CITY OF BEACON, NEW YORK
ONE MUNICIPAL PLAZA
BEACON, NY 12508

Mayor Randy Casale
Councilmember Lee Kyriacou, At Large
Councilmember George Mansfield, At Large
Councilmember Terry Nelson, Ward 1
Councilmember John E. Rembert, Ward 2
Councilmember Jodi M. McCredo, Ward 3
Councilmember Amber J. Grant, Ward 4
City Administrator Anthony Ruggiero

June 18, 2018
7:00 PM
City Council Agenda

Call to Order

Pledge of Allegiance

Roll Call

Public Comment:

Each speaker may have one opportunity to speak up to three minutes on any subject matter other than those which are the topic of a public hearing tonight. Please sign in at the podium. This segment will last no longer than thirty minutes, with speakers recognized in the order they appear on the sign-in sheet. A second public comment opportunity will be provided later in the meeting for those who do not get to speak during this first segment.

Community Segment:

- ACE Program Dutchess County

Public Hearings:

- Public Hearing on a proposed local law to create Section 223-26.4 of the Code of the City of Beacon, concerning Small Cell Wireless Facilities

- Public Hearing on proposed local law to amend Chapter 195 of the Code of the City of Beacon, concerning Lot Line Adjustments

Reports:

- Council Member Amber J. Grant
- Council Member John E. Rembert
- Council Member Lee Kyriacou
- Council Member George Mansfield
- Council Member Jodi M. McCredo
- Council Member Terry Nelson
- City Administrator, Anthony Ruggiero
- County Legislators
- Mayor Randy Casale

Local Laws and Resolutions:

1. Resolution to adopt a local law to amend Chapter 195 of the Code of the City of Beacon concerning Lot Line Adjustments
2. Resolution to authorize Mayor or City Administrator to sign an agreement with Millennium Strategies for Grant Writing and Administrative Services
3. A resolution recommending city council and planning board consider requiring that on certain projects a copy of the site plan and architectural renderings of the project be posted on the property at the commencement of construction
4. Resolution authorizing execution of license agreement for dumpsters
5. A resolution to set a public hearing for July 16th to receive public comment on a proposed local law to amend Chapter 191, Article II and Chapter 192, Section 30 concerning Street and Sidewalk Opening Permits

Approval of Minutes:

- Approval of Minutes from June 4, 2018

Budget Amendments:

- Budget Amendments

2nd Opportunity for Public Comments:

Each speaker may have one opportunity to speak up to three minutes on any subject matter other than those which are the topic of a public hearing tonight. This segment will last no longer than thirty minutes. Those who spoke at the first public comment segment are not permitted to speak again.

Adjournment:

City of Beacon Council Agenda
6/18/2018

Title:

ACE Program Dutchess County

Subject:

Background:

ATTACHMENTS:

Description	Type
ACE Dutchess Presentation	Presentation

Team Dutchess Mentors

Michael R. Berta	AIA	David Freeman	AIA
Larry Boudreau	RLA	Di W. George	Architect Intern
J.C. Calderón	AIA	James Rhodes	FAIA
George Cronk	PE	Antony Tseng	EIT
Dexter Douglass	Architect Intern	Stephen A. Whalen	RA

Connecting Beacon's Main Street with the Hudson River and Railroad Station

Through [Pennsylvania Station]
one entered the city like a god.
Perhaps it was really too much.
One scuttles in now like a rat.

- On the 1963 destruction of New York's grand and original Pennsylvania Station and its replacement with a charmless subterranean shopping mall.

OWN STAIRS FOR
INCOMING
TRAINS
PUBLIC
ATTENI
TICKETS
BAGGAGE

DEPARTURES
Pennsylvania Station
Red Cap Service

TRACK 20
EXPLORE ISLANDS
HARLEM LINE DEPARTURES

Welcome to Metro-North
On-board fares are higher. Please purchase
your tickets before boarding the train.

To All Trains
COFFEE
SHOP
ON PLATFORM
MORNINGS ONLY
Metro-North
Railroad
NEWSPAPER
NEWSPAPER
BOTTLES
& CANS
TRASH
Shuttle Airport
Buses
Taxis

ALL TRAINS & FERRY
MTA
Metro-North Railroad

Current Entry into Beacon

Current Ascent to Main Street

Team Dutchess Mentors

Michael R. Berta	AIA	David Freeman	AIA
Larry Boudreau	RLA	Di W. George	Architect Intern
J.C. Calderón	AIA	James Rhodes	FAIA
George Cronk	PE	Antony Tseng	EIT
Dexter Douglass	Architect Intern	Stephen A. Whalen	RA

the View
Vu
Dome w/ elevator
Parking Deck above
Parking Below.
garden terrace
garden
steps

Visual Connections

Visual Connections
Team Tower
Daanyaal Haris / Nickino Haris / Russell Hecker

Existing Conditions

- Current parking issue
- Room to expand

Google

Site Proposal

- City Hall moved northeast directly in line with Main Street
- Gym/athletic complex
  - Has own level of parking with athletic field on top
- Multiple opportunities to park
  - No parking is visible
  - Helps to clear up Main Street parking issue
  - One set of parking is covered by park, another by solar panels

PARKING

- The amount of cars that park on Main street is reduced by the addition of parking garages
- The location of the parking lot next to the gym makes it more accessible to the attendants
- Free parking

Parking Garage Inspiration

Culinary Institute of America

- One of our major aspects on the site is a garden type attraction that also serves as underground parking
- Inspired by the Culinary Institute of America

ATHLETIC FIELD/GYM

- The athletic field/gym was added because of the fact there are currently not any gyms in Beacon; the nearest is in Fishkill.
- First floor of gym houses general workout equipment
- Second floor has concave windows which reveal sweeping view of river
- Athletic field has parking garage below

TOWER

- Bridge across road provides direct access
- Elevator integrated within
- Three stories tall
- Displays 360° view of Beacon and surrounding area

ROUNDABOUT

- Functions as drop off area for second floor of police station

In Summary...

- Gym and athletic complex are added further the entertainment opportunities in Beacon
- Parking facilities are included to help ease the parking conundrum
- Tower provides complete view of all Beacon has to offer
- City Hall is moved to a more logical place based on these changes

SmartSolutions

George Stojakovic Noah Montross Christian Farley

Beacon Connections

ACE Program Dutchess County

Program Goals

Objective: Improve quality of living and attract tourism in the city area

- Pedestrian themed site for **various uses** including recreational and public access
- Establish meaningful **connection from Beacon Main Street to the Waterfront and train station**
- Have additional public accessible space including 120 spots in the proposed parking garage which would **improve the parking demand of the city**
- Add value to existing City Hall structure to enhance its functionality and overall appearance
- Entertainment and activities that are open to the public year around

Primary team functions

Management, Engineering, and Architectural roles contributed to ideas on project

Concept idea

This map represents the current layout of the site in Beacon which we used explore ideas to further develop our concept

The following slides reflect the proposal that our team generated as the most attractive approach of the area

Current Conditions of Site

- Unattractive pedestrian accessible area -
  -Poor walkway, connection
- Steep elevation gradient
  -Placement of certain project additions are crucial (amphitheater)
- Lack of parking space
- Potential for enhanced developments
- Integration of Town Hall/ Police Station

Amphitheater arena and grade

Existing connection and stairway

Site Plan Proposal

3 Primary Elements- Parking Garage/ Bridge

- The Parking deck would have **3 levels** with the natural gradient providing accessibility for *visitors, staff, police department, and handicapped*
- The <u>first and second</u> levels will have <u>different entrances</u> where it would benefit community and police **parking**
- The **bridge** and the **park (green roof)** on third level complements vibrant atmosphere

  -would attract tourism to go to this symbolic place to get the picturesque riverfront view

3 Primary Elements-
Tram

- Inspired by the **JFK Airtrain**
- Visitors can travel directly from the **train station** to the **presented site** and cross to **Main Street.**
- The tram would *link to the parks* in the area and the *DIA art museum* in an incredible round trip of Beacon for **a strengthened connection**

3 Primary Elements- Amphitheater

- The Bethel Woods Center for the Arts inspired the creation of the amphitheater (right)
- **Lawn seating**, **covered area** inside to protect against the weather, **performance stage**
- Concerts, public speaking, and other events held accessible for the hundreds of people attending
- Additional space for the haulers and trucks backstage for the equipment supplies for necessary accommodations

- Furthermore, the picture to the left illustrates general idea of the seating in the facility and overall layout

In general the amphitheater would be beneficial because not only would local residents want to come, but tourists around nation would be interested in joining these various events

Other Elements

This sketch contains a **drive through** for dropping off passengers efficiently. It would not disrupt the flow of traffic; and there would be a **statue** to represent a symbol of past Beacon history

The above portion further explores the path resembling **sidewalks**, more of the **amphitheater** section, and additional landscape features like **benches** and **restrooms**.

Other Elements Continued

The *inspiration* is from the **Rockefeller Center.**
Recreational area purpose is it serves as a **multi seasonal** public space

- -<u>Winter Ice rink</u>
- -<u>Summertime farmer's market/ art exhibit</u>

Additionally **2 glass elevators** facing the Hudson River for greater landscape visibility
These elevators would serve to attract tourism and offer **incredible view**

Gardens, trees, benches, sidewalks, are aspects of scenic landscaping.

Our model would overall provide Visitors with unique experience regardless if they spend the whole day in the Beacon area or are just passing through to the station

“In order to design buildings with a sensuous connection to life one must think in a way that goes far beyond form and construction” -Peter Zumthor

SmartSolutions

The Vue

Team Vista

Almaas Ali, Eric Ostrow, Autumn Lennon

ACE Mentorship Beacon

Existing Conditions and Goals

- This area has very steep grades, making it difficult to do anything with the area.

Goals:

1. Create either a visual or physical connection to the river from main street.

1. Implement facilities that everyone can use and enjoy.

Glass bridge over 9-D

The Vista

The Vue

Parking

Raised walkway over Beekman Street

Seating

Amphitheater

History of this area-5 Corners

-Originally this area was a very special place, where FDR stopped and gave a speech.

-Our design makes this area into a special place once again, by creating “The Vista”

Fishkill Landing Co
Fishkill Landing Co
J. Harris
J. Harber
J. Hewatt
Carpenter Sh.
W. Brett
J. Hewatt
Office
W. I. Henry
C. VanVliet
P. Brett
Coal Yd.
Lumber Dr.
F. P.
Car House
Pond
A. K. Chandler
Mrs. J. Gilmore
DIVISION
ST
Carpenter Sh.
E. Ward
Wood
C. Reynolds
R. Redfield
D. Tuderhill
Prs. Ch
J. Ackerman
Carriage Ph.
Methodist Parsonage
Methodist Ch.
E. Brett
Bissell & Dodge
DEWITT ST
Eagle Hotel
Baptist Reformed Church
Baptist Church
Parsonage
J. P. Dewint
J. P. Dewint
J. P. Dewint
J. Taylor
W. H. Terbush
A. Cunningham
W. Brett
J. Brown
J. Brown
R. Redfield
C. Reynolds
Mrs. Kent
Mrs. Gamer
J. T. Bush
W. E. Bolinger
W. C. Knight
J. Taylor
W. Tillet
Mrs. J. Bush
W. Brett
J. P. Dewint
J. P. Dewint
J. P. Dewint

The Vista

-main focal point
-a destination to get to

The Vue

-makes visual connection to river
-provides elevated view of the scenery

Inspiration/Precedent for “the Vue”

Our Plan

Grand Canyon

Amphitheatre

-perfect elevation
-great entertainment for everyone

In Conclusion

- Our plan’s three focal points The Vue, The Vista and The Amphitheatre has taken the original site and made both visual and physical connections from Main Street to the Hudson River.

- Our plan also creates fun opportunities for people coming from the city and people that live in Beacon can enjoy.

The View
Team Vista
Almaas Ali
Eric Ostrow
Autumn Lennon
ACE Mentorship
Beacon

City of Beacon Council Agenda
6/18/2018

Title:

Public Hearing on a proposed local law to create Section 223-26.4 of the Code of the City of Beacon, concerning Small Cell Wireless Facilities

Subject:

Background:

ATTACHMENTS:

Description	Type
Small Cells LL	Local Law
Cliff and Will LTR	Cover Memo/Letter

Draft: 4/24/18

DRAFT LOCAL LAW NO. ____ OF 2018

CITY COUNCIL
CITY OF BEACON

PROPOSED LOCAL LAW TO
ADD SECTION 223-26.4 OF THE CODE OF THE
CITY OF BEACON

A LOCAL LAW to create Section 223-26.4 of Code of the City of Beacon, concerning Small Cell Wireless Facilities.

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1. Section 223-26.4 of the Code of the City of Beacon entitled "Small Cell Wireless Telecommunications Facilities" is hereby created as follows:

A. Purpose. The purpose of this Section is to establish uniform policies and procedures for the deployment and installation of small cell wireless telecommunications facilities in the City of Beacon, which will provide a public health, safety, and welfare benefit consistent with the preservation of the integrity, safe usage, and visual qualities in the City.

B. Permit Required.

(1) No person shall install a small cell wireless telecommunications facility without first filing a small cell wireless telecommunications facility application and obtaining a small cell permit from the Planning Board.

(2) The Planning Board may issue a permit for the following:

(a) The modification of an existing tower or base station that does not incur a substantial change to the tower or base station or that otherwise qualifies as an Eligible Facilities Request.

(b) Collocation of a small cell wireless telecommunications facility or DAS Facility on an existing tower, utility pole or streetlight not exceeding 50 feet in height in the public right-of-way.

(c) Collocation on existing buildings within the City of Beacon.

(d) Replacement of a utility pole or street light that does not result in a change from the original dimensions.

(e) Installation of a monopole or utility pole for small cell or DAS Facilities in the public right-of-way that does not exceed 50 feet in height.

C. Special Use Permit approval by the City Council is required under § 223-24.5 for the following uses:

(1) A substantial change to an existing tower or base station.

(2) Any other application for placement, installation or construction of transmission equipment that does not constitute an Eligible Facilities Request.

(3) Installation of a new tower.

(4) Placement of new antenna on an existing tower or base station that results in a substantial change to the tower or base station.

(5) Installation of equipment located on sidewalk.

(6) Installation of equipment located at an elevation less than ten feet from the ground.

(7) Installation of a small cell facility on a pole located within 20 feet of a dwelling unit.

D. Permit Application.

(1) All small cell wireless telecommunications facility applications for small cell permits filed pursuant to this Section shall be on a form provided by the City.

(2) The small cell permit application shall be made by the wireless telecommunications provider or its duly authorized representative and shall contain the following:

(a) The applicant's name, address, telephone number, and e-mail address;

(b) The names, addresses, telephone numbers, and email address of all consultants, if any acting on behalf of the applicant with respect to the filing of the application.

DRAFT

(c) A general description of the proposed work and the purpose of the work proposed.

(d) Identify and disclose the number and locations of any small cells that the applicant has installed or locations the applicant has considered in the past year for small cell infrastructure within the City and those submitted or anticipated to be submitted within a one year period.

(e) A description of the anticipated maintenance needs, including frequency of service, personnel needs and equipment needs, and the potential traffic safety and noise impact of such maintenance.

(f) Any amendment to information contained in a small cell permit application shall be submitted in writing to the City within 30 days after the change necessitating the amendment.

(3) An application shall not be required for: (i) routine maintenance; and (ii) the replacement or upgrade of a previously permitted small cell wireless telecommunications facility with another small cell wireless telecommunications facility that is the same as or smaller in size, weight, and height at the same location.

(4) A wireless telecommunications provider authorized to install small cell wireless telecommunications facilities shall pay to the City an application fee and administrative fee as set forth in this section.

(5) A wireless telecommunications provider is authorized, after 30 days written notice to the City Building Inspector, to remove its facility at any time from the rights-of-way and cease paying the City the administrative fee.

E. Location

(1) The following locational priorities shall apply in the order specified, consistent with the City's obligation to create the least amount of adverse aesthetic impact and to preserve the scenic values of the City:

(a) On the roof of any City owned or federal, state or local government owned buildings or structures.

(b) Location on privately-owned buildings

(c) Location on an existing City owned utility poles

(d) Location on City-owned infrastructure on private poles

(e) Location City-owned property, where there is no existing pole

DRAFT

(f) Location on privately-owned utility poles.

(2) If the proposed site is not the highest priority listed above, then a detailed explanation must be provided as to why a site of higher priority was not selected. The person seek such an exemption must satisfactorily demonstrate the reason or reasons why such a permit should be granted for the proposed site and the hardship that would be incurred by the applicant if the permit were not granted for the proposed use.

F. Right of Way Fees

(1) In order to ensure that the limited private use of the public right of way authorized herein does not become an additional cost to the City, it is hereby determined by the City Council that the following fees shall be charged to applicants and permit holders seeking to use the public right of way pursuant to this Local Law.

(2) Small Cell Permit Application Fee: shall be $500.000 (non-refundable) due to the City Building Department upon submittal of a completed application for review.

(3) Annual Small Permit Fee:

(a) For placement on Existing Private Utility Poles -$1,000.00 per year

(b) For placement on Existing City-owned buildings, utility poles, infrastructure or property - $1,500.00 per year

(c) For placement of new poles in the right of way $2,000 per year

(d) Fee start date: The annual permit fee shall be payable January 2 of the year following installation. Failure to pay the annual permit fee shall result in the imposition of a 5% penalty fee, additional collection fees if necessary, and suspension or revocation of the permit.

G. City requirements as to aesthetics and neighborhood impact mitigation

(1) In order to preserve the character and integrity of City neighborhoods the City Council finds that the following requirements are essential to protect the public health, safety and welfare.

(a) New small cell facilities shall not be located in the Historic District and Landmark Overlay Zone.

(b) Wherever possible, new small cell facilities shall include stealth technology designs.

DRAFT

(c) All small cells placed on any roof shall be set back at least 15 feet from the edge of the roof along any street frontage.

(d) The Planning Board shall consider all impacts to site lines and aesthetic views.

(e) Except within the public right of way, all proposed poles, pole equipment and enclosures shall comply with the designated setback requirements.

(f) Up to three (3) small cells will be allowed per utility pole if technically feasible and if in the determination of the Planning Board there are no safety or aesthetic concerns. Small cells must be designed and placed in an aesthetically pleasing manner to the reasonable satisfaction of the approving agency.

(g) No small cell placement shall be allowed on ornamental street lighting poles as determined by the Building Inspector.

(h) No small cell facilities or associated equipment shall be placed on any sidewalk and shall not obstruct pedestrian or vehicular traffic in any way.

(i) In no event shall any utility pole or wireless telecommunication support structure as of January 1, 2018, installed in the public right of way, exceed 50 feet in height. A shorter pole may be required if the initial proposal is deemed out of character of with the neighborhood as determined by the Planning Board.

(j) Each new small cell wireless telecommunications facility, including antennas or other associated equipment, installed in the public right-of-way shall not exceed more than ten (10) feet above the existing utility pole or wireless telecommunications support structure on which it is being located.

H. Duration. Construction pursuant to a small cell permit issued under this section must be commenced within twelve (12) months of issuance of the small cell permit and diligently pursued thereafter, or such small cell permit shall expire.

I. Routine Maintenance and Replacement. An application shall not be required for: (i) routine maintenance; and (ii) the replacement or upgrade of a small cell wireless telecommunications facility with another small cell wireless telecommunications facility that is same as or smaller in size, weight and height at the same location.

J. Information Updates. Any amendment to information contained in a small cell building/work permit application shall be submitted in writing to the City within thirty (30) days after the change necessitating the amendment. On an annual basis, the wireless telecommunication provider shall provide a list of existing small cell locations within the City.

DRAFT

K. Removal, relocation or modification of Small cell Wireless Telecommunications Facility in the Public Right-of-Way

(1) Notice. Within ninety (90) days following written notice from the City , the wireless provider shall, at its own expense, protect, support, temporarily or permanently disconnect, remove, relocate, change or alter the position of any small cell wireless telecommunications facilities within the public right-of-way whenever the City has determined that such removal, relocation, change or alteration, is necessary for the construction, repair, maintenance, or installation of any City improvement in or upon, or the operations of the City in or upon, the public right-of-way.

(2) Emergency Removal or Relocation of Facilities. The City retains the right and privilege to cut or move any small cell wireless telecommunications facility located within the public right-of-way, as the City may determine to be necessary, appropriate or useful in response to any public health or safety emergency. If circumstances permit, the City shall notify the wireless telecommunications provider and provide the wireless telecommunications provider an opportunity to move its own facilities prior to cutting or removing a facility and shall notify the wireless telecommunications provider after cutting or removing a small cell wireless telecommunications facility.

(3) Abandonment of Facilities. Upon abandonment of a small cell wireless telecommunications facility within the public rights-of-way of the City, the wireless provider shall notify the City within ninety (90) days. Following receipt of such notice the City may direct the wireless provider to remove all or any portion of the small cell wireless telecommunications facility if the City, or nay of its departments, determines that such removal will be in the best interest of the public health, safety and welfare.

Section 2. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 223 of the City of Beacon Code is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 3. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

DRAFT

Section 4. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

DRAFT

Young / Sommer LLC

JEFFREY S. BAKER
DAVID C. BRENNAN
JOSEPH F. CASTIGLIONE
JAMES A. MUSCATO II
J. MICHAEL NAUGHTON
ROBERT A. PANASCI
ALLYSON M. PHILLIPS
DEAN S. SOMMER
KEVIN M. YOUNG

LAURA K. BOMYEA
E. HYDE CLARKE
JESSICA ANSERT KLAMI
KRISTINA M. MAGNE
KRISTIN LAVIOLETTE PRATT

COUNSELORS AT LAW

EXECUTIVE WOODS, FIVE PALISADES DRIVE, ALBANY, NY 12205
Phone: 518-438-9907 • Fax: 518-438-9914

www.youngsommer.com

SENIOR COUNSEL
MICHAEL J. MOORE
KENNETH S. RITZENBERG
DOUGLAS H. WARD

OF COUNSEL
SUE H.R. ADLER
ROGER FLORIO
LAUREN L. HUNT
ELIZABETH M. MORSS
SCOTT P. OLSON
STEPHEN C. PRUDENTE
KRISTIN CARTER ROWE

PARALEGALS
ALLYSSA T. MOODY
AMY S. YOUNG

Writer's Telephone Extension: 258
solson@youngsommer.com

June 15, 2018

Via Federal Express
City of Beacon City Council
Beacon City Hall
1 Municipal Plaza
Beacon, New York 12508

RE: Proposed Local Law to Add Section 223-26.4 of the Code of the City of Beacon Concerning Small Cell Wireless Facilities ("Small Cell Law")

Dear Mayor Casale and Members of the City Council:

Our firm represents Orange County-Poughkeepsie Limited Partnership DBA Verizon Wireless ("Verizon Wireless"). By letter dated May 23, 2018, we provided specific comments on the draft Small Cell Law for the Council's consideration.

The purpose of this letter is to supplement and expand upon our May 23rd letter.

As set forth in greater detail below, we want to make sure that the City Council is aware of the following points as they relate to the proposed Small Cell Law.

1. Municipally owned rights-of-way are held for the benefit of the public.
2. Utility companies have a long history of locating infrastructure in municipally owned rights-of-way.
3. Verizon Wireless is entitled to use and occupy municipally owned rights-of-way pursuant to the requirements of the New York State Transportation Corporations Law.

4. Federal law requires local municipalities to treat wireless facilities on a competitively neutral and non-discriminatory basis relative to traditional utilities.
5. New York State law authorizes an existing utility company to grant a right to a wireless service provider to use a portion of its infrastructure for purposes of wireless service.
6. Municipalities are generally not required to consent to the granting of a license or right to use existing utility company infrastructure, nor is the municipality entitled to compensation for such transaction.
7. Imposing annual fees, as currently proposed in the Small Cell Law, without providing any information to demonstrate that such fees are limited strictly to cost recovery, violates established New York State decisional law.
8. The annual fees currently proposed are extremely high when compared to the fees established by the majority of states that have enacted small cell facility laws.

Background

There are historical and significant reasons for placing utility facilities of all kinds within public rights-of-way. Municipalities that own public rights-of-way do so for the benefit of the public. Location of telephone, electric and other utilities in existing public rights-of-way represents a significant public benefit (i.e. providing necessary utility service to local users). Placement of such facilities within an existing public right-of-way is also generally the most efficient option for construction and maintenance of local utilities. In addition, where use of the public right-of-way is feasible, such use avoids the need to construct and operate facilities on private property and the attendant inconvenience to the landowners within the municipality. For wireless facilities, in particular, placement of facilities within the public right-of-way has an important engineering justification: the density of users is generally greatest near such rights of way; and, if antennae and related equipment could not be placed within the right-of-way, such infrastructure would have to be located on private property very near the right-of-way.

Installation of wireless facilities within the public rights of way serve an additional public policy purpose in that it often facilitates co-location of such facilities on existing wooden utility poles. In many cases, existing utility poles can be utilized to readily accommodate the minor antenna and equipment requirements of a small cell facility. In certain circumstances, such as required by the two pending applications proposed by Verizon Wireless, existing utility poles require replacement for structural purposes or minor height increases. In either case, the intrusion upon the community is extremely minor in nature.

Competitively Neutral and Non-Discriminatory Manner of Regulation

Federal law prohibits state or local actions that would erect substantial barriers to wireless facilities deployment, including prevention of a wireless provider from competing on a level playing field with others.[1] Under federal law, regulation need not be an absolute preclusion

[1] The federal Telecommunications Act of 1996, codified at 47 U.S.C., was enacted "to open up markets to competition by removing regulatory barriers to entry... To provide for a pro-competitive, de-regulatory national policy framework designed to accelerate rapidly private sector deployment of advanced information technologies and services to all Americans by opening all telecommunications markets to competition." (Conference Report, telecommunications act of 1996, House of Representatives, 104th Congress, 2d Session, H. Rept. 104-458, at p.1).

to be found unlawful.[2] Federal law requires management of public rights-of-way to be conducted on a competitively neutral and non-discriminatory basis.[3] Thus, a wireless carrier can be neither denied access nor charged more for the same rights and services than a traditional utility. To be competitively neutral and non-discriminatory, the City of Beacon is required to treat the proposed VZW infrastructure improvements similar to the manner in which the traditional utilities (land-line telephone and electric, etc.) are treated relative to zoning permits and approvals.

One of the cornerstone issues of the draft Small Cell Law relates to the proposed scope of regulation of small cell facilities within the city of Beacon. In our May 23rd letter, we explained that the right of Verizon Wireless, and other wireless carriers, to use and occupy public rights of way must be on the same terms and conditions as traditional "wire-line" utilities, including telephone, electric and cable television providers.

We recently submitted a request pursuant to Article 6 of the Public Officers Law ("Freedom of Information Law" or "FOIL") requesting copies of any and all right of way agreements between the city and traditional utility providers that occupy city-owned rights of way. We are told that a response will be provided by Sunday, June 24th, 2018. It is critical that we have the opportunity to review the existing right of way agreements prior to the Council's adoption of the Small Cell Law to ensure that the Small Cell Law is consistent with existing right of way agreements for traditional utilities. We also believe it is incumbent on the Council to review and understand the right of way agreements prior to adopting the Small Cell Law. Based on the foregoing, we request that the City Council refrain from adopting the Small Cell Law until we have a reasonable time to review all existing right of way agreements described above.

"Telecommunications" is not limited to wireless carriers/service (see 47 U.S.C. §153(50)). Specifically, 47 U.S.C §253(a) prohibits State and local statutes/regulations that "may prohibit or have the effect of prohibiting the ability of an entity to provide any interstate or intrastate telecommunications service." The federal statute places a similar prohibition on a State and/or local government's regulation of the "placement, construction, and modification" of wireless telecommunications facilities, requiring that such regulations "shall not prohibit or have the effect of prohibiting the provision of personal wireless services." 47 U.S.C. §332(c)(7)(B)(i)(II). Accordingly, a different regulatory framework, including access regulations and fees, for similar telecommunications technologies works to "prohibit or have the effect of prohibiting the ability of any entity to provide any interstate or intrastate telecommunications service" in violation of §253(a).

[2] "a regulation need not erect an absolute barrier to entry in order to be found prohibitive... It is enough that [the regulation] would 'materially inhibit' the provision of services." Quest Corp. v. the City of Santa Fe, 380 F. 3d 1258, 1267 (10th Cir. 2004), citing RT communications, Inc. v. FCC, 201 F.3d 1264, 1268-69 (10th Cir. 2000). In Quest Corp., the Court of Appeals found requirements placed on telecommunications providers by the city's ordinance with respect to both rent and construction costs to be "substantial," representing a "massive increase in cost," and thus were prohibitive under §253(a) of the telecommunications act and thereby unenforceable. Id. at 1271-75.

[3] "Nothing in this section affects the authority of a State or local government to manage the public rights-of-way or to require fair and reasonable compensation for telecommunications providers, on a competitively neutral and nondiscriminatory basis, for use of public rights-of-way on a nondiscriminatory basis, if the compensation required is publicly disclosed by such government." 47 U.S.C. §253(c). Notably, the courts and the FCC have interpreted this subsection to require regulations as to both the management of the rights-of-way and any required compensation to be "competitively neutral" and "non-discriminatory." Quest Corp., supra at 1271.

Proposed Fees Will Materially Inhibit the Provision of Future Wireless Service in the City of Beacon Which Will have an Adverse Impact on City Residents

Established decisional law in New York confirms that a property owner is not entitled to consent to or receive compensation for what is essentially a private pole attachment (i.e. attachment of equipment to a privately-owned utility pole). In the event that the City Council enacts the Small Cell Law with the current annual fees, such fees will likely materially inhibit the provision of future wireless service to the city of Beacon.

For example, the attempt to require a $1,000 annual fee payable to the city for collocations on privately-owned poles represents a significant barrier to market entry in the city of Beacon. This is especially so in light of the fact that the city has no interest in the utility owned pole upon which the equipment would be attached. This is essentially an unlawful "pay to play" scheme intended to benefit municipal coffers to the detriment of wireless service providers and ultimately city of Beacon residents.

Consider also that the proposed $1,000 annual fee (i.e. city pole attachment fee) is substantially greater than pole attachment rates approved by the New York Public Service Commission ("PSC") relative to wireless attachments to utility owned poles. See for example, the enclosed Order Approving Tariff Amendment (effective December 17, 2015) relative to approved rates for attachments to National Grid poles. The National Grid pole annual attachment rate for wireless attachments is $71.74, while the annual attachment rate for wireless attachments that require an existing pole to be extended is $146.86. There is absolutely no justification for the discrepancy between the $1,000 annual fee the city wants to charge and the PSC regulated pole attachment rates.

Moreover, this unjustified annual municipal fee will significantly increase budgets of wireless service providers in the city of Beacon which will act as barriers to market entry for Verizon Wireless and other providers. The absence of future wireless deployment in the city of Beacon will deprive the city and its residents of the substantial benefits associated with having ubiquitous and modern wireless service. For instance, advanced wireless services are beginning to be used to establish "smart cities." A smart city is an urban area that uses wireless service to manage assets and resources efficiently, including, but not limited to, traffic and transportation systems, power plants, water supply networks, waste management, law enforcement, schools, libraries and hospitals. If the city enacts the Small Cell Law with unreasonable annual fees, Verizon Wireless and other providers will likely develop future wireless networks in other municipalities that are more hospitable and not antagonistic to future wireless development.

As a further example of how the unsupported annual fees proposed in the Small Cell Law will act as a barrier, one needs to look no further than the eighteen states that have enacted laws regulating small cells in public rights of way. Those eighteen states (AZ, CO, DE, FL, IA, IL, IN, KS, MN, NC, NM, OH, OK, RI, TN, TX, UT, VA) have limited the annual right of way fees to the management costs generally ranging between $0 and $250. The proposed annual fees contained in the Small Cell Law, which range from $1,000 to $2,000 per year, are excessive and do not relate to management costs incurred by the city. Moreover, these are the areas (i.e. areas with fair and reasonable fees) where wireless providers, such as Verizon Wireless, will deploy the next generation wireless services, enabling economic growth opportunities with 5G, smart

cities and the Internet of Things (IoT). Municipalities such as Beacon will miss out on these significant opportunities due to the barriers created by the exorbitant annual fees and over regulation of small cell facilities.

Verizon Wireless Has a Right to Use and Occupy Public Rights of Way Under the NY Transportations Corporations Law

Under the New York State Constitution and relevant statutes, a municipality may exercise reasonable, not unlimited, authority over the use of its public rights-of-way, including use by utilities.[4] Use and occupancy of public rights-of-way by traditional land-line utilities is long-standing and uncontested, and those utilities are not generally required to obtain project-specific consents and permits for access to a municipality's public rights-of-way; instead, they are recognized as having a right to use and occupy under the New York Transportation Corporations Law ("TCL").[5] Additionally, the permits and fees typically required of traditional utilities are generally limited to those pertaining to performing construction and maintenance work within the public right-of-way, such as a highway work permit. Such a limited imposition of burdens is entirely consistent with the principle that, because, these entities serve the public and the public pays for such service, it is contrary to public policy to impose unnecessary additional costs on those entities and their customers. Moreover, the purpose of regulating wireless facilities should not be related to making a profit for the municipality.

Traditional utilities organized under the TCL possess use and occupancy rights as described above. Although Verizon Wireless has elected to not form as a TCL, for the reasons that follow it still enjoys those same rights. The TCL extends the powers and privileges of the TCL to entities that are not organized under the TCL, but are organized for the purposes specified in the TCL.[6] That is the case with respect to Verizon Wireless because it fulfills the same purposes as a traditional land-line telephone corporation organized under the TCL to provide telephone and other communications services to the public. Moreover, wireless telecommunications service providers have been recognized as public utilities by New York's highest court.[7]

Additionally, the explosive growth of wireless services demonstrates that the communications purposes identified in the TCL are being served to a greater extent by wireless providers than by traditional telephone corporations. It has been estimated that there are approximately 396 million wireless subscriber connections active in the United States as of 2016, an increase of more than 18 million connections over the prior year.[8] The number of American households that are wireless only (meaning no landline connections) has exceeded 50%, with

[4] N. Y. Const. Art, IX, §2(c)(6); General City Law §20.
[5] TCL §27 grants "telegraph and telephone corporations" organized under the TCL the right to "erect, construct and maintain the necessary fixtures for its lines upon, over and under any of the public roads, streets and highways..."
[6] "a corporation hereto for or hereafter incorporated under a general law for a purpose or purposes for which a corporation may be formed under this chapter shall in respect to such purpose or purposes have all the powers and privileges conferred, and be subject to all the duties, liabilities and limitations imposed, on a corporation organized for such purpose or purposes under this chapter." TCL §5.
[7] See, Cellular Tel. Co. v. Rosenberg, 82 N.Y. 2d 364, 371 (1993).
[8] See o on line data at https:www.ctia.org/industry-data/ctia-annual-wireless-industry-survey

that percentage exceeding two thirds for millennials.[9] In recognition of this trend, Federal officials are rapidly moving forward with plans to upgrade 911 systems to provide the capability to accept all manner of wireless data, including text messages, photos and video. [10] Already, nearly 70% of 911 calls today are made from mobile devices. [11] As a consequence, the now dominant role of wireless communications as an essential provider, not only of public service, but of emergency services well, is indisputable. As a matter of critical public policy, as well as correct interpretation of law, Verizon Wireless is entitled to be treated in the same fashion as a telephone corporation organized under the TCL.

Because the rights and obligations pertaining to utilities organized under the TCL also apply to those that are organized under different laws, but provide similar services to the public[12], where new poles are involved, the burden, including permitting and fees, imposed on the wireless provider can be no greater than that required for traditional electric and telephone companies. Wireless provider has the same rights and obligations as a traditional land-line telecommunications provider it cannot be required to go through more permitting or to pay greater costs than those that are legally imposed on the traditional telephone company.

Easement Apportionment Rights

In New York, utilities have a right to apportion existing easement rights to set and maintain poles and other equipment on the property to which they have been granted access, unless the grant specifically forbids such apportionment. The Court in Hoffman v. Capitol Cablevision Systems, Inc., 383 N.Y.S.2d 674, 678 (3d Dep't 1976), held that the pole attachment agreement granting the defendant cable company a license to install its equipment on existing utility-owned poles in the rights of way was a proper apportionment of the utilities' easements on the property, determining that the landowner's consent to the attachments was not required, nor was the land owner entitled to any compensation. Nothing granted to the cable company enabled it to do anything which the existing utility could not have done. Id. Notably, the Hoffman court did not distinguish between public and private ownership of the underlying land, nor would such a distinction have any bearing on the merit of the Court's holding.

For the reasons discussed above, the annual fee requirement contained in Section 223-26.4(F)(3(a)) violates the specific holding in Hoffman and, as such, this provision should be deleted from the Small Cell Law.

In furtherance of the above discussion, an electric utility may allow attachments on its poles by telephone companies, Cablevision providers and wireless providers unless specifically forbidden to do so by the original grant of authority to the electric utility to construct and maintain its poles. If the argument that wireless attachments cannot occupy portions of an electric utility's poles without further municipal authorization were valid, then that utility would also be precluded from permitting attachments by telephone corporations and cable television

---

[9] 2017 CTIA Wireless Snapshot, may 2017 & FCC, Annual Report and Analysis of Competitive Market Conditions with Respect to Mobile wireless, Nineteenth Report, DA 16-1061 (September 23, 2016)

[10] FCC Notice of Proposed Rulemaking dated September 22, 2011 (FCC 11-134)

[11] Wireless 911 Services-FCC Consumer Facts Sheet available online at http://www.fcc.gov/guides/wireless-911-services

[12] TCL §5; see footnote 3, supra

companies without similar governmental authorization. Acceptance of this premise would yield the irrational result that virtually all current attachments by other utilities to existing utility poles are unauthorized. While the existing utility may have a right to charge the entity making new attachments to a pole for the cost associated with use of a portion of the pole, there is no basis for the city to charge the new entity for that attachment. Such an additional fee would amount to charging a second time for a right to occupy already granted to the original utility.

Compliance with NYS "Broadband for All" Policy

In addition to being required by New York law, evenhanded treatment of wireless providers is critical to the State's aggressive policy, "Broadband for All," promoting broadband access, including wireless access throughout the state.[13] Imposing greater burdens on wireless providers than on traditional telecommunications providers is simply inconsistent with that policy.

Moreover, a municipality's regulation of small cell facilities that creates greater burdens on wireless providers may result in the practical effect of prohibiting small cell facilities from its borders, which will, in turn, deprive the residents of the municipality the benefit of having safe and adequate wireless service.

Conclusion

Based upon the foregoing, Verizon Wireless believes that certain changes are required to the Small Cell Law in order to make such law consistent with Federal and New York State law. Specifically, Verizon Wireless recommends the following.

1. The proposed annual fees are excessive and should be reduced and/or eliminated.

    a. Due to the minor nature of the proposed installations, the special use permit application fee should be reduced to $50 per application.
    b. The $1000 annual fee for co-location on a privately owned utility pole (with no equipment to be located on the ground in the right of way) should be eliminated. As set forth above, such fee is inconsistent with the holding in the Hoffman case.
    c. Based upon the eighteen (18) states that have enacted small cell laws to date, the proposed fees in the Small Cell Law are excessive and should be reduced. Specifically, we recommend that the annual fee for a new small cell facility in a right-of-way (i.e. a new utility pole/structure) owned by the city of Beacon should not exceed $250.

2. The prohibition of locating small cell facilities in the Historic District and Landmark Overlay Zone, as contained in section 223-26.4 (G) (1) (a), should be eliminated. As previously discussed in our May 23 letter, prohibiting small cell facilities from this zoning district, while allowing traditional utilities to install infrastructure in such area, serves to discriminate against wireless facilities. Federal law expressly prohibits local

[13] See https://www.ny.gov/programs/broadband-all

municipalities from treating wireless facilities in public rights-of-way differently than traditional utilities. Such disparate treatment violates the Telecommunications Act of 1996 requirement that municipalities regulate public rights-of-way in a competitively neutral and nondiscriminatory manner.

3. We believe that section 223-26.4 should be revised to require a special use permit only for new small cell facilities that propose to install a new utility pole/structure in the public right-of-way. All other proposals, including, but not limited to, co-location on an existing structure, replacement of an existing utility pole with a taller pole, not to exceed 50 feet in height, should be subject to issuance of a building permit only. First and foremost, as has been demonstrated previously, small cell facilities are unobtrusive by nature and similar to equipment utilized by traditional utilities in existing rights of way. It is our understanding that the city does not currently require special use permits for installation of traditional utility equipment on existing utility poles, nor does it require a special use permit for the replacement of a utility pole. For this reason, it would be inappropriate for the city of Beacon to impose different rules for wireless facilities then currently imposed for traditional utilities. Second, although we cannot predict the future, it is likely that local municipalities will see a fairly significant number of small cell facility applications in the future. If this happens, the proposed Small Cell Facility law may result in significant city resources being spent on the review of relatively innocuous applications, which will serve to deplete existing city resources for more pressing issues.

4. As set forth in our May 23 letter, we believe that the location priorities provided in section 223-26.4 (E) are unlawful. It is inappropriate for a municipality to force applicants onto municipally owned property and/or structures. For this reason, the priorities provided in the reference section should be eliminated.

Thank you for the opportunity to comment on the proposed local law. We are happy to answer any questions relative to this letter or any of our prior letters or comments.

Very truly yours,
YOUNG SOMMER, LLC

Scott Olson

Enclosure
EC: Nicholas M. Ward-Willis, Esq.
Mark Coon (Verizon Wireless)

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on December 17, 2015

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman

CASE 15-E-0444 - Tariff filing by Niagara Mohawk Power Corporation d/b/a National Grid to update the rates in Rule No. 35 - Cable System Operator and Telecommunications Service Provider Wire Line Attachment Rates to Electric Distribution Poles contained in P.S.C. No. 220 - Electricity.

ORDER APPROVING TARIFF AMENDMENTS

(Issued and Effective December 17, 2015)

BY THE COMMISSION:

INTRODUCTION

On July 27, 2015 Niagara Mohawk Power Corporation d/b/a National Grid (NMPC or the Company) filed revisions to its electric tariff schedule, P.S.C. No. 220, to update Rule No. 35 - Cable System Operator and Telecommunication Service Provider Wire Line Attachment Rates to Electric Distribution Poles Including Wireless Attachment Rates (Rule 35). NMPC proposes 10.3% increases to its annual cable and telecommunications wire line pole attachment rate from $12.73 to $14.04; its annual electric distribution pole wireless attachment Rate A from $65.05 to $71.74; and its excess wireless pole attachment Rate B from $133.15 to $146.86. The proposed

changes also correct a typographical error in the title of Rule 35.1.

On July 30, 2015, NMPC made a supplemental filing to correct rates that were incorrectly filed in its July 27, 2015 submission. The amendments have an effective date of November 23, 2015. NMPC has requested a waiver of the requirements of newspaper publication pursuant to Public Service Law §66(12)(b) and 16 NYCRR §720-8.1 for these filings because the attachers will be notified.

BACKGROUND

In the Commission's Order issued July 16, 2002 (2002 Order),[1] all utilities were authorized to file new pole attachment rates, with updated costs, in line with the cable television attachment rates as calculated in the exhibit to the 2002 Order. The 2002 Order further stipulated that the cable rates would apply to both cable television attachments and competitive local exchange company attachments.

NMPC's current annual wire line rate of $12.73 and its annual wireless attachment rates of $65.05 (for attachment of wireless facilities to an existing distribution pole) and $133.15 (for attachment of wireless facilities to a distribution pole for which the wireless service provider requires excess pole height) were approved by the Commission in 2012 in Case 11-E-0708.[2] The Company's current attachment rates result in an annual under-recovery from third party pole attachers of

---

[1] Cases 01-E-0026, et al., New York State Electric & Gas Corporation, et al. - Rates, Order Granting, In Part, Petitions for Rehearing and/or Clarification (issued July 16, 2002), p. 6.

[2] Case 11-E-0708, Niagara Mohawk Power Corporation d/b/a National Grid - Pole Attachment Rates, Untitled ARSO (issued March 15, 2012).

approximately $695,000 in pole ownership costs. The proposed rates are based on 2014 actual costs.

NOTICE OF PROPOSED RULE MAKING

Pursuant to the State Administrative Procedure Act (SAPA) §202(1), a Notice of Proposed Rulemaking was published in the State Register on August 19, 2015 [SAPA No. 15-E-0444SP1]. The time for submission of comments pursuant to the Notice expired on October 5, 2015. No comments were received.

DISCUSSION AND CONCLUSION

Niagara Mohawk Power Corporation computed the requested wire line pole attachment rate in accordance with the Federal Communications Commission (FCC) formula using FERC Form 1 Accounts for Cable Television Attachments which was previously accepted by the Commission in the 2002 Order. The Company calculated the requested wireless attachment rates consistent with the methodology approved in the Case 11-E-0708. Staff completed a review of the Company's calculations and also conducted an independent analysis to develop these rates.

For the wire line attachment rate, Staff found that Niagara Mohawk used an allocated depreciation reserve for account 364, Distribution Poles, rather than using the actual depreciation for that account. The Company's use of an allocated depreciation amount is consistent with the FCC formula which was accepted in Case 11-E-0708. The FCC formula uses the total accumulated distribution reserve. In order to verify that the FERC methodology produces reasonable rates, Staff calculated pole attachment fees using the Company's actual depreciation reserve for account 364. Staff's calculations resulted in higher wire line pole attachment rates similar to the rate differentials as calculated by Staff in Case 11-E-0708.

The Company's wireless attachment rates are based on the same costs used for the wire line attachment rate. Similar to the wire line attachment rate calculation, the Company uses the allocated depreciation amount rather than the actual depreciation amount for the wireless attachment rates. Consistent with the differences found with calculating the wire line pole attachments using this allocated depreciation methodology, Staff calculated a slightly higher rate using the actual depreciation amount, for the wireless attachment rates requested by the Company. Because Niagara Mohawk's filed rates are below the rates calculated by Staff, we consider them to be just and reasonable and so such rates are approved.

The Commission orders:

1. The tariff amendments listed in the Appendix shall become effective on December 21, 2015.

2. The requirements of Public Service Law §66(12)(b) and 16 NYCRR §720-8.1 as to newspaper publication of the proposed changes are waived.

3. This proceeding is closed.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

CASE 15-E-0444 APPENDIX

SUBJECT: Filing by NIAGARA MOHAWK POWER CORPORATION D/B/A NATIONAL GRID

Amendments to Schedule P.S.C. No. 220 - Electricity

Second Revised Leaves Nos. 195, 196

Issued: July 27, 2015 Effective: November 23, 2015
Postponed to December 21, 2015.

Third Revised Leaf No. 196

Issued: July 30, 2015 Effective: November 23, 2015
Postponed to December 21, 2015.

SAPA: 15-E-0444 - STATE REGISTER - August 19, 2015

NEWSPAPER PUBLICATION: Waived

City of Beacon Council Agenda
6/18/2018

Title:

Public Hearing on proposed local law to amend Chapter 195 of the Code of the City of Beacon, concerning Lot Line Adjustments

Subject:

Background:

ATTACHMENTS:

Description	Type
Lot Line Adjustments LL	Local Law
Memo Lot Line Adjustments	Cover Memo/Letter
COB PB comments Lot Line Adjustments	Backup Material
DCPB comments Lot Line Adjustments	Backup Material

Draft: 5/9/18

DRAFT LOCAL LAW NO. ____ OF 2018

CITY COUNCIL
CITY OF BEACON

PROPOSED LOCAL LAW TO AMEND CHAPTER 195 OF THE CODE OF THE CITY OF BEACON

A LOCAL LAW to amend Chapter 195 of the Code of the City of Beacon, concerning Lot Line Adjustments.

BE IT ENACTED by the City Council of the City of Beacon as follows:

SECTION 1. Chapter 195, Article I, of the Code of the City of Beacon is hereby amended as follows to create Section 3.1 entitled "Lot line adjustments":

§ 195-3.1 Lot line adjustments.

A. Exemption. A lot line adjustment shall not be considered a subdivision and is therefore exempt from the procedural requirements otherwise imposed upon a subdivision. A lot line adjustment, however, must be determined to be exempt by the Building Inspector based upon the lot line adjustment criteria set forth herein.

B. Criteria for classification as a lot line adjustment.

(1) No new lot is to be created; or

(2) The action is intended to adjust, relocate or correct an existing lot line; or

(3) The intended conveyance will involve a part of one lot being added to an adjoining lot; and

(4) Neither of the lots involved will become nonconforming in any respect under Chapter 223, Zoning, as a result of the lot line adjustment.

C. Application process.

(1) An application for a lot line adjustment exemption shall be submitted to the Building Department and shall be on a form approved by the Building Inspector.

(2) The application shall be accompanied by the required application fee, payable to the City of Beacon, in the amount set forth in the City of Beacon Fee Schedule, which is on file in the City Clerk's Office.

(3) The application shall contain:

(a) The name, address and telephone number of each lot owner involved in the lot line adjustment.

(b) The address and Tax Map number of each lot involved.

(c) An explanation of the intended adjustment and the reason(s) therefor.

(d) A map, acceptable to the Building Inspector, drawn to scale depicting the existing lot line as well as the proposed new lot line.

(e) Any other documentation and/or information required by the Building Inspector.

D. In the event that the exemption is denied, the Building Inspector shall specify the reason(s) therefor in the written notice.

E. The Building Inspector may include in an approval of an application for lot line adjustment such terms and conditions as the Building Inspector deems necessary or appropriate to ensure the safety or further the purpose and intent of this Chapter or any other applicable law.

SECTION 2. The following definitions set forth in Chapter 195, Article II, Section 10 of the Code of the City of Beacon entitled "Definitions" are hereby amended or added as follows:

LOT LINE ADJUSTMENT

Any conveyance of real property between adjacent landowners which does not result in additional buildable lot(s) nor create a zoning deficiency in either lot. A lot line adjustment is not considered a subdivision for purposes of this chapter.

RESUBDIVISION

Any change in a subdivision plat or resubdivision ~~in the of existing property lines or of property lines shown on a~~ plat approved by the Planning Board and filed in the office of the Dutchess County Clerk, which change affects any street and/or lot layout shown on such plat or affects any area reserved thereon for public use or diminishes the size of any lot shown thereon.

SUBDIVISION

The division of any parcel of land, regardless of use, into two or more lots, plots, blocks, sites or parcels, with or without the creation of new streets or private roads,

DRAFT

for the purpose, whether immediate or future, of transfer of ownership or building development, and shall include resubdivision as defined herein. Subdivision does not include lot line adjustments as defined in this chapter.

SECTION 3. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 195 of the City of Beacon is otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

SECTION 4. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

SECTION 5. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

DRAFT

KEANE & BEANE P.C.
ATTORNEYS AT LAW

■ Main Office
445 Hamilton Avenue
White Plains, NY 10601
Phone 914.946.4777
Fax 914.946.6868

■ Mid-Hudson Office
200 Westage Business Center
Fishkill, NY 12524
Phone 845.896.0120

MEMORANDUM

TO: **City of Beacon City Council**

FROM: **Keane & Beane, P.C.**

RE: **Lot Line Adjustments**

DATE: **May 9, 2018**

Please find attached to this memorandum a proposed local law which sets forth an administrative review process for lot line adjustments, without requiring an appearance before the Planning Board.

Pursuant to General City law, subdivision of land in New York is controlled at the local government level. In the City of Beacon subdivision of land is specifically regulated by Chapter 195 of the Code of the City of Beacon. The term subdivision is currently defined in Section 195-10 of the City Code as:

> The division of any parcel of land, regardless of use, into two or more lots, plots, blocks, sites or parcels, with or without the creation of new streets or private roads, for the purpose, whether immediate or future, of transfer of ownership or building development, **and shall include resubdivision** as defined herein.

Under this definition, the City of Beacon requires full subdivision review for any resubdivision application. Resubdivisions are defined in the City Code as "any change of existing property lines or of property lines shown on a plat approved by the Planning Board and filed in the office of the County Clerk." By this definition, simple lot line adjustments are considered resubdivisions requiring full subdivision review. A lot line adjustment or alteration is a means by which a boundary line diving two lots is adjusted or moved. Such a move is typically made by agreement between the owners of the parcels. For example, the sale of an unused portion of the right of way would require resubdivision approval. An agreement between neighbors to resolve a dispute when a fence is extending over a border conveying a small strip of land so that a driveway can be widened, would all require resubdivision approval. There is obviously a cost and expense associated with subdivision review including appearing at Planning Board meetings, preparation of a subdivision map, etc.

In New York State there is no statutory requirement that defines lot line adjustment as a subdivision. General City Law Section 32(4)(a) provides the following:

> The term "subdivision" **may** include any alteration of lot lines or dimensions of any lots or sites shown on a plat previously approved an filed in the office of the county clerk or register of the county in which such plat is located.

Some municipalities, including Beacon, require applications for lot line adjustments to go through a full subdivision review by the Planning Board. Other municipalities, by contrast, provide that a lot line adjustment is not a subdivision or resubdivision of land at all and review applications for lot line changes using a simple administrative process. In such cases, lot line adjustments are often processed and decided by municipal planning staff or building officials or the planning board itself using expedited procedures, which do not involve a public hearing. Whether considered a subdivision or not, the lots created as a result of any lot line adjustment must conform to applicable zoning regulations and the procedure must not result in an increase in the number of lots or parcels.

In order to create a more efficient application process for lot line adjustment applications, our office has prepared the attached local law. The attached local law sets forth an administrative review process for lot line adjustments, without requiring full subdivision review before the Planning Board. The law amends the definitions of "resubdivision" and "subdivision" to exclude lot line adjustments and creates a definition for lot line adjustments. Under the proposed local law lot line adjustments are defined as "any conveyance of real property between adjacent landowners which does not result in additional buildable lot(s) nor create a zoning deficiency in either lot. A lot line adjustment is not considered a subdivision for purposes of this chapter." All applications for lot line adjustments will be submitted to the Building Department to be reviewed by the Building Inspector. The Building Inspector shall determine whether the application meets the criteria for classification as a lot line adjustment. If the Building Inspector determines that the application is for a resubdivision and not a lot line adjustment, formal subdivision review is required pursuant to Section 195-3 of the Code of the City of Beacon. This process will greatly reduce the costs and time required to review a lot line adjustment application.

Attach.

ecc: Anthony Ruggiero
Tim Dexter

Memorandum

Planning Board

TO: Mayor Randy Casale and City Council Members

FROM: Etha Grogan
for Planning Board Chairman Gunn and Planning Board Members

RE: Proposed Local Law to Amend Chapter 195 concerning Lot Line Adjustments

DATE: June 14, 2018

As requested the Planning Board reviewed the proposed Local Law to amend Chapter 195 concerning Lot Line Adjustments. At their regular meeting on June 12, 2018 City Planner John Clark provided a detailed explanation of reasoning behind the proposed change. After careful consideration, members voted unanimously to recommend the proposed amendment as outlined. If you have any questions, please feel free to contact me.

RECD 2018 MAY 25 PM1:23 DCP

Dutchess County Department of Planning and Development

Fax Info			
	To	Date 5/29	# pgs 1
	Dept	From	
	Fax #	Phone #	

239 Planning/Zoning Referral – Exemption Communities

Please fill in this section

Municipality: City of Beacon

Referring Agency: ☐ Planning Board ☐ Zoning Board of Appeals ☒ Municipal Board

Tax Parcel Number(s): —

Project Name: LL Chapter 195 Lot Lines & Subdivision

Applicant: City Council

Address of Property: —

Parcel(s) within 500 feet of:

- ☒ State Road
- ☐ County Road
- ☐ State Property (w/public building or recreation area)
- ☒ County Property (w/public building or recreation area)
- ☒ Municipal Boundary
- ☐ Farm operation in an Agricultural District

Actions Requiring 239 Review

- ☐ Comprehensive/Master Plans
- ☒ Zoning Amendments (standards, uses, definitions, district regulations, etc.)
- ☐ Rezonings involving all map changes
- ☐ Other Local Laws associated with zoning (wetlands, historic preservation, affordable housing, architectural review, etc.)
- ☐ Site Plans (all)
- ☐ Special Permits for all non-residential uses
- ☐ Use Variances for all non-residential uses
- ☐ Area Variances for all non-residential uses

Exempt Actions:*
239 Review is NOT Required

- Administrative Amendments (fees, procedures, penalties, etc.)
- Special Permits for residential uses (accessory apts, home occupations, etc.)
- Use Variances for residential uses
- Area Variances for residential uses
- Renewals/Extension of Site Plans or Special Permits that have no changes from previous approvals
- Subdivisions / Lot Line Adjustments
- Interpretations

☐ Exempt Action submitted for informal review

Date Response Requested (if less than 30 days): 6/18/18

If subject of a previous referral, please note County referral number(s):

** These actions are only exempt in municipalities that signed an intermunicipal agreement with Dutchess County to that effect.*

FOR COUNTY OFFICE USE ONLY

Response from Dutchess County Department of Planning and Development

No Comments:

- ☒ Matter of Local Concern
- ☐ No Jurisdiction
- ☐ No Authority
- ☐ Project Withdrawn
- ☐ Exempt from 239 Review

Comments Attached:

- ☐ Local Concern with Comments
- ☐ Conditional
- ☐ Denial
- ☐ Incomplete — *municipality must resubmit to County*
- ☐ Incomplete with Comments — *municipality must resubmit to County*
- ☐ Informal Comments Only (Action Exempt from 239 Review)

Date Submitted: 5/25/18	Notes:	☐ Major Project
Date Received: 5/25/18		Referral #: ZR18-167
Date Requested: 6/18/18		
Date Required: 6/22/18	☐ Also mailed hard copy	Reviewer: Jennifer T Cooper
Date Response Faxed: 5/29/18		

City of Beacon Council Agenda
6/18/2018

Title:

Resolution to adopt a local law to amend Chapter 195 of the Code of the City of Beacon concerning Lot Line Adjustments

Subject:

Background:

ATTACHMENTS:

Description	Type
Reso Lot Line Adjustments	Resolution

CITY OF BEACON

CITY COUNCIL

RESOLUTION NO._____ OF 2018

PROPOSED LOCAL LAW TO AMEND CHAPTER 195 OF THE CODE OF THE CITY OF BEACON, CONCERNING LOT LINE ADJUSTMENTS

BE IT RESOLVED, that the Beacon City Council hereby adopts a local law to amend Chapter 195 of the Code of the City of Beacon, concerning lot line adjustments.

Resolution No. _____of 2018 Date: 2018

☐ Amendments ☐ 2/3 Required

☐ Not on roll call. ☐ On roll call ☐ 3/4 Required

Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
		Terry Nelson					
		Jodi McCredo					
		George Mansfield					
		Lee Kyriacou					
		John Rembert					
		Amber Grant					
		Mayor Randy Casale					
		Motion Carried					

City of Beacon Council Agenda
6/18/2018

Title:

Resolution to authorize Mayor or City Administrator to sign an agreement with Millennium Strategies for Grant Writing and Administrative Services

Subject:

Background:

ATTACHMENTS:

Description	Type
Reso Millenium	Resolution
Millenium Contract	Backup Material

CITY OF BEACON
CITY COUNCIL
RESOLUTION NO.____ OF 2018

A RESOLUTION AUTHORIZING AN AGREEMENT WITH MILLENNIUM STRATEGIES, LLC FOR GRANT RESEARCH, GRANT WRITING AND RELATED GRANT ADMINISTRATION SERVICES

WHEREAS, the City of Beacon wishes to broaden its range of grant capabilities in order to finance various economic development and capital projects for the benefit our citizens; and

WHEREAS, Millennium Strategies, LLC possesses certain knowledge and experience in grant research, grant writing and grant management in a wide range of project areas; and

WHEREAS, Millennium Strategies, LLC submitted the attached proposal which the City Council deems to be in the best interest of the City of Beacon.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Beacon hereby authorizes the City Administrator to enter into an agreement with Millennium Strategies, LLC for grant related services for twelve months in an amount not to exceed $34,000.00.

Resolution No. _____of 2018 **Date: 2018**

☐ Amendments
☐ Not on roll call
☐ On roll call

☐ 2/3 Required
☐ 3/4 Required

Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
		Terry Nelson					
		Jodi McCredo					
		George Mansfield					
		Lee Kyriacou					
		John Rembert					
		Amber Grant					
		Mayor Randy J. Casale					
		Motion Carried					

MILLENNIUM
STRATEGIES

June 7, 2018

Mr. Anthony Ruggiero
City Administrator
City of Beacon
One Municipal Plaza
Beacon, New York 12508

RE: Proposal for Continuation of Grant Consulting Services

Dear Mr. Ruggiero:

Millennium Strategies, LLC is pleased to submit the following proposal to the City of Beacon for a continuation of grant consulting services. Millennium has had the privilege of serving the City as its Grants Consultant since March 2015, and welcomes the opportunity to continue working with its staff. During our tenure, we have secured $1,472,641.51 in alternative funding sources for the City. In addition, 13 recently submitted grant applications remain under review by their respective funding agencies, representing an additional $14,596,815.60 in potential grant funding.

COMPANY PROFILE

Founded in 2005, Millennium Strategies is the largest full-service grants consulting firm in the region. We currently represent 88 municipalities, counties, school districts and non-profit entities in New Jersey, New York, Pennsylvania and Delaware. Since our inception, Millennium has procured over $350 million in both public and private grant funding.

What sets Millennium Strategies apart is our comprehensive and aggressive approach to grant research, grant writing and grant management. We help our clients meet their complex challenges by securing funding for a wide range of projects which fall within the following categories:

- Arts and Culture
- Community and Human Services
- Disaster Recovery and Resiliency
- Downtown Revitalization
- Economic Development
- Environmental Planning
- Historic Preservation
- Open Space Preservation
- Parks and Recreation
- Public Safety
- Sustainability
- Tourism
- Transit Oriented Development
- Transportation Infrastructure

SERVICE TEAM:

As Millennium's CEO and a former Chief of Staff to a United States Congressman, Ed Farmer has spent his career shepherding critical projects to completion with federal, state, and county agencies. Ed's partner, Susan Scavone, has more than 25 years of experience in government and grant writing. She also leads the firm's Disaster Recovery practice with substantial experience assisting clients following Hurricane Irene and Superstorm Sandy, as well as more recently declared disasters. Together, they have assembled an accomplished team which includes 1 full-time research associate, 14 grant writers, and the support staff necessary to meet the demands of timely, professional, and competitive submissions. Should we have the privilege of continuing our work with the City of Beacon, I will remain as the Director of the account, and Nealon Isaacs will remain as Grants Manager. Since founding, Ed and Sue have remained the sole Principles of Millennium Strategies.

PROPOSED SERVICES

Millennium Strategies proposes to continue to provide our full suite of grant writing and consulting services to the City of Beacon. These services will include, but may not be limited to the following:

- ***Evaluation of Grant Funding Goals:*** Millennium Strategies will meet with key personnel to evaluate and creatively assess key projects and programs that the City is desirous to obtain grant funding for.

- ***Notification of All Available Grant Opportunities*****:** Millennium Strategies will regularly notify the City of available grant funding opportunities as well as provide a detailed recommendation for pursuing each grant opportunity. This includes all appropriate federal, state, county, and foundation grants.

- ***Complete Grant Writing*****:** Millennium Strategies will complete all grant applications, both presented by Millennium and identified by the City, in accordance with funding guidelines established by the granting entity, on a continuing basis, on behalf of Beacon.

- ***Monthly Reporting:*** Millennium Strategies will submit a detailed monthly report detailing all activities undertaken by this office on behalf of the City of Beacon as well as a monthly invoice for services rendered. These reports will provide a status update of grants awarded, grants submitted, grants in progress, grants noticed, and grants denied to allow an ongoing assessment of funding goals and the flexibility to respond to changing circumstances.

FEE PROPOSAL

Millennium Strategies proposes to provide all of the above referenced services for a flat monthly retainer fee of $2,833 beginning June 1, 2018 through December 31, 2019. Our fees include all travel time and expenses as well as attendance at all meetings. There are no hidden costs associated with our fee structure.

All members of Millennium Strategies are in good standing with the State of New York and its grant agencies. None have ever had their professional licenses suspended or revoked in New York or any other state. No professional liability claims have ever been brought against Millennium Strategies. In addition, Millennium Strategies is not now, nor has it ever been involved in any bankruptcy or reorganization proceedings. Lastly, no principal or employee of Millennium Strategies is related to any employee or elected official of the City of Beacon, nor are any of our employees unionized.

Thank you for your thoughtful review and consideration of Millennium Strategies. If you should have any questions or require further information, please do not hesitate to contact me at 973-226-3329.

Sincerely,

Dave Jenkins
Director of Business Development & Client Services
Millennium Strategies LLC

Millennium Strategies LLC
60 Columbia Road
Morristown, New Jersey 07960

This Agreement is made and entered into on June 6, 2018 between ***MILLENNIUM STRATEGIES LLC*** (herein referred to as "Consultant") located at 60 Columbia Road, Morristown NJ 07960, and the ***CITY OF BEACON*** (herein referred to as "Client") located at 1 Municipal Plaza, Beacon NY 12508.

SCOPE OF SERVICES

Consultant will provide full suite of Grant Research and Writing Services including but not limited to the following:

- Ongoing evaluation of the City's funding procurement efforts -- this process will include necessary meetings with key personnel to evaluate and determine past successes compared to future funding goals.

- Notification of all available governmental and non-governmental funding opportunities – The City will receive detailed memoranda of potential funding opportunities that include an explanation of what Millennium Strategies will do and what the City's responsibilities are in order to complete the grant application and produce the best possible product for submission.

- Research, preparation (writing), submission and follow up including stakeholder support of all available governmental and non-governmental funding applications.

- Representation of the City with stakeholder and governmental officials and their offices pertaining to grant and funding procurement services that Millennium undertakes on your behalf.

.

TERM

The term of this Agreement shall commence on June 1, 2018 and shall run through December 31, 2019. Either party may terminate this contract with or without cause upon a 30-day written notice via certified mail.

COMPENSATION

Consultant shall receive a monthly retainer of $2,833 to provide the services described above. Consultant's fee is not contingent upon the successful awarding of funds for these grant applications. There are no hidden costs associated with this fee structure which includes all travel time and expenses.

Millennium Strategies LLC
60 Columbia Road
Morristown, New Jersey 07960

HOLD HARMLESS

Each party hereby agrees to defend, indemnify and hold the other party harmless from any expense, loss, liability, or claim incurred directly or indirectly by the responsible party with respect to any actions or omissions, authorized or unauthorized, of such party, its employees, agents, servants, subcontractors, or assignees with respect to this Agreement. Indemnification shall include, but not be limited to fees, claims, demands, and losses, court costs, settlement costs, and counsel fees whatsoever the nature, without limitation.

ASSIGNABILITY

This Agreement is not assignable without the prior written consent of all parties.

BINDING

This Agreement shall be binding upon each party's successors or assignees.

LAW

The terms of this Agreement shall be governed by the laws of the State of New York.

DISPUTES

The parties hereto stipulate and agree that any dispute between them, whether equitable or legal relief is sought shall be venued in the Superior Court of New York. Each of the parties to this Agreement further stipulate and agree to the personal and subject matter jurisdiction of the Superior Court of New York, in such dispute or proceeding.

AGREED TO AND ACCEPTED BY:

Date: **MILLENNIUM STRATEGIES, LLC**

_____ By: _____
Ed Farmer, President and CEO

Date: **CITY OF BEACON**

_____ By: _____

City of Beacon Council Agenda
6/18/2018

Title:

A resolution recommending city council and planning board consider requiring that on certain projects a copy of the site plan and architectural renderings of the project be posted on the property at the commencement of construction

Subject:

Background:

ATTACHMENTS:

Description	Type
Reso site plans	Resolution

CITY OF BEACON
CITY COUNCIL

Resolution No. _____ of 2018

RECOMMENDATION FOR CITY COUNCIL AND PLANNING BOARD TO CONSIDER REQUIRING THAT ON CERTAIN PROJECTS A COPY OF THE SITE PLAN AND ARCHITECTURAL RENDERINGS OF THE PROJECT BE POSTED ON THE PROPERTY AT THE COMMENCEMENT OF CONSTRUCTION

NOW THEREFORE, BE IT RESOLVED, that in recognition that the public has an interest in the construction of certain projects occurring on real property located in the City of Beacon and that it is beneficial for the dissemination of public information so residents are aware of projects being constructed, the City Council shall and Planning Board is recommended, to consider at the time of approving a land use project whether it is appropriate to require that a weatherproofed copy of the site plan and architectural renderings of the project at the minimum size of 2' x 3' or larger as required by the Building Department, along with a brief narrative of the project (including number and type of units) be posted on a sign adjacent to the sidewalk, to be maintained at the property from the time of commencement of construction until substantial completion of the structure unless required by the Building Department to remove such sign at an earlier time.

BE IT FURTHER RESOLVED, that a copy of this resolution be transmitted by the City Clerk to (i) the Planning Board Secretary for distribution to the Planning Board members and placement for discussion at their next meeting and (ii) to the Building Inspector with a request that he discuss this Resolution and the Council's intent with the recently approved projects at a) 226 Main Street; b) 249 Main Street; c) 123 Rombout Avenue; d) the project known as West End Lofts; and e) the project known as River Ridge.

Resolution No. _____of 2018 Date: 2018
☐Amendments ☐ 2/3 Required
☐Not on roll call. ☐ On roll call ☐ 3/4 Required

Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
		Terry Nelson					
		Jodi McCredo					
		George Mansfield					
		Lee Kyriacou					
		John Rembert					
		Amber Grant					
		Mayor Randy Casale					
		Motion Carried					

DRAFT

City of Beacon Council Agenda
6/18/2018

Title:

Resolution authorizing execution of license agreement for dumpsters

Subject:

Background:

ATTACHMENTS:

Description	Type
Reso_dumpster	Resolution
License agreement dumpsters	Agreement

CITY OF BEACON
CITY COUNCIL

Resolution No. _____ of 2018

RESOLUTION AUTHORIZING EXECUTION OF LICENSE AGREEMENT

WHEREAS, any person who willfully places a dumpster or similar large waste container on public property in the City of Beacon must first obtain a permit pursuant to Chapter 102, Article I of the Code of the City of Beacon and must enter into a license agreement with the City of Beacon to obtain the limited right to use City-owned property to maintain said dumpster or similar large waste container.

NOW THEREFORE BE IT RESOLVED, that the City Council of the City of Beacon hereby approves the attached License Agreement as a template agreement to be executed between the City of Beacon and any person who willfully places a dumpster or similar large waste container on public property in the City of Beacon.

BE IT FURTHER RESOLVED, that the City Administrator is authorized to execute said Agreement without additional review or approval by the City Council.

Resolution No. _____of 2018 Date: 2018

☐ Amendments ☐ 2/3 Required

☐ Not on roll call. ☐ On roll call ☐ 3/4 Required

Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
		Terry Nelson					
		Jodi McCredo					
		George Mansfield					
		Lee Kyriacou					
		John Rembert					
		Amber Grant					
		Mayor Randy Casale					
		Motion Carried					

LICENSE AGREEMENT

This License Agreement (the "Agreement"), dated _____, 2018, is made by and between _____("Licensee"), with a principal place of business located at _____ and the City of Beacon, having offices at 1 Municipal Plaza Beacon, NY (the "City")(Collectively, the "Parties").

WHEREAS, Licensee has obtained a permit from the City Administrator to place a dumpster or similar large waste container on public property in the City of Beacon ("Dumpster Permit") as required in Chapter 102, Article I of the Code of the City of Beacon; and

WHEREAS, Licensee desires to obtain the limited right to use City-owned property to maintain a dumpster or similar large waste containers.

NOW, THEREFORE, in consideration of the mutual covenants and conditions contained herein, it is agreed as follows.

1. Grant of License. The City does hereby agree to provide Licensee during the term of this Agreement a right for Licensee's employees and invitees to utilize and maintain the area within a portion of City-owned property that the dumpter(s) is located on (the "License Area"). The License Area is identified on **Exhibit A**, which is attached hereto. Under this Agreement, Licensee (or its designee) may also access the License Area for removal of all trash, debris and rubbish from the dumpsters and other waste containers.

2. Term. Unless otherwise terminated as provided for in this Agreement the initial term of this Agreement shall be for a term of one year. The term of this Agreement shall commence as of the effective date hereof. This Agreement may be renewed for additional one-year terms on the written consent of both parties.

3. License Fee. The Licensee shall pay fee as set forth on the City of Beacon fee schedule pursuant to Section 102-5 of the Code of the City of Beacon.

4. Maintenance of License Area.

    a. Licensee shall build an enclosure for the dumpsters and other waste containers to the satisfaction of the City Highway Superintendent. Licensee shall obtain all required permits and approvals prior to construction of any enclosure. Licensee shall maintain said enclosure and the area in and around the enclosure as approved and to the satisfaction of the City Highway Superintendent.

    b. Dumpsters and other waste containers are prohibited from being filled passed their spill line.

    c. Licensee shall keep the License Area, dumpsters and other waste containers clean and free of litter. All graffiti on the dumpsters, other waste containers or dumpster

enclosure shall be removed within 24 hours. Should the Licensee fail to keep the License Area, dumpsters, other waste containers or dumpster enclosure clean and free of litter and graffiti, the City Administrator has the option of terminating this Agreement and revoking Licensee's dumpster permit. In addition, if the Licensee fails to clean up the License Area after receiving written notice to do so and the City is caused to perform the cleanup, the Licensee is hereby charged the cost incurred by the City plus an administrative fee as set forth on the City of Beacon fee schedule for each such cleanup.

d. Dumpsters or other waste containers used for garbage and trash shall be covered and watertight at all times. Dumpsters or other waste containers used for construction and other waste shall be covered to prevent dust and debris from blowing out.

e. Waste disposed of in dumpsters or other waste containers shall only be generated from the parcel on which the dumpster is located.

f. Dumpsters or other waste containers must be emptied or removed once filled or within seven days of notification from the City Highway Superintendent. Notification shall be by personal service on the property owner and/or the occupant of said parcel.

g. Pursuant to Section 102-5 of the Code of the City of Beacon, the fine for any violation of this provision shall be up to $1,000 per day or a portion thereof.

h. Licensee shall comply with all federal, state, county and local laws and regulations.

5. Indemnity. Licensee shall bear all risk of loss and be solely responsible for all claims for personal injury, bodily injury (including, without limitation, death) and property damage that may arise from or in connection with the operation or use of the License Area or accessing the License Area or from or out of any act or omission of Licensee, its officers, directors, agents, guests, patrons, employees or representatives. Licensee agrees to indemnify, defend and hold harmless the City and its officers, appointed or elected officials, employees, volunteers, successors, and assigns from any liability, or loss or expense incurred or suffered in consequence of bodily injury (including death) or damage to any property arising out of or in connection with Licensee's use of the License Area.

6. Insurance. Licensee shall, at its expense, maintain during the term of this Agreement, comprehensive general liability insurance and property damage insurance under policies issued by insurers of recognized responsibility in a form acceptable to the City with limits of not less than $1,000,000.00 for personal injury, bodily injury, death, or for damage or injury to or destruction of property (including the loss or use thereof). A certificate of such insurance naming the City as an additional insured thereunder shall be provided by Licensee to the City prior to the effective date.

7. Termination. This Agreement shall terminate upon (i) Licensee's failure perform its obligations arising by, through or under the terms of this Agreement, or (ii) Lapsing of the insurance coverages or failure to provide proof of such insurance to the City upon request; or (iii) upon thirty (30) days advance written notice from one party to the other. Upon termination of this Agreement, Licensee shall remove the dumpsters, any other waste containers and dumpster enclosure within 30 days of written notice and return the License Area to its original condition.

8. Alternations, Improvements and Supplies. Licensee shall not make any alterations or improvements to the License Area, without the prior written consent of the City in each instance, which consent may be withhold in the City's sole and absolute discretion.

IN WITNESS WHEREOF, the parties hereto have signed this instrument as of the date first written above.

_____, Licensee	**City of Beacon, Licensor**
By: _____	By: _____
Title:	Title:

DRAFT

STATE OF NEW YORK)

COUNTY OF DUTCHESS) ss.:

On the day of _____, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____

Notary Public

STATE OF NEW YORK)

COUNTY OF DUTCHESS) ss.:

On the day of _____, in the year 2018, before me, the undersigned, a Notary Public in and for said State, personally appeared _____, personally known to me or proved to me on the basis of satisfactory evidence to be the individual(s) whose name(s) is (are) subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their capacity(ies), and that by his/her/their signature(s) on the instrument, the individual(s), or the person upon behalf of which the individual(s) acted, executed the instrument.

_____

Notary Public

DRAFT

EXHIBIT A

License Area

DRAFT

City of Beacon Council Agenda
6/18/2018

Title:

A resolution to set a public hearing for July 16th to receive public comment on a proposed local law to amend Chapter 191, Article II and Chapter 192, Section 30 concerning Street and Sidewalk Opening Permits

Subject:

Background:

ATTACHMENTS:

Description	Type
Reso PH street and sidewalk openings	Resolution
LL Street opening	Local Law

CITY OF BEACON
CITY COUNCIL
RESOLUTION NO. ___OF 2018

RESOLUTION TO SCHEDULE A PUBLIC HEARING ON JULY 16, 2018 TO RECEIVE PUBLIC COMMENT ON A PROPOSED LOCAL LAW TO AMEND CHAPTER 191, ARTICLE II AND CHAPTER 192, SECTION 30 CONCERNING STREET AND SIDEWALK OPENING PERMITS.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Beacon hereby schedules a public hearing on July 16, 2018 to receive public comment on a proposed Local Law to amend Chapter 191, Article II and Chapter 192, Section 30 concerning street and sidewalk opening permits.

Resolution No. _____of 2018 **Date: 2018**

☐ Amendments
☐ Not on roll call
☐ On roll call

☐ 2/3 Required
☐ 3/4 Required

Motion	Second	Council Member	Yes	No	Abstain	Reason	Absent
		Terry Nelson					
		Jodi McCredo					
		George Mansfield					
		Lee Kyriacou					
		John Rembert					
		Amber Grant					
		Mayor Randy J. Casale					
		Motion Carried					

DRAFT LOCAL LAW NO. ____ OF 2018

CITY COUNCIL
CITY OF BEACON

PROPOSED LOCAL LAW TO AMEND
CHAPTER 191, ARTICLE II AND CHAPTER 192 OF THE CODE OF THE
CITY OF BEACON

A LOCAL LAW to amend Chapter 191, Article II and Chapter 192, Section 30 concerning Street and Sidewalk Opening Permits.

BE IT ENACTED by the City Council of the City of Beacon as follows:

Section 1. Chapter 191, Article II of the Code of the City of Beacon entitled "Street and Sidewalk Openings" is hereby amended as follows:

Article II STREET AND SIDEWALK OPENINGS

§ 191-14. Written permission to tunnel required.

No person having a permit secured under this article shall, under any circumstances, tunnel under macadam, asphalt macadam, concrete or similarly paved roads for the purpose of connecting to water or sewer facilities, or for connecting gas services, unless written permission from the Highway Superintendent ~~of Streets~~ shall first have been secured.

§ 191-15. Openings into water or sewer facilities.

All openings into any water or sewer facilities or gas services shall be made only by plumbers duly licensed by the City.

§ 191-16. Compliance with directions of Highway Superintendent ~~of Streets~~ required.

Any person to whom a permit is issued under the terms of this article must comply with all directions of the Highway Superintendent, or his or her designee, ~~of Streets~~ designed to secure the safety of persons and their property lawfully using the streets of the City. Such directions may be given orally or in writing by the Superintendent or his representative.

§ 191-17. Penalties for offenses.

A. Any person, firm or corporation or his or its representative, agent or employee who shall violate any of the provisions of this article shall be punished by the imposition of a penalty as prescribed in **§ 1-3**.

B. Additionally, the Highway Superintendent may withhold the issuance of permits if restoration work required with respect to previously issued street opening permits has not been satisfactorily completed.

§ 191-18. Permit required.

No person or association of persons, municipal corporation, public utility corporation or corporation, without having first secured a permit therefor from the Highway Department ~~City Clerk~~ as provided in this article, shall:

A. Fill in or raise or cause to be filled in or raised any street or any part thereof.

B. Take up, remove or carry away or cause to be taken up, removed or carried away any asphalt or ~~asphalt blocks~~ paver blocks, flagstones, turf, stone, gravel, concrete, sand, clay or earth from any street or part thereof.

C. Open or dig up any City street or any private street which is open to public motor vehicular traffic, or any street, road or highway or part thereof in and over which the City shall have jurisdiction or shall in any way alter any curbing, gutters, gutter basins, drainage lines or other works within such a street or highway for any purpose.

D. Lay, repair or disturb any sidewalk in any public street.

§ 191-19. Application for permit.

~~Any person may apply to the Highway Department City Clerk for a permit required by this article to open a street.~~

A. Application for a permit under this article shall be made to the Highway Department in writing and shall contain the following information:

(1) The full name and address of the applicant.

(2) The full name and address of the owner or owners of the property in front of which the operation is to be performed.

(3) The location by street address, if any, of the property in front of which the operation is to be performed and the Tax Map designation of the same.

(4) A statement of the proposed operation and the size thereof and purpose thereof.

(5) The date or dates when the proposed operation is to be commenced, and the date or dates when the operation is to be completed.

(6) The type of pavement or surface to be disturbed.

(7) A sketch of the proposed operation showing location on lot or streets; location, if any, of any tiles or drainage system or water mains or other public utility conduits, etc, which may be within the area of the proposed construction

(8) The estimated maximum quantity to be excavated and/or removed, and the estimated part thereof that will be used for regrading or filling.

(9) The rehabilitation proposed.

(10) A schedule of the proposed work.

(11) A confirmation notice from Dig Safely New York.

(12) The estimated cost of the entire proposed operation.

(13) Any additional information which may be reasonably required by the Highway Superintendent.

(14) A signed statement by the applicant that said applicant agrees to perform the proposed operation for which the permit may be granted, in full and strict compliance and in accordance with the conditions of the permit, if issued, and any and all provisions of the City Code and other applicable statutes and ordinances of the City of Beacon.

§ 191-20. Fee and work rules.

A. The applicant for a permit under this article or the person for whose benefit the excavation or opening is to be made shall pay a fee as set forth in the City of Beacon fee schedule ~~to the Superintendent of Streets~~ for each street opening. This fee shall be waived for any permit application to lay, repair or disturb any sidewalk in any public street.

B. A permit shall be obtained no less than ~~24 hours~~ one week before any work is performed. All work shall be done during regular work hours of the Highway Department, Monday-Friday 7 a.m to 3p.m. The Highway Superintendent ~~of Streets~~ may waive these requirements in the event of an emergency.

C. The opening shall be backfilled with ~~item~~ Item 4 (NYSDOT Item No. 304.12) and tamped in eight-inch lifts maximum before applying blacktop in accordance with Chapter 129. ~~one-foot lifts before applying four inches of blacktop.~~ All openings shall be square cut, and edges shall be cleaned, and all edges shall be tack coated before patching. Openings in concrete roads shall be filled with Item 4 ~~K-Crete or approved equal~~ from the bottom of the trench to the bottom of the concrete. ~~two inches below the riding surface.~~ Then the concrete shall be repaired in the method selected by the Highway Superintendent of either pouring a new 5,000 psi concrete patch that is doweled into the adjacent concrete slab(s), or the installation of pavement to the thickness of the existing concrete to two inches below the riding surface. The riding surface shall consist of two inches of blacktop. The opening shall be properly maintained at all times during construction and the quality of the work (in case of settlement) shall be guaranteed for a period of one year. The seams of the completed work shall be sealed with a polymer modified crack sealant to prevent the intrusion of water into the pavement. During construction, barricades, lights, flaggers and other safety devices shall be employed as required by law or custom in the construction industry.

D. The applicant shall notify the Highway Superintendent or his or her designee:

(1) Three business days before any opening.

(2) Three business days before any backfilling or temporary filling of any opening.

(3) Three business days before any permanent restorations.

E. Issuance of and the continued effectiveness of such permit shall be conditioned on the following terms:

(1) Throughout the course of the work, a clear, sufficient and safe passageway for all pedestrians and vehicular traffic will be maintained.

(2) The work site will be properly guarded, both day and night, so as to prevent accidents or danger.

(3) Upon completion of work, the site thereof will be restored by applicant and the restoration work guaranteed for two years.

§ 191-21. Bond and insurance.

A. Before a permit may be granted under this article by the Highway Superintendent ~~of Streets~~ to any person to open any City street, the applicant for such permit shall execute a continuing bond to the City in the amount determined by the Highway Superintendent, or his or her designee, to be equal to the cost of the work, but in no event less than ~~sum of~~ $10,000, to be executed by a recognized and responsible surety

company authorized to do business in Dutchess County, New York, subject to the same conditions as contained in a plumber's bond. An applicant seeking a permit to lay, repair or disturb any sidewalk in any public street, shall not be required to execute a continuing bond to the City.

B. ~~Before a permit may be granted under this article by the Highway Superintendent of Streets to any person duly licensed as a plumber by the City to open any water and sewer facility, the applicant for such permit shall execute a continuing bond to the City in the amount determined by the Highway Superintendent, or his or her designee, to be equal to the cost of the work, but in no event less than sum of $10,000, to be executed by a recognized and responsible surety company authorized to do business in Dutchess County, New York.~~

C. ~~Before a permit may be granted, the applicant must submit to the Superintendent of Streets a certificate of insurance providing a minimum coverage of $500,000 for any one injury, accident or occurrence, naming the City of Beacon as an additional insured. Coverage shall be provided for bodily injury and property damage, underground collapse and explosion resulting in any way from the applicant's performance of work under its permit and for the applicant's completed operations.~~

No permit issued pursuant to this article shall be issued by the Highway Department until the applicant therefor shall have first placed on file with the Highway Department satisfactory evidence of the following types of coverage and limits of liability:

(1) Commercial general (CGL) coverage with limits of insurance of not less than $1,000,000 each occurrence and $2,000,000 annual aggregate.

(a) If the CGL coverage contains a general aggregate limit, such general aggregate shall apply separately to each project.

(b) CGL coverage shall cover liability arising from premises, operations, independent contractors, products/completed operations, personal and advertising injury and blanket contractual, including injury and to subcontractors' employees.

(c) The City of Beacon and its agents, officers, directors and employees shall be included as additional insured. The coverage must be underwritten by an insurance company with at least an A-7 Best rating, as defined by A.M. Best. Coverage for the additional insureds shall apply as primary and noncontributing insurance before any other insurance or self-insurance, including any deductible, maintained by or provided to the additional insureds.

(d) The applicant and/or contractor shall maintain CGL coverage for itself and all additional insureds for the duration of the project and maintain

completed operations coverage for itself and each additional insured for at least two years after completion of the work.

(2) Automobile liability: business auto liability with limits of at least $1,000,000 each accident.

(a) Business auto coverage must include coverage for liability arising out of all owned, leased, hired and nonowned automobiles.

(b) The City of Beacon and its agents, officers, directors and employees shall be included as insured on the auto policy.

(3) Workers' compensation and employers liability: employers' liability insurance limits per statutory requirements.

(4) The applicant shall not sublet any part of his work without assuming full responsibility for requiring similar insurance from his subcontractors and shall submit satisfactory evidence to that effect to the Highway Department. Each such insurance policy, except the workers' compensation policy, shall include the City of Beacon and its agents, officers, directors and employees as an additional insured.

(5) Certificates shall provide that 30 days' written notice prior to cancellation be given to the City of Beacon. Policies that lapse and/or expire during the term of occupancy shall be recertified and received by the City of Beacon no fewer than 30 days prior to cancellation or renewal.

§191-22. Obstruction of streets and sidewalks.

Any street, lane, road or sidewalk within the City, whether paved or unpaved, improved or unimproved, and any driveway or other means of ingress to or egress from any street, lane, road or sidewalk within the City shall not be blocked or obstructed at any time in order to provide a safe, convenient and passable means of ingress to and egress from the same for all private, public and emergency vehicles of any kind.

§ 191-23. Notice to other persons affected.

A. If the work to be undertaken by the applicant is such that it will affect the use of properties abutting or adjoining the project, the Highway Superintendent, or his or her designee, shall require the applicant to submit a list of the names and addresses of the owners and/or tenants of such properties.

B. The applicant shall notify the affected property owners and/or tenants of the proposed work to be done at the time the applicant submits his or her street opening permit application.

C. If the work to be undertaken by the applicant will affect other subsurface installations in the vicinity of the proposed opening, the applicant shall notify the owners of such facilities of the proposed work at the time the applicant submits his or her street opening permit application.

§ 191-24. Notice to police and fire authorities.

Upon receipt of a street opening permit and prior to the start of any construction, the applicant, shall notify, in writing, the City police and fire authorities that he or she has received a street opening permit. Such notification shall include a copy of the permit, and state the nature of the work to be done, the proposed beginning and completion dates and the location of such project.

§ 191-25. Construction specifications.

The Highway Department shall be notified at all stages of the work for the purpose of inspection. At a minimum, compliance with the City of Beacon specifications and regulations for the making of street openings, backfilling, maintenance, replacement of pavement and curbing shall be acceptable for the performance of said work and shall be performed to the satisfaction of the Highway Superintendent or his or her designee.

§ 191-26. Term of permit.

A. All work for which a permit has been issued shall be completed prior to the expiration date of the permit.

B. A permit shall expire unless work pursuant thereto has to be commenced within 10 days of the date of issuance.

C. A permit shall be valid for 30 days from the initial excavation and backfill.

D. A permit shall continue in effect during the time required for the settling of backfill and restoration of permanent pavement, but no even shall the permit continue in effect later than four months after the date of issuance unless the Highway Superintendent shall further extend the time for good cause.

§ 191-27. Pavement Restoration

A. All excavations shall be backfilled with materials approved by the Highway Superintendent.

B. If a new patch is to be made where there is an existing patch, the entire pavement area shall be removed and replaced.

C. Restoration of pavement shall be curb to curb and shall extend at least two feet on either side of the trench. Where no curb exists, the restoration shall extend to the existing pavement limits.

D. If any excavation for which a permit has been issued hereunder exceeds 25 feet in length, the applicant shall be responsible for resurfacing the street from curb to curb over the entire area in such manner as required by the Highway Superintendent on a case-by-case basis. Where no curb exists, the resurfacing shall extend to the exiting pavement limits.

E. If there are multiple patches and the area of disturbance exceeds 20% of the length of a street block multiplied by one foot, then the entire road in the block shall be resurfaced in a manner and with materials required by the Highway Superintendent.

F. Any work performed within a roadway that has been paved within the past three years will require full curb to curb restoration for the length of work plus a minimum of 20 feet on both sides, exact limits will be set by the Highway Superintendent or his or her designee.

G. The Highway Superintendent may waive the requirements set forth in this section upon good cause shown.

§ 191-28. Replacement of curbing.

Any curbing removed by any person shall be reset or replaced pursuant to the specifications set forth in **§ 191-22.**

§191-29. Work in City rights-of-way.

A. No individual, agency, corporation or other entity shall commence any excavation or construction, or make any alteration to existing structures, within any City right-of-way, including the placement of new utility poles or the addition of appurtenances, fixtures, or facilities to existing utility poles, without first having obtained approval from the City Council. This provision shall not apply to routine maintenance of existing structures and/or utility poles in the City rights-of-way.

§191-30. Revocation of permit.

A. The Highway Superintendent shall have the power to revoke a permit issued hereunder whenever he or she shall find that the applicant has refused or failed to comply with any provisions of this article. There shall be no refunds of any application fees provided for any revoked permit.

B. Written notice of any such violation or condition shall be served upon the applicant or his or her agent engaged in the work. The notice shall contain a brief statement of the

grounds relied upon for revoking the permit. Notice may be given either by personal delivery thereof or registered United States mail addressed to the person notified.

C. An applicant may be granted a period of three days from the date of the notice to correct the violation and proceed with the diligent prosecution of the work authorized by the permit before said permit is revoked.

D. When any permit has been revoked and the work authorized by the permit has not been completed, the Highway Superintendent, or his or her designee, shall do such work as may be necessary to restore the street or part thereof to as good a condition as before the opening was made. All expenses incurred by the City shall be recovered from the deposit or bond the applicant has made or filed with the City.

Section 2. Chapter 191, Article IV of the Code of the City of Beacon entitled "Honorary Street Names," is hereby amended as follows:

§ 191-31 ~~23~~ Basic Criteria for consideration.

The City Council may consider a petition to designate a secondary honorary name for an existing street or portion of existing street in the City upon such petition meeting the following basic criteria: The person whose name is proposed for such honorary naming shall have resided in the City of Beacon for at least five continuous or noncontinuous years during his/her lifetime, during which time such person shall have preferably resided on the street in question.

§ 191-32 ~~24~~ Procedure for designation of honorary name for existing street; referral to City Historian for report.

A. Upon the City Council receiving a petition which meets the basic criteria set forth in § 191-31~~23~~, such petition shall be referred to the City Historian/City Historical Society for his/her or its report to the City Council regarding the following:

(1) Such person's history of contributions to the City of Beacon, County of Dutchess, State of New York.

(2) Such person's history of residence in the City, including duration and location of such residence.

B. Upon the City Council reviewing such report from the City Historian/City Historical Society, it may designate the petitioned secondary honorary name for the existing street.

Section 3. Chapter 192, Section 30 of the Code of the City of Beacon entitled "Work in existing city streets" is hereby amended as follows:

A. All work to be performed within an existing City street shall be subject to the approval of the City. The contractor, developer or other such person performing the work shall

be required to obtain a ~~road~~ street opening permit and pay any and all such fees that may apply in relation to the same.

B. The contractor or person performing the work shall be required to submit to the City a certification of insurance listing the City of Beacon as additional insured (providing primary coverage), providing liability and property damage insurance with a limit of liability not less than $1,000,000.

C. All work shall be subject to the review of City representatives, and the contractor or person performing the work shall schedule such work as to permit the necessary reviews and inspections. Where applicable, a fee shall be paid to the City for such reviews and inspections.

D. All work shall be in accordance with generally accepted and recognized guidelines and the specifications for ~~road~~ street opening permit guidelines in effect at the time of the work. This shall include OSHA regulations.

Section 4. Ratification, Readoption and Confirmation

Except as specifically modified by the amendments contained herein, Chapter 191 and Chapter 192 of the City of Beacon are otherwise to remain in full force and effect and is otherwise ratified, readopted and confirmed.

Section 5. Numbering for Codification

It is the intention of the City of Beacon and it is hereby enacted that the provisions of this Local Law shall be included in the Code of the City of Beacon; that the sections and subsections of this Local Law may be re-numbered or re-lettered by the Codifier to accomplish such intention; that the Codifier shall make no substantive changes to this Local Law; that the word "Local Law" shall be changed to "Chapter," "Section" or other appropriate word as required for codification; and that any such rearranging of the numbering and editing shall not affect the validity of this Local Law or the provisions of the Code affected thereby.

Section 6. Severability

The provisions of this Local Law are separable and if any provision, clause, sentence, subsection, word or part thereof is held illegal, invalid or unconstitutional, or inapplicable to any person or circumstance, such illegality, invalidity or unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, subsections, words or parts of this Local Law or their petition to other persons or circumstances. It is hereby declared to be the legislative intent that this Local law would have been adopted if such illegal, invalid or unconstitutional provision, clause, sentence, subsection, word or part had not been included therein, and if such person or circumstance to which the Local Law or part hereof is held inapplicable had been specifically exempt there from.

Section 7. Effective Date

This local law shall take effect immediately upon filing with the Office of the Secretary of State.

City of Beacon Council Agenda
6/18/2018

Title:

Approval of Minutes from June 4, 2018

Subject:

Background:

ATTACHMENTS:

Description	Type
Minutes_June_4_2018	Minutes

CALL TO ORDER

Mayor Casale called the meeting to order at 7:01 PM

PLEDGE OF ALLEGIANCE

Mayor Casale led the Pledge of Allegiance

A moment of silence was observed for those who serve and have served in the United States military

ROLL CALL

Present:

Councilmembers Lee Kyriacou, At Large (LK); George Mansfield, At Large (GM); Terry Nelson, Ward One (TN); Jodi McCredo, Ward Three (JM); Amber Grant, Ward Four (AG); and Mayor Randy Casale (RC)

Total: 6, quorum present

Late:

John Rembert, Ward Two (JR) - arrived at 7:50 PM

Also Present:

City Administrator Anthony Ruggiero (AR); City Attorney Nick Ward-Willis (NWW) and City Planner John Clarke (JC)

1ST OPPORTUNITY FOR PUBLIC COMMENT

Speakers:

- Kenny Harper spoke about construction noise on 9D late at night.
- Theresa Kraft spoke about a petition being circulated regarding the Tioronda Bridge.
- Arthur Camins spoke about public notice of upcoming projects before the Planning Board and signage at construction sites.
- Mikhal Mart spoke about the specificity of changes to the Comprehensive Plan.

A. PUBLIC PRESENTATIONS

- Dennis Pavelock and Clara Lou Gould presented information on the upcoming reading of the Declaration of Independence to be held at City Hall on July 4th at 11 AM.
- Glenn Weinberg presented information on the Hudson Valley Renewable Highlands Community Choice Aggregation (CCA).

B. REPORTS

Council

- AG – Thanked those who came to her listening session – comments gathered were shared with the Traffic Safety Committee.
- LK – Raised the question of whether changes to the Tioronda Bridge require a Certificate of Appropriateness after discovering the bridge is in the Historic Overlay zone.
- GM – Offered clarification on last week's short-term rentals law and suggested hosts contact and lobby their state representatives. List of representatives is available.
- JM – Wed June 6th at 10AM is the Calico Ball for the 3rd graders in the Beacon schools. Expressed gratitude to school district and Beacon Arts and Education Foundation. Town Hall will be held tomorrow night at 7PM with Nick Page.

- JR – Attended the Narcan training at the firehouse. Thanked the Beacon Volunteer Ambulance Corps and Fire Chief for organizing and holding it. Thanked all those who came out on Memorial Day.
- TN – On Saturday held ward meeting with Nick Page at Mother gallery. Plans to hold meetings quarterly. Provided update on Tompkins Terrace community room. An estimate is being done by owner. Was unable to get details on completion date as property is changing hands but will be contacting the management company often for updates.

City Administrator

- AR announced that the water testing kits being hung on residents' doors are not affiliated with the City.

Mayor

- RC read a letter from a resident commending the work of the Beacon Police Department following the theft of their vehicle. Announced there will be fireworks on July 1st. Funds being raised by the Natural Market. There will also be games, food and entertainment at the park. Contact Mark Price for more information at 845-765-8440. Read press release about Beacon becoming a Tree City USA. Announced that on September 22nd Hudsonia will conduct a workshop in Cold Spring on putting Natural Resource and Open Space Inventories into practice. Flyer available on city website. Announced that GM will be running the meetings on 6/11 and 6/25 when RC is out of town.

LOCAL LAWS AND RESOLUTIONS

1. **Resolution to adopt a Local Law to amend Chapter 223 of the Code of the City of Beacon concerning a) the Central Main Street District (CMS); b) Amendments to the City of Beacon Comprehensive Plan update involving changes to the Central Main Street (CMS), Central Business (CB), Off-Street Parking (PB), R1-5, RD-4, Local Business (LB), General Business (GB), Light Industrial (LI) and Waterfront Park (WP); and c) Proposed Local Law to amend the Zoning Map of the City of Beacon**

   A **motion was made** by LK, seconded by TN to amend language in the resolution on the bottom of page 6 and remove "considered as". The **motion was carried** by voice vote. A **motion was made** by LK to adopt resolution as amended, seconded by JM. **The motion was carried** unanimously by voice vote.

2. **Resolution to schedule a public hearing for June 18, 2018 to receive public comment on a proposed Local Law to create Section 223-26.4 of Code of the City of Beacon, concerning Small Cell Wireless Facilities**

   A **motion was made** by TN, seconded by JM to adopt. The **motion was carried** unanimously by voice vote.

3. **Resolution authorizing the Mayor or City Administrator to sign agreement with Royal Carting for Waste Collection services commencing July 1, 2018**

   A **motion was made** by JM to adopt, seconded by GM. The **motion was carried** unanimously by roll call vote.

4. **Resolution to adopt the Investment Policy Statement dated May, 2018 prepared by RBC Wealth Management and authorizes the Mayor or City Administrator to sign the Investment Policy Statement**

   A **motion was made** by TN to adopt, seconded by GM. The **motion was carried** unanimously by voice vote.

APPROVAL OF MINUTES

A **motion was made** by JM, seconded by GM to approve the minutes from May 29, 2018. **Motion was carried** by voice vote**.**

2ND OPPORTUNITY FOR PUBLIC COMMENT

Speakers

None

ADJOURNMENT

A **motion was made** by JR, seconded by JM to adjourn. **Motion was carried** by voice vote. Meeting was adjourned at 8:12 PM.

Next Council Workshop is June 4th at 7:00 PM.

Next Council Meeting is June 11th at 7:00 PM.

A video recording of this meeting in its entirety can be found here -

http://www.cityofbeacon.org/Government/videos.htm

Submitted by Lisa Edelson

Council Meeting Sign-In Sheet

Date: 6 14 /2018

Please ~PRINT~ your name **CLEARLY** so we can spell it correctly in the record.

Thank you!

PRINTED Name	General Comment	Public Hearing	Address	Preferred contact info
Abijah Spence	✓		32 Ackerman St Beacon NY 12508	bazdaga8@gmail.com
Angelo Notaro	✓		32 Rock Rd Newburgh.	D.J Ans 1970 [illegible]

Council Meeting Sign-In Sheet

Date: 6 / 14 /2018

Please ~PRINT~ your name **CLEARLY** so we can spell it correctly in the record.

Thank you!

Please check:

PRINTED Name	General Comment	Public Hearing	Address	Preferred contact info
KENNY HARPER			515 HARBORVIEW CT	
THERESA KRAFT	✓		Liberty St.	
Arthur Canins		✓	3 a Rombout	

Randy J. Casale

From: Charlie Kelly <ckellybeacon@yahoo.com>
Sent: Monday, June 04, 2018 11:26 AM
To: newsplace@aol.com; Randy J. Casale
Subject: LTE re: BPD

To the editor
I would like to commend the Beacon Police Department for its professionalism and success for recovering our car stolen Sat. June 2nd. The theft was particularly disturbing to my wife and I because the thieves entered our home to locate the car keys .
Beacon police quickly responded , secured the premises and restored our sense of security within minutes of our call. Officer Sirrene was particularly reassuring to my wife and me while we awaited Sargent Detective Johnson to lead the investigation.
We were amazed to receive the detective's call the following day stating the car was found.
We would also like to thank the hiker(s) who found our car keys not too far away from where the thieves left the car.
It is unfortunate that thefts do take place in Beacon and we feel more a need to invest in security devices, but feel very fortunate that we live in a very caring community and feel very grateful to the Police Department and to those who assist the police.
Charlie and Mary Sue Kelly
5 Bayview Ave .
Beacon, NY
845 216 8262(c)
Sent from my iPhone

Arbor Day Foundation™

RECEIVED
MAY 30 2018

Mayor Randy Casale
One Municipal Plaza
Beacon, NY 12508

Dear Tree City USA Supporter,

On behalf of the Arbor Day Foundation, I write to congratulate Beacon on earning recognition as a 2017 Tree City USA. Residents of Beacon should be proud to live in a community that makes the planting and care of trees a priority.

Beacon is one of more than 3,400 Tree City USAs, with a combined population of 140 million. The Tree City USA program is sponsored by the Arbor Day Foundation in partnership with the U.S. Forest Service and the National Association of State Foresters.

If ever there was a time for trees, now is that time. Communities worldwide are facing issues with air quality, water resources, personal health and well-being, and energy use. Beacon is stepping up to do its part. As a result of your commitment to effective urban forest management, you are helping to provide a solution to these global challenges.

We hope you are excited to share this accomplishment. Enclosed in this packet is a press release for your convenience as you prepare to contact local media and the public.

State foresters are responsible for the presentation of the Tree City USA flag and other materials. We will forward information about your awards to your state forester's office to coordinate presentation. It would be especially appropriate to make the Tree City USA award a part of your community's Arbor Day ceremony.

Again, we celebrate your commitment to the people and trees of Beacon and thank you for helping to create a healthier planet for all of us.

Best Regards,

Dan Lambe
President

cc: Anthony Thomaselli

enclosure

For more information, contact:
Danny Cohn, 402-473-9563
dcohn@arborday.org

Arbor Day Foundation®
arborday.org

FOR IMMEDIATE RELEASE:

Arbor Day Foundation Names Beacon Tree City USA

Beacon, NY, was named a 2017 Tree City USA by the Arbor Day Foundation in honor of its commitment to effective urban forest management.

Beacon achieved Tree City USA recognition by meeting the program's four requirements: a tree board or department, a tree care ordinance, an annual community forestry budget of at least $2 per capita and an Arbor Day observance and proclamation.

"Tree City USA communities see the impact an urban forest has in a community first hand," said Dan Lambe, president of the Arbor Day Foundation. "Additionally, recognition brings residents together and creates a sense of community pride, whether it's through volunteer engagement or public education."

Trees provide multiple benefits to a community when properly planted and maintained. They help to improve the visual appeal of a neighborhood, increase property values, reduce home cooling costs, remove air pollutants and provide wildlife habitat, among many other benefits.

More information on the program is available at arborday.org/TreeCityUSA.

About the Arbor Day Foundation: The Arbor Day Foundation is a million member nonprofit conservation and education organization with the mission to inspire people to plant, nurture, and celebrate trees. More information is available at arborday.org.

Inventories to Action

A workshop for municipal agencies

Saturday, September 22, 9:00am – 4:00pm

Old VFW Hall

34 Kemble Avenue, Cold Spring, NY

A workshop on putting your municipal **Natural Resource Inventory** or **Open Space Plan** to use for:

- comprehensive planning,
- revising a zoning ordinance or other local legislation
- conducting reviews of site plans or subdivision plats
- designing conservation easements

The event is especially for municipal agencies of Hudson Valley communities that have completed or are now preparing a Natural Resource Inventory or Open Space Inventory.

Lunch and light refreshments will be served.
Self-certification forms for 7 hours of municipal training credit will be provided.

** Space is limited and registration is required. **
To register, contact Lea Stickle at 845-758-7053; lstickle@bard.edu.

Hudsonia Ltd.
Environmental Research and Education
Science for Conservation

Hudson Highlands Land Trust
Protecting the Highlands

New York State of Opportunity | Department of Environmental Conservation

Cornell University

This event is conducted in partnership with the Hudson River Estuary Program of the New York State Department of Environmental Conservation; co-sponsored by the Hudson Highlands Land Trust; and funded by the New York State Environmental Protection Fund.

City of Beacon Council Agenda
6/18/2018

Title:

Budget Amendments

Subject:

Background:

ATTACHMENTS:

Description	Type
Budget Amendment	Cover Memo/Letter
Mountain Lane Bridge	Backup Material

Council Budget Amendments
June 18, 2018 Meeting

1. Amend the 2018 General Fund Budget to repair bridge from accident. Below is the proposed budget amendment:

Transfer to:			
A	-05-5110-447300-	REPAIR OF REAL PROPERTY	$ 42,245
Transfer from:			
A	-01-1990-400001-	CONTINGENCY FUND	$ 42,245

Respectfully submitted,
Susan K. Tucker CPA

5-23-18

CHEMUNG SUPPLY CORPORATION
Ph. (607)733-5506, Fax. (607)732-5379
www.chemungsupply.com

Mr. Reuben Simmons Jr.
City of Beacon Highway Dept.
Re: guiderail – Dutchess Co. Bid RFB-DCP-38-18

Dear Reuben,
As per your request:

1) MOUNTAIN LANE – 4 RAIL BRIDGE RAIL WITH PEDESTRIAN HAND RAIL.

32 FT. BRIDGE RAIL X $514.70 FT. = $16,470.40
87 FT. TRANSITION RAIL X $242.26 FT. = $21,071.40
33 FT. BOX BEAM X $55.10 FT. = $1,818.30
4 – END ASSEMBLIES @ $721.00 ea. = $2,884

TOTAL = $42,244.10 MATERIAL + INSTALL

Tracy Wilkinson
914-213-3579