



Joint Meeting of the Planning Board and Committee on Legislative Matters and the Northampton City Council

Members:

Councilor William H. Dwight, Chair

Councilor Alisa F. Klein, Vice Chair

Councilor Maureen T. Carney

Councilor David A. Murphy

MEETING AGENDA

Date: February 11, 2019

Time: 5 p.m.

**Location: City Council Chambers
212 Main St., Northampton, Massachusetts**

- 1. Meeting Called to Order and Roll Call**
- 2. Public Comment**
- 3. Approval of Minutes of Previous Meeting**

A. Minutes of January 14, 2019

Documents:

[01-14-19_Committee_on_Legislative_Matters.pdf](#)

- 4. 5:00 P.M. Public hearing on proposed zoning change**
Public Hearing Notice published January 28, 2019 and February 4, 2019 per
M.G.L. Chapter 40A, Section 5.

Documents:

[Public Hearing Notice for 2-11-19 LM Meeting.pdf](#)

A. 18.231 An Ordinance Relative to Large-Scale Ground-Mounted Solar Arrays

History:

- Referred to Planning Board and Legislative Matters - 1/17/2019

Documents:

18.231 An Ordinance Relative to Large-Scale Ground-Mounted Solar Arrays wAS
changes.pdf

18.231 An Ordinance Relative to Large-Scale Ground-Mounted Solar Arrays.pdf

5. Items Referred to Committee

6. New Business

7. Adjourn

*Contact B. Dwight at
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Committee on Legislative Matters and the Northampton City Council

Members

Councilor William H. Dwight, Chair

Councilor Maureen Carney

Councilor Alisa F. Klein

Councilor David A. Murphy

MEETING MINUTES

Date: January 14, 2019, Time: 5 p.m.

Location: City Council Chambers, 212 Main St., Northampton, Massachusetts

1. **Meeting Called to Order and Roll Call:** At 5 p.m., Councilor William H. Dwight called the meeting to order. On a roll call, the following councilors were present: Councilor Carney, Councilor Dwight and Councilor Murphy. (Councilor Klein arrived at 5:05 p.m.) Also present were: City Solicitor Alan Seewald, Senior Planner Carolyn Misch and City Councilor Jim Nash.
2. **Announcement of Audio and Video Recording**
Councilor Dwight announced that the meeting was being audio and video recorded for broadcast by Northampton Community Television.
3. **Public Comment**
There being no members of the public present, there was no public comment.
4. **Approval of Minutes of Previous Meeting**
Councilor Carney moved to approve the minutes of the November 13, 2018 regular meeting and the November 13, 2018 Joint Community Resources/Legislative Matters Committee meeting as a group. Councilor Murphy seconded. The motion passed 3:0 with one absent (Councilor Klein).
5. **Public hearing on proposed zoning changes**
 - A. **18.204 An Ordinance to Amend the Definition of Accessory Structure**
Councilor Murphy moved to open the public hearing. Councilor Carney seconded. The motion passed unanimously 3:0 by voice vote with one absent (Councilor Klein).

The proposed change is to add one word ('bathing') to the definition of accessory structure to specify that, among other activities not allowed, bathing is also prohibited, Ms. Misch explained. The intent is to make clear to people building accessory structures that bathing facilities are among features excluded. The Building Inspector made the request to amend the definition because he wanted textual support for his interpretations when he meets with applicants building garage or work spaces so everyone understands

very clearly that these are allowed as work spaces only [as opposed to living units]. Detached accessory structures can be a lot closer to the primary dwelling than accessory dwelling units and dwelling units require additional Planning Board review, she elaborated.

The Planning Board voted unanimously to recommend in favor of the change, she advised.

Councilor Klein arrived at 5:05 p.m.

Toilets are allowed, Ms. Misch clarified.

Councilor Murphy asked if there could be a commercial workshop in a residential district and Ms. Misch said that depends on whether it qualified as a home business.

Councilor Dwight noted some workshops have eye wash stations and emergency showers for safety reasons.

The Building Inspector still has the ability to interpret the code and how it's applied, Ms. Misch responded. If someone's work involves a lot of chemicals he or she could make the argument that an eye wash station is needed.

Councilor Carney asked whether hot tubs would be considered a 'bathing facility,' and Councilor Klein asked about a facility for washing a dog.

There are limitations to what you can do in accessory structures, Attorney Seewald reminded.

There is a separate definition for accessory dwelling, Ms. Misch clarified.

Councilor Klein noted that an accessory structure is allowed to be 40% of the area of the principal structure. She pointed out that's pretty big; it could allow a nearly thousand square foot structure for a 2,000 square foot home. She wondered if that formula was standard for other communities.

Ms. Misch said it has been the standard percentage for a long time.

Councilor Murphy moved to close the hearing. Councilor Carney seconded. The motion passed unanimously 4:0 by voice vote.

Councilor Murphy moved to forward the ordinance with a positive recommendation. Councilor Klein seconded. The motion passed unanimously 4:0 by voice vote.

Ms. Misch informed members that she will not be at the City Council meeting Thursday.

6. Items Referred to Committee

A. 18.222 An Ordinance Relative to Taxis and Livery Vehicles for Hire - referred by City Council, 01/03/2019

Councilor Dwight reviewed the proposed changes. One principal change is elimination of the requirement that a company be based in Northampton reflected by striking the phrase "based in Northampton" from the first paragraph. New language states, "Taxicab and livery business located and permitted in other

communities shall be required to obtain a permit in accordance with this chapter." He reviewed additional changes as submitted.

One impetus behind the change was an appeal from a taxi operator located just outside the city limits who complained that the ordinance as written keeps him from doing business in Northampton, Councilor Nash explained. Another issue was that this company's nominal livery service was operating as a taxi by accepting same-day calls for service. The operator in question has a standing contract with the Cooley Dickinson Hospital to transport patients, but sometimes specific rides are not arranged until the day of the trip. One of the amendments is to clarify that trips scheduled less than 12 hours in advance are taxi pick-ups while livery service trips must be arranged at least 12 hours ahead of time. A bigger goal was to insure that taxi businesses operating in Northampton meet Northampton's permitting requirements, regardless of whether based in another community or in Northampton, Councilor Nash indicated.

In response to a question from Attorney Seewald, Councilor Dwight expressed his understanding that all pick-ups in Northampton have to be made by a licensed operator but drop-offs can be made by cabs licensed in other communities. [editor's note: Councilor Dwight's understanding was only partially correct: under the existing ordinance, cabs licensed in other communities may drop off fares in Northampton from another community but may also pick up fares in Northampton and drop them in another community. Taxicab companies not permitted through the City of Northampton may not pick up and drop off the same passenger within the City limits.]

Members discussed adding the phrase "to pick up fares in Northampton" at the end of the sentence, "Taxicab and livery business located and permitted in other communities shall be required to obtain a permit in accordance with this chapter."

Councilor Klein moved to accept the amendment. Councilor Carney seconded. The motion passed unanimously 4:0 by voice vote.

The other amendment (to Section 316-19(B)(1)) is intended to clarify the distinction between livery services and taxis, Councilor Dwight noted. He expressed some discomfort with the fact that it seemed designed to accommodate one particular business with one particular contract, but Councilor Nash assured him that the type of arrangement the change is meant to accommodate is provided by other businesses as well. They don't want to make the service overly difficult to operate since it is a valuable service to many Northampton residents. "There's a lot of value to what they're doing, so we want them to keep going," he observed.

Mrs. Krutzler made a suggestion to restate the added sentence in 316-19 (B)(1) in positive terms; i.e., instead of saying "provided that fares picked up pursuant to a pre-existing contract **shall not** be deemed to comply with the twelve-hour requirement **unless** the specific fare was arranged at least twelve hours in advance," say, "provided that fares picked up pursuant to a pre-existing contract **shall** be deemed to comply with the twelve-hour requirement **if** the specific fare was arranged at least twelve hours in advance."

Councilor Carney moved to amend the ordinance as suggested by Mrs. Krutzler. Councilor Klein seconded. The motion passed unanimously 4:0 by voice vote.

Councilor Murphy moved to make a positive recommendation on the ordinance to the full council as amended. Councilor Carney seconded. The motion passed unanimously 4:0 by voice vote

B. 18.184 An Ordinance to Amend Chapter 5 of the Code of Ordinances by Adding Section 5-7 (Designating Certain Positions as Municipal Employees)

(32:04)

Councilor Klein moved to put the amended version on the floor. Councilor Carney seconded.

Councilor Dwight expressed his understanding that this is a housekeeping measure.

Attorney Seewald confirmed his understanding. They have come to learn that actions designating certain positions as special municipal employees are strewn about in different orders so this is an effort to put them all in one place, he explained.

Councilor Dwight asked if this impacts in any way their qualification for minimum wage. . .

It has only to do with conflict of interest, Attorney Seewald clarified. Designation as a special municipal employee loosens restrictions for municipal employees in that they have a right to work during normal working hours elsewhere and to work for a few hours in another position.

Councilor Murphy noted that a lot of people were losing interest in serving on boards if doing so meant they couldn't appear before the Planning Board, etc.

The one that stands out to her as kind of questionable is the Board of Health because members of that board have the ability to set regulations in the city, Councilor Klein observed. If employees are creating regulations, it seems as if the threshold should be higher. . .

Attorney Seewald pointed out that other bodies such as the Planning Board, License Commission, etc., issue regulations. However, he has said the Board of Health is the most powerful board in any town.

It was her understanding that what the Board of Health can do has more impact than regulations of the Planning Board because is tantamount to law, Councilor Klein continued. She was under the impression they could actually create ordinances.

Anyone who has a financial interest in a matter before a board will not be able to participate, Attorney Seewald stressed.

Special municipal employees have advantages in certain exemptions; it's not that the law doesn't apply to them. For example, there are some exemptions that would require an order of the City Council. Also, employees would still have to get the appointing authority to authorize participation in some matters; they just wouldn't have to come to this body. Most of this is housekeeping because most of these positions are already designated as special municipal employees, he noted.

With respect to extra-curricular club advisors, if someone is a teacher and wants to be an adviser, he or she is getting a second contract in his or her own department; thus requiring an exemption.

Councilor Dwight called the motion in favor of a positive recommendation to a vote, and it passed unanimously 4:0.

C. 18.195 An Ordinance Relative to Parking on Grove Avenue

Councilor Murphy moved to put the ordinance on the floor for discussion. Councilor Carney seconded.

After being recognized by the chair, Deborah Jacobs of 82 Grove Avenue explained that she and a neighbor at 74 Grove Avenue (Linda Butler) sent in a request to the TPC over the fact that they were having such a hard time getting out of their driveways. Their street is a wonderful resource for people who want to use the rail trail/get down to the river, she noted. They were told by the TPC that they could not get no parking across from their driveways and were asked to come back with another proposal. The street is also very, very narrow. Mrs. Butler made a recommendation.

The ordinance as presently proposed [to prohibit parking altogether on the westerly side and to prohibit parking on the easterly side of Grove Avenue for 120 feet from Evergreen Road] “will make some people very, very unhappy” in that they wouldn’t be able to park on either side of the street, she claimed. It also doesn’t really help them get out of their driveways.

Mrs. Butler would like to go to Plan C and she would like this withdrawn because it really doesn’t do what they set out to do.

Every single person who lives on that street came to a meeting; however, the plan that got submitted was changed by the TPC, Councilor Klein indicated. One piece of what was requested was abided by - to prohibit parking on one side of the street - but the other issue, that there are two houses that literally cannot back out of their driveway – was not addressed. Also, one space was blocked off that wasn’t even requested and doesn’t make sense to anyone.

DPW Director Donna LaScaleia said the reason they did this was because a tree and bushes could obstruct the sight line of people turning onto Grove Avenue, Councilor Nash explained. There is no reason the city should prohibit parking on this section, Councilor Klein asserted. The TPC ordinance doesn’t address what’s necessary. Plan C is going back to the drawing board and trying to figure this out in a way that makes sense to people.

A terrific proposal was put forth by Linda Butler, of which half is being put forward, i.e. a parking prohibition on the easterly side of the street, Councilor Nash agreed. Ms. Butler’s proposal for this side of the street involved line striping. There was line striping on Florence Street, Fruit Street and Grove Avenue. At that point, TPC members realized ‘we need a clear policy before we go forward with line striping on any of these streets.’ Someone made a motion and request to the DPW to develop a proposal over the next few months so that they have a clear policy. So that piece of the proposal for Grove Avenue got tabled, as well as for Fruit Street and Maple.

TPC members took the DPW’s recommendation on sight lines at face value, Councilor Nash noted. From the photographs that were shared he could see that no parking there may be unnecessary.

Folks coming down to access the bike trail need a little more direction as to where to park. Where line striping is more helpful is in directing people where to park, he added.

Councilor Murphy asked what the appropriate solution was for tonight – do they continue to allow them to come up with an alternative or just approve part of it. . .

Councilor Nash said he would defer to Councilor Klein and her constituents. Maybe tabling action until the line-striping piece is clarified, he suggested. The TPC motion was to give Ms. LaScaleia until January to propose a policy on line-striping, he indicated.

Members discussed and sought direction from the city solicitor. His suggestion would be to make a negative recommendation, Attorney Seewald said.

Councilor Murphy withdrew his positive recommendation and moved to make a negative recommendation at the request of the neighbors. Councilor Klein seconded.

Councilor Klein publicly apologized to the chair of the TPC because she wasn't able to come to the meeting at which the proposal was discussed because it was on Yom Kippur.

The motion passed unanimously 4:0.

D. 18.196 An Ordinance Relative to Parking on Wilder Place

Councilor Murphy moved to put the ordinance on the floor for discussion. Councilor Carney seconded.

Similar to the previous ordinance, this ordinance is also to create a 'no parking' zone, Councilor Nash explained. In this case, the proposal has the support of the neighbors.

The people who are parking there now aren't people living on the street. They are either working for a business in the immediate area or running into one of their customers. The street is super narrow and people are parking on both sides at points even at the end of the street where there is a fire hydrant and two driveways. The DPW went out and made the recommendation to move all parking to one side of the street, in this case the westerly side. The ordinance was initiated by residents of Wilder Place, he confirmed.

Councilor Dwight called the motion for a positive recommendation to a vote, and it passed unanimously 4:0.

7. New Business

The committee will reconvene at 7 p.m. for a joint meeting with the Community Resources Committee to discuss tenant representation in the Northampton Housing Authority, Councilor Dwight announced.

8. Adjourn

Councilor Klein moved to adjourn. Councilor Carney seconded. The motion passed unanimously 4:0. The meeting was adjourned at 6:11 p.m.

Prepared By:

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Planning & Sustainability • City of Northampton

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Northampton Public Hearings Monday February 11, 2019

City Council Committee on Legislative Matters with The Planning Board, Council Chambers 212 Main St,

5:00 PM Proposed Zoning Ordinance Amendment to standards governing large-scale solar arrays. Eliminate current prohibition against removal of more than 25,000 board feet of timber. Create special permit standards for large-scale ground mounted solar arrays that result in more than 5 Acres of tree removal.

Planning Board, Hearing Room 18, 210 Main St,

5:45 PM Site Plan Amendment by 1924 LLC to modify site lighting and parking at 49 Round Hill Rd, Northampton, MA Map ID 31B-4.

*All permit files viewable by Map ID www.northamptonma.gov/pending
Publish date: Jan 28 & Feb 4, 2019*

Bill to: Office of Planning & Sustainability Account #: 71350



CITY OF NORTHAMPTON

MASSACHUSETTS

In the Year Two Thousand and Eighteen

Upon the Recommendation of the Mayor and Public Shade Tree Committee

18.231 An Ordinance Relative to Large-Scale Ground-Mounted Solar Arrays

An Ordinance of the City of Northampton, Massachusetts, providing that Chapter 350 Code of Ordinances, City of Northampton, Massachusetts, be amended by modifying allowances under special permit for ground mounted solar photovoltaic arrays.

ORDINANCE

An Ordinance of the City of Northampton, Massachusetts. Be it ordained by the City Council of the City of Northampton, in City Council assembled, as follows:

USES ALLOWED

Uses Allowed By-Right [for all zoning districts]:

- Rooftop solar hot water and photovoltaic
- Accessory solar photovoltaic (PV) ground-mounted on a parcel with any building/use, provided that the PV is sized to generate no more than 150% of the annual projected electric use of the non-PV building/use 100% or 12 KW, whichever is greater of the annual projected electric use of the non-PV building/use. Same-The setbacks for such a PV shall be the same as for detached accessory structures as set forth in the table above.

Site Plan Approval Required for the Following [for all zoning districts]:

- Solar photovoltaic of any size, ground-mounted; shall be permitted with administrative site plan from the Office of Planning & Sustainability if one of the following is met:
 1. The PV array is constructed over any legal parking lot or driveway; or
 2. The PV array is constructed at any assigned landfill site not separated d from the site-assigned property by any road; oand
 3. The PV array is constructed at an airport not separated from the runways by any road; and
 4. # The power and telecommunications extensions are not visible from the public way.

Site Plan Approval required for the following uses by Planning Board unless otherwise noted [for RR, SR, URA, URB, WSP,]:

- Solar photovoltaic (PV), large-scale ground-mounted not requiring the removal of more than 25,000 board feet of timber or. .The removal of significant trees on the subject parcel(s) must be replaced in

accordance with 350-12.3 and includes tree removal- that occurs- within 12 months immediately prior to an application for installation of such a system.

Setbacks:

Front = 50 feet

Side = 50 feet

Rear = 50 feet

Maximum height = 30 feet

Open space = 20%

A planted buffer to abutting residential property shall be at least 15 feet in width along the property boundary. It shall contain a screen of plantings of vertical habit in the center of the strip not less than three feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs shall be planted not more than five feet on center, and individual trees thereafter shall be maintained by the owner or occupants so as to maintain a dense screen year-round. At least 50% of the plantings shall be evenly spaced. Whenever possible, existing trees and ground cover should be preserved in this strip, reducing the need to plant additional trees. Trees may not be cut down in this strip without site plan approval.

Projects resulting in more than 5 acres of canopy removal shall comply with:

1. At least 50% of the property, shall be protected from tree clearing and future development for the duration of the operation of the solar array installation and until such time as the system is decommissioned and removed.
2. Within the area beyond the first 5 acres of canopy removed, stumps for removed trees must remain in place and no excavation/soil disturbance is allowed other than what would be required to bore support posts for the PV panels.

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Uses Allowed By-Right [for all zoning districts]:

- Rooftop solar hot water and photovoltaic
- Accessory solar photovoltaic (PV) ground-mounted on a parcel with any building/use, provided that the PV is sized to generate no more than the greater of 150%~~100%~~ or 12 KW of the annual projected electric use of the non-PV building/use. Same setbacks as for detached accessory structures.

Site Plan Approval Required for the Following [for all zoning districts]:

- Solar photovoltaic of any size, ground-mounted; with administrative site plan from the Office of Planning & Sustainability:
 1. Over any legal parking lot or driveway; or
 2. At any landfill site not separate from the site-assigned property by any road; or
 3. At an airport not separated from the runways by any road; and
 4. If power and telecommunications extensions not visible from the public way.

Special Permit Approval required for the following uses by Planning Board unless otherwise noted [for RR, SR, URA, URB, WSP,]:

- Private utility or substation, small-scale hydroelectric generation excluding solar photovoltaics
- Solar photovoltaic (PV), large-scale ground-mounted not requiring the removal of more than 25,000~~5~~ acres of total forest canopy ~~board feet of timber~~ or for more than 5 acres of forest canopy see below. The removal of trees on the subject parcel(s) is counted toward this limit for any proposed PV installation or for tree removal that occurs- within 12 months immediately prior to an application for installation of such a system.

Setbacks:

Front = 50 feet

Side = 50 feet

Rear = 50 feet

Maximum height = 30 feet

Open space = 20%

A planted buffer to abutting residential property shall be at least 15 feet in width along the property boundary. It shall contain a screen of plantings of vertical habit in the center of the strip not less than three feet in width and six feet in height at the time of occupancy of such lot. Individual shrubs shall be planted not more than five feet on center, and individual trees thereafter shall be maintained by the owner or occupants so as to maintain a dense screen year-round. At least 50% of the plantings shall be evenly spaced. Whenever possible, existing trees and ground cover should be preserved in this strip, reducing the need to plant additional trees. Trees may not be cut down in this strip without site plan approval.

Projects resulting in more than 5 acres of canopy removal shall only be eligible for Special Permit

Approval when all of the following conditions are met:

1. No work or disturbance occurs within 100 feet of any state-protected bordering vegetated wetlands area, within a riverfront area, or within 200 feet of a certified or certifiable vernal pool.
- ~~1-2.~~ No work or disturbance within any area on a Massachusetts Natural Heritage Program Priority or Estimated Endangered Species habitat.
3. No work or disturbance occurs on greater than one acre of state or federal prime agricultural soils.
- ~~2-4.~~ No work or disturbance occurs on greater than one acre of slopes at or steeper than 20%.
- ~~3-5.~~ When at least 50% of the property, which the City identifies as having ecological or recreational value, is donated to the City in fee or by a permanent conservation restriction and public right-of-way easement for mitigation.
6. The project must be carbon neutral over the first ten years of operation. The applicant shall provide the following calculations:
 - a. The total volume of trees to be removed (provided by an independent certified forester)
 - b. Subtracting the estimated timber in replacement trees provided under the Significant Tree section of this zoning ten years after planting
 - c. Converting the net timber to be removed to short tons of carbon (using research from the Northern Institute of Applied Climate Science or other methodology approved by the permit granting authority)
 - d. Subtracting the carbon offsets (short tons of carbon) provided by the solar photovoltaic project over ten years of operation.
 - e. IF there is any net release of carbon with the above calculations, the applicant shall assign Renewable Energy Credits (REC) to the City to match or exceed said release of carbon.
- ~~4-7.~~ Within the area beyond the first 5 acres of canopy removed, stumps for removed trees must remain in place and no excavation/soil disturbance is allowed other than what would be required to bore support posts for the PV panels.