 6. DR and LS concurred. DR noted that there is no specification as to which 2023 Town Meeting the proposed Tree Bylaw is to be presented. LS queried how was it possible to prohibit tree removal for a one year prior to application for a building permit unless one were psychic and able to predict all potential projects a property owner might contemplate. SP added that the application of this prohibition to residential as well as commercial lots was a considerable impingement of property rights. LS stated that while the Conservation Commission often requires replacement of trees for mitigation purposes, there is no oversight ensuring the survival of the new trees so the net gain is doubtful. After further discussion among the members of the Committee regarding the minimum size of the trees subject to the provisions of the article, SP motioned that the Committee not recommend Article 61. DR seconded. The motion carried 3-0.

#### **Article 44**

##### **Town Code Adoption of Renumbering of General Bylaws**

Due to their interrelatedness the Committee members discussed Articles 44 and 45 together. LS inquired whether this was an appropriate time to undertake this task given the quantity of Bylaw additions being considered this year alone and their seemingly endless amendments and suggested that it was inopportune with the Bylaws in such rapid flux to commence this project now. LS asked whether the other members of the Committee found it difficult to navigate the Bylaws? DR and SP replied in the negative. DR added that the Bylaws used to lack an Index. DR questioned where was the funding to undertake this project which would require many hours? SP remarked that given the state of the Town's budget there were better uses for the money and more urgent concerns. DR motioned that the Committee not recommend Article 44. SP seconded. The motion carried 3-0.

#### **Article 45**

##### **Town Code Adoption of Renumbering of Zoning Bylaws**

DR motioned that the Committee not recommend Article 44. SP seconded. The motion carried 3-0.

LS completed the Memorandum for the Town Moderator with copies to the Town Administrator, Administrative Assistant, and Clerk, outlining the recommendations made by the Committee on each article. The Committee members reviewed the completed Memorandum and upon a

motion made by DR and seconded by SP, voted unanimously to approve it. LS agreed to distribute it to the relevant parties via email. Upon motion made by SP, seconded by LS and unanimously approved the meeting adjourned at 11:25 am.