

Aquinnah votes cell tower rule

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By Nelson Sigelman

At a special town meeting Tuesday that stretched late into the evening, Aquinnah voters approved changes in the town's zoning bylaws designed to pave the way for cellular telephone companies willing to use a wireless communication system that does not rely on high towers.

In the process, Aquinnah officials hoped to bolster the town's defense against lawsuits brought by cell phone companies under the Telecommunication Act of 1996 (TCA), a federal law that limits the obstacles towns may place in the way of wireless communication companies seeking to provide service where there is a lack of coverage.

After more that two hours of discussion, much of it focused on the legal and technical issues surrounding wireless communication, voters approved by a two-thirds vote the creation of a special wireless overlay district that would allow for the placement of equipment at the town landfill needed to operate a distributed antenna system (DAS), a less obtrusive wireless communication system that uses fiber optic cable and a network of short antennas, which are most often placed on telephone poles in strategic locations.

A similar system is currently in place on Nantucket.

The language in the original article presented to voters was designed to allow for a wireless tower of up to 120 feet to be erected at the landfill site. That article was amended to lower that height to 70 feet, making it unlikely that a company would find the site attractive for such a system.

The change in focus and warrant article language submitted by the planning board amending the article on the town meeting floor provided an example of grassroots voter involvement and the intimate nature of Aquinnah politics and decision making.

In the days preceding the special town meeting, Aquinnah residents Steve Yeomans and Laurie Bradway, abutters to the landfill, spoke to town residents and officials about their opposition to a wireless tower system and asked them to consider the DAS system. The selectmen and planning board were persuaded, and the focus shifted.

"Their involvement made a huge difference," said town administrator Jeff Burgoyne, who gave the pair credit for doing the research that helped convince town officials to change course.

Coincidentally, David Maxson, a wireless consultant hired by the selectmen to assist the town as it charts a path through the wireless landscape, is also assisting other towns interested in allowing for DAS systems.

On Tuesday evening, Mr. Maxson and Ron Rappaport, Aquinnah town counsel, led the assembled 60 voters, 15 percent of the town's 393 voters, through the legal and technical wireless communication thicket.

Mr. Maxson explained that, regardless of what a voter might think about wireless communication and cell phones, under federal law, towns cannot simply say no to wireless companies. He said the intention of the bylaw was to open up a way for companies to operate in the town in a fashion compatible with the character of the community.

Mr. Rappaport cautioned that the law "could not be clearer" with regard to any denial issued to a wireless operator based on health or environmental considerations. He said the best defense against unwanted facilities rested with good zoning. "Anything that is good planning is good legal strategy," he said.

Mr. Maxson said the town might be able to get by with three antennas, 10 at most, erected on existing telephone poles. Aquinnah might expect to receive revenue for leasing out space at the landfill for the shed full of equipment needed to run the system.

Even as town leaders attempt to shape Aquinnah's technological landscape by modifying existing zoning restrictions to accommodate wireless communication companies, the town's existing restrictions are at the heart of a potentially costly lawsuit.

On Nov. 2, Cingular Wireless, a national digital voice and data company with more than 50 million subscribers and \$32 billion in annual revenue, filed suit against Aquinnah in state Land Court and US First District Court in Boston.

The dual lawsuits follow the rejection of the company's request by the Aquinnah planning board on Oct. 6 for permission to place a cellular antenna in a 48-high replacement steeple on the Gay Head Community Baptist Church. Cautiously speaking to that issue, Mr. Rapaport said, "I've been handed a lot easier cases to defend than this one."

At the conclusion of Tuesday night's meeting, as voters filed out, Mr. Maxson said, "I was just blown away by how thoughtful and inquisitive everyone was."

Mr. Yeomans said he was gratified at the turnout and the willingness of town officials to look at what he presented to them.

In other action, voters, spurred on by Sarah Thulin, conservation commission chairman, refused to spend \$1,750 to add the town seal to road signs needed to comply with the enhanced-911 system, which allows public safety personnel to identify the source of an emergency call by displaying the name the telephone number was listed to, its address, and what community should respond. The E-911 system requires an accurate database that names every road, assigns every house a number, and links that information to a telephone number.

Ms. Thulin objected to any proliferation of "urban green and white rigid street signs" and said she did not see why the town could not come up with a better solution.

The measure was tabled.

After considerable discussion and some confusion, voters agreed to appropriate more than \$30,000 in community preservation funds for a variety of projects, including landscaping and improvements at the Aquinnah Circle and the walkway to the Gay Head Cliffs; improvements to the Aquinnah Public Library and the creation of an ice skating area; and money for Aquinnah Housing committee administrative expenses.

Voters also approved spending \$4,000 for financial services intended to help the town determine how much free cash is available prior to the start of the annual town meeting next spring, something it has not been able to do for years.

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