

**Minutes**  
**Building Codes Committee**  
**October 5, 2020**  
**3<sup>rd</sup> committee meeting**

**Committee Members:** Diane Kuzniar (Chair), Dale Black, Taft Matney

**Others Present:** Business and Development Services Director David Dyrhaug, and City Administrator Brandon Madden

- |  |                             |
|--|-----------------------------|
| 1. <u>Call to Order</u>                                    | The Honorable Diane Kuzniar |
| 2. <u>Public Comment</u>                                   | The Honorable Diane Kuzniar |
| 3. <u>Reading and Approval of Minutes</u>                  | The Honorable Diane Kuzniar |
| a. Building Codes Committee Meeting:<br>September 14, 2020 |                             |

**Action: Councilman Matney made a motion to approve the minutes with Councilman Black seconding.**

**Vote: The vote was unanimous (3-0).**

- |   |                             |
|---|-----------------------------|
| 4. <u>Reports or Communications from City Officers</u>  | The Honorable Diane Kuzniar |
| a. Building & Development Services Director David Dyrhaug   |                             |
| i. Budget Review  |                             |
| The budget report was handed to committee.  |                             |
| The department sent notices for late business license renewals about a week ago.  |                             |
| 5. <u>Unfinished Business</u>   | The Honorable Diane Kuzniar |
| a. An ordinance to establish the standards for the placement of small wireless facilities in covered areas in the City of Mauldin, South Carolina; and for other purposes |                             |

At its September 14 meeting, the Building Codes Committee reviewed an updated draft ordinance that would permit the installation of small cell wireless facilities within the public right-of-way. At that meeting, staff also presented some comments from AT&T. The Committee directed staff to modify the draft ordinance according to AT&T's comments.

Also, at the September 14 meeting, staff indicated that the City Attorney had not yet provided comments on the new updated draft ordinance. The Committee voted to hold the matter in Committee until the City Attorney had concluded his review. Last week, the City Attorney has been able to finish his review. His only recommendation was some minor wording to Section 44-5(A) of the draft ordinance which has since been revised in the draft ordinance.

On September 24, 2020, the S.C. General Assembly passed the Small Wireless Facilities Deployment Act. This bill will become effective upon signature by the Governor. This Act "supersedes and preempts any enactment by a [municipality] that contradicts, expands, contracts, or otherwise modifies the provisions of this article with respect to the regulation of the placement of small wireless facilities and of support structures and poles for small wireless facilities in the right-of-way (ROW); provided, however, that nothing in this item limits any power granted to any [municipality] under this article including, but not limited to, the power to enforce city-wide compliant provisions in previous enactments, so long as those provisions do not violate federal law."

The State Act does allow a municipality to adopt its own ordinance, rule, policy, design manual, or equivalently binding measure provided that it adopts compliant provisions in strict compliance with the provisions of the State Act. In the absence of any municipal ordinance, a wireless provider may install and operate small wireless facilities and associated poles and support structures under the requirements of the State Act.

As of the date of this report, the City Attorney is still reviewing the State Act to identify provisions in the City's draft ordinance that may not be compliant with the State Act.

The committee has a few options. One is to send the ordinance to Council to adopt as is but realize there are some provisions of the ordinance that will be nullified by the actions of the State Legislature. The entire ordinance would not be nullified, just the specific provisions that are in conflict with the new laws passed. The second is to allow us to have our own mechanisms in place and the small cell wireless companies would be subject to the City's procedures. This will be less confusing. The third option is to revise the draft ordinance to comply with State Law and bring it back to committee.

Chairwoman Kuzniar said she thinks the \$1000 application fee for a new pole seems excessive and asked if Mr. Dyrhaug knew what other cities are doing. Mr. Dyrhaug answered that a lot of other cities are adopting the MASC model ordinance. When we prepared our draft ordinance, we looked at the model ordinance and the fees are consistent.

**Action: Councilman Matney made a motion to hold this item in committee to give staff time to add the new State law provisions. Councilman Black seconded the motion.**

**Vote: The vote was unanimous (3-0).**

b. Appointments to boards and commissions

The City currently has one open seat on the Planning Commission and two open seats on the Building & Zoning Board of Appeals. Staff has received 5 volunteer applications. Chairwoman Kuzniar suggested the Planning Commission appointments be considered first and then whoever is left can be considered for the Zoning Board.

Councilman Matney said it bothers him that there is a blanket form for the commissions. He thinks applicants should file for either the Planning Commission or the Zoning Board. The Zoning Board is a quasi-judicial arm of the City and he believes it does a disservice to our citizens in that whoever does not get appointed to the Planning Commission gets appointed to the Zoning Board. The BZA is incredibly important and a powerful governmental entity and should be treated with the dignity it deserves. In the future, he would like the applications to be separate.

Councilman Matney said he would also like to have the opportunity to talk to the candidates to gauge their interest and qualifications. He would like them to come to the Council meetings. Councilman Black said the Council cannot overrule the Zoning Board and it is important. He cannot remember many candidates for the commissions ever coming to council meetings, even when they were appointed.

Councilman Matney said this could be tabled and at a later date, committee could potentially send something to Council regarding changing the way these appointments are made.

Action: Councilman Matney made a motion to hold the applications in committee and forward to Council discussion regarding revamping the board and commission appointment procedure. Councilman Black seconded the motion.

Vote: The vote was unanimous (3-0).

6. New Business

There is no new business.

The Honorable Diane Kuzniar

7. Public Comment- None

The Honorable Diane Kuzniar

8. Committee Concerns- None

The Honorable Diane Kuzniar

9. Adjournment- Chairwoman Kuzniar adjourned the meeting.

Respectfully Submitted,  
Cindy Miller  
Municipal Clerk